The debate over whether large banks are still "too big to fail" has spread like wildfire in recent months. But much like an actual wildfire, the conditions had to be just right for the discussion to travel quite so widely and carry so much heat. Below are seven reasons that "too big to fail" has gained renewed focus recently — and why it isn't going away anytime soon.

Banks Keep Messing Up

A slew of bad news for banks has made it easy for critics to keep "too big to fail" concerns on the radar.

In the last four months alone, more banks have agreed to fines related to the Libor manipulation scandal, HSBC settled with the government for a record $1.92 billion over anti-laundering accusations, regulators agreed to halt the troubled independent foreclosure review in favor of a settlement with numerous institutions and the Senate Permanent Subcommittee on Investigations released a damning report looking into JPMorgan Chase's "London Whale" debacle.

"You look at basically the weekly focus on one bank or another and their foreclosure practices or other illegal conduct," said Dennis Kelleher, president and chief executive of Better Markets. "You have this cumulative impact over the last year that's been building."

The public, meanwhile, continues to grapple with the effects of the financial crisis amidst the ongoing headlines, which breeds a certain level of resentment. A recent poll found that half of American adults would favor breaking up the big banks. "I think the fundamental unfairness with what happened with bailing out Wall Street is still pretty strong," Kelleher said. "That's the kindling that's ever present in the country." Observers said it's unlikely that anger with big banks will abate unless and until the economy begins to grow faster and unemployment comes down.

"Until we get an economic recovery, there will be some unhappiness in that regard that will not be solved," said Eugene Ludwig, founder and chief executive of Promontory Financial Group.

Size Still Matters

Most of the largest banks have become bigger, not smaller, in the last five years, albeit due mostly to crisis-era mergers that arguably kept the economy from crashing.

For some, however, size is a problem regardless — one not tackled directly in the Dodd-Frank reform law enacted in 2010. "People can address it by attacking 'too big' and focusing on size, or on 'to fail' and focusing on allowing it to fail," said Aaron Klein, the director of the financial regulatory reform initiative at the Bipartisan Policy Center and a former Senate aide.

"Dodd-Frank takes the 'to fail' approach and says that if any institution fails, whether it's due to capital or liquidity, we will figure out a system to allow them to go through a bankruptcy-like process with real consequences," Klein says.

Some critics argue that a more appropriate means for dealing with the problem is breaking up the largest institutions, not figuring out how to wind them down, which could ultimately prove near impossible in practice.
"I think the heart of the problem is scale and interconnectedness. … I don't believe there are many people who think living wills and the orderly liquidation process are really going to work if one of those banks fails," said Lawrence Baxter, a professor of law at Duke University. "We manage that all the time with smaller banks … but once you get over the $100 billion range and into the $1 trillion range, it ceases to have any credibility."

"After all," Baxter added, "Continental Illinois was minute compared to today's huge banks, yet its collapse in 1984 was precisely the event that coined the 'too big to fail' concern."

**Doubts on Dodd-Frank**

While the Dodd-Frank law was designed to address "too big to fail," many critics see it as a missed opportunity because it did not take broader action.

"Maybe Dodd-Frank, for all of its good things and bad things, didn't go to the heart of the problem — didn't achieve structural reform," said Cornelius Hurley, director of the Boston University Center for Finance, Law & Policy. "And so now we have people asking questions that they should have asked in the beginning. What does it mean to be too big to fail, what kind of subsidy do you get?"

Hurley added that current concern over the issue is "the cumulative effect of the wound never healed in the first place." Whenever another Libor settlement or anti-money-laundering violation is announced, for example, "there's a little more salt in the wound," he said.

Politics may play a role too. The Dodd-Frank law, which was passed by Democratic majorities in the House and Senate and a Democratic president, remains a perennial punching bag for the GOP. Provisions for addressing risk-taking and winding down failing firms are key aspects of the law, and thus remain at the forefront of attacks.

"You have Republicans that were completely shut out of process who are still angry about it," said one senior industry official.

**Voices with Clout**

The bipartisan chorus of prominent lawmakers, policymakers and academics arguing that more must be done to confront "too big to fail" is growing. The fact that so many high-profile voices are speaking out, and that they represent a range of political ideologies, gives the movement intellectual heft and makes it harder to dismiss.

A critical turning point came last month, when Attorney General Eric Holder said that because banks are "just so big," the Justice Department is reluctant to prosecute them.

Federal Reserve Board Chairman Ben Bernanke said March 20 that "too big to fail" remains a "major issue," and Fed Gov. Daniel Tarullo has suggested size caps for institutions tied to the nation's GDP. Others have called for more radical solutions, including Thomas Hoenig, vice chairman of the Federal Deposit Insurance Corp., and Richard Fisher, president of the Federal Reserve Bank of Dallas. Sens. Sherrod Brown, D-Ohio, and David Vitter, R-La., have been particularly vocal on the issue in the past few weeks, as they rally support for their upcoming legislation to raise capital standards on big banks, which could spur the breakup of the largest institutions if passed. The duo has already garnered significant media attention around their plans, and their efforts will likely receive even more interest once legislation is officially introduced in the coming weeks. "April is going to be theirs," the senior industry official said of the Brown-Vitter bill.
Community Bank Factor

Smaller banks are also raising alarm bells over "too big to fail," in part because they feel they are being punished for a financial crisis they didn't cause. "The community banks feel that the wave of new regulations is the result of the efforts to get at 'too big to fail,'" said Paul Merski, executive vice president for congressional relations and chief economist at the Independent Community Bankers of America.

"So when the 'too big to fail' institutions screw up," Merski continued, "then the regulations that are put on to address those problems are put on the whole industry."

It's significant that the Brown-Vitter legislation is expected to include measures to decrease the regulatory burden on smaller banks while also raising standards on the largest institutions. That will only serve to increase bickering between various trade associations over the issue, but will likely play well with lawmakers interested in making community banks in their home states happy.

Research Findings

If a debate lasts long enough in Washington, somebody's going to try to put a number on it. Another strand in the ongoing debate over "too big to fail" is the cost of any funding subsidies the biggest institutions receive because of the implicit market assumption that the government won't allow them to fail.

Several major studies have been published already, and more are on the way, including one from the Government Accountability Office. "We're now starting to get the real cost of big banks to be estimated with more precision," Baxter said.

Critics of the largest institutions argue that the banks receive a significant funding advantage because of their size and interconnectedness, an advantage on which Bloomberg News recently put an $83 billion annual price tag.

"I think people are coming around to the realization that the bailout isn't just something that happened in 2008, it's something that happens every day in the form of the subsidy," said Hurley. But lobbyists and several trade associations for the big banks have fought back against Bloomberg and other estimates, arguing that the size of the subsidy is overstated and may not exist at all.

What Else is There to Talk About?

Congress is still divided after the elections last November, and it's unclear if the ongoing political stalemate is going to resolve itself anytime soon. There's little tangible legislation on the table within the banking arena right now, leaving more energy to expend on talking about "too big to fail," which has already proven popular with the public.