House Financial Services Committee Approves Several Financial Reform Bills

Summary: From the moment the Dodd-Frank Act was signed into law in 2010, congressional Republicans have rallied behind repealing the post-financial crisis era law and its cascade of implementing regulations. However, Republicans’ efforts to roll back certain financial regulatory reforms were consistently stymied by the Obama Administration. Much of the financial services industry and congressional Republicans are enthusiastic about now having a Republican in the White House who supported efforts to undermine Dodd-Frank during the 2016 campaign.

Since President Trump was sworn into office earlier this year, both Congress and the Executive Branch have signaled a strong desire to de-regulate financial institutions. However, efforts to modify Dodd-Frank on a wholesale basis – via the sweeping Financial CHOICE Act, which passed the House but will likely never be considered in the Senate – have stalled in the face of nearly unified Democratic opposition, particularly in the Senate. Congressional Republicans have thus taken to pursuing a piecemeal approach to reform Dodd-Frank that could garner bipartisan support.

To that end, the House Financial Services Committee recently reported legislation to the House floor that aims to ease certain regulatory burdens on financial institutions, particularly those with assets of less than $50 billion.

These measures include:

- **H.R. 3072: Bureau of Consumer Financial Protection Examination and Reporting Threshold Act of 2017.**

A key aspect of the Financial CHOICE Act was to reign in what many Republican lawmakers considered to be the runaway powers of the CFPB and its current director, Richard Cordray. Many such lawmakers further believe that the CFPB is an unconstitutional agency, citing, for example, that the CFPB’s single director is only removable by the President for cause (meaning that the President cannot remove the CFPB director for mere policy disagreements), and because the CFPB is immune from the congressional appropriations process (receiving its funding directly through the Federal Reserve Board). Although H.R. 3072 does not seek to address these overarching issues, if enacted into law, the bill would significantly limit the CFPB’s examination authority. Specifically, under the bill, the CFPB would only maintain direct supervisory authority for insured depository institutions and credit unions with assets of $50 billion or more (vs. the current standard of $10 billion or more). The bill would also increase to $50 billion (from $10 billion) the threshold at which insured depositories and credit unions are subject to CFPB reporting requirements. The bill, introduced by Rep. William Lacy Clay (D-MO) was reported out of committee with a bipartisan vote of 39-21.

- **HR 3312: Systemic Risk Designation Improvement Act of 2017**
The Financial CHOICE Act, if enacted into law, would have retroactively repealed the Financial Stability Oversight Council’s (“FSOC”) ability to designate firms as systematically important financial institutions (“SIFIs”), which subjects such institutions to enhanced regulatory and prudential requirements. The FSOC’s authority originates from the Dodd-Frank Act, which deems financial institutions above a $50 billion asset threshold to be SIFIs. H.R. 3312 would remove this automatic, asset-based designation. Instead, pursuant to the bill, financial institutions would be considered for SIFI status using the “systemic indicator score” otherwise provided by federal law. This standard takes a more holistic approach, considering an institution’s size, interconnectedness, and amount of cross-jurisdictional activity. The bill was reported out of committee with a bipartisan vote of 47-12.

- **H.R. 1116: Tailor Act of 2017**

H.R. 1116 directs federal financial regulatory agencies to tailor their rulemakings in light of the risk profiles and business models of institutions that are subject to such rules. The measure would also require federal financial regulators to annually report to Congress regarding specific actions taken to tailor regulatory actions. The bill’s requirements apply not only to future regulations, but to regulations adopted within the last seven years (i.e., following the Dodd-Frank Act). This bill, if enacted into law, would almost certainly result in more carve-outs and exceptions for community banks and credit unions from a number of post financial reform-era regulations. The bill was reported out of committee with a bipartisan vote of 39-21.

**Outlook:** Although it remains uncertain when these bills, along with several other financial regulatory reform bills, will be debated on the House floor, the fact that they have bipartisan support certainly makes them much more likely to succeed than the comprehensive (and controversial) Financial CHOICE Act. Moreover, key Republican and Democratic members of the Senate Committee on Banking, Housing, and Urban Affairs are busy negotiating their own financial regulatory reform legislation, which could be considered later this year or early next year. As such, after several months of relative inaction by Congress on financial reform efforts, we expect an intensification of such activity – complemented by Trump Administration deregulation efforts – over the coming weeks.