

PUBLICATION

Senator Shelby Speaks to Baker Donelson; Releases Financial Regulatory Proposal

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U.S. Senator Richard Shelby (R-Alabama), chairman of the United States Senate Committee on Banking, Housing, and Urban Affairs, last week released the text of the discussion draft of "The Financial Regulatory Improvement Act of 2015." In a statement, Chairman Shelby noted: "This discussion draft is a working document intended to initiate a conversation with all members of the Committee who are interested in reaching a bipartisan agreement to improve access to credit and to reduce the level of risk in our financial system. I look forward to engaging with members of the Committee on specific proposals in the discussion draft."

Shortly before releasing the discussion draft, Senator Shelby spoke to Baker Donelson's Financial Services Department in Washington, D.C. Having been a member of the Senate's Committee on Banking, Housing, and Urban Affairs for 29 years, and thus at the center of the Senate's banking functions, Senator Shelby has unique perspective and key insight into the current state of the banking industry, possible legislation and reforms needed. After discussing his views about the state of the banking industry, Senator Shelby took questions from our shareholders.

The senator expressed strong concern that the existing legislation in the United States was having a significant negative impact on small banks, including regional banks which do not enjoy the economies of scale afforded the largest institutions in navigating through the regulatory landscape. He indicated that he was working on possible legislation to address some of these issues, which we now know was this proposed bill, and said that in his view, Congress needs to act to provide significant relief for smaller banks from onerous costs necessary to comply with existing legislation.

Senator Shelby also noted that there is no easy answer to the problems that have plagued residential lending issues involved in the country. He said that while that Fannie and Freddie should be reformed in a meaningful way, there is a slim chance of that happening, given the current administration's disinterest.

On the issue of the Consumer Financial Protection Bureau (CFPB), Senator Shelby thought the CFPB should be placed under appropriate Senate committee oversight, and that the board for the CFPB should be expanded from one to five. He said that one of the key difficulties in securing such change is determining who will be charged with appointing the five members of that board.

From a political perspective, the senator foresees that the 2016 election cycle will be critical to the banking industry because of Congress's ability to implement meaningful reforms to existing legislation. He indicated that he would support any proposed legislation that would open up access to capital.

The senator's remarks to our shareholders are in alignment with the proposed bill he released last week. Analysts view this proposal as the most ambitious rewrite of rules governing the financial services sector since Dodd-Frank was passed in 2010.

Among other changes, the bill would lift the asset threshold for banks considered "too big to fail" from \$50 billion to \$500 billion, giving regulators flexibility to exempt them from tougher capital requirements and stricter

oversight. The proposal would also give mortgage lenders flexibility regarding certain Qualified Mortgage standards implemented after the 2008 financial crisis, but only if those lenders agreed to not sell the underlying mortgage. The bill would also give Congress expanded oversight over the Federal Reserve including changes to the way the Fed reports on monetary policy.

The proposal has already been met with criticism from Democrats such as Senator Sherrod Brown (D-Ohio), who called the bill "a sprawling industry wish list of Dodd-Frank rollbacks" and reiterated the belief that only community banks and credit unions were entities that should be considered for regulatory relief.

Whether or not the proposed bill passes through Congress in its current form, it's clear that Senator Shelby and others are determined to inject some flexibility into our current system. Stay tuned.

If you have questions about the Senate's proposed bill or any other financial industry issue, please contact the Baker Donelson attorney with whom you work or reach out to the authors of this alert.