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Dodd-Frank aided 'too-big-to-fa new bank law will halt that

BY SCOTT A. SHAY, OPINION CONTRIBUTOR — 06/25/18 05:00 PM EDT
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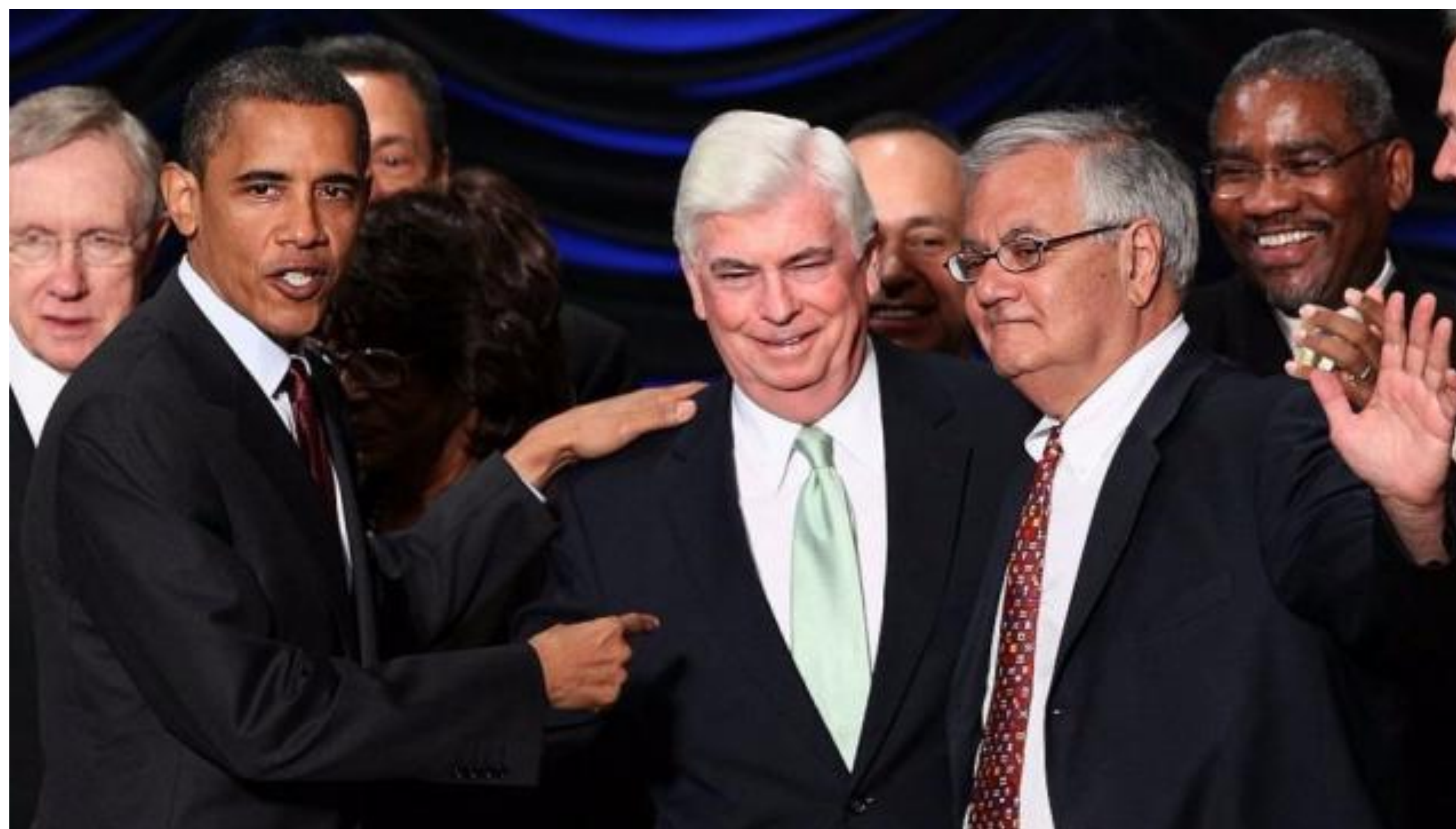

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Critics of Wall Street continue to voice loud concerns about the recently passed the Economic Growth, Regulatory Relief and Consumer Protection Act. For those Americans who seek greater competition and less concentration in the banking industry, this opposition is deeply misguided.

The few provisions that favor a subset of the mega-banks do not change the arc of the act: freeing 99.9 percent of banks to compete with the top 0.1 percent of mega-banks.

Moreover, without this act, we would see the continuation, even acceleration of two current trends: the monopolization of mega banks and the gross under-servicing of the backbone of our economy, small and medium-sized businesses.

Presently, just nine banks control 50 percent of all U.S. bank assets, and these institutions are growing at a much faster pace than all the other 6,000 banks combined. Yes, that is correct.

The Dodd-Frank Act not only did not provide a regulatory impediment to mega-bank organic growth, but also, it led to unintended consequences

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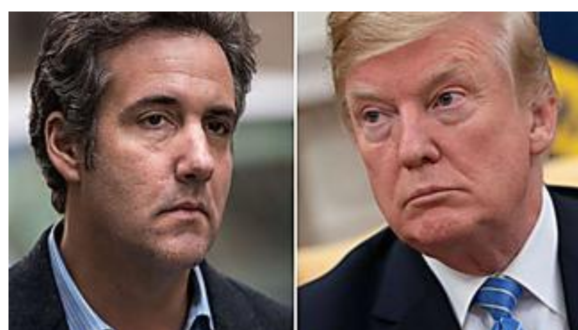
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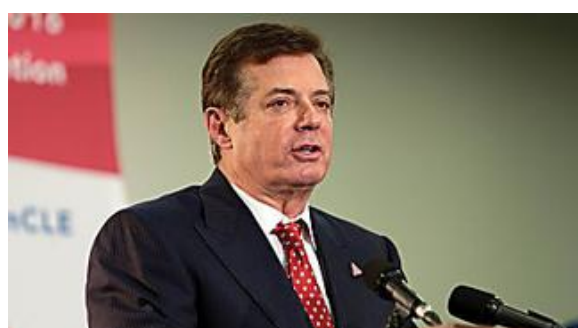
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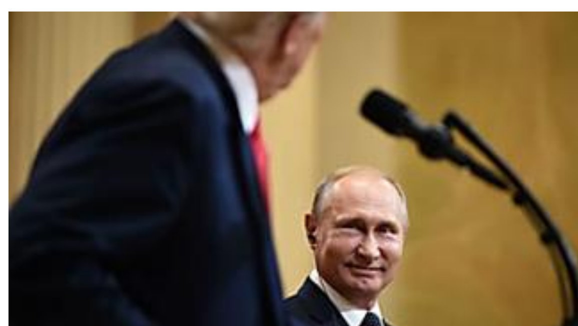
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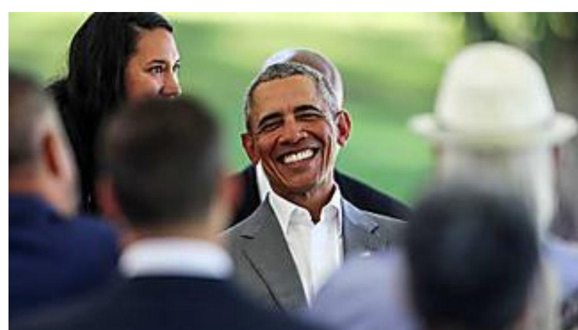
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that actually accelerated mega-bank growth.

If the current act had not passed, these “trillionaire” mega-banks would have increased their shares of the banking market to 60 percent of total banking assets by 2028.

Thus, far from reducing bank concentration and offering more credit options for consumers, Dodd Frank took us back inadvertently to “too-big-to-fail” no-man’s land. It is precisely to address the unintended consequences of several provisions in the Dodd Frank that this new act came to be.

Here is how:

The first unintended consequence was that the Dodd-Frank’s designation of a $50-billion threshold for treating all banks as systemically important resulted in a wonderful gift to mega-banks. When a bank crossed the $50-billion mark, it became subject to the same level of scrutiny as titans like JPMorgan Chase or Wells Fargo.

Medium-sized banks have been understandably reluctant to cross the threshold. Once a bank crosses the threshold, it has to hire over 100 new staff members to file reports for regulators to analyze.

These costs are not meaningful for the mega-banks (JPMorgan Chase has over 230,000 employees), but they are for medium-sized banks (Signature Bank has under 1,400 workers).

By raising the threshold from $50 billion to $250 billion, nimble, medium-sized banks now have a fighting chance to compete with mega-banks. If we are lucky, we might even see a time when Americans will no longer have to worry at all about “too-big-to-fail” banks.

The second unintended consequence was that the imposition of the Volcker Rule for banks under $10 billion strangled small banks with costs that make them unable to compete. The Volcker Rule is meant to stop banks from certain forms of speculative investments, a regulation clearly intended for the mega-banks.

While mid-sized banks, such as Signature Bank, can handle the cost of this regulation since Dodd-Frank, small banks have been required to flush money down the toilet for regulations that are irrelevant to them.

The application of the Volcker Rule to all banks simply stacked the deck in favor of the mega-banks. If there are a handful of small banks — and it is no more than a handful — that have Volcker-type assets, they can be identified during routine exams and more closely regulated.

Other small banks can now free up what would have been otherwise wasted capital to make more small-business loans.

In fact, small banks received the bulk of regulatory relief from this new Economic Growth, Regulatory Relief and Consumer Protection Act. These include myriad other provisions beyond the Volcker Rule, such as simplifying rules for small bank holding companies, creating an off-ramp for compliance with the international Basel 3 standards and widening exam cycles.

Strengthening small banks is essential to strengthening our economy. The reduction in regulations should benefit small businesses and farms, particularly in rural communities that are otherwise under-banked

because mega-banks feed on large markets.

It should also be noted that the act strengthened protections for veterans, student-loan borrowers and home owners.

Ordinary Americans who have borne the brunt of mega-banks' aversion to small- and medium-sized business lending — not to mention of the bail outs — are the big beneficiaries of the act.

Yet, all of these benefits for ordinary Americans have been ignored by critics who have focused on the two provisions that help some mega-banks.

I disagree with these provisions and wish they had been omitted, but they do not significantly change the fact that the big winners of this act are the small- and medium-sized banks.

The first allowed the Fed to ease foreign banking intermediate holding company reporting requirements for those entities that are between $50 and $100 billion. The second eliminated certain capital charges for custody banks holding cash at the Federal Reserve.

While both benefit some large banks, contrary to what critics claim, neither provision should have a negative impact on U.S. banking safety nor undercut the improved conditions for small- and medium-sized banks.

The Federal Reserve has indicated that it will not lower regulatory standards for intermediate bank holding companies, and in fact, cash held at the Federal Reserve is not a credit risk.

The recent banking legislation is good for Americans. It retains 99 percent of what is in the Dodd-Frank Act but fixes a few real errors. It will give small- and medium-sized companies better access to banking loans, which will fuel entrepreneurship and job growth.

Finally, a decade after the financial crisis, there is hope for some competition against what has become the 0.1 percent banking oligopoly in the U.S. Three cheers for the new banking law.

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