Bachus Floor Statement on Democrats' Compensation Legislation

Mr. Chairman, I rise in opposition to the legislation.

The American people are rightly disturbed by almost daily reports of so called "too big to fail" corporations that have received billions of dollars in government assistance and have at the same time paid their employees billions of dollars in bonuses. In response to these events, Republicans have introduced legislation which gets the American taxpayer out of the bailout business and prohibits the government from picking winners and losers. Legislation we have introduced clearly establishes a structure where failure is not rewarded, and market discipline is reestablished by placing responsibility for those who engage in risky behavior squarely where it belongs, on the risk taker, not the taxpayer.

The Obama Administration takes a different approach. It continues to embrace the "too big to fail" doctrine. It appointed a "pay czar" to oversee compensation at the growing list of companies receiving taxpayer funded bailouts and guarantees. Despite growing public outrage over these companies dishing out billions of dollars in government enabled bonuses, the Obama Administration steadfastly refuses to embrace Republican legislation or offer its own proposal prohibiting further taxpayer bailouts. It says these same corporations are simply too significant to allow them to fail, which not only enables but encourages these same corporations to continue what the Obama Administration concedes is more risky behavior.

One of the behaviors the Administration and Chairman Frank identify as risky is "excessive compensation." Today we are presented with a fix, a legislative response to these bailout-funded bonuses and the resulting public outrage. The cure-all solution bears the lofty and noble title ""Corporate and Financial Institution Compensation Fairness Act". It is in every way up to the challenge laid down by our former colleague Mr. Emanuel, more recently of 1600 Pennsylvania Avenue, to never let a crisis go to waste. It is also in many ways closely akin to the recently departed Cap and Tax Legislation and the ever looming Government, or should I say Public option health plan. All three are sweeping power grabs into the private sector under the guise of government riding to the rescue. All three rely on the government to fix the problem. All three promise to fix a problem which was to a great extent caused by -- guess who, that's right, the government. All three will create, or more accurately duplicate, large government bureaucracies. All three represent ill advised and in many cases incompetent government intrusions.   In the case of Chairman Frank's legislation, as he told the Rules Committee yesterday, his legislation goes further than the even the Obama Administration was willing to go. If that doesn't take your breath away, maybe this will.

Let me read what Gene Sperling, a top Treasury Department official, said in testimony before the Financial Services Committee: "I look forward to approaching this difficult issue [of executive compensation] with a degree of seriousness, reflection and humility - seriousness over the harm excessive risk-taking has caused for so many innocent people; reflection over the lessons we have already learned; and humility in recognizing the complexity of this issue, its potential for unintended consequences, and the importance of testing each of our ideas against the most rigorous analysis." And just yesterday, White House press spokesman Robert Gibbs stated that the Obama Administration is concerned that the Chairman's legislation may give government regulators too much say on incentive-based compensation.

In some ways, this legislation borders on a classic "Bait and switch." It has been sold as giving the "owners" of a corporation the right to set pay and compensation standards. That's the shareholders. Chairman Frank said this week on

CNBC that "Dollar amounts are for the shareholders to decide, it's up to the shareholders." At the markup of this bill, he said that "say on pay" empowers the shareholders and that's where any questions about amounts would come in. True, the first six pages of the bill gives these owners, the shareholders, a non-binding vote on the pay of top executives. But then comes the next eight pages, which give the regulators the power to decide appropriate compensation for not just top executives but for all employees of all financial institutions, and all without regard for the shareholders' prior approval. So under the guise of empowering shareholders it is in fact government which is empowered.

One lesson we have learned from the government's arbitrary interventions of the past 18 months is that the converse of "Too Big to Fail" is "Too small to Save," which of course is the designation which applies to 99.9% of businesses, which have been deemed by the Administration and the regulators as "systemically unimportant or insignificant." But not so unimportant as to be totally ignored. While not significant enough to receive a bailout, they are apparently worthy of increased regulation in the form of government-mandated pay regulations and new disclosure requirements.

And finally on page 15, the bill designates those government entities which are empowered to control compensation plans that will threaten the safety of financial institutions, or adversely impact economic conditions or financial stability. Look over the list, and see if it inspires confidence. These are the same government agencies that regulated AIG, Countrywide, and collectively failed to prevent the worst financial calamity since the Great Depression. If it took them thirty plus years to catch Bernie Madoff do you really think the SEC can do a better job of identifying inappropriate risks than the vast majority of financial institution executives whose businesses have remained solvent during these challenging times? Really now, is there any question as to who is better qualified, or for that matter who ought to be responsible for setting compensation within an American corporation?

In closing, Mr. Chairman, this bill continues the Democratic Majority's tendency to go to its default solution for any problem - create a government bureaucracy to make decisions better left to private citizens. That's what they did in the Cap and Tax bill, the health care proposals and in this bill on executive compensation. Government bureaucrats do not know what's best for America.

For all of these reasons, Mr. Chairman, I urge opposition to the legislation, and reserve the balance of my time.