THE HILL

Gutting the Dodd-Frank financ reform law won't help the budg

BY TIMOTHY ADAMS, OPINION CONTRIBUTOR - 07/27/17 08:00 AM EDT

Just In...

Dem. senator: Trump's transgender military ban is 'sickening'
ADMINISTRATION — 24S AGO

Reckless rhetoric distorts US' options on North Korea
CONTRIBUTORS — 15M 22S AGO

British reporter confronts Scaramucci: 'What part of Trump is not elite?'
BLOG BRIEFING ROOM — 24M 17S AGO

Trump's Treasury secretary faces crucial test on America's debt limit
CONTRIBUTORS — 35M 21S AGO

Trump's newest Russia lawyer: 'I think very highly of Mueller'
ADMINISTRATION — 40M 39S AGO

Dem warns of 'steps' Senate may take to block Trump on recess appointment
SENATE — 41M 38S AGO

Graham tells Sessions: 'Just hang in there'
SENATE — 59M 8S AGO

Ex-Army secretary: Trump turning his back on patriotic Americans
BLOG BRIEFING ROOM — 59M 28S AGO

© Getty Images

Since the passage of the landmark Dodd-Frank Act in 2010, several leading members of Congress have been gunning to repeal or substantially alter the financial reform law, but have been unable to do so for lack of sufficient support, particularly in reaching the 60-vote threshold in the Senate.

Now, a new opportunity arises via a much different route: the annual budget and reconciliation process, where "germane" policy changes can be achieved with just a simple majority. If it sounds a bit peculiar to change banking law through the budget process, it is, especially given that the expected budget "savings" from such changes are illusionary.

More specifically, Title II of Dodd-Frank created an orderly liquidation authority that was designed as a complementary backstop to the U.S. bankruptcy code in the event that a systemically important U.S. financial institution is in severe financial distress and needs to be wound down. The orderly liquidation authority allows the Federal Deposit Insurance Corporation (FDIC) to fire management, wipe out shareholders, and haircut bondholders before selling off the pieces.

To facilitate this winding down, the orderly liquidation authority allows the FDIC to draw funds from Treasury on a temporary, emergency basis. These funds will be fully repaid by proceeds from selling parts of the

VIEW ALL

business and, if necessary, by assessing a fee on the financial industry to pay back any remaining costs.

Here's where the illusion of budget savings comes into play. The Congressional Budget Office assumes that, over the next 10-year budget window, bank failures will occur, requiring the FDIC to draw funds from the Treasury. The resulting repayment from the resolved or disposed institution, and the mandatory supplemental payment by the industry, wouldn't occur until years eleven and beyond.

Given these arbitrary budget scoring assumptions, the orderly liquidation authority appears to generate approximately $14 billion in budget outflows. But in fact, the orderly liquidation authority does not entail any net budget cost to the U.S. Treasury or the American taxpayer if viewed over a slightly longer time horizon. The billions in assumed budget savings is an illusion based simply and superficially on the arbitrary timing of Treasury outflows and inflows within the 10-year budget window.

The orderly liquidation authority is designed and mandated by law to function as a budget neutral tool that protects taxpayers and safeguards our financial system in a time of crisis. Eliminating the authority will generate zero real savings for taxpayers.

More importantly, eliminating the authority would put the financial system and our economy at greater risk by removing a critical backstop to responsibly managing the dismantling of a systemically important financial institution. We would return to the same position we were in 2008 — lacking a complete set of tools to navigate a financial crisis.

Banks are now much better capitalized, less leveraged and more liquid. Living wills have made bankruptcy a more viable option, and Congress has made progress on a new chapter in the bankruptcy code for large financial institutions. Yet, there may be some cases where the government would need all resolution tools, including the orderly liquidation authority, to respond to crisis situations and avoid damage to the economy and job losses.

Ending the orderly liquidation authority would also threaten the cross-border flows of capital critical to spurring investment and supporting business opportunities globally. Regulators in the U.K., Europe and the G-20 generally have already modeled their resolution powers on the U.S. approach, ensuring that if a globally interconnected firm is at risk of failure, regulators around the world can coordinate using the same toolkit to resolve a firm without significant disruption to the financial system.

If the U.S. were to end the orderly liquidation authority, foreign authorities would likely impose much more draconian ring-fencing and supervision requirements on U.S. banks that would likely further dampen their ability to lend, depriving the economy of far more credit than the provision's hypothetical $14 billion price tag.

After eight years of reform, the financial system is safer, sounder, and more robust than it ever has been. The administration and Congress are rightfully shifting their focus to ensuring that the rules and regulations in place balance safety and soundness with economic growth and job creation. Eliminating the orderly liquidation authority to take advantage of fictional "savings" is the wrong idea.

Timothy D. Adams is president and chief executive officer of the Institute of International Finance. He served as undersecretary for international affairs

at the U.S. Treasury Department under President George W. Bush. He also served as chief of staff to both former Treasury Secretary Paul O'Neill and Treasury Secretary John Snow.

The views expressed by contributors are their own and are not the views of The Hill.

TAGS DODD-FRANK WALL STREET FINANCE BANKING REGULATION CONGRESS FEDERAL DEPOSIT INSURANCE CORPORATION