

Banking and Finance Law Daily Wrap Up, DODD-FRANK ACT—Hensarling releases CHOICE Act, industry reacts to repeal of Durbin Amendment, (Jun. 24, 2016)

By [Stephanie K. Mann, J.D.](#)

House Financial Services Committee Chairman Jeb Hensarling (R-Texas) publicly released a discussion draft of the Financial CHOICE Act, the Republican plan to replace the "failed" Dodd-Frank Act and promote economic growth. CHOICE stands for Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs. The Committee also publicly released an extensive description of each section of the proposal and how its reforms will work.

"We want the American people to see our proposal because it will result in economic growth for all and bank bailouts for none," [said](#) Hensarling. "Dodd-Frank has failed. It has contributed to the slowest, smallest, weakest and worst economic recovery of our lifetimes. We must instead offer all Americans greater opportunities to raise their standards of living and achieve financial independence by replacing Dodd-Frank with real reforms that work."

In addition to releasing the legislative text, a group of Nobel Prize winning economists, former Treasury secretaries, and former senior economic policy officials also announced their support for the [Financial CHOICE Act](#). "We support the reform principles that underlie the proposed Financial CHOICE Act which promote higher economic growth without bailouts, reduced risk of crises, and simplification of the regulatory process by emphasizing market mechanisms operating through the rule of law," the group of renowned economic and financial experts said in a statement of support.

CHOICE Act. According to the [comprehensive summary](#), the CHOICE Act would:

- encourage banks to rely on much more capital by offering them relief from complex, costly and loan-impeding regulations in return;
- offer increased penalties for financial fraud, and also strengthens due process rights;
- incorporate a new "bankruptcy not bailout" chapter into the Bankruptcy Code so that a large financial institution that takes on unsustainable risks could fail without disrupting the financial system;
- require sensible cost-benefit tests of new regulations;
- help to reverse that trend by requiring that all major financial regulations be approved by Congress before they can take effect;
- convert financial regulatory agencies now headed by single directors—including the Consumer Financial Protection Bureau, Office of Comptroller of the Currency, and Federal Housing Finance Agency—into bipartisan commissions; and

- require that the Federal Reserve "describe the strategy or rule of the Federal Open Market Committee for the systematic quantitative adjustment" of its policy instruments.

Durbin Amendment. As part of the CHOICE Act, the legislation would repeal the cap on debit card swipe fees, otherwise known as the Durbin Amendment. According to the National Retail Federation, who have strongly [urged](#) Congress to reject the proposed legislation, this cap has saved consumer billions of dollars over the past five years.

"Repealing this cap would double the fees that banks charge retailers and their customers when they use a debit card to pay for purchases," NRF Senior Vice President and General Counsel Mallory Duncan said. "Doubling swipe fees and driving up prices paid by consumers seems like a strange platform to ask members of Congress to run on during an election year. A vote to repeal the Durbin Amendment is a vote for higher consumer prices and isn't likely to win many votes in November."

Regarding a related piece of legislation that would repeal the Durbin Amendment, [H.R. 5465](#), which was introduced to Rep. Randy Neugebauer (R-Texas), numerous state bankers associations have [written](#) to Neugebauer expressing their support for the bill. "The amendment has only rewarded big-box stores with higher profits, while resulting in higher costs to smaller merchants, fewer resources available for banks—including community banks—to serve their communities, and a reduction in low-cost banking services for those most in need," said the letter.

Companies: National Retail Federation

LegislativeActivity: CFPB CommunityDevelopment DoddFrankAct FederalReserveSystem
FinancialStability