Brown Floor Speech on S.2155 Substitute Amendment, the Dodd-Frank Roll Back Bill

Thursday, March 8, 2018

WASHINGTON, D.C. — U.S. Sen. Sherrod Brown (D-OH) – ranking member of the U.S. Senate Committee on Banking, Housing, and Urban Affairs – delivered the following speech on the Senate floor today on the substitute amendment for S.2155, The Economic Growth, Regulatory Relief and Consumer Protection Act.

Brown's remarks, as prepared for delivery, follow.

Mr./Mdme. President,

Yesterday I spoke about the big banks that have violated our banking laws time and time again, yet are being rewarded by the provisions in this bill.

The changes made to this substitute do nothing to fix those problems. In fact, some of them actually make the bill worse.

Last September, we learned that Equifax had allowed hackers to exploit a known security flaw and make off with names, birth dates, Social Security numbers and all manner of private information for 143 million Americans.

That number was then revised up and up, for a grand total of 148 million people – they left half the country vulnerable to identity theft that could ruin credit scores and wreck lives.

Americans are furious with Equifax, and they have every reason to be.

But this amendment, for reasons I cannot fathom, includes provisions designed to help Equifax. Yes, Equifax.

First, as has been reported, Equifax and the other credit reporting agencies were upset about a proposal to give men and women in the military credit monitoring.

But a small gesture to the people that serve our country was too much for the Republicans and Equifax.

In exchange for this token benefit, they demanded consumers and servicemembers give up their right to take Equifax to court the next time the company's recklessness exposed sensitive financial data.

And you guessed it, Equifax got exactly what it asked for.

Equifax let your data loose and ruined your credit score?

Too bad, you won't be able to sue them.

Oh but it gets worse.

Equifax – a company that can't even safely store consumers' data, a company that spent nearly as much on executive salaries as on cybersecurity – now wants in on the

credit scoring business. Along with the two other major credit reporting agencies, it has created a product to compete with Fair Isaac's FICO score.

The Federal Housing Finance Agency has a process in place to try to broaden the factors it looks at in determining creditworthiness. But as Director Mel Watt testified in the Banking Committee, it is complicated and time consuming.

Understandably, FHFA wants to get it right. So do the lenders that sell loans to Fannie and Freddie. But instead of allowing FHFA to take the time it needs to get it right, this bill ignores all that, and sets up its own process.

We have not taken any testimony on this legislation, from FHFA or from market participants. I have my hunch as to who is pushing for it. Because guess who is one of the likely beneficiaries of the change?

That's right, Equifax.

I know my colleagues were well-intentioned here. It would be great if we had additional ways of determining whether someone is creditworthy or not, and if we could give more Americans the opportunity to become homeowners.

But determining creditworthiness and balancing access to credit with the need to make sure we don't end up with millions of foreclosure is complicated.

That's why we have agencies like FHFA and why we have a process in place.

We know there are problems with the current system, and more data would improve our efforts to combat discrimination in housing, too.

The Center for Investigative Reporting just completed a valuable study of tens of millions of mortgage records and found that all across the country, people of color are far more likely to be turned down for a loan, even when you take into account factors like their income and the size of the loan.

The trade associations for lenders argued that the study was flawed because more data – data like credit scores or debt-to-income ratios – were needed to prove discrimination.

The good news is that the Dodd-Frank Act required this very kind of data to be collected, and beginning in January, banks and credit unions began reporting it.

Problem solved, right?

Once the more detailed data set is available and large enough, watchdogs can undertake better analysis, target the bad actors and allow the good lenders to continue with their business without a regulator knocking on their door.

Who am I kidding? Of course this bill wants to do away with that too.

The substitute would repeal the reporting required by Dodd-Frank for about 85 percent of all banks. Backers of the substitute will claim it has addressed complaints that this effort will undermine enforcement of our civil rights laws. But it does not.

Backers will point to a provision that says banks that flunk the Community Reinvestment Act exam – and get a rating of substantial noncompliance – are ineligible for the reduced reporting of mortgage data.

That sounds good, but in all of 2017, out of the thousands of CRA exams, only two banks in the entire country flunked.

When we have reason to believe banks all across the country are discriminating in their lending, even if it's unintentional, looking at data from only two banks isn't going to do us much good.

The substitute would maintain current law for banks that are given a "needs to improve" rating on their CRA exam over two consecutive exam cycles.

Let's say a bank is engaged in discriminatory lending. An examiner gives it a "needs to improve" rating. This amendment says – "No harm, no foul, the first one's free."

A few years later, when the next exam rolls around, if the bank is still discriminating, only then will it have to submit the amount of data required today.

So this amendment says that a bank could engage in legally-sanctioned discrimination for years before it faces any consequences.

In sharp contrast to the slow motion response to discrimination, when it's the banks that want the data from the federal government, the sponsors of this bill cannot act fast enough.

There was a bill introduced just this Monday and referred to the Finance Committee that would allow credit card companies to tap the Social Security Administration database to verify identities. There hasn't been a hearing on it, it hasn't gotten any attention – but guess what? It's in this substitute.

The demand on SSA would explode. Will the system be able to handle it? And will this public interface be one more way that hackers could gain access to the Social Security database?

It's hard to say, because there has been no time for the Finance Committee to look at this bill. Protecting people's Social Security numbers is the last place where we should be rushing things to please the big banks.

This would all be bad enough. But it's not just Equifax that gets some goodies in this bill. This bill is a gift to foreign megabanks.

Yesterday, we saw a new provision on foreign banks included in the substitute to clarify the legislation.

But rather than actually fix the issue, the substitute includes a fig leaf to try to convince the public that this bill doesn't do what it actually does.

The provision provides some vague, ambiguous language that puts the question to the Fed – you can regulate the foreign banks or not – it's your choice.

The legislation doesn't require the Fed to keep the strong rules that are currently in place, and it doesn't stop the foreign banks from suing if the Fed doesn't obey their requests.

We are expected to trust Randal Quarles to be tough on foreign banks? That's not a bet I want to make. That's not a bet Congress should make.

Just this week, Governor Quarles spoke at an international bankers' conference and promised them deregulation.

If we really want to fix the foreign bank issue, we can adopt my amendment, which is simple: no favors for the biggest global banks operating here in the United States.

If we write strong laws – clear laws – we won't need to place blind trust in the people who have failed us before.

Quarles, Mulvaney, Otting, and Mnuchin – we are expecting these people who have been wrong in their public pronouncements, to be right in their public actions. We are entrusting these people, who have profited from Wall Street malfeasance, to protect our economy and our country from Wall Street malfeasance.

Instead, I take the side of Paul Volcker and Sheila Bair, and Tom Hoenig and Barney Frank, and Sarah Bloom Raskin and Phil Angelides, and Antonio Weiss and Michael Barr – all people who counseled us to vote no on this bill, and whose concerns have not been addressed by this substitute.

This substitute raises $675 million to pay for the privilege of deregulating banks, but all it could manage on lead poisoning in housing was a report from HUD.

Wouldn't it be great if we could direct those hundreds of millions to preventing children from developmental disabilities brought on by lead?

This substitute does not make this bill better. And by papering over its fundamental problems, by treating servicemembers as second-class citizens, and by opening up the Social Security system to possible threats – it may even represent a step backward.

I urge my colleagues to reject both it and the underlying bill.