
FCIC Commissioners Issue Preliminary Findings on Crisis Causes

2010-12-15

Four Commissioners serving on the Financial Crisis Inquiry Commission ("FCIC") released a report this morning containing their preliminary findings and conclusions on the causes of the financial crisis. The report is titled "Financial Crisis Primer: Questions and Answers on the Causes of the Financial Crisis." The report offers a thoughtful and high-level analysis of the causes of the crisis, which is underpinned by an assessment of the extensive research and investigative work of the FCIC staff over the last year.

The report's central premise is that "the financial crisis was, at its core, a financial panic that was precipitated by highly correlated mortgage-related losses concentrated at large financial firms in the United States and Europe." The report does not focus on individual financial institutions, and it does not reference specific financial institutions other than to note that they were affected by the spread of the panic toward the end of 2008. A significant portion of the causation for the housing bubble and the panic that ensued after the bubble burst is placed on the federal government.

The FCIC was created by the Fraud Enforcement and Recovery Act of 2009, which set a deadline of December 15, 2010, for the Commission to submit its final report to the President and Congress. Although a majority of the

Commissioners voted on November 17, 2010 to extend that statutory deadline, four Republican appointed Commissioners decided to issue their own report today in "an effort to reflect the clear intention of our enabling legislation." Our own analysis supports their conclusion that a unilateral extension of the Commission's investigative mandate beyond the December 15, 2010 statutory deadline may be legally impermissible. We expect the Democratic Commissioners to issue their report in mid-January 2011, and expect Republican Commissioners will have supplemental materials to release at that time as well.

Because its statutory deadline has now passed, many of the FCIC's powers appear to have lapsed. Its enabling statute specifies that the FCIC may remain in existence for 60 days after December 15, only for purposes of completing "administrative activities." This implies, for example, that the FCIC may no longer have the authority to issue subpoenas for documents or witnesses, or to hold hearings to solicit testimony. A copy of the report can be found [here](#).

See prior WilmerHale updates on the Commission's mandate and membership:

January 13, 2010: [Financial Crisis Inquiry Commission Holds First Public Hearing](#)

September 15, 2009: [Financial Crisis Commission Picks Staff Director, Sets First Meeting](#)

July 15, 2009: [Financial Crisis Inquiry Commission Members Named](#)

[May 7, 2009: Congress to Establish Financial Crisis Inquiry Commission](#)

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