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Business View

Financial Reform Law Takes Small Business Seriously

By Stephen J. Adams

Barring unforeseen events, the Federal financial reform bill will soon become the law of the land. It will usher in a new era of government regulation including a new consumer protection agency to regulate financial products including credit cards, mortgages, pay-day loans and others.

Buried deep within the legislation's 2000+ pages is some undeniably good news for small businesses. An amendment championed by Senators Olympia Snowe (R-Maine) and Mark Pryor (D-Arkansas) will provide small businesses some assurance that they will be treated fairly by new consumer financial protection regulations. It may be signaling more serious Federal attention to small business needs as well.

A hallmark of the new financial regulation law is the creation of the Consumer Financial Protection Bureau (CFPB). While auto dealers were exempted from its reach, the new agency will impose new requirements on millions of small businesses who offer credit payment terms to their customers.

The good news is that the Snowe/Pryor amendment includes the CFPB among those federal agencies subject to the Small Business Regulatory Enforcement Fairness Act, known as SBREFA. This Clinton-era law requires that if an agency proposes a regulation that is expected to "have a significant economic impact on a substantial number of small entities" it must convene a review panel of small business experts to advise them.

SBREFA authorizes regulators to then modify the proposed rule, "where appropriate", to reduce the burden on small businesses while still achieving the objective of the regulation. Some examples include reducing reporting requirements or extending time to adopt costly new processes.

Consumer advocates who opposed the Snowe/Pryor amendment argued that the small business panels would bog down legitimate rulemaking efforts. But federal experience with the law shows otherwise. To date, SBREFA has covered only the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA). In the nine years between 1996 and 2005, EPA convened only 24 small business panels, covering just 2% of the nearly 1300 rules promulgated by the agency during that period.

Until now, politicians have focused the lion's share of their attention on tweaking Small Business Administration (SBA) programs. But as the TARP Congressional Oversight Panel reported in May, they serve so few businesses that efforts to help small businesses through SBA lending programs cannot hope to have broad effect.

The small business protections in the financial reform law reflect a recognition that vigorous and effective regulation need not put small firms at a competitive disadvantage, and that including all stakeholders in shaping consumer protections will benefit both consumers and the businesses America is relying upon to pull the economy out of recession.

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