Dodd-Frank Act — Half a Loaf Plus a Slice

Edward H. Sibbald
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The new law is not perfect, but it was the best that could be accomplished given the hyper-partisan, ideology-ridden dysfunctional Congress.

First, the favorable aspects of the bill include:

1. It provides a permanent increase to $250,000 in deposit insurance protection per account holder. This is a big plus for families and smaller businesses and provides local banks with an additional degree of competitive protection versus banks considered too big to fail.

2. The act restricts higher-risk proprietary trading activities and places a cap on banks’ investments in hedge funds and private equity. It also requires greater market information about derivative transactions and will require financial institutions to maintain higher capital levels.

3. It will bring long overdue regulatory oversight to the shadow financial services industry — the mortgage brokers, payday lenders (outlawed in Georgia), consumer finance companies private equity and hedge funds. “Non-bank” financial services companies initiated more than 90 percent of subprime mortgage loans.

4. It recognizes the special role smaller community banks play as the source of financing for many businesses on Main Street. Many of the provisions provide exemptions for banks under $15 billion in assets. Only two banks in Georgia are affected. At the same time, it does not excessively restrict the mega-“Wall Street” institutions from serving their proper and appropriate role as a financial intermediary for larger multinational companies.

5. The act establishes a “resolution authority” to monitor and, if necessary, wind down and bury distressed banks previously deemed “too big to fail.” The government and regulators will have tools to address future large financial institution failures and the aftershocks — financial crises and credit crunches — that were unavailable to key regulators and the U.S. Treasury in 2007 and 2008.

However, the act still leaves many things to be resolved, despite the fact it’s 2,200 pages long, or twice the size of the King James Bible. The issues include:

1. The law is more a set of broad principles and guidelines than restrictions in many areas, leaving state and federal regulators and two new groups to establish the rules of the game. Although banking laws have always relied on regulators to develop appropriate business practices, this sweeping bill is the greatest delegation in responsibility to the regulators in history.

2. Many of the new provisions will be phased in over a two- to three- year period. Hence, the full impact of revised regulatory guidelines with their inevitable unintended consequences will not be clear until 2013-14.

3. It creates a Financial Stability Council to oversee the activities of financial institutions that pose a risk to the entire economy. More contentious is the establishment of a Consumer Financial Protection Bureau with sweeping authority over appropriate financial products/services and customer information disclosures. Many fear it will inhibit financial innovations and all financial institutions will face higher costs to comply with its regulations.

4. The ambiguous nature of the law leads many to believe it is too tough already, while other analysts and industry experts feel it is not tough enough. The lack of clarity in this act is troublesome.

As regulators begin to establish practices and policies consistent with the letter and spirit of the law, everyone — banks, businesses, lobbyists, consumer advocacy groups — will offer their opinions and exert their influence in a never-ending tug of war. I have my own opinions and concerns, but you will have to wait until next week’s article. Stay tuned, and keep reading Business in Savannah.

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BUSINESS IN SAVANNAH

The Savannah Development and Renewal Authority hosted a ribbon-cutting ceremony for the grand opening of Hanna Leigh Maternity Boutique at 20 W. State St. Aug. 5. Officials from the City of Savannah, the SDRA, Keep Savannah Beautiful, the Tourism Leadership Council, the Entrepreneurial Center and the Downtown Business Association were on hand to welcome owner Britttny Johnson, who has been in the fashion industry for more than 10 years.

The boutique, located between Whitaker and Bull streets in downtown Savannah, offers upscale yet affordable clothing for mothers-to-be. The hours of operation are 10 a.m. to 6 p.m. Monday through Saturday. For information, go to hannahleighmaternity.com.