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Gridlock May Be Ending on Consumer Protection

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WASHINGTON — A proposal to give the [Federal Reserve](#) the primary responsibility for protecting consumers from abusive and deceptive financial products emerged on Tuesday as a potential breakthrough after months of partisan gridlock in the Senate over the terms of a broad overhaul of [financial regulations](#).

But the plan, which would represent a fundamental shift in the role, if not the authority, of the central bank, still faced significant hurdles. Members of both parties, while not rejecting the idea outright, said they were leery, and consumer advocates said it would further empower an institution that had failed to keep mortgage and credit card companies in check and ensure fair terms for borrowers, even though it has had authority to do both.

The push to create a regulator with a mandate to protect consumers from predatory lending practices and other financial wrongdoing has been one of the main points of contention between the two parties as they debate legislative proposals to respond to the lessons of the [financial crisis](#). Most Republicans object to a new freestanding regulator with broad authority, while most Democrats back proposals to create a regulator that can operate with substantial independence.

Some members of the Senate Banking Committee, who have been locked in negotiations over the reform package, said Tuesday that they had reservations about giving the regulatory powers to the Fed, though they stopped short of rejecting it.

“It may represent the best hope of actually getting something done, and I disagree with those who think we’d be in a better position in January or February to get a stronger bill,” said Senator [Evan Bayh](#), Democrat of Indiana, who announced recently that he would not seek re-election. “If you look at the likely course of the coming elections, the more likely outcome would be a weaker approach.”

Senator [Christopher J. Dodd](#), the Connecticut Democrat who is chairman of the committee, and Senator Bob Corker, a Tennessee Republican, declined to provide details of the new proposal, which originated from their one-on-one negotiations over the last few days. Both expressed hope that they were on the brink of a compromise that could attract widespread, if grudging, support.

Senator [Richard C. Shelby](#) of Alabama, the ranking Republican on the committee, has softened his criticism of the Fed in recent days. But he said he had concerns about possible interference by the proposed consumer unit with regulation intended to guarantee “safety and soundness” of banks.

“It doesn’t matter that much whether it’s housed in the F.D.I.C., housed at [Treasury](#) or housed at the Fed,” Mr. Shelby said. “If it’s freestanding and has rule-making power and is not subject to ‘safety and soundness,’ I think it will be a no-go for the Republicans.”

Another committee member, Senator [Judd Gregg](#), Republican of New Hampshire, said, “My view is that the consumer agency has to answer to somebody, and it should be a prudential regulator.”

Mark W. Olson, a former Fed governor, said that housing the consumer agency within the Fed would have the benefit of avoiding the expensive and laborious process of building a regulatory infrastructure from scratch.

“I think there is a new commitment within the Fed on the whole subject of bank supervision,” said Mr. Olson, who is now a regulatory consultant.

Officials at the Fed declined to comment on the latest proposal. [Ben S. Bernanke](#), the chairman, has focused on preserving its regulatory powers, which Mr. Dodd had initially suggested stripping away.

The Fed already has much of the rule-making authority that would be designated for a new consumer agency. It writes regulations governing consumer practices at financial services companies and examines the institutions it oversees for compliance.

Its consumer division also promotes community development and runs financial education programs, activities that have increased in the last two years after the mortgage crisis.

And the Fed recently put in place new mortgage lending rules, as well as protections for credit card holders.

Many consumer groups believe those efforts are too little and too late, however. John Taylor, president and chief executive of the National Community Reinvestment Coalition, said the organization had spent years raising consumer protection and fair lending concerns with the Fed, to little avail.

“The Fed has repeatedly shown a lack of desire to enforce the laws that are already on its books,” Mr. Taylor said. Asked where he would want to house the new consumer agency, if not at the Fed, he replied: “I’d take the [National Zoo](#) over these guys. This is a place to bury it, or at least to make it ineffective.”

Travis B. Plunkett, legislative director for the Consumer Federation of America, noted that the Fed acted only after a crisis emerged to rein in subprime mortgage lenders, though it had had that authority since 1994.

Other Democrats on the banking committee expressed similar skepticism.

“Monetary policy is in the penthouse of the Fed, ‘safety and soundness’ are on the upper floors, and consumer protection has been stashed in the basement,” said Senator [Jeff Merkley](#), Democrat of Oregon. To accept the new proposal, he said, “I’d have to be convinced that the culture of the Fed has gone through some radical change.”

Representative [Barney Frank](#), a Massachusetts Democrat who is chairman of the House Financial Services Committee and shepherded a regulatory overhaul through the House in December, said he was “dumbfounded” by the idea.

“When I first heard it, I thought it was a joke,” he said. “More consumer powers have resided in the Fed for some time than in any other agency, and they haven’t done it well.”

And yet, Mr. Frank said he could consider the idea if it were accompanied by robust ability to issue rules independently of other regulators. If not, he vowed, “I won’t bring it to the House.”

