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Bill Shields Most Banks From Review

By STEPHEN LABATON

WASHINGTON — Bowing to political pressure from community bankers, the House Financial Services Committee approved an exemption on Thursday for more than 98 percent of the nation's banks from oversight by a new agency created to protect consumers from abusive or deceptive credit cards, mortgages and other loans.

The carve-out in legislation overhauling the regulatory system would prevent the new consumer financial protection agency from conducting annual examinations of the lending practices at more than 8,000 of the nation's 8,200 banks, leaving only the largest banks and other lenders subject to the agency's examiners.

Earlier in the day, the committee completed its work on a different contentious provision of the legislation when, on a nearly straight party-line vote of 43 to 26, it approved tougher regulations over the derivatives market. That provision, too, contained exemptions for many businesses.

The exemption for the banks was endorsed by the chairman, Representative Barney Frank of Massachusetts, who saw it as necessary to win support for the overall bill from the committee's moderate and conservative Democrats. Their support is particularly important because the Republicans are unified against the legislation.

The committee approved the exemption for all but the largest banks in an amendment offered by two of those Democrats, Representative Brad Miller of North Carolina and Representative Dennis Moore of Kansas.

"Community banks and credit unions were perhaps not without sin in the last couple of years but they were certainly not engaged in the worst abuses," Mr. Miller said. "They make the argument that for bigger banks, examiners are camping out. But for them, examiners come and it is very disruptive and adds compliance costs. The consumer financial protection agency will be able to do the job but it will not create a further burden on small banks and credit unions."

The measure creating the new agency has already been significantly pared back from the Obama administration's proposal. While the exemption approved on Thursday would cover a vast sector of the banking industry, those institutions control only about 20 percent of the roughly $14 trillion in assets held

by commercial banks. The 150 largest banks, which would face more regulatory scrutiny, hold the remaining four-fifths of the assets.

Under the Miller-Moore amendment, the new agency would have the authority to write rules for all banks and other lenders, including lenders that have never faced significant regulation. But the banks with assets of less than $10 billion and credit unions smaller than $1.5 billion would not face regular exams by the agency.

Instead, the consumer regulations would continue to be enforced in most cases by the agencies that monitor the financial condition of the banks. Mr. Frank said that under the amendment, the new agency would still have the authority to investigate complaints raised at any bank.

Mr. Frank and senior administration officials have accused the bank agencies of failing to aggressively enforce rules protecting consumers from predatory loans. Mr. Frank said the change would not in any way diminish the oversight of the smaller banks, which would continue to face regular examinations by bank regulators for consumer problems. He also noted that the largest banks, which would face examinations by the new agency, had engaged in the worst abuses.

The amendment was warmly greeted by lobbyists for the smaller banks,

“The Miller-Moore amendment addresses some of our key concerns,” said Camden R. Fine, president of the Independent Community Bankers of America, which represents about 5,000 financial institutions.

But the American Bankers Association said it was not enough.

“We continue to have our fundamental concern that the bill will create a new agency with incredibly broad powers that will be in constant conflict” with other regulators, said Edward L. Yingling, president of the association.

In a briefing by telephone with reporters, the assistant Treasury secretary, Michael S. Barr, deflected questions about whether the administration had a view about the Miller-Moore amendment.

The legislation’s chapter on derivatives would impose new regulations and capital requirements on dealers, and would force more trades onto exchanges or electronic platforms. But in a major concession to businesses, many trades intended to hedge risks by companies like airlines, manufacturers and energy interests would be exempt from trading through exchanges or clearinghouses.

While the administration quickly embraced the derivatives legislation, a top regulator appointed by President Obama indicated that compromises made to win the support of moderate Democrats led to

problematic loopholes. The regulator, Gary G. Gensler, chairman of the Commodity Futures Trading Commission, vowed to try to strengthen the measure when it is considered by a second House committee next week.

“The committee’s bill is a significant step toward lowering risk and promoting transparency,” Mr. Gensler said. “Substantive challenges remain.” He added that he hoped a final bill “covers the entire marketplace without exception.”

Mr. Gensler did not spell out the specific problems with the legislation on Thursday, but last week he listed a host of exemptions and loopholes, a few of which have since been addressed.

The derivatives legislation was criticized by consumer groups as being too weak and by Wall Street interests as being too onerous.

Kenneth E. Bentsen Jr., an executive vice president at the Securities Industry and Financial Markets Association, said provisions requiring some types of now-private transactions to trade through clearinghouses or exchanges “could raise transaction costs while not necessarily reducing risk in a commensurate amount.”

Robert G. Pickel, the chief executive of the International Swaps and Derivatives Association, a trade group, said the legislation would “force people to trade a certain way, which ultimately means parties would have less flexibility to effectively manage their risks.”

But Ed Mierzwinski, consumer program director at the United States Public Interest Research Group, said the legislation had “broad exceptions that swallow any rule it creates.”

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