6-9-10, Bachus Offers Motion to Instruct Conferees to End Democratsâ€™ Permanent Bailouts

"The only way to make sure that taxpayers are protected from paying for Wall Street's mistakes is bankruptcy, not bailouts."

June 9, 2010

WASHINGTON - Financial Services Committee Ranking Member Spencer Bachus today offered a Motion to Instruct Conferees on the financial regulatory reform conference, directing the conference to end the "too big to fail" bailouts once and for all, which are institutionalized in the Democrats' financial regulatory reform bills. Below is the statement Ranking Member Bachus delivered on the House floor.

"This Motion to Instruct directs the conferees to insist that this legislation end the possibility of taxpayer-funded bailouts once and for all, by stipulating that bankruptcy is the only available option for liquidating a failed financial firm. The motion also requires that the conferees (and the public) have at least 72 hours to review the contents of the conference report before its final approval.

"We have heard time and again that the Democrats' "resolution authority" to wind down systemically significant financial institutions ends "too big to fail" and protects taxpayers. This is an outrageous and false claim. Just read the bills. Both the House and the Senate let the FDIC lend to a failing firm; purchase the assets of a failing firm; guarantee its obligations to creditors; take a security interest in its assets; and even sell or transfer assets that the FDIC has acquired from it.

"And while the House establishes a $150 billion bailout fund to pay for the resolution of a failing firm, with an extra $50 billion line of credit with the Treasury if the original $150 billion cannot cover the full bailout, the Senate approach is no better. The Senate would allow the FDIC to borrow potentially trillions of dollars from the Treasury in order to pay off a failed firm's creditors and counter-parties in the aftermath of its failure, with the hope that the funds can be recouped at some later date.

"The Senate bill institutionalizes the back-door bailouts that so infuriated the American public in 2008, by conferring upon the FDIC the exact same tools that were used to rescue the creditors of Bear Stearns, AIG, Fannie Mae and Freddie Mac with a taxpayer price tag of over a trillion dollars. This would continue the misguided "too big to fail" bailouts that allowed U.S. regulators to pay Goldman Sachs and large European banks 100 cents on the dollar at the expense of hundreds of smaller institutions and companies which were considered "too small to save." The Democrats like to call their plan a "death panel" for large financial firms, but in reality it is nothing less than taxpayer-funded life support to pay off the creditors of these failed institutions, or in reality to pay off some creditors and hang some others out to dry. And don't forget, the so-called "too big to fail" institutions have only grown larger and more dominant through the regulator-directed but taxpayer-funded bailout process, a process that this legislation institutionalizes.

"The better, more equitable approach to dealing with failing non-bank financial institutions - and the only way to make sure that taxpayers are protected from paying for Wall Street's mistakes - is bankruptcy. Unlike the FDIC, which can funnel unlimited amounts of taxpayer cash to a failing firm's creditors as part of a "resolution," a bankruptcy court has neither the authority nor the funds to make creditors whole. Bankruptcy is an open, transparent process, administered according to clear rules and settled precedent. By contrast, the "resolution authority" proposed by Democrats would be carried out entirely behind closed doors with no guarantees of adequate stakeholder participation and protection, and without a bankruptcy judge to ensure a fair and equitable outcome.

"The Democrats have been careful to include in their bill a provision that explicitly states that taxpayers will bear no losses from the government's exercise of resolution authority. But that promise is an empty one - not worth the paper it is printed on. The only way to ensure that the pockets of the taxpayers will not be picked by Wall Street and government bureaucrats - by the coalition of the reckless and the clueless - is to insist that failing firms be resolved through bankruptcy.

"Let me remind my colleagues that for 99.9 percent of companies and all individuals who find themselves unable to meet their obligations, bankruptcy, not a government bailout is the only alternative.

"This Motion to Instruct would eliminate the "too big to fail/too small to save" double standard in the Democrat bill and make bankruptcy the only option for the systemically significant firms that created the crisis in our economy.   I urge my colleagues to support it."

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