Banking in a New World Order

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Abstract

September 11, 2001 is the defining date of a new world order. Like all individuals and commercial activities in the U.S., American banks and other domestic financial institutions were affected by the events of the terrorist attacks and by the subsequent responses of the American government and business community. Some of the effects of the attacks were immediate and fleeting. Others, however, were likely to have altered the environment of the financial services industry, particularly banking, in the U.S. for the foreseeable future. This paper is an initial consideration of these more lasting effects. (JEL G20)

Introduction

September 11, 2001 was a defining date for the people of the United States and, ultimately, the world. It was the start of the new world order. The business community, particularly its financial services component, was particularly and adversely affected. One might venture so far as to say that financial services as the fulcrum of business and the symbol of American economic power was itself a focal point of the attacks on the World Trade Center [Lang, 2001, p. 360]. Wall Street was more than the location of the twin towers; it was the financial heartland of the country. No part of the American financial services industry including the banking community escaped the effects of September 11.

This paper looks at the regulation and role of American banks in the post-September 11 world. In particular, it seeks to determine to what extent and how the regulatory climate for banks operating in the United States has been altered. Additionally, it considers the degree to which the regulatory changes that occurred in American banking at the end of the 20th century aided American banks in meeting the unexpected challenges brought on by the terrorist attacks or exacerbated the negative impact of this national tragedy on the banking industry.

The Regulators

Historically, banking has been among the most regulated businesses, if not the most regulated business, in the United States. From the vantage point of the number of regulators to whom bankers are responsible and the complexity of the regulatory structure overseeing the industry, banks in the U.S. have no equal among their competitors in the financial services industry either domestic or global. The dual banking system that is an outgrowth of federalism has led to a plethora of banking regulators. National banks are under the supervision of the Office of the Comptroller of the Currency (OCC) in the Department of the Treasury. The Federal Reserve Board (Fed) supervises state-chartered banks that are members of the Federal Reserve System as well as all foreign banks operating within the borders of the

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The Federal Deposit Insurance Corporation (FDIC) oversees the non-member, state-chartered banks that it insures. In addition to these federal regulators, banks must answer to the state regulators in those states in which they are headquartered or do business. At one time state regulators were senior supervisors for state chartered, non-member banks that were uninsured by the FDIC. There are, however, no remaining uninsured domestic banks.

The events of September 11 increased the regulatory burden of American banks by expanding the role of a new group of regulators. Prior to September 11, some of these regulators had been involved only tangentially with all domestic banks or occasionally with an individual bank. These new banking regulators were empowered by the federal government's efforts to trace the monetary trail of the terrorists, seize their assets, and prevent money laundering activities that could aid in financing future terrorism. Banks were no longer simply a part of the financial services industry or an integral part of the nation's economic system; they were part of the war on terrorism. The position of banks in protecting the nation was altered from that of an essential, regulated industry to an essential tool of government policy. This change in perspective brought to the fore the new set of banking regulators.

One must now include among the regulators of American banks:

1) *The State Department*
   The money trail that financed the terrorists and provides the economic underpinnings of the Al Qaeda network is global in reach and follows many paths, several of which wind through the international banking community. The State Department's efforts to find and eradicate terrorists, therefore, has made it attentive to the activities of American banks, particularly those with an overseas presence and also to the activities of foreign banks with representation in the U.S.

2) *The Justice Department*
   Previously involved with banks largely through its anti-trust, criminal and civil rights divisions, it is now intimately involved through its subsidiary arm, the Federal Bureau of Investigation (FBI) in the enforcement of the heightened money laundering and asset seizure requirements.

3) *The Department of the Treasury*
   Through the OCC and because of the significance of banking in the overall economy, the Treasury Department had daily concern for banks prior to September 11. Nonetheless, the breadth as well as depth of involvement has expanded since that date. Treasury's Office of Foreign Assets Control directs the effort to seize and freeze assets by domestic banks. Additionally, the Treasury Department represents the U.S. with the Financial Action Task Force on Money Laundering (FATF). This international and multi-disciplinary group established in Paris in 1989 by the G-7 includes 29 nations, the European Union (EU), and the Gulf Cooperation Council. It monitors members' anti-money laundering progress and makes recommendations for improving money laundering policies and activities. As of October 2001, the FATF has concentrated its efforts on combating terrorist financing [Financial Action Task Force on Money Laundering, 2001].

*Regulations*

*Money Laundering*

The extensive regulation of American banks included a substantial number of laws related to money laundering prior to September 11. The terrorist attack demonstrated their inadequacy while simultaneously increasing their importance and changing their focus. It also overrode bankers' and some politicians' (for example, Senator Phil Gramm) opposition to banning foreign banks from access to the U.S. market if they refused to aid the U.S. government in money laundering investigations.