AFR Statement: The Clinton Campaign Lays out a Financial Reform Agenda

In a fact sheet posted to her campaign website, Hillary Clinton has laid out a plan for Wall Street reform. The existence of this plan is important in itself. In the past, debate over financial regulatory issues has all too often been limited to a small group of insiders. These are matters of vital public significance, and it is a sign of progress that they are on the public agenda for the 2016 election.

The Clinton statement begins with full-throated support for the major elements of the Dodd Frank Act, and for the reinstatement of one key provision, section 716 (the so-called "swaps pushout" rule), which was repealed through back-door Congressional action last year. It calls for measures to protect retirement investors against exploitation by financial middlemen, and for the closing of a loophole in the Volcker Rule requirement that banks divest from private equity and hedge funds. These are positive commitments. The Secretary's clear and unqualified defense of the Consumer Financial Protection Bureau is also welcome, especially in view of the continuing attacks on the independence and efficient functioning of that agency. And the package includes a useful if limited set of steps that go beyond Dodd Frank.

In a number of important areas, however, the plan largely restates existing law or practice, or reiterates commitments that regulators have already made. As a totality it does not go far enough to address the scale and scope of the problems of our financial system. The financial crisis of 2008-09 was the upshot of decades of deregulation, which, combined with misaligned incentives and the swollen size and complexity of the biggest financial institutions, encouraged recklessness and fraud on a vast scale. The crisis triggered a cataclysmic global financial collapse and recession, costing trillions of dollars in economic output, harming the lives of many millions of American families, and contributing to growing economic inequality. The excessive power and influence of the biggest financial institutions remains a pressing and unsolved problem – one that demands bolder answers, including a restoration of the Glass Steagall separation between commercial and investment banking and a Wall Street transaction tax.

The plan puts a heavy emphasis on better enforcement, laying out a set of proposals we would support. These include new rewards for whistleblowers; an extension of the statute of limitations on fraud to ten years; the use of senior executives' bonuses to partially pay for fines; and authority for regulators to remove culpable executives from their jobs. But while these tools are useful, the greatest challenge to effective enforcement has been the will to act. One big reason for curtailing big bank complexity and size is to make the job of financial regulators more doable.

Change will also require use of the appointment power to put proven reform advocates in key positions at the financial regulatory agencies, and a clear commitment to closing

the loopholes and limitations that industry pressure has secured in Dodd Frank implementation. In an op-ed outlining the plan, Secretary Clinton noted that there's "no substitute for tough, empowered regulators." We agree. We also believe that such commitments will hold more weight when accompanied by an articulation of some of the specific weaknesses in the current rules for Dodd-Frank implementation that key regulators will be expected to fix. Take the issue of capital requirements: while there has been some progress, they remain too low, permitting the largest banks to borrow excessively. The Clinton plan does not make a clear commitment to increasing capital levels above currently proposed requirements, or to closing some of the loopholes that have emerged in derivatives regulation.

One other area of the plan we will note in more detail. It appropriately calls for regulation of high frequency algorithmic trading, which has created new market risks along with new opportunities for insiders to take advantage of ordinary investors. The remedy it suggests, however, is only a partial one. Its likely impact falls far short of a true financial transaction tax, which would both raise significant revenue and immediately eliminate a broad range of predatory high frequency trading.

Despite its limitations, this plan is a serious piece of work that touches on many of the major problems with the financial system. It should contribute to robust discussion of the unfinished business of financial reform in the months ahead.