Dismantling overbearing financial reforms: Repeal is unlikely, but they can be taken down brick by brick

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The 2,300-page Dodd-Frank Wall Street Reform and Consumer Protection Act signed into law by President Obama last year, enshrines "too big to fail," further politicizes the Federal Reserve by planting diversity czars at each of its banks, imposes a huge regulatory burden on the consumer financial services industry, and does nothing to prevent what caused the financial crisis: easy Fed credit and politically driven weakening of mortgage credit underwriting.

Doughty Rep. Michele Bachmann, Minnesota Republican, has introduced legislation to repeal the Dodd-Frank Act in its entirety. A laudable goal, but while conceivably repeal can pass the House, mustering 60 votes in the Senate will be tough. A two-thirds majority necessary to override an all-but-certain Obama veto is unlikely. Nonetheless, a repeal vote would be symbolically valuable.

In the absence of outright repeal, it should be dismantled, brick by brick.

The Consumer Financial Protection Bureau (CFPB) and debit-card interchange price controls are two worthy targets to start with. The CFPB will wield vast authority to define and ban consumer financial products and suppress innovation, reducing the availability of consumer financial services.

An animating CFPB sentiment is the perception that financial institutions are fat-cat bankers - rapacious and untrustworthy - and many American consumers should not be trusted to manage their own financial affairs. Rather, Washington mandarins are better equipped to decide what's in Joe and Sally Sixpacks' best interest than they are.

Before 2009, the Fed's regulatory approach was to work toward full disclosure of consumer financial products' material facts. Consumers were considered sovereign - a notion few questioned for the first several centuries of the Republic.

How radical is it to suggest Americans who can vote, serve on a jury and join the Army ought to be considered competent and free to choose a credit card?

But today, many members of Congress and regulators are at heart paternalists. Most Americans, however, want to govern themselves.

Those who want to roll back Mr. Obama's regulatory onslaught on the financial services sector should propose narrowing the CFPB's mandate to ensuring products' material facts are fully disclosed. Then consumer choices in the market can determine what financial products succeed and fail.

Eighty percent of Americans have a debit card. Sen. Richard J. Durbin's amendment to the Dodd-Frank Act imposes punitive price controls on debit networks' interchange fees. Most of the $16 billion in debit fees banks earn will be eliminated. Consequently consumers, who today take free debit and checking for granted, will be hit with a battery of new debit, checking and account maintenance fees and lose their rewards. Chase Chief Executive Officer Jaimie Dimon suggests 5 percent of consumers may be driven out of the banking system.

It takes chutzpah for advocates of treating networks such as MasterCard and Visa as public utilities to say they're pro-consumer. Visa Chief Executive Officer Joe Saunders says "consumers have been thrown under the bus." That's exactly the right way to frame the issue. No congressman wants to be tagged as anti-consumer. By pressuring Congress, the merchant lobby was successful in winning price concessions in Washington it couldn't win in the market. Similarly, the financial services industry has to engage consumers to put heat on Congress.

Retail payment networks such as MasterCard and Visa are fiercely competitive and deliver enormous value to consumers and merchants. If there's a problem, it's that consumers, merchants and politicians take payment cards' convenience, availability, security and near-ubiquitous acceptance for granted and some have slipped into thinking of them like public utilities.

Price controls stifle innovation, availability and choice - always. Debit cards are no exception.

Repeal is possible. The political climate has changed. The 112th Congress is more skeptical than the last of the efficacy and right of government intrusion into the private sector to fix prices and direct business activities.

Retired Senate Banking Chairman Christopher J. Dodd in December acknowledged he thought the Senate might not have gotten it "right." House Financial Services Committee minority leader Rep. Barney Frank says he's open to working with Republicans to amend debit-card interchange regulation.

Two senators who voted for debit-interchange price controls in 2010, Republicans David Vitter of Louisiana and Michael D. Crapo of Idaho now oppose them. Urging consumers to call their congressmen would spur more to switch.

Five other senators who voted for the Durbin Amendment are not in the 112th Congress, thanks to vote results and retirement. All were replaced by free-market Republicans.

Other than plucky TCF Financial, banks didn't try to engage consumers in lobbying Congress during debate over the legislation. Goliath banks were AWOL then but they cannot afford to be so again.

The time to fight for free markets in consumer financial services is now, before the CFPB and debit interchange price caps take root.

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