

[Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS— Senators to introduce 21st Century Glass-Steagall Act, \(Jul. 11, 2013\)](#)

Banking and Finance Law Daily Wrap Up

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By John M. Pachkowski, J.D.

Senators Elizabeth Warren (D-Mass), John McCain (R-Ariz), Maria Cantwell (D-Wash), and Angus King (I-Maine) today will introduce the 21st Century Glass-Steagall Act, a modern version of the Banking Act of 1933 (Glass-Steagall) intended to reduce risk for the American taxpayer in the financial system and decrease the likelihood of future financial crises.

Greed and excessive risk-taking. In a [press release](#), McCain noted, “Since core provisions of the Glass-Steagall Act were repealed in 1999, shattering the wall dividing commercial banks and investment banks, a culture of dangerous greed and excessive risk-taking has taken root in the banking world. Big Wall Street institutions should be free to engage in transactions with significant risk, but not with federally insured deposits. If enacted, the 21st Century Glass-Steagall Act would not end Too-Big-to-Fail. But, it would rebuild the wall between commercial and investment banking that was in place for over 60 years, restore confidence in the system, and reduce risk for the American taxpayer.”

Economy at risk. “Despite the progress we’ve made since 2008, the biggest banks continue to threaten the economy,” said Warren. “The four biggest banks are now 30% larger than they were just five years ago, and they have continued to engage in dangerous, high-risk practices that could once again put our economy at risk.”

Clear bright lines. Cantwell added, “This bill would restore clear bright lines that separate risky activities from the traditional banking system. It’s time to restore faith in our financial institutions by rebuilding the firewall that protected our economy for decades in the wake of the Great Depression. Restoring Glass-Steagall would focus our financial system where it belongs: getting capital into the hands of job creators and businesses on Main Streets across America.”

No silver bullet, but ... King said, “While the 21st Century Glass-Steagall Act is not the silver bullet to end ‘too big to fail,’ the legislation’s re-establishment of clear separations between retail and investment banking, as well as its restrictions on banking activities, will limit government guarantees to insured depository institutions and provide strong protections against the spillover effects should a financial institution fail.”

According to a [fact sheet](#) and the [text](#) of the legislation, the 21st Century Glass-Steagall Act “would dial bank the likelihood of future financial crises” by returning basic banking to the basics.

Prohibited affiliations. Specifically the legislation would eliminate “conflicts of interest that arise from banks engaging in activities from which their profits are earned at the expense of their customers or clients.” This would be accomplished by prohibiting commercial banks from affiliating with nondepository entities. A depository institution would be required to unwind any prohibited affiliation within five years.

Enumerated banking powers. The bill would also explicitly set forth certain enumerated banking powers currently found in [12 U.S.C. §24\(7\)](#) and prohibit national banks from investing in a structured or synthetic product.

The proposed legislation would also provide a specific list of activities that are considered to be “closely related to banking” under Section 4(c) of the Bank Holding Company Act ([12 U.S.C. §1843\(c\)](#)) and prohibit bank holding companies from engaging in the business of a securities entity or a swaps entity; engaging in proprietary trading; or owning, sponsoring, or investing in a hedge fund, or private equity fund.

Penalties. The legislation would also establish penalties for evading provisions of the act. These penalties would include a penalty equal to 10 percent of the entity's net profits, averaged over the previous three years.

LegislativeActivity: BankHolding BankingOperations DoddFrankAct FederalReserveSystem FinancialStability
MergersAcquisitions SecuritiesDerivatives VolckerRule