

'Examine other alternatives'

Geithner's proposal overreaches, grants regulators too much power.

By Spencer Bachus

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Treasury Secretary Timothy Geithner has proposed that the American people grant unprecedented authority to this and future administrations so federal regulators can manage and control private businesses in ways never seen before in our country.

We believe that regulatory reform is important and necessary. However, this proposal overreaches and grants powers that are far beyond what is necessary.

Legislation to establish a regime to unwind the affairs of large, systemically important non-banks raises a host of complex policy questions: whether regulators have the capacity to unwind large institutions; which government agency should be able to invoke this extraordinary power; and what the standards should be. Most important to the American people, who will pay for it?

Secretary Geithner's draft legislation authorizes the FDIC to spend an unlimited amount of taxpayer cash to prop up and unwind systemically important firms. In response to my question at a hearing Thursday, he said it should be able to spend "such sums as are necessary." I disagree. Future generations of Americans should not be saddled with the costs of these failed institutions.

Before we grant this exceptional authority to an executive branch agency, we should examine other alternatives. One obvious process is bankruptcy. The difference between bankruptcy court and the process proposed by Secretary Geithner is that the bankruptcy courts operate in a public forum with long established policies, rules, procedures and stakeholder protections.

Some have claimed that bankruptcy is not practical for large, complex institutions because, they say, it did not work in the case of Lehman Bros. If an executive branch agency is capable of resolving a complex entity, the bankruptcy courts can also be made capable. The solution is to amend the bankruptcy code, not to pull down the whole edifice and substitute a super regulator with power to be exercised behind closed doors, without accountability or transparency.

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Rep. Spencer Bachus of Alabama is the top Republican on the House Financial Services Committee.

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