18. Small business ownership is about the American Dream. The most popular images of small business owners both projected optimism with signs saying ''grand opening'' or ''open.''

WORDS THAT WORK

Owning a small business is part of the American Dream and Congress should make it easier to be an entrepreneur. But the Financial Reform bill and the creation of the CFPA makes it harder to be a small business owner because it will choke off credit options to small business owners. That will make it harder to start a new company and harder to expand an existing one.

19. No surprise here. The strongest image ad we tested pertained to the bailout provisions and the ''lobbyist loopholes'' for the casino industry.

20. The Final Word. The department store Syms used the slogan ''an educated consumer is our best customer.'' We could easily say an educated citizen is the biggest opponent or, your biggest ally against the creation of the Financial Reform bill and the CFPA.

WORDS TO USE

Accountability, Transparency & Oversight, Lobbyist Loopholes, Enforcement of Current Laws, Bureaucrats, Wasteful Washington Spending, Never Again, Government Failures and Incompetence, Let's Help Small Businesses, Big Bank Bailout Bill, Bloated Bureaucracy, Fine Print, Unintended Consequences, Special Interests, Hard Working Taxpayers, Another Washington Agency, Unlimited Regulatory Powers, Devil Is in the Details, Red Tape.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. KAUFMAN. Mr. President, I ask unanimous consent to extend morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

ENDING TOO BIG TO FAIL

Mr. KAUFMAN. Mr. President, I have come to the floor several times now to discuss the problem of too big to fail, which I believe is the most critical issue to be addressed in any financial reform bill.

Financial institutions that are too big to fail are so large, so complex, and so interconnected that they cannot be allowed to fail nor follow the normal corporate bankruptcy process because of the dire threat that would pose to the entire financial system.

The largest six bank holding companies—Bank of America, JPMorgan Chase, Citigroup, Wells Fargo, Goldman Sachs, and Morgan Stanley—are certainly too big to fail. The term may also cover a larger set of institutions.

After all, last year's most vaunted stress tests of the largest bank holding companies covered 19 institutions, and even that exercise did not include many other systemically significant nonbank financial institutions, including Fannie Mae and Freddie Mac, insurance companies, derivatives clearinghouses, and hedge funds.

While many in government and industry want to eliminate the term ''too big to fail,'' the fact is these too-big-to-fail financial institutions are bigger, more powerful, and more interconnected now than ever before.

Only 15 years ago, the six largest U.S. banks had assets equal to 17 percent of overall gross domestic product. The six largest U.S. banks now have total assets estimated in excess of 63 percent of gross domestic product. That goes from 17 percent of GDP just 15 years ago to 63 percent of GDP now.

While some still argue there are benefits to having very large financial conglomerates—and I am sure there are—virtually everyone agrees the problem of too big to fail needs to be address. The disagreement is how this be done.

I was interested to hear Senator MCCONNELL on the Senate floor yesterday say we must never use taxpayer money again to bail out too-big-to-fail institutions. But no one wants to do that. No one is thinking about that. No one is planning to do that.

The question is, What is the solution to prevent these institutions from failing in the first place? The other party has put forward no solution, and doing nothing is by far the worst solution of all.

The minority leader came to the floor today and said the bill before the Senate is good for Wall Street and bad for Main Street. That is simply an astounding statement to make. Main Street wants Congress to act. Main Street wants Congress to ensure that Wall Street never engages in reckless behavior again. Yet what does the minority leader offer?

Despite the experience of Lehman Brothers, the minority leader apparently believes we should do nothing and simply stand back in the future and let these megabanks fail when they take risks that go wrong.

The minority leader said yesterday:

> The way to solve this problem is to let the people who made the mistakes pay for them. We won't solve this problem until the biggest banks are allowed to fail.

Astounding. His answer is, the resolution of too-big-to-fail banks needs to be dealt with through the bankruptcy process. In my view, that approach is dangerous and irresponsible.

If we do nothing and wait for another crisis, future Presidents—whether Republican or Democratic—will face the same choices as President Bush: Whether to let spiraling, interconnected, too-big-to-fail institutions, such as AIG, Citigroup, and others, collapse in a contagion, sending the economy into a depression or step in ahead of bankruptcy and save them with taxpayer money.

If that happens, the choice of allowing bankruptcy will mean tremendous economic pain on Main Street America. So some Congress in the future will similarly be faced with another TARP-like decision, which in the fall of 2008 many in both parties believed they had no choice but to support, including the minority leader.

Relying on bankruptcy law is not the answer. The approach by many conservatives and those on the other side of the aisle is to simply let them fail and let U.S. bankruptcy law—where shareholders get wiped out and creditors take a haircut—reimpose the discipline in the financial system that was lacking in the runup to the crisis.

For example, Peter Wallison and David Skeel have argued in the Wall Street Journal:

> The real choice before the Senate is between the FDIC and the bankruptcy courts. It should be no contest, because bankruptcy courts do have the experience and expertise to handle a large-scale financial failure. This was demonstrated most recently by the Lehman Brothers bankruptcy.

If bankruptcy was a cure in Lehman Brothers, it was one that almost killed the patient. When former Treasury Secretary Hank Paulson decided to let Lehman Brothers go into bankruptcy, our global credit markets froze and creditors and counterparties panicked and headed for the hills. Instead of imposing market discipline, it only prompted more bailouts and almost brought down the entire financial system. It ultimately took 18 months to close out the case on Lehman Brothers, an eternity for financial institutions that mark to market and fund their balance sheets on an interday basis.

Bankruptcy is an even more unattractive option when one considers that Lehman was an investment bank, while today's megabanks operate under the bank holding company umbrella. It is virtually impossible to have an integrated resolution of a large and complex bank holding company. The bank subsidiary would go into FDIC resolution, the insurance affiliates would go into State liquidation procedures, the securities affiliate would go into chapter 7, while other affiliates and overall holding companies would go into chapter 11.

A plan this unwieldy is no plan at all. In fact, the only way to truly eliminate the problem with too-big-to-fail banks is for Congress to act. It is true that I believe we should go further than the current bill. I would break these big banks apart, thus limiting their size and leverage. Given the consequences of failing to do enough to prevent another financial crisis, the safest thing to do today is for Congress to put an end to too big to fail. If you believe these megabanks are too big, if you reject the choice of bankruptcy that will lead to a recession or depression, then breaking them up is the logical answer. That is the only way that greatly diminishes the future probability of another financial disaster. The Great Depression of the 1930s must be avoided at all cost.