



## ML Strategies Update

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## Financial Services Legislative and Regulatory Update

### Leading the Past Week

Last week ended with a proverbial blank slate, as Friday was the deadline for lawmakers to submit proposals to reform the US tax code to the Senate Finance Committee. In response to some published reports about the unease and potential unwillingness of his colleagues' responses, the Chairman of the Finance Committee, Max Baucus (D-MT) took to the Senate floor on July 25<sup>th</sup> to urge his colleagues to participate by sending in proposals. "Everyone needs to be involved," said Baucus, and in an effort to spur participation, the Finance Committee circulated a memo promising that the letters received would be sealed for 50 years and not publically released until December 31, 2064. Despite these assurances, some Senators appeared hesitant to put themselves on the record slashing a favored exemption or program while others seemed content solely to highlight big picture issues. Regardless what folks thought of this exercise, Baucus continues to assert that the Committee will be marking up a tax bill this fall.

In other news, the House Financial Services Committee passed out legislation that would make sweeping revisions to the Housing finance industry, while their Senate counterparts continue to focus on FHA reform before tackling the thornier questions related to wholesale housing finance reform.

### Legislative Branch

#### **Senate**

##### *Senate Appropriations Committee Advances FY2014 Financial Services Spending Bill*

On July 25<sup>th</sup>, the Senate Appropriations Committee **approved** the FY2014 Financial Services and General Government spending bill in a 16 to 14 vote. The bill would increase funding for the Commodities Future Trading Commission (CFTC), the Securities and Exchange Commission (SEC) and the Internal Revenue Service (IRS). The legislation increases the CFTC's budget to \$315 million, the SEC's budget to \$1.674 billion, and the IRS's to \$12.07 billion. The Committee also approved by voice vote an amendment by Senator Susan Collins (R-ME) to require the Consumer Financial Protection Bureau (CFPB) director to provide a non-public briefing to the

Subcommittee on Financial Services and General Government at least once a year, which Cordray had agreed to as part of the deal to get confirmed.

#### *Senate Banking Committee Holds Hearing on the FHA Solvency Act of 2013*

On July 24<sup>th</sup>, the Senate Banking Committee heard [testimony](#) from Carol Galante, Assistant Secretary for the Department of Housing and Urban Development (HUD), on the [FHA Solvency Act of 2013](#). The legislation, crafted by Chairman Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID), will allow the Federal Housing Administration (FHA) to charge higher premiums on insured loans, allow the agency to require more lenders to buy back loans when a borrower does not meet payments, and make prompt changes to the agency's reverse mortgage program through a lender letter as opposed to a formal rulemaking process. Galante praised the legislation, saying the FHA would benefit from changes, and noting that additional conversations with Members of Congress will be necessary. Galante also provided an overview of the FHA's successes so far in shoring up its fund, including improved risk management and strengthening capital reserves. The Committee will continue its consideration of the legislation in a July 31<sup>st</sup> markup.

#### *Franken, Wicker Renew Push for SEC to Address Conflicts of Interest in Ratings Industry*

On July 24<sup>th</sup>, Senators Al Franken (D-MN) and Roger Wicker (R-MS) [called on](#) the SEC to quickly implement rules which would address conflicts of interest in the credit rating industry. Franken and Wicker authored Dodd-Frank Section 939F, which directed the SEC to study and implement an independent organization to assign ratings jobs to national statistical ratings companies based on capacity and expertise. The SEC issued its [study](#) in 2012, exploring three potential ways to address industry conflicts and suggesting a roundtable further study the issue.

#### *Senate Banking Subcommittee Examines Bank Control of Commodities*

On July 23<sup>rd</sup>, the Senate Banking Subcommittee on Financial Institutions and Consumer Protection [met](#) to hear testimony from industry stakeholders on the financial sector's role in commodity trading. The hearing follows news that the Fed will review a decision that allows banks to store, transport and trade physical commodities that are "complimentary" to banking. Lawmakers criticized the Fed for allowing banks to expand into commodity trading, with Senator Elizabeth Warren (D-MA) once again using the opportunity to advocate for the return of Glass-Steagall. While the hearing did not include testimony from large banks, Chairman of the Subcommittee Senator Sherrod Brown (D-OH) announced plans to bring in witnesses from the Federal Reserve (Fed), JPMorgan, Goldman Sachs, and Morgan Stanley to testify on physical commodities markets at a subsequent hearing.

#### *Senate Special Aging Grills Regulators on How to Protect Seniors from Predatory Lending*

On July 24<sup>th</sup>, the Senate Special Committee on Aging met to examine the impact payday and other short-term high-cost lending products have on seniors. Witnesses included agency representatives from the CFPB, Federal Deposit Insurance Corporation (FDIC), and the Maine Bureau of Consumer Credit Protection in addition to industry stakeholders from the Center for Responsible Lending, the Consumer Bankers Association, and the Community Financial Services Association of America. The Committee discussed the April 2013 CFPB report on payday loans and the FDIC and Office of the Comptroller of the Currency (OCC) joint proposed guidance on deposit advances, requiring, among other things, that banks examine customers' income and expenses to make sure that they can actually afford to pay off the loan and associated charges. Senator Susan Collins (R-ME) urged the regulators to finalize this guidance and other lawmakers indicated support for the Fed to supervise and regulate banks that offer these short-term loans.

#### *Senate Banking Subcommittee Weighs How to Preserve the Role of Community Institutions in Housing Finance*

On July 23<sup>rd</sup>, the Securities, Insurance, and Investment Subcommittee [met](#) to hear testimony from Sandra Thompson, Deputy Director for the Federal Housing Finance Agency's (FHFA) Division of Housing Mission and Goals, and from industry stakeholders on the role of community institutions in the housing finance sector. Industry witnesses included: from Bill Hampel, senior vice president and chief economist, Credit Union National Association (CUNA); Jack Hartings, on behalf of the Independent Community Bankers of America (ICBA); Andrew J. Jetter, president and CEO of the Federal Home Loan Bank of Topeka; and Mike Middleton, on behalf of the American Bankers Association (ABA).

#### *Brown Introduces Insurer Capital Requirement Bill*

On July 26<sup>th</sup>, Senator Sherrod Brown (D-OH) with Senators Jon Tester (D-MT), Mike Johanns (R-NE), and Mark Kirk (R-IL) [introduced legislation](#) which would give the Board of Governors of the Federal Reserve system "additional flexibility" in establishing capital standards for insurers. The bill would also remove insurers from a Dodd-Frank provision which sets a floor on minimum risk-based capital and leverage standards, making insurers subject to state-based standards. The legislation seeks to address concerns about how to address competing capital requirement provisions in Dodd-Frank, which gave the Fed new authority over savings and loan companies owned by state-regulated insurers.

### **House of Representatives**

#### *House Financial Services Committee Advances Housing Overhaul Bill*

On July 25<sup>th</sup>, the House Financial Services Committee conducted a ten hour long markup of [H.R. 2767](#), the Protecting American Taxpayers and Homeowners (PATH) Act of 2013. The bill was approved in a 30 to 27 vote with all panel Democrats and Republican Representatives Gary Miller (R-CA) and Michael Fitzpatrick (R-PA) opposing the measure. Fifteen amendments were introduced, including 12 Democratic amendments, ten of which were defeated and two withdrawn. The Committee also approved two Republican amendments by voice vote. While Chairman Jeb Hensarling (R-TX) said the bill is not expected to reach the floor before the August recess, he said he has plans to speak before the GOP conference this week to discuss the bill and will hold listening sessions with Republican peers to explain the legislation in preparation for a future floor vote.

#### *Republican Members Ask SEC to Remove Added Disclosures Associated with General Solicitation Rule*

On July 22<sup>nd</sup>, Representatives Scott Garrett (R-NJ) and Patrick McHenry (R-NC) [wrote](#) to the SEC, urging the agency to withdraw a proposed disclosure requirement which the agency proposed after lifting the ban on advertising for private securities. The Jumpstart Our Business Startups (JOBS) Act directed the SEC to abolish the ban on the advertising, which it did in a four to one vote earlier in July. However, under pressure from advocacy groups and Democrats, the SEC also proposed to increase disclosure requirements and require standard disclosures to be attached to ads. McHenry and Garrett argue that this requirement goes against the intent of the JOBS Act by "imposing a 15-day ban on general solicitation" and harming smaller issuers.

### Executive Branch

#### **Federal Reserve**

#### *Covert Campaign to Succeed Bernanke Begins in Earnest*

Last week, the trial balloon of Larry Summers, former White House economic advisor, as potential next Chairman of the Fed took on some damage, as the possibility of Summers' appointment drew public opposition from numerous Senators, many of whom favor current Vice Chairman Janet Yellen as the heir apparent. Speaking on the issue, Senator Tom Harkin (D-IA) said there is "a lot of concern among a lot of Democrats about an appointment of Larry Summers to that long-term position as Fed chairman," especially given Summers' role in

repealing Glass-Steagall and other financial regulations.

According to a Democratic staffer, Senator Sherrod Brown (D-OH) is circulating a letter in support of Yellen which already has considerable support among Senate Democrats and Independents, including Senators Dick Durbin (D-IL), Dianne Feinstein (D-CA), Angus King (I-ME), Jeff Merkley (D-OR), and Tom Harkin. Still, Chairman of the Banking Committee Tim Johnson (D-SD) has said he sees no problem with either front-runner. In response to the Fed rumblings on Capitol Hill, the White House said on July 26<sup>th</sup> that a decision on the next Fed Chairman is not imminent but rather will likely come in the fall.

#### *Citing European Actions Lawmakers Ask Fed to Revisit Interchange Rule*

On July 26<sup>th</sup>, Senator Dick Durbin (D-IL) and Representative Peter Welch (D-VT) [wrote](#) to Chairman Ben Bernanke requesting the Fed revisit the issue of interchange fees. The letter urged the Fed to consider lowering the fees that banks are able to charge retailers for the processing of debit card transactions. The lawmakers suggest the Fed review the new, stricter interchange fee regulations the European Commission released on July 24<sup>th</sup>, (see more below) arguing that the proposal “is compelling evidence that the board formulated reasonable debit interchange limits consistent with the law in its proposed rulemaking and failed to do so in its final rulemaking.” The Fed released a [report](#) in March indicating it would not revisit the interchange fee level but did not issue an immediate response to the letter.

## **Treasury**

#### *GAO Will Review FSOC's SIFI Process*

In response to a request from Ranking Member of the Senate Banking Committee Mike Crapo (R-ID), the GAO has agreed to study the process which the Financial Stability Oversight Council (FSOC) uses to designate firms systemically important financial institutions (SIFIs). Crapo, citing concerns about transparency, requested the GAO review how the FSOC flags firms for additional oversight. Currently, the FSOC has designated several firms, including American International Group (AIG) and GE Capital for additional supervision.

#### *Deputy Secretary Wolin to Depart at End of August*

On July 23<sup>rd</sup>, the Treasury [announced](#) that Deputy Secretary Neal Wolin will leave the Department at the end of August. Wolin, confirmed in 2009, is the longest serving Deputy Secretary and oversaw major financial reforms associated with the Dodd-Frank Act. Speaking on his departure, Wolin acknowledged that portions of the Dodd-Frank Act, such as the Volcker Rule, have been a “tough slog” but that “the financial sector is in a much better place, and banks are much better capitalized.” Wolin plans to join a yet-to-be-announced think tank after his transition out of the Treasury.

## **SEC**

#### *Judge Upholds Dodd-Frank Conflicts Mineral Rule*

On July 23<sup>rd</sup>, District Court Judge Robert Wilkins [upheld](#) the SEC's conflict mineral [rule](#) requiring companies to disclose their use of minerals that originated in the Democratic Republic of the Congo (DRC) and surrounding countries. The National Association of Manufacturers, the Chamber of Commerce and the Business Roundtable had challenged Dodd-Frank Section 1502, alleging that it violated the First Amendment by forcing companies to indicate if their products contribute to human rights abuses.

## **CFPB**

#### *CFPB Facing Lawsuit Challenging its Constitutionality*

The Bureau may have won a major victory in establishing the validity of the agency and its

rulemakings with the Senate approval of Richard Cordray to be Director; however, last week a [lawsuit](#) was brought against the CFPB arguing the agency is unconstitutional. A Connecticut individual, in tandem with the software firm that she uses to provide debt resolution and bankruptcy services, alleges that the Bureau's structure "insulates it from political accountability and internal checks and balances in violation of the United States Constitution."

## **FDIC**

### *FDIC Holds Community Bank Initiative Advisory Committee Meeting*

On July 25<sup>th</sup>, the FDIC held a [meeting](#) of the Advisory Committee on Community Banking. The agenda included a staff update on the FDIC's community bank initiatives, and discussions about payment system developments and implications and information technology examination issues. The Advisory Committee, which was formed in 2009, discusses and provides input to the FDIC on a wide variety of topics, including current examination policies and procedures, credit and lending practices, deposit insurance assessments, insurance coverage and regulatory compliance.

## International

### *European Commission Releases Interchange Proposal*

On July 24<sup>th</sup>, the European Commission released a proposal capping interchange fees on credit card transactions at 0.2 percent for debit cards and 0.3 percent for credit cards. The new rules would also limit surcharges which merchants may impose on card payments and also allow Visa and MasterCard to separate their credit card servicing business from their processing business in order to increase competition. In announcing the proposal, European officials say the plan mirrors the United States' effort to cap interchange fees on credit card purchases; however, the Commission's proposal goes a step further to address credit card fees as well.

## Upcoming Hearings

On Tuesday, July 30<sup>th</sup> at 10am, in 538 Dirksen, the Senate Banking, Housing and Urban Affairs Committee will hold a hearing titled "Mitigating Systemic Risk in Financial Markets through Wall Street Reforms."

On Wednesday, July 31<sup>st</sup> at 10am, in 538 Dirksen, the Senate Banking, Housing and Urban Affairs Committee will hold a hearing to vote on S. 1376, "The FHA Solvency Act of 2013."

On Wednesday, July 31<sup>st</sup> at 2pm, in G-50 Dirksen, the Joint Economic Committee will hold a hearing titled "Lessons from Reagan: How Tax Reform Can Boost Economic Growth."

On Wednesday, July 31<sup>st</sup> 2:30pm, in 215 Dirksen, the Senate Finance Energy, Natural Resources and Infrastructure Subcommittee will hold a hearing titled "Powering Our Future: Principles for Energy Tax Reform."

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