The New York Times

July 25, 2009

Regulators Spar for Turf in Financial Overhaul

By STEPHEN LABATON

WASHINGTON — The Obama administration scrambled on Friday to defend major elements of its plan to overhaul the nation's financial regulatory system in the face of significant criticism from lawmakers, the financial services industry, and even senior regulators whose authorities would be eliminated under the proposal.

A turf war among some of the most powerful regulators in Washington, which has played out largely behind the scenes in the last few months, burst into the open at a House hearing. It featured disagreements over two cornerstones of the administration's financial regulation plan — a new consumer protection agency to take over the functions now performed by the Federal Reserve, and a greater role for the Fed in overseeing large institutions that could pose systemic risks if they become troubled.

Those disagreeing were the Treasury secretary, Timothy F. Geithner; Ben S. Bernanke, the chairman of the Federal Reserve; Sheila C. Bair, the chairwoman of the Federal Deposit Insurance Corporation; and John C. Dugan, the comptroller of the currency.

The open display of opposing views, which Mr. Geithner characterized as regulators understandably protecting the prerogatives of their agencies, showed how cumbersome the current financial regulatory system can be. An alphabet soup of agencies oversee the nation's financial system — sometimes in conflicting ways.

The dispute left some lawmakers baffled and others, who oppose the legislation, entertained.

"You all agree that some of the power being proposed for the new agency should reside somewhere else?" Representative John Campbell, Republican of California, asked the panel of senior officials who all nodded affirmatively.

The dissent is playing into the hands of industry lobbyists, who are trying to defeat major provisions of the ambitious White House plan — and are skilled in playing regulators and lawmakers against each other.

In the early skirmishes, the lobbyists have notched a few small victories. Earlier this week, senior Democrats in the House conceded that they would not be able to complete work on the proposal to create a consumer protection agency for financial products like credit cards and mortgages before the lawmakers depart for their summer recess at the end of next week.

House Democrats had hoped to complete legislation creating the agency this month. But because of the opposition, Representative Barney Frank, the Massachusetts Democrat who heads the House Financial Services Committee, said on Friday that the committee would delay its work on the proposal until September.

Mr. Frank said that next week the committee, and then the full House, would approve legislation imposing new rules on how companies award executive compensation.

In the Senate, meanwhile, both the chairman and ranking Republican on the banking committee have been skeptical of the administration's proposal to expand the reach of the Federal Reserve, even though Mr. Bernanke has said that the proposal is only a modest extension of what the central bank is already doing.

Barely had Mr. Geithner left the witness chair when a panel of senior regulators challenged many of the details of his plan. First Mr. Bernanke questioned the proposal to transfer the Fed's existing job of regulating mortgages and credit cards to a new consumer product agency. Mr. Bernanke said the writing and enforcement of consumer protection rules "are complementary" to the other bank supervisory functions performed by the Fed and those important benefits "would be lost through this change."

Then Ms. Bair, the outspoken chairwoman of the Federal Deposit Insurance Corporation, criticized the proposal to give the new consumer protection agency the authority to enforce new regulations. She also said it would be better to give a council of regulators, which would include her agency, the authority to oversee risk across the industry, rather than vest broad new authority in the Federal Reserve.

"The Oversight Council described in the administration's proposal currently lacks sufficient authority to effectively address systemic risks," Ms. Bair said. Flatly contesting Mr. Geithner's recommendation on the new consumer agency, she added, "Federal banking agencies should retain the authority to examine and supervise insured institutions for both consumer protection compliance and safety and soundness."

Mr. Dugan, the comptroller of the currency, which regulates nationally chartered banks, said he also disagreed with the proposal to give the new consumer protection agency the authority to enforce any new regulation. Instead, that should remain with the existing bank regulators, he said.

Mr. Geithner urged the lawmakers not to delay or bow to industry pressure, but to move swiftly.

He said that disagreements between the regulators were virtually unavoidable because the plan contemplates shifting a significant amount of power among them.

"It's perfectly reasonable and understandable," he said, that institutions and officials with authority would not want to give it up. Referring to Mr. Bernanke, he added, "With respect to the chairman and the others, they are doing what they should — protecting their prerogatives."

In trying to make the case for the new consumer agency, Mr. Geithner noted that mortgage brokers and large mortgage companies, which played a central role in the financial crisis, were now virtually unregulated by the federal government. And though financial oversight exists in other areas involving consumer protection, companies have been able to select their regulators, a practice that led to "the least restrictive oversight of consumer protection."

And he noted that the banking agencies responsible for enforcing consumer protection had typically had other priorities.

Large and small banks and their trade associations in Washington have waged a major lobbying effort to kill the proposal, or at least substantially water it down, so that the new agency would not be able to write new regulations and also enforce them. The banks have maintained that the creation of a new agency would lead to burdensome and duplicative regulation of the banks.