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Congress provided \$8 million in a supplemental spending bill passed on Jun 24, 2009.

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Although the Commission’s investigation is ongoing, the Senate recently passed a legislation to address the financial regulatory system. This legislative “fix” was passed without input from the Financial Crisis Inquiry Commission (FCIC), which was tasked with providing recommendations for regulatory reform.

As such, this amendment would eliminate the \$1.8 million provided in the supplemental spending bill for the Financial Crisis Inquiry Commission.

Funding for the Financial Crisis Inquiry Commission is not an Emergency

Nearly a year ago, the President signed into law a bill creating the Financial Crisis Inquiry Commission. The FCIC was tasked with examining “the causes, domestic and global, of the current financial and economic crisis in the United States.”

The Commission was authorized at “such sums as necessary,” and last year, Congress provided \$8 million in a supplemental spending bill passed on Jun 24, 2009.

The FCIC held its first public meeting on September 17, 2009, and has held numerous subsequent hearing and meetings throughout this year.

The emergency designation is by law, given only for items that are “sudden,” “unforeseen, unpredictable, and unanticipated.” Clearly funding for the FCIC, which was created almost a year ago, does not meet this requirement and should not be provided “emergency” funding.

Since passage of the financial reform legislation, the FCIC's findings, while valuable, are apparently not needed by Congress.

Under current law, the results of the FCIC's inquiry and findings are not due to be released for another seven months, in mid-December. Yet, Congress chose not to wait for the results or recommendations.

The FCIC is undoubtedly uncovering what would have been very valuable information on which Congress could rely when looking at ways to reform the federal financial regulatory structure. However, instead of waiting for this information and the Commission's recommendations, Congress rushed to consider legislation to provide a "fix" to our current structure.

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Given Congress' recent passage of the financial regulation legislation without input from the FCIC, it is clear the Commission does not need to receive an additional \$1.8 million in "emergency funding." Instead, the rest of the Commission's work should be funded through the regular appropriations process.

Background on the Financial Crisis Inquiry Commission

The Commission was created by section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111-21), signed into law by President Barack Obama on May 20, 2009. That section of the Act:

Set the purpose of the Commission is "to examine the causes, domestic and global, of the current financial and economic crisis in the United States."

Set its composition of 10 members, appointed on a bipartisan and bicameral basis in consultation with relevant Committees. Six members are to be chosen by the congressional majority, the Democrats (three of these by the Speaker of the House and three by the Senate Majority Leader;) four by the congressional minority, the Republicans (two from the House Minority Leader and two from the Senate Minority Leader.

Expressed the "sense of the Congress that individuals appointed to the Commission should be prominent United States citizens with national recognition and significant depth of experience in such fields as banking, regulation of markets, taxation, finance, economics, consumer protection, and housing" and also provided that "no member of Congress or officer or employee of the federal government or any state or local government may serve as a member of the Commission."

Provided that Commission's chair be selected jointly by the congressional majority leadership and that the vice chair be selected jointly by the congressional minority leadership, and that the chair and vice chair may not be from the same political party.

Set the "functions of the Commission" as:

"To examine the causes of the current financial and economic crisis in the United States, specifically the role of

- (A) fraud and abuse in the financial sector, including fraud and abuse towards consumers in the mortgage sector;
- (B) Federal and State financial regulators, including the extent to which they enforced, or failed to enforce statutory, regulatory, or supervisory requirements;
- (C) the global imbalance of savings, international capital flows, and fiscal imbalances of various governments;
- (D) monetary policy and the availability and terms of credit;

- (E) accounting practices, including, mark-to-market and fair value rules, and treatment of off-balance sheet vehicles;
- (F) tax treatment of financial products and investments;
- (G) capital requirements and regulations on leverage and liquidity, including the capital structures of regulated and non-regulated financial entities;
- (H) credit rating agencies in the financial system, including reliance on credit ratings by financial institutions and federal financial regulators, the use of credit ratings in financial regulation, and the use of credit ratings in the securitization markets;
- (I) lending practices and securitization, including the originate-to-distribute model for extending credit and transferring risk;
- (J) affiliations between insured depository institutions and securities, insurance, and other types of nonbank companies;
- (K) the concept that certain institutions are 'too-big-to-fail' and its impact on market expectations;
- (L) corporate governance, including the impact of company conversions from partnerships to corporations;
- (M) compensation structures;
- (N) changes in compensation for employees of financial companies, as compared to compensation for others with similar skill sets in the labor market;
- (O) the legal and regulatory structure of the United States housing market;
- (P) derivatives and unregulated financial products and practices, including credit default swaps;
- (Q) short-selling;
- (R) financial-institution reliance on numerical models, including risk models and credit ratings;
- (S) the legal and regulatory structure governing financial institutions, including the extent to which the structure creates the opportunity for financial institutions to engage in regulatory arbitrage;
- (T) the legal and regulatory structure governing investor and mortgagor protection;
- (U) financial institutions and government-sponsored enterprises; and

(V) the quality of due diligence undertaken by financial institutions;

(2) to examine the causes of the collapse of each major financial institution that failed (including institutions that were acquired to prevent their failure) or was likely to have failed if not for the receipt of exceptional Government assistance from the Secretary of the Treasury during the period beginning in August 2007 through April 2009;

(3) to submit a report under subsection (h);

(4) to refer to the Attorney General of the United States and any appropriate State attorney general any person that the Commission finds may have violated the laws of the United States in relation to such crisis; and

(5) to build upon the work of other entities, and avoid unnecessary duplication, by reviewing the record of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, other congressional committees, the Government Accountability Office, other legislative panels, and any other department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the United States (to the fullest extent permitted by law) with respect to the current financial and economic crisis.

Authorized the Commission to "hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths" and "require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents." This subpoena power was also held by the Pecora Commission, but not the 9/11 Commission.

Provided that "a report containing the findings and conclusions of the Commission" shall be submitted to the President and to the Congress on December 15, 2010, and that at the discretion of the chairperson of the Commission, the report may include reports or specific findings on any financial institution examined by the Commission.

Provides that the chairperson of the Commission shall, not later than 120 days after the date of submission of the final report, appear before the Senate Banking Committee and the House Financial Services Committee to testify regarding the Commission's findings.

Provides for the termination of the Commission 60 days after the submission of the final report.