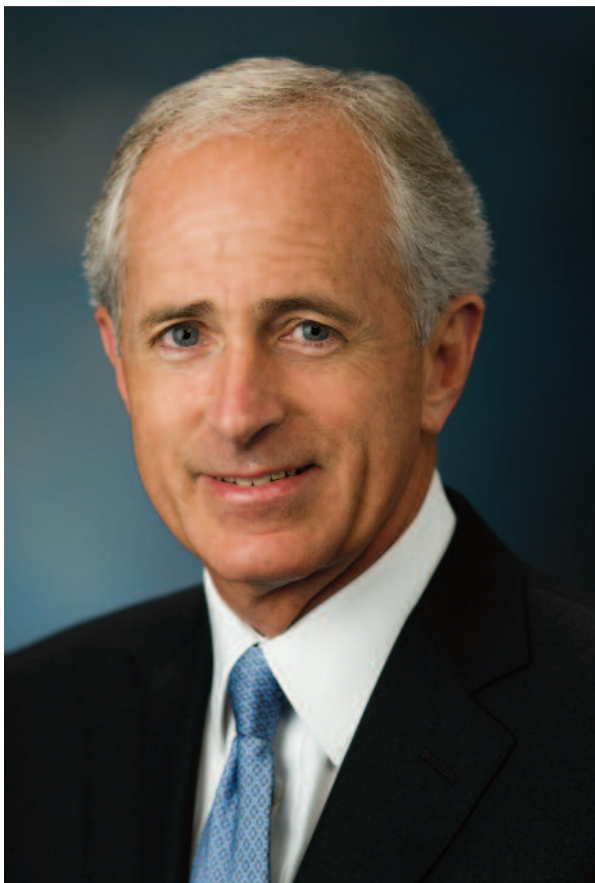


# TWO PERSPECTIVES

BY ROBERT STOWE ENGLAND

## Senator Bob Corker Q&A



**A key member of the Senate banking committee, Sen. Bob Corker (R-Tennessee) was a leading player in the negotiations over the new Dodd-Frank law.**

Sen. Bob Corker (R-Tennessee) has been a strong advocate in Congress for a centrist, bipartisan approach to financial regulatory reform. Elected in 2006, he joined the Senate Banking Committee in January 2008. He is the former mayor of Chattanooga (2001–2005) and former commissioner of finance for Tennessee (1995–1996), and has had a successful career as a commercial real estate developer.

In March 2009, in anticipation of regulatory reform, Corker joined with Sen. Mark Warner (D-Virginia) to host a series of briefings for fellow senators, bringing in prominent guest speakers from the private sector, banking regulation and academia to discuss ways to approach financial regulation.

In November 2009, Corker urged Chairman Christopher Dodd (D-Connecticut) to put his bill aside and pursue bipartisan negotiations. Dodd agreed, and tasked four bipartisan teams with specific areas of regulatory reform. Corker and Warner, one of the four teams, were assigned to work on systemic risk and resolution authority. On Feb. 10, Corker agreed to work with Dodd further toward a bipartisan regulatory reform bill. However, a month later, on March 11, Dodd abandoned the bipartisan approach and announced that he would introduce his own bill and move it through committee.

Corker voted against the initial Senate version of financial regulatory reform that was taken up on the Senate floor after being reported out of committee. He was one of five Senate Republicans on the House-Senate conference committee to work out the differences between the respective bills. The senator also voted against the final legislation, titled the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. That measure ultimately passed on a vote of 60 to 39 with the support of three Republican votes (Sen. Scott Brown, Massachusetts; and the two senators from Maine, Olympia Snowe and Susan Collins) and

with the opposition of one Democrat (Russ Feingold, Wisconsin).

“We had an opportunity to show the American people that we can work together on big issues and solve problems, and it’s a shame that we did not do that,” the senator said after the law passed. “My friends on the other side of the aisle like to call this bill ‘Wall Street reform’ and our side likes to call it a ‘Wall Street bailout,’ but it is neither,” he stated.

“Wall Street, with teams of compliance officers to deal with new regulations, in many ways comes out a winner because little will change. Small banks, forced to use their limited resources to comply with burdensome new reporting requirements, will suffer, as will the communities they serve,” Corker concluded.

*Mortgage Banking* caught up with Sen. Corker at his Senate office a week after passage of the new law.

**Q:** *Do you think it was a mistake not to wait and move the financial reform legislation until the government-sponsored enterprise [GSE] reform proposals could be included in the package? Will GSE legislation be harder to move as stand-alone legislation?*

**A:** Well, we’ll see. Certainly I would have liked to see legislation with Fannie and Freddie and the Federal Home Loan Bank system. There was not the urgency to deal with this by the majority party, as there was on our side.

One of the things we were able to put into the bill is that the administration needs to come forth with a proposal [for reform of the GSEs] by January instead of March [2011]. I do understand the politics of not dealing with these institutions is problematic for them. There was not as much of a sense of urgency on that side. I think we will deal with it. I think it was more of a sense of urgency to maybe come up with stronger financial regulation, as long we get [GSE reform] done in the next six or seven months. I’m happy [that the call for mortgage finance reform] is part of this bill. I think we will deal with it. It’s the only game in town, and a huge issue to our country.

The president, when he signed the financial reform law, said no more bailouts. Yet, every time Fannie and Freddie need cash, they are going to be getting it from the taxpayer. Already it’s been hundreds of billions [of dollars], with more to come.

**Q:** *Speaking of bailouts, does the legislation adequately address the issues around “too big to fail”? Has moral hazard been increased or decreased with the passage of financial regulatory reform?*

**A:** Well, I think a tool was given to regulators in the future in the event a large institution fails. Unfortunately, work wasn’t done to make our bankruptcy code work better [in these situations].

We’ve got a couple of issues here. One is the issue of how will creditors be dealt with? There were some changes to the resolution title [of the new law] after it was introduced that made it work a little bit better. Most people are concerned again with how creditors are going to be dealt with. My own sense is that the Judiciary Committee—and part of the problem with a bill like this is when you start moving it out of the jurisdiction of, say, banking . . . to another committee, it gets very unwieldy. So, there wasn’t a real desire, unfortunately, to get Judiciary involved and actually do some

upgrade to the bankruptcy code so that [the tool available to the Federal Deposit Insurance Corporation (FDIC)] would work. . . . This is a major failure. Even with the new tool for regulators [to handle large failed institutions], absent an upgrade of the bankruptcy code, it can lead to various types of crony capitalism.

The other piece that we have got to deal with is that most institutions operate around the world. We have to figure out if an institution fails in Europe with a U.S. subsidiary, how will that be dealt

with? A lot of work needs to be done. Absent a judicial take on upgrading the bankruptcy code, the tool [available to banking regulators to deal with large institutions that have failed] is one that can be taken advantage of [by various interested parties]. . . . What I hope happens, as the [political] blend of the House and Senate changes over the next several years, is that we will actually do the work that we need to do to upgrade our bankruptcy code.

We went to New York and met with bankruptcy attorneys working on the Lehman Brothers bankruptcy. We learned there are changes that need to be made available in bankruptcy court to make it work for highly complex bank holding companies.

**Q:** *What concerns you about the scope of powers that were given to the Consumer Financial Protection Bureau [CFPB]? Do you think a five-year term is appropriate for the head of the bureau?*

**A:** Well, as far as individuals go, we’ve done a good job refraining from talking about any particular individual. It’s a shame [the design of the CFPB] ended up the way it did. We really pressed for a balance. To me, what we want to have in our financial system is a

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balance between prudential regulation of safety and soundness of the system, and the institutions in it, with consumer protection. We felt like there was a way to achieve that balance. We worked hard to get there and, candidly, thought we were almost there. But it's evident the administration wanted to press this as far as they could to the left. And they were successful in doing so.

So what we've ended up with is a consumer-protection agency that has a huge budget and has no board—again has no board of directors—and has a very shallow ability to veto. That standard against which someone might challenge a rulemaking is so high that there will almost never be an opportunity to challenge those. And this one individual—again, because there is no board—has the ability to write rules over the entire financial sector in our country and, in many cases, enforce it unilaterally. I think it was a tremendous over-reach.

I think there was a way of getting to proper balance. I think there were Democrats who, candidly, were open to achieving that balance. I just really feel like the momentum from the administration pushing this was difficult for [Democrats who wanted a balanced approach] to overcome. There were some who wanted to give it even more power.

What I'm concerned about is that for those responsible borrowers in our country, I think there is going to be less credit available—and the credit that is available is going to be more expensive.

This issue that has me concerned, if you want me to be candid, is that you have this one individual—whomever the person is going to be—this entity is going to be shaped by one person. I think that's just an irresponsible way for us in Congress to create an entity like this that has such vast powers over our financial system.

**Q:** *Does the new financial law provide for the subsidization of credit from people with good credit to people with bad credit, in that people with good credit will pay more so that people with bad credit can pay less? Is there a redistribution of wealth built into this law?*

**A:** Well, we'll see. I think that's something that could well occur under the consumer-protection agency, and it's something I'm concerned about. So, we'll have to see what evolves. . . . No doubt there were prescriptive things in this bill. On the other hand, I think the *Financial Times* did an analysis a few days after it passed and said, "So many pages, so little content." Basically what they are saying is that much of this bill is a punt to regulators, a punt to the consumer-protection agency that has vast rulemaking authority.

Over the course of the next 18 months, there will be

hundreds and hundreds of rulemakings that will be put in place by regulators. This bill directs that. And so, on one hand, one of the things we were hoping to achieve with financial regulation is certainty. Now a bill has passed. What's really going to happen? Yes, there is a good deal of certainty. But there is still a large degree of uncertainty as we move ahead over the next 18 to 24 months as additional rulemakings occur.

I believe the end result is going to be that less credit is available, and credit is going to be more expensive—to the detriment of the responsible borrower, to the [advantage of the] less-responsible borrower.

**Q:** *Do you believe the reforms of the credit-rating agencies will be effective at preventing risky mortgage-backed securities [MBS] from earning misleading ratings? The bill also creates new legal liabilities for the rating agencies. Was that a mistake? It seems to be spooking the rating agencies from allowing their ratings to be published by underwriters in their prospectuses.*

**A:** Well, I don't think that we dealt with credit-rating agencies. The liability standard was the way the majority wanted to deal with it on the Senate side. On the House side, it was more an issue over the next several years of writing them out of the code. I don't think we candidly addressed yet the credit-rating agencies. I think because of some stipulations in the bill, that regulators—the Securities and Exchange Commission [SEC] and others—will have some rulemakings around the credit-rating agencies.

[But because the issue was not fully addressed, rulemakings may not solve it,] and there may be additional legislation that comes down the pike. Yes, I know some of the public offerings that were held up—who was it, Ford? **MB**

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This feature article is an **excerpt** from the September 2010 issue of *Mortgage Banking*. This posted PDF version is not for copying, distribution or reprint.

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