Written by **Charles Scaliger** on July 16, 2010

Financial Reform Bill: Bureaucratic Absolutism

Czarist Russia is looking better and better. Once a byword for bureaucratic absolutism, the apparatchiks of pre-revolutionary St. Petersburg and their endless rule-making seem positively enlightened beside some of the pieces of aptly named omnibus legislation emanating from Capitol Hill these days. The newly passed Dodd-Frank Financial Regulation Bill may be the worst yet. At 2,315 pages and 390,000 words, the bill is half the size of the entire King James Bible. It stretches credulity to believe that America's political leaders now enact single pieces of legislation many times the size of the entire Mosaic code. But they do.

Nor is the bill's size illusory. As the AP's Jim Kuhnhenn put it:

> From storefront payday lenders to the biggest banking and investment houses on Wall Street, few players in the financial world are immune to the bill's reach. Consumer and investor transactions, whether simple debit card swipes or the most complex securities trades, face new safeguards or restrictions.

Nobody, in other words, will be unaffected by this latest foray into federal micromanagement of the private lives of Americans. Among other things, the new bill will give vast new powers to the Federal Reserve, the secretive central bank that, more than any other single entity, has been responsible both for modern asset bubbles and the recessions and depressions that have followed them. Yet instead of being held to account for its role in creating the ongoing crisis, the Fed will now be responsible for overseeing large, interconnected financial concerns deemed large enough to pose a significant threat to the financial system should they fail. It will be the task of a separate 10-person council of regulators led by the Treasury Secretary to identify such concerns on behalf of the Fed.

Then there's the Consumer Financial Protection Bureau, a new bureaucratic behemoth responsible for writing what will doubtless amount to many thousands of pages of additional regulations for mortgages, credit cards, and numerous other financial instruments. Edward Yingling, president and CEO of the American Bankers Association, expects at least "5000 pages of new regulations on traditional banks and years of uncertainty as to what the massive new rules will mean." Assuming comparable regulatory burdens on other players in the financial sector, it is no stretch to assume that the new body of regulations spawned by this monstrosity will run into the tens of thousands of pages.

Tellingly, the bill has nothing to say about Fannie Mae and Freddie Mac, the two quasi-government agencies deeply complicit in the subprime fiasco. The market meltdown has been consistently portrayed by Washington insiders as a failure of the free markets, not of government. It is therefore freedom, not government, that is erroneously held to account by Dodd-Frank.

For a bill so massive and laden with legislative land mines, it is impossible to anticipate all of the ill

effects. But a few are already evident to the discerning. The Competitive Enterprise Institute's John Berlau warns: "New collateral requirements on derivatives could cost U.S. companies as much as $1 trillion in lost capital and liquidity, according to the International Swaps and Deriviatives Association.… These costs would not just hit big banks, but farmers who use derivatives to hedge the price of their crops and fuel for their tractors. The new Consumer Financial Protection Bureau could also hit retailers that issue credit tangentially related to their business, such as small stores that offer layaway plans." Berlau lays out a litany of additional grievances:

> On the other side of the retail ledger, some of the biggest retailers also got an unjustified mandated benefit with the Durbin amendment that puts price controls on the interchange fees they pay to process credit cards. This corporate welfare for fat cat merchants will mean higher costs to consumers, community banks and credit unions.

In addition, the bill contains provisions that will empower special interests at the expense of ordinary shareholders and that may exceed the limits of the U.S. Constitution. The bill's "orderly liquidation" authority will allow the Federal Reserve and the Treasury Department not just to bail out firms whose failure is deemed to be a threat to "financial stability," but to actually seize firms that are not even asking for a bailout. The "proxy access" provisions would override longstanding state rules in corporate director elections and force companies and their shareholders to subsidize director elections by special interest-shareholder — such as unions, environmentalists and others. This would give these groups leverage to cut deals with management to push through agenda items, such as the "card check" abolition of secret ballots iin labor elections and carbon cap-and-tax reductions that they can't get through the halls of Congress.

That such a truly revolutionary (in the worst sense of the term) piece of legislation has been met with only a muted response from the American public is a disappointing indicator of how few people truly cherish freedom — at least as the Founders and the first several generations of Americans understood it — in 21st Century America. Too many have now accepted the monstrous notion that Americans are too free, and one of its corollaries, that the state — not free individuals — is the best determiner of how an economy should run. As a consequence, we now have several immense new regulatory bodies charged with monitoring and regulating our every financial act. Financial privacy, as of July 2010, is officially a thing of the past.

Somewhere, Czar Nicholas II is probably enjoying the irony.

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