

We Can't Break Up the Financial Giants . . . Or Can We?

By [Washington's Blog](#)

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The government and defenders of the status quo are making two main arguments as to why we can't break up the big banks and financial giants such as AIG:

1. The U.S. would have to take over the banks in order to break them up, and that would be socialism
2. The U.S. doesn't have legal authority to break up the big banks

I will address these in turn.

Is Breaking a Financial Giant Up Socialism?

As you've heard ad nauseum, a lot of top economists and financial experts believe that the economy cannot recover unless the big banks are broken up in an orderly fashion. (If you haven't heard, here's a partial list:

- [Nobel prize-winning economist Joseph Stiglitz, MIT economics professor Simon Johnson and Federal Reserve Bank of Kansas City President Thomas Hoenig](#) (and see [this](#))
- The [Congressional panel overseeing the bailout](#)
- The head of the FDIC, [Sheila Bair](#)
- The leading monetary economist and co-author with Milton Friedman of the leading treatise on the Great Depression, [Anna Schwartz](#)
- Economics professor and [senior regulator during the S & L crisis, William K. Black](#)
- Leading economist, [Nouriel Roubini](#)
- Well-known economist, [Marc Faber](#)
- Nobel economist, [Ed Prescott](#)
- Dean and professor of finance and economics at Columbia Business School, and chairman of the Council of Economic Advisers under President George W. Bush, [R. Glenn Hubbard](#), and Professor of entrepreneurship and finance at the Chicago

- Economics professor [Thomas F. Cooley](#))

But many argue that it would be wrong for the government to break up the banks, because it would have to take over the banks in order to break them up.

This is true. But government regulators in the U.S., Sweden and other countries which have broken up insolvent banks say that the government only has to take over banks for around 6 months before breaking them up.

In contrast, Bush and Obama's actions mean that the government is becoming the majority shareholder in the financial giants more or less permanently. That is – truly – socialism.

Breaking them up and selling off the parts quickly and in an orderly fashion to the highest bidder would get us back to capitalism much quicker.

Does the Government Have the Power to Break Them Up?

The second main argument against breaking up the “too big to fail” is that the government doesn't have the legal authority to do so.

For example, Vice President Biden's chief economic policy adviser said [today](#):

I think there is a lot to be said for the argument made by the Treasury Secretary and, for that matter, the chairman of the Federal Reserve that the authority to unwind an AIG simply doesn't exist.”

But William K. Black – the senior regulator during the S&L crisis, and an Associate Professor of Economics and Law at the University of Missouri – says that the Prompt Corrective Action Law (PCA) – 12 U.S.C. § 1831o – not only authorizes the government to seize insolvent banks, it mandates it, and that the [Bush and Obama administrations broke the law By refusing to close insolvent banks.](#)

Others argue that the PCA does not apply to bank holding companies, and so the government really does not have the power to break up the big boys (see [this](#), for example; but compare [this](#)).

Whether or not the financial giants can be broken up using the PCA, no one can doubt that the government could find a way to break them up if it wanted.

FDR seized gold during the Great Depression using a bogus argument that he could do so under the Trading With The Enemies Act.

Geithner and Bernanke have been using one loophole and “creative” legal interpretation after another to rationalize their various multi-trillion dollar programs in the face of opposition from the public and Congress (see [this](#), for example).

So don't give me any of this “our hands are tied” malarkey. The government would break

the too big up in a heartbeat if it had the will, and then justify it using some legal argument or other.

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