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Financial regulatory systems fragmented and unprepared for next crisis, says bailout expert

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The "No More 'Too Big to Fail'" rallying cry is unrealistic, says Cheryl Block, JD, federal taxation, budget and bailout expert and professor of law at Washington University in St. Louis.

"When the next really big economic crisis arises, Congress is unlikely to stick to its 'no bailout' pledge," she says.

"Political 'no more bailout' assertions—even those ultimately included in statutory text—simply are not credible. As much as Congress would like to eliminate any 'too-big-to-fail' policy, the reality is that there may—and probably will —come a time when the failure of a particular firm or industry would be so economically devastating that Congress would step in to save it, despite earlier protestations to the contrary."

Block says that despite improvements, the financial regulatory regime remains fragmented and unprepared to respond rapidly and coherently to the next economic crisis.

In her recent article, published in the current issue of the *Brooklyn Journal of Corporate, Financial, and Commercial Law*, Block explores a "Continuum Approach to Systemic Risk and Too Big to Fail."

"Properly calibrating an appropriate solution to different types of economic risk requires a … nuanced account of the various levels of risk

on the road to 'systemic' in order to better identify danger points and provide mechanisms to ensure that banking regulators are unified in their approach," Block writes.

"Financial regulation reforms should also focus on altering the current regulatory dynamic and structure to eliminate regulator incentives to forbear enforcement at early signs of trouble at large financial institutions. Such reforms should include lobbying restrictions to reduce large financial firm opportunities for regulatory capture, which often results in special 'white glove' treatment for large banks."

Block argues that legislators need to be more honest with themselves about the extent to which government is already involved in corporate financial risk and resolution of bank failure.

"Rather than impose rigid restrictions on regulators' resolution authority, the better approach would be to acknowledge the different possibilities along the private-public continuum and carefully assess elements that should be relevant in deciding which of the various resolution methods is best under particular circumstances," she says.

"In the end, the most important objective is a prudential regulatory and resolution approach to systemic risk that is transparent and equitable for both failing firm stakeholders and the general public."

Provided by Washington University in St. Louis

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