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Obama's "Financial Crisis Responsibility Fee": Not Responsible, Not a Fee

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Willie Sutton would be proud. When President Obama announced the details of his Administration's plan to tax financial institutions,[1] he said, "We want our money back, and we are going to get it." However, he doesn't seem to care who pays the money back, as most of the firms who would be forced to pay the "fee" either paid the money back with interest, took TARP money under duress only because the Treasury told them that they had to, or never took any money in the first place. The companies that have caused most of the TARP losses so far—GM and Chrysler—are exempt.

The White House needs a villain to blame for the nation's continuing economic woes, and Treasury desperately needs revenue to reduce the massive deficits caused by the Obama Administration's spending policies. If the Administration wanted to be candid about their reasoning for placing a "fee" on big banks, they would quote famed bank robber Willie Sutton, who, when asked why he robbed banks, purportedly answered, "Because that's where the money is."

Taxpayers can be justifiably angry with financial institutions that took huge amounts of taxpayer dollars and are paying huge bonuses for some of the very behavior that contributed to the 2008 financial crisis. However, this new tax has nothing to do with that situation, and its enactment would not discourage such bonuses in the future. Nor would it change the way that financial institutions operate.

How the "Fee" Would Work. As announced, the new bank "fee" would apply to all financial institutions with more than $50 billion in assets. This includes about 50 firms that either own insured depository institutions or are broker-dealers. About half are banks, with the rest being insurance companies and other types of financial institutions. About 10–15 are U.S. subsidiaries of foreign firms, the rest being domestic financial institutions.

Each affected financial institution would pay an annual fee equal to 0.15 percent of its liabilities. This would be calculated by taking the firm's total assets and subtracting both its Tier 1 capital[2] and any deposits that are insured by the FDIC. Thus, firms that have high levels of insured deposits, such as those with extensive bank branch networks, would pay less than those that rely largely upon borrowed money and other assets. About 60 percent of the revenue from the fee is expected to come from the 10 largest financial institutions.

The tax, according to the Administration, would last until the costs of TARP are "paid for." This would translate into about $90 billion over the next 10 years.

What Is Wrong with the Proposed "Fee"? Although the Treasury Department claims that the new "Financial Crisis Responsibility Fee" is

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intended to recapture losses from the TARP bailout fund, the reality is very different:

1. With one exception, the tax does not apply to the entities that caused TARP's losses. As of September 30, 2009, TARP lost money on its bailout of AIG, auto companies GM and Chrysler, and the Administration's program to help people refinance mortgages. TARP's other programs actually showed a small profit. It is possible that other TARP programs aimed at the financial sector will sustain losses in the future, but that is far from certain. Congress is certainly not going to make those individuals who benefitted from the mortgage refinancing plan repay the losses of that program. The fee would not apply to Chrysler or GM, either. The only entity that caused a loss that will be taxed is AIG, but the fee would just make it harder for the firm to repay its bailout. Taxpayers get no benefit from AIG being taxed.
2. The new tax is not designed just to recapture some of the profits that financial institutions made last year. Since it is styled as a "fee," it would apply to both profitable and unprofitable financial institutions. This structure would make it even harder for undercapitalized financial institutions to rebuild their financial strength and increase the risk of failure if the economy goes back into recession.
3. The new tax would be on top of both (1) another proposed new fee that would apply to roughly the same group of financial institutions, and (2) the corporate income taxes that they already pay. The financial regulatory bill passed by the House late last year includes a new FDIC-type assessment that is supposed to pre-fund a new pool of money designed to pay for future systemic problems among large financial institutions.
4. The fee is not structured in a way that would reduce irresponsible risk taking. Although the cost will be highest on firms that use riskier ways to finance their operations, the 0.15 percent level is not high enough to discourage them from doing so. Instead, this is much more a case of Washington seeking a cut of the action.
5. Despite claims that the tax would be collected only until TARP deficits are "paid for" (about 10 years), history suggests that the fee will become a permanent tax upon large financial institutions.

"Because That's Where the Money Is." When Congress passed the TARP bill in 2008, it required the Treasury to find a way to recoup any losses by 2013. The time lag was designed to allow Treasury the opportunity to see how the program had performed and to assess those who caused the losses. While the Obama Administration claims that it is fulfilling this requirement three years early, it is really just seeking a new revenue source to try to pay for some of the massive deficits caused by their spending programs.

On balance, the new "fee" bears a striking resemblance to the old motivational technique that called for the beatings to continue until the morale improves. While Administration officials urge banks and other firms to start lending again, the new tax (for it is a tax regardless of whether it is called a "fee" or something else) would discourage them from taking risks. The "fee" would apply regardless of a firm's profitability and would make it even harder for firms recovering from last year's losses to rebuild the capital needed to back up lending.

This is the wrong approach to reducing the swollen deficit and would inevitably cause more problems than it solves. It is a bad idea being used to score political points and should be dropped.

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1. Press release, "Fact Sheet: Financial Crisis Responsibility Fee," January 14, 2010, at *http://www.treas.gov/press/releases/tg506.htm* (January 20, 2010).
2. Tier 1 capital consists of a financial firm's common stock plus both retained earnings and possibly some forms of non-redeemable preferred stock. It is considered to be a firm's safety margin against losses due to unfavorable market conditions.