Remarks of Senator Charles E. Schumer
Banking Committee Hearing
"Restoring American Financial Stability Act of 2009"
November 19, 2009

I'd like to begin by thanking my colleague, Chairman Dodd, for all his hard work and dedication in crafting this legislation. Overhauling America's financial system would be a difficult task in the best of times, but Chris has done a terrific job putting together a draft bill that will reform Wall Street and protect Main Street.

It has now been more than 2 years since the crisis started to unfold, with the collapse of a couple Bear Stearns hedge funds, and more than a year since the collapse of Lehman Brothers sent our financial markets into a deep panic and laid bare for all to see the inadequacies of a regulatory system where all the shopkeepers were minding their own aisle but nobody was responsible for minding the entire store. Risks that ultimately brought down the entire financial system were allowed to build up in the unregulated and under-regulated corners of our markets, getting little attention until it was too late.

When the financial system fails on the scale we just experienced, the losers are not only – or even primarily – executives of financial firms who took excessive risks, or hedge fund managers that guessed wrong and lost money on their trades. They are middle-class Americans who lose their jobs when the real economy inevitably feels the effects of the financial crisis; average people whose retirement plans and college savings accounts are decimated.

A crisis that was sparked by subprime mortgages, and caught fire in the darkest corners of the shadow banking system, has left the real economy reeling more than 2 years later – people are still losing their jobs and still losing their homes to foreclosure.

There is doubtless plenty of blame to go around. But more than 2 years into this crisis, Congress will have only itself to blame if we don't come together and pass a comprehensive plan to fill the gaps in our regulatory system; protect consumers and taxpayers; refocus and rededicate our regulatory resources; and empower investors to work on the front lines to keep our corporations honest and accountable.

We cannot hope to prevent all future financial crises – bubbles and busts have been with us since well before the days of speculative tulip bulb markets, and they will be with us well after subprime mortgage-backed securities and CDOs and CDSs and SIVs. But we can make crises less likely by increasing the transparency and accountability in the system; and we can make the system less fragile by building in buffers and giving regulators the tools they need so that the failure of any single institution does not bring our entire financial system to its knees.

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Chairman Dodd's discussion draft is comprehensive and covers lots of ground, but there are two specific reforms that he and I worked on together that I would like to draw particular attention to.

First, this proposal will guarantee a stable source of funding for the Securities and Exchange Commission once and for all by allowing the agency to become fully self-funded. Right now, the SEC doesn't have the money they need to hire enough analysts and update their technological resources. They are just overwhelmed and overmatched.

By simply allowing the SEC to retain the transaction and registration fees it currently collects, the bill would give the SEC access to hundreds of millions of dollars in additional funding over its current budget. And by allowing the SEC to be sure it will be able to keep all its fees every year it would allow the Commission to embark on the kind of long-term reforms Chairman Schapiro has promised without worrying whether the money will be there next year to pay personnel and continue technology upgrades.

In 2007, Congress approved a budget for the SEC totaling $881.6 million, even though the SEC brought in more than $1.5 billion in fees. In other words, had the agency been allowed to retain the fees it collected, it would have had almost twice the budget.

By allowing the SEC to access the billions of dollars already they collect, the SEC will be able to obtain the manpower and technological resources it needs to keep up with the ever-evolving markets it regulates.

The second major reform I'd like to mention is a series of pro-shareholder measures that Chairman Dodd chose to include in the bill. They were drawn from legislation I offered with Senator Cantwell last spring called the "Shareholder Bill of Rights."

The premise of that bill was that the best way to rein in runaway executive compensation and excessive risk-taking by major institutions is to empower the firms' shareholders, and ensure that corporate boards fulfill their oversight responsibilities.

Thanks to Chairman Dodd's leadership, this new regulatory overhaul will do just that by:

1. Allowing shareholders a "say on pay" so they can vote on the compensation packages awarded to company executives

2. Allowing for proxy access to improve shareholders' ability to elect their preferred candidates to corporate boards.

3. Requiring corporate board candidates to win their seats by a majority vote.

4. Eliminating staggered boards unless shareholders affirmatively vote to keep them.

5. Requiring the biggest, riskiest financial institutions, and all other bank holding companies with over $10 billion in assets, to form risk committees to keep an eye on excessive risk-taking.

6. Putting the onus on companies to provide justifications to shareholders when they wish to install the same person as both the Chairman and CEO of the company.

Finally, I would like to say a few words about the need for a strong, independent consumer watchdog. One of the roots of this financial crisis was undoubtedly that total failure of our consumer protection regime – Americans were sold products they didn't understand and couldn't afford, by mortgage originators eager for a fee and happy to off-load those loans to the great securitization machine.

After the events of the last several years, nobody can argue that fundamental reform of our consumer protection regime is not necessary – the status quo simply won't do. There is no accountability in the current system – consumer protection is split among 7 different regulatory agencies.

Some argue that you can't split consumer protection from safety and soundness regulation. But historically every time there's a tension between the two, the consumer loses. Consumers deserve an accountable regulator with oversight of consumer financial products as its primary objective, not as an afterthought.

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As Congress has looked into the weaknesses in our financial system over the last year, it became obvious that our financial system needed these reforms. They are an important step forward. And again, thank you for your hard work on this legislation, Chairman Dodd. I look forward to working with you and the other members of this committee over the coming weeks to fundamentally reform the way we regulate our financial markets.