balance sheet and have massive counterparty exposures that arise out of their roles as derivatives dealers.

Both repos and derivatives are qualified financial contracts, meaning that exposures that arise from them are effectively super senior to the claims of all other creditors. By giving these trading exposures such a privileged position under the bankruptcy code, we have allowed a major part of our financial system—called the shadow banking system—to grow completely unchecked without any market or regulatory discipline whatsoever.

As Peter Fisher, former Under Secretary of the Treasury and former head of the markets desk at the Federal Reserve Bank of New York, has stated:

> [these changes to the bankruptcy code] transformed the 'too-big-to-fail' problem of our largest deposit takers into the 'too-interconnected-to-fail' problem of our major financial institutions.

The proof of that statement is borne out by the data.

One report by researchers at the Bank of International Settlements estimated that the size of the overall repo market in the U.S., Euro region and the U.K. totaled approximately $11 trillion at the end of 2007.

Meanwhile, the total notional value of OTC derivatives contracts is equal to $605 trillion, as of June, 2009.

Large financial institutions that rely chiefly upon wholesale financing and have massive counterparty exposures from their derivatives positions are combustible. The case studies of Lehman and the other investment banks show how quickly and violently these institutions can implode. When they do, their interconnected nature inevitably causes a contagion, leading to a collapse in confidence and the classic patterns of a bank run.

As the Moody's report summarizes the question, We must:

> try to assess whether or not the law could be effective in its stated objective: allowing a troubled, systemically important financial institution to default on selected obligations, while avoiding the larger effects that such a default might have on the financial system and on the broader economy.
>
> That is a challenging objective to accomplish in reality, given contagion risk and the high degree of connectedness among such institutions, both domestically and cross border (where any such resolution authority would have no authority).

Resolution authority is therefore a slender reed upon which to lean when it comes to institutions as large, complex and interconnected as these.

The truth is that we need to split up and break down the largest and most complex financial institutions.

As President of the Federal Reserve Bank of Dallas Richard Fisher stated on March 3rd:

> I think the disagreeable but sound thing to do regarding institutions that are ['too big to fail'] is to dismantle them over time into institutions that can be prudently managed and regulated across borders. And this should be done before the next financial crisis, because it surely cannot be done in the middle of a crisis.

The first step is to separate federally insured banks from risky investment banks. As Senators MARIA CANTWELL, JOHN MCCAIN and others have urged, we should break up the largest banks and resign to history ''too big to fail'' banks. This worked for nearly 60 years, and would once again ensure the soundness of commercial banks while placing risky investment bank activities far beyond any government safety net.

Second, we also need statutory size and leverage limits on banks and nonbanks. We should set a hard cap on the liabilities of banks and other financial institutions as a percentage of GDP.

The size limit should constrain the amount of non-deposit liabilities at large mega-banks, which rely heavily on short-term financing like repos and commercial paper.

In addition, we should institute a simple statutory leverage requirement to limit how much firms can borrow relative to how much their shareholders have on the line.

Finally, we must put in place reforms for derivatives and other qualified financial contracts.

Get this: The five largest banks control 95 percent of the OTC derivatives market.

We must require derivatives to be centrally cleared, which will reduce the complex web of counterparty credit risks throughout our system.

CFTC Chairman Gary Gensler underscores that point by stating:

> Central clearing would greatly reduce both the size of dealers as well as the interconnectedness between Wall Street banks, their customers and the economy.

In addition, we should reconsider the legal treatment of qualified financial contract exposures under the bankruptcy code, and therefore under a resolution regime, as well.

Given the sheer size of cross exposures arising from derivatives and repos that financial firms have with each other, it makes sense to allow derivative and repo exposures to be netted out prior to any automatic stay.

It is not apparent why that net credit exposure should come ahead of the claims of other secured creditors. This is special treatment, not market discipline.

All of these changes taken together would reduce risk in the system, impose discipline in the market, and break the cycle of obligatory booms, busts and bailouts. In short, they eliminate the problem of having institutions that are both too big and interconnected to fail.

If instead our solution is to depend on regulators, and to wait with an impractical plan to resolve failing institutions, the financial system will continue on its inexorable path, growing bigger, more complex and more concentrated. And we will only be laying the groundwork for an even greater crisis the next time.

In the midst of the Great Depression, we built strong walls that lasted for generations. The devastation of our most recent crisis challenges us to do so again.

These megabanks are too big to manage, too big to regulate, too big to fail, and too interconnected to resolve when the next crisis hits. We must break up these banks and separate again those commercial banking activities that are guaranteed by the government from those investment banking activities that are speculative and reflect greater risk.

We must limit the size, liabilities, and leverage of any systemically significant financial institution.

Given the ever-increasing rate of financial innovation, the need for Congress—not the regulators—to impose these time-honored principles has never been greater. The stakes have never been higher.

It is time to follow in the footsteps of those great Senators who made the tough decision in the 1930s to pass the Glass-Steagall Act and other landmark reform bills, which paved the way for almost 60 years without a major financial meltdown. Once again, we must ensure that government guarantees of commercial bank deposits do not enable financial institutions to engage in the risky activities of investment banks.

Finally we must guarantee that there are no banks that are too big to manage too big to regulate, and too big to fail. The American people deserve no less.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Connecticut.

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

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

FINANCIAL SERVICES REFORM

Mr. DODD. Mr. President, I wish to take a few minutes, if I can. I know we are in the waning minutes of going out of session and Members have, I think by and large, probably left the city for their respective States—as I will be doing in a day or so, going back to Connecticut to spend time with my family and constituents over the Easter-Passover break.

I wish to take a couple of minutes to talk briefly about my responsibilities as chairman of the Senate Banking, Housing, and Urban Affairs Committee on which I serve with 22 others of our colleagues. Almost a quarter of this institution sits on that committee. Senator RICHARD SHELBY of Alabama is my ranking Republican member and former chairman of the committee, I might point out.

We finished our work, at least in our committee, last Monday—a rather abbreviated markup, I might point out. I didn't plan it to be that way, but we ended up with a pretty short markup of a fairly complicated bill.

A week ago today, at about this time or a little after this time, we received amendments. Almost 400 amendments were filed, so I anticipated a rather elongated markup, but members decided they weren't going to offer their amendments in the committee, which is their right. I had a responsibility as chairman of the committee to consider those amendments if they were offered, and we were prepared to accept some, modify some, and reject others. But the conclusion of the committee was to take what changes we had made and move forward. So it is my hope that shortly after our return in the second week of April, we will come to the floor of the Senate to debate—hopefully a full-throated debate—about how we reform the financial services sector of our Nation.

In light of the events over the last several years, this is a compelling issue that mandates our involvement and participation. We can hardly allow this Congress to leave the door wide open again to the kind of abuses that brought our Nation to the brink of financial collapse. Those were the words used by the Chairman of the Federal Reserve, Mr. Ben Bernanke, on September 18 of 2008, as they were the words of the former Treasury Secretary, Henry Paulson, when they met with the leadership of the House and the Senate and the respective leaderships of the committees of jurisdiction. They predicted that had we not acted in the remaining weeks of that session before the adjournment in 2008, in fact, we might very well be looking at a very different country today. Certainly we avoided the collapse they talked about but at great cost. The fact that this country and its taxpayers had to write a check for $700 billion, resources of which went to a handful of financial institutions to ''bail them out'' in order to preserve the safety and soundness of a fragile financial system is something that still causes remarkable levels of anger and frustration—understandable levels of frustration and anger—of the American people all across the country, regardless of where one lives. The idea is that a firm on Wall Street could get near the brink of disaster and get massive resources poured into them and then we have to watch someone's home in Connecticut or Delaware or Colorado, Tennessee or Alabama foreclosed, a business closed, a retirement account evaporating within a matter of hours, despite the fact these larger institutions were getting the resources from the American taxpayers.

We made an effort—I don't claim by any stretch of the imagination perfection—to try to deal with the reforms. Obviously, it is a complicated matter and complications are added to it. We have 23 members of a committee, not to mention 100 Members of this body who all have various views on what ought to be done, not to mention the other body, the White House, stakeholders, and others, trying to fashion legislation, not saying we are going to stop all financial problems in the future—that would be ludicrous to make such a suggestion—but there will be other financial problems.

What we are going to try and do with this bill and what we think we have done to a large extent with this bill is to say there may be other financial problems but never again should a financial problem of a major financial institution put the rest of the country at risk. That is what happened. Because of their abuses, their greed, the failure of regulators, or the failure of the government to regulate certain institutions, we saw a system go haywire.

I do not mind if some firm wants to go to the casino and gamble with their money. I understand that. But the idea that they would do that with the taxpayers' money or with the well-being of our economy has to stop. Our legislation is designed to do that.

First and foremost, never, ever again should a financial institution get so large, so interconnected, and produce products that put the rest of us at risk. Our legislation shuts that door, we believe, firmly.

Others are arguing because, frankly, they do not want to admit what the real argument is about, they do not like the fact we have a consumer protection agency for the first time in the history of our country, so people who buy a mortgage, buy stock, buy an insurance policy, whatever else it may be, will have someplace to go if, in fact, they are being abused. That is exactly what happened. They were abused in too many instances. Rather than focus their criticism on that, they are focusing on other things that, frankly, we are dealing with very effectively in the legislation.

We also set up an early warning system to the largest extent possible so we know what is going on out there with products and firms that bring us to the brink of disaster as they did only a few short months ago.

We are looking at some of these exotic instruments—credit default swaps, derivatives, over the counter—an industry that went from about $90 billion and within the space of 6 or 7 years, to close to $600 billion. It exploded in large measure because it was in the shadow economy. That ends with this bill. They are going to have the glaring light of sunshine on them through exchanges so the American people can know exactly what these instruments are and how much risk is being taken with their use.

There are elements of this country that do not like that idea because they would rather not have the light shone on them to examine what they are, but we are determined to see to it that is going to be the case in our legislation as well.

There are a lot of other provisions in a 1,400-page bill that deal with other matters related to all of this business. I wanted to inform my colleagues that we have a strong bill coming out of our committee—a fully independent consumer protection agency, bureau or division. It is housed in the Federal Reserve in our bill, which has caused some people to wonder how independent it can be. It is totally independent. Its head will be appointed by the President of the United States. That head would then have to be confirmed by the Senate. The budget this agency would have is going to be separate from other budgets. It will have its own line of funding to go forward. It has independent authority on rulemaking, examination, and enforcement with institutions that have assets in excess of $10 billion. And for those that are smaller than that, the examination and enforcement will be done at the State level or others will be responsible.

Many are concerned this would reach down to the community banks. We separated that out. I know my colleagues expressed that view. That we have finally someone watching out is going to be very important. We were told for years our system was safe and sound because they were making a lot of money. As we learned painfully, that is not the only criteria to determine whether a financial institution is safe or sound. In fact, they were anything but safe and sound, despite their earnings reports. We subsequently learned that people were put into homes they never could afford, did not understand because these institutions were securitizing those mortgages, bundling them together and then selling them to unwitting investors because they had ratings on them that never reflected the reality of what those instruments were worth in our country. Our legislation deals with that as well in a very strong and effective manner.

My only purpose in sharing a few thoughts this afternoon before adjournment occurs is to say I hope my colleagues in their visits back to their States, in talking with their constituents, will talk about these issues. Listen to your businesses on Main Street. Listen to the borrowers. Listen to the users and the customers of financial institutions.

The institutions are going to call you. They are going to write you. They are going to find you, believe me, because many of them do not like what I have done in this bill. They would like the status quo to be maintained. You are going to hear from them, I promise you. You are going to have to work a little harder to listen to the voices out there who may not contact you about this but will tell you what it is like to try to borrow money, make an investment, get credit, buy a home, get a student loan in order to afford the cost of higher education. I urge my colleagues to listen to those voices as well. They deserve to be heard in this debate. Then I hope we will have the kind of full-throated debate when we get back, meet with the other body with a final product, and hopefully give the President of the United States a bill worthy of the challenge before us.

This is the single largest reform of financial services since the thirties. It is long overdue. We must not fail in our obligation to meet the challenges. If we leave here failing to do this, we will expose our economy, and the American public will never, ever again write a check as they did in the fall of 2008. You can forget about that. We need to make sure these firms that get into trouble understand the presumption is bankruptcy, receivership. Shareholders will pay a price, and management goes. The idea that you are going to be able to count somehow on the American taxpayer pulling your chestnuts out of the fire is over within the ''too big to fail'' concept.

The importance of achieving that goal along with these other reforms I think will have the desired effect. Failure to do that leaves us exposed to the kinds of financial challenges we have witnessed over the last several years.

Again, a business, I say respectfully, in Connecticut, Delaware, or Colorado, a homeowner in those States should not have to pay the price because a handful of financial institutions got too greedy, too risky, and were unwilling to examine what they were doing or did, recognizing the Federal Government would bail them out if they made a bad choice, which they did.

I look forward to that debate and presenting the bill our committee marked up on Monday of this past week.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

HEALTH CARE

Mr. UDALL of Colorado. Mr. President, I rise today to speak on behalf of the millions of Americans who know our Nation is desperately in need of health care reform. Traveling across Colorado this past year, a common theme surfaced as I spoke with families, health care providers, and businesses alike. They all want a health care system that tackles costs, improves quality, and puts their needs first.

I have heard, as I know the Presiding Officer has in his home State of Delaware, stories of Coloradans who paid a lifetime of health care premiums in order to provide for their families, all to have an insurance company drop their coverage because a wife or a husband or a child became ill.

Visiting with health care providers, I heard about the waste and abuse in our system. They have all pleaded with me to have commonsense reforms that get them back to the business they thought they were entering years ago—the business of caring for their fellow Americans beset by illness and disease.

I heard from small business owners who continue to see double-digit increases in insurance costs, in many cases for the ninth or the tenth or even more years in a row. These small business owners want to see relief, not for themselves but because they do not want to have to choose between laying off workers and leaving their workers vulnerable to medical bankruptcies.

Decade after decade, we see how the fine print of insurance company policies puts shareholder interests above those of American families and how partisanship has prevented the kind of progress everyone agrees is sorely needed.

I have good news. Despite all the ugly rhetoric, distortions, and misrepresentations we have heard, Coloradans and the rest of the country can finally rest assured that someone has put their interests first.

This week, I watched as President Obama signed into law the kind of reforms that will free Americans from the shackles of never-ending cost increases, dropped coverage, and unfair practices that put profits above the provision of care.

Throughout this past fall and winter, I joined you, Mr. President, and the rest of our freshman class in the Chamber repeatedly to talk about the urgent need for health care reform. We shot down false claims, challenged the phony reasoning that was out there, and pointed out where the rhetoric ends and reality begins.

Over the past few days, many more of our colleagues from this side of the aisle have compellingly and eloquently explained how important the new health reform law is to both the American people and the American economy. The fact is that this historic bill signed by the President saves lives, saves money, and it saves Medicare.

Bringing this long debate to a close, I wish to speak directly to the people of Colorado. It is important that they know how these health insurance reforms will benefit their families and the rest of our great State.

As a result of the President signing the Patient Protection and Affordable Care Act into law, the parents of Colorado's 1.2 million children can sleep easy starting this year knowing that insurance companies no longer have the right to deny their kids health care coverage because of a preexisting condition.

Also starting in 2010, almost half a million, 500,000 young adults in Colorado who would otherwise be kicked off their parents' health care policies can maintain that coverage through to their 27th birthday. This is particularly welcome to me, as I know it is for many Coloradans, because I have two college-age kids who fit into the category I just described.

We have 575,000 seniors in our Medicare Program, and for every single one of them, this new law will protect—I want to emphasize that—will protect their guaranteed benefits and immediately allow them to get preventive care with absolutely no copay or out-of-pocket costs. This added benefit, contrary to what we have heard, will increase their health care coverage under the Medicare Program so that our seniors can continue to live happy and healthy lives.

This new law goes to great lengths to help slow the growth of health care costs and, by doing so, it is projected that these lower costs will allow Colorado's employers to hire up to 6,500 new employees in our State. And for as many as 68,000 small businesses, health reform will begin providing millions of dollars in tax credits so they can afford to offer health insurance to their employees.

Yesterday, we sat here and cast 56 votes as Democrats to make final improvements to the Patient Protection and Affordable Care Act. That reconciliation measure we passed yesterday will provide prescription drug relief as well for our Colorado seniors. More than 100,000 Colorado seniors, such as my friend Frank Blakely in Colorado Springs, will pay less for prescription drugs.

Right now, these seniors hit what we all know here as the Medicare part D doughnut hole, which means they have to pay thousands of dollars directly out of pocket for their medicines. But beginning this year, every one of these seniors will receive a $250 check to help them offset those costs, and we will begin to close the overall gap in Medicare coverage so that we completely fill this doughnut hole by the year 2020. I know this will be welcome relief to those on fixed incomes all across the United States, because it will free up scarce retirement dollars to visit family members, help pay a grandchild's college tuition or even to help, in some cases, put food on the table.

I think one of the overriding features of health reform is the freedom it will give to Coloradans and hard-working Americans—the freedom to change jobs, to launch a business, to even start a family while knowing that health care coverage will be there for them when they need it. Americans need to know their country won't leave them to fend for themselves when an insurance company denies or drops their coverage. They deserve peace of mind to know that someone is on their side.

Over the last few days we have heard a lot of the same misleading rhetoric that we did back in August by those who were dead set on levying accusations rather than working on real reform. Well, health reform has become the law of the land and the American people don't have to wait any longer for these important reforms. The legislation we passed will establish a sturdy foundation upon which we will build, improve, and strengthen access to health care in America. Will there be mistakes made along the way? I don't doubt it.