THE (LIZ) WARREN COMMISSION AND FINANCIAL REFORM

A lot of hope was placed on the back of Elizabeth Warren and the financial reform act passed by Congress at the behest of the Administration formally known as the Dodd-Frank Wall Street Reform and Consumer Protection Act. Concurrent with belittling the liberal Democratic activist base as ungrateful whiners, the Administration and Democratic leadership has touted Liz Warren and Dodd-Frank as prime examples of accomplishments that should thrill and satisfy the base. But are those "accomplishments" really all that and should they mollify Democrats, at least on financial reform issues? The initial returns indicate no.

First, the ability of Dodd-Frank to do the job intended as to rapacious financial institutions is highly debatable at best, and that is being generous. It is already established the bill did not clamp down sufficiently on the reckless casino style trading in derivatives and synthetic financial products, and may even have opened a new portal for abuse by the Wall Street Masters of the Universe high frequency traders.

Gretchen Morgenson in today's New York Times lays out beautifully the bigger picture on the lack of reform in the "reform":

> THE government is pulling a sheet over TARP, the Troubled Asset Relief Program created during the panic of 2008 to bail out the nation's financial institutions. With the program's expiration on Sunday, we can expect to hear lots of claims from the folks at the Treasury that it was a great success.
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> Such assertions would be no surprise from a political class justifiably concerned about possible taxpayer unhappiness, the continuing economic

turmoil and the midterm elections. But if we have learned anything during this crisis, it is that the proclamations emanating from the Washington spin machine must be taken with an extra-hefty grain of salt.

Consider the claims made last summer that the Dodd-Frank financial reform act reduces the threats that large, interconnected banks pose to taxpayers and the economy when the banks are deemed too big to fail. Indeed, as regulators hammer out the rules governing derivatives transactions, it’s evident that the law has created a new set of institutions that will almost certainly be deemed too important to fail if they ever get into trouble. And that means there won’t really be an effective way to keep those firms from taking big, profitable, short-term risks that are dumped on the taxpayers when the bets fail.

Our roster of bailout candidates includes the clearinghouses, created under Dodd-Frank, that are meant to increase the oversight of derivatives trading. Because most derivatives transactions are expected to go through these clearinghouses, they will be “systemically important” under the law. As such, Dodd-Frank specifically provides that “in unusual or exigent circumstances,” the Federal Reserve may provide such entities with a financial backstop, including borrowing privileges.

Remember this: Financial backstop is just another term for a taxpayer bailout. And the major banks and brokerage firms are the members of the clearinghouses, so a backstop would essentially be for them.

According to the Bank for International

> Settlements, the entire derivatives market had a gross credit exposure of $3.5 trillion at the end of 2009. Obviously, even a small fraction of that amount could represent a sizable call on the taxpayers if a clearinghouse hit the skids.
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> So much for eradicating too-big-to-fail.

So much for ending "Too Big To Fail" indeed. Like upwardly spiraling health care costs from "healthcare reform", it appears all that has been done is to institutionalize the very problems in need of eradication.

Well, how about Elizabeth Warren, surely her placement in the Obama Administration is a giant positive the Democratic activist base can hang their hat on and take to the bank, right? In a word, no. Now, before we go further, I want to make perfectly clear that I admire and respect Warren greatly and probably as much or more than anybody in the public sector today. For that reason, writing the following pains me greatly, but I believe the facts and circumstances warrant honesty about the situation surrounding Liz Warren.

Here is what I said back on September 17th:

> I spent a good chunk of the night a couple past reading the bill and the enabling provisions for formation of the CFPB. Done properly, the contemplation is for sucking in huge swaths of power, almost like a smaller version of the reorganization that formed the DHS, but is a good way. I think Warren will be interested in consolidating this power in an agency that might actually help people; I do not think any of the others involved, whether Geithner, Summers, Obama, Banksters, MOTUs and the agencies the power would be carved out from, will be interested in this at to any real degree at all. As is, Geithner and his

> Treasury team will have the last word on this, not Warren.
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> But the thing is, the power Geithner has is vested in the head of CFPB once confirmed or installed by recess appointment, which could have been Warren. That is a HUGE difference that Obama has intentionally and actively worked his ass off to prevent occurring. Today is the first big date, the date Geithner specifies the operative date for transfer of powers from other areas and agencies, which is the date the whole formation will then be calendared off of. It is a huge date. That is one of the main reasons why they strung Warren out till today, so she had no input on that. So Obama Could have named Warren immediately and pushed hard for fast confirmation or recess appointed her so that she had the power to do this right. Instead, he intentionally strung her out and insured that Geithner had all the real authority to not make the CFPB what it ought to be and has, further, insured that Warren never is confirmable in the future (the logistics after the mid-terms will make it impossible). Heckuva job.

For any so inclined, go read the actual CFPB enabling provisions in the the Dodd-Frank Bill. I think you will begin to understand what I am describing as to the awesome power that *could be* in CFPB if it was taken and done right. That power, and the ability to NOT exercise it, however, because of the Obama White House path, stays vested solely in Geithner/Treasury hands, and subject to the incredibly relentless influence of MOTU Banksters until a CFPB head is confirmed or recess appointed. And that, folks, is exactly why the Obama Administration refused to nominate or appoint Elizabeth Warren to be the actual head of CFPB. There was never a chance.

But there is a lot of good Warren can accomplish in her weird hybrid post Obama crafted for her, right? Not really, especially in relation to the awesome power she could have wielded, and should be wielding as head of CFPB. Yves Smith at Naked Capitalism sums it up very well:

> It is now official that Warren is at best a placeholder; she cannot have much impact. She can't make much in the way of policy or personnel choices; that would encroach on the authority of an incoming director. And even her ability to influence the choice of a nominee is questionable. Her taking the advisory role now assures that the nomination of the permanent director will come after the midterm Congressional elections. Given the virtual certainty of Democratic losses, the odds are high that Team Obama will settle on a "conservative" meaning "won't ruffle the banking industry" choice, and argue its hands were tied.
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> So the Obama camp has played this extremely well. They get to avail themselves of the Warren brand, give her a Potemkin role, and use it to push the timetable for nomination of the permanent director out, which give them cover for installing a more compliant choice.

That is exactly right. And, as I stated above, what the Warren co-option by Obama and Geithner has done is not just to score political points from gullible Democrats desperate for a hint of intelligent financial policy from a moribund Administration, but more importantly to provide cover for the hollowing out of what could have been, and should have been, awesome power of a CFPB in competent and motivated hands of somebody actually interested in real consumer and citizen protection. Someone like Elizabeth Warren. It is a craven bait and switch and you, the consumer and citizen, are on the losing end.

Want more evidence? From Sewell Chan in Thursday's New York Times:

> The Obama administration is starting to set up the new Consumer Financial Protection Bureau, but relief for consumers befuddled by the complex disclosures that accompany credit cards, auto loans and mortgages will not come about right away.
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> Under questioning from senators on Thursday, the deputy Treasury secretary, Neal S. Wolin, acknowledged that regulators would not have substantive power to write rules governing a vast array of consumer loans until a permanent director of the bureau is in place and until July 21, 2011, when responsibilities from seven other federal agencies are transferred to the new bureau.
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> …..
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> At the hearing, Senator Richard C. Shelby of Alabama, the top Republican on the Banking Committee, said that the Treasury Department had emphasized the need to move quickly on writing new rules governing consumer loans, and questioned whether the department could do that "without a confirmed director."
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> Mr. Wolin replied that "there is limited rule-writing authority, but it is constrained until such time as there is a confirmed director.
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> ….
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> Finally, Mr. Wolin acknowledged to the senators that "the authority to actually issue a rule that would bind private parties, for example, in the mortgage area is a tough one until such time as there is a confirmed director."

Therein lies the truth the Obama Administration has carefully obscured. They not only denied Elizabeth Warren the post she deserved and the power the country needed in her hands, they co-opted her as cover for frustrating the very purpose of the CFPA. There is no real power for the CFPA, and the true "rule writing" cannot occur, until there is a formal head and because of the bait and switch, Obama and Geithner have indefinitely strung out the time when there will be such a formal head of CFPB.

Elizabeth Warren is completely marginalized and, whatever little authority she does currently have disappears the second a real head of CFPA is confirmed. And do not kid yourself, while confirmation of Warren to head the CFPA would have been possible, even granted it would have been a very tough fight, in the current Congress, it will be impossible with the reduced Senate majority in the coming Congress. Thanks to the conduct of the Administration, there is now no chance whatsoever of Warren ever being confirmed and instead a conservative hack vetted and to the liking of conservative Republicans and Wall Street banksters will be the choice. Mission accomplished.

The ever more arrogant and belligerent to the progressive base Obama White House can call it "whiny" all they want, the truth is they are selling the base, and the rest of the country and mostly gullible press, a bill of goods. Admitting the truth isn't being whiny, it's being honest.