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Financial Services Legislative and Regulatory Update

Leading the Past Week

Working through a rare weekend session, the Congress appeared no closer to being able to avoid a shutdown of the Federal Government. Early Sunday morning the House sent back to the Senate its version of the spending bill, including two provisions – one delaying Obamacare for one year and the other repeals the medical device tax which helps fund the law. While there are other differences in the bills – notably how long they keep the government operating, Leader Reid has made it clear that the Senate will strip out these two provisions when it meets at 2pm on Monday. With the midnight Monday deadline quickly approaching, all sides appear resigned to a shutdown occurring and have turned their attention to positioning for the fallout.

While the political ramifications of a shutdown are unclear – with both sides believing that they will benefit, the practical results were announced late last week as various federal agencies disclosed how they will act starting on Tuesday. For example on Friday, Treasury **announced** that a government shutdown would affect some activities, but that “critical functions” would continue. The IRS would have to pull back on some functions, such as fielding taxpayer queries, but other functions like managing the government’s funds, implementing tax policy would continue. Other offices that are not funded under annual appropriations, such as the Office of the Comptroller of the Currency (OCC) and the Financial Stability Oversight Council (FSOC), or the GSE’s, would continue to operate as normal. The CFTC also released a shutdown **plan**, which outlined the “vast bulk” of oversight and surveillance responsibilities would be stopped. Perhaps most troubling for the economy is the fact that the shutdown will also prevent the FHA from processing mortgages, and with nearly 45% of the market using FHA backed mortgages, the fear of a disruption to the real estate market, and thus potentially the economy as a whole.

Although there are options that both sides have to avert, or at least delay the shutdown, it now seems more likely than not, that the time will run out and the government will shut down for the first time since 1996 later this week.

Legislative Branch

Senate

Senate Banking Examines TRIA Extension

On September 25th, the Senate Banking, Housing, and Urban Affairs Committee held a hearing to examine the reauthorization of the Terrorism Risk Insurance Act (TRIA). Similar to House hearing on the subject last week, the members of the Senate Banking Committee expressed general support for a reauthorization of the program but acknowledged that there is a need to evaluate and improve the program during an extension. For example, Ranking Member Crapo noted that several changes to the program which have been discussed are modifying the business deductible, changing the aggregate loss threshold, and instituting business co-insurance. Another option considered at the hearing for overhauling TRIA was instituting pre-funding of the government backstop. Lawmakers are also considering whether TRIA's backstop should be extended to cover chemical, biological, radiological, cyber, and nuclear attacks

Majority of Senators Urge White House to Push for Currency Manipulation Protections in TPP

On September 24th, sixty senators signed onto a [letter](#) to the White House requesting the Obama Administration work to negotiate rules against currency manipulation as part of the Trans-Pacific Partnership and other future trade deals. The letter was led by Senators Debbie Stabenow (D-MI) and Lindsey Graham (R-SC) could complicate the Administration's TPP talks with Japan, Vietnam, Malaysia and other countries. The House, led by Representative Sander Levin (D-MI), sent a similar letter to the White House over the summer. Levin, Ranking Member of the House Ways and Means Committee has said that "there is no point in negotiating a TPP agreement to eliminate import duties if countries are allowed to effectively re-impose those duties by manipulating their currencies."

Senate Budget Committee Examines the Economic Effects of Political Uncertainty

As Congress continues to debate a final version of the CR to fund the government and with the debt ceiling deadline fast approaching, the Senate Budget Committee met to hear testimony from three economists on the economic effects of political uncertainty. Witnesses included Mark Zandi, chief economist for Moody's Analytics; Chad Stone, chief economist for the Center of Budget and Policy Priorities; and Allan Meltzer, Professor of Political Economy at Carnegie Mellon University. Witnesses warned that a default would have a large effect on "everyday Americans" as it would become more difficult to get a mortgage, stock prices decline, and unemployment grows.

Senate Banking Subcommittee Explores Economic Conditions in India

On September 25th, the Senate Banking Subcommittee on National Security and International Trade and Finance held a hearing to consider investment and market access in India. Witnesses included Dr. Arvind Subramanian, Senior Fellow with the Peter G. Peterson Institute for International Economics; Mr. Richard Rossow, Director for South Asia with McLarty Associates; and Dr. Reena Aggarwal, Professor of Business Administration and Professor of Finance at Georgetown University. The hearing came ahead of a meeting between Prime Minister Manmohan Singh and President Obama.

House of Representatives

Lawmakers Question Big Banks on Student Debit Cards

On September 26th, Democratic lawmakers on the Education and Workforce Committee, joined by Senators Sherrod Brown (D-OH) and Elizabeth Warren (D-MA), [wrote](#) to the CEOs of several large banks requesting they explain their student debit card agreements with colleges. Copies of the letter

were sent to Wells Fargo, US Bancorp, PNC Financial Services Group, SunTrust Banks, Inc., TCF Bank, Citigroup, Huntington Bancshares Incorporated, Commerce Bancshares, Inc., and Higher One Holdings, Inc.

CBO Briefs House Committee on Budget Outlook

On September 26th, the House Budget Committee met to hear testimony from Director of the Congressional Budget Office (CBO) Doug Elmendorf on the nation's long-term budget outlook. CBO's most recent report was released on September 17th and notes that although in the short-term the budget will shrink, deficits are expected to begin to grow again after 2018.

Executive Branch

Federal Reserve

Basel Framework to Be Part of Stress Tests

On September 24th, the Federal Reserve **announced** two interim final rules clarifying how companies should incorporate Basel III regulatory capital requirements into their capital and business projections submitted as part of stress tests. The **first rule** clarifies that during the upcoming stress test cycle, large banks with more than \$50 billion in assets will be required to incorporate the Basel framework into their projections. The first interim final rule also directs banks to consider capital adequacy assessed against a minimum 5 percent tier 1 common ratio. The **second rule** provides a one-year transition period for stress test projections for most banking organizations with between \$10 billion and \$50 billion in total consolidated assets. The interim final rules are effective immediately but the Fed will accept comments through November 25th.

Banking Regulators Release Joint Guidance About Financial Abuse of Older Adults

On September 24th, regulators released joint **guidance** to clarify privacy provisions under the Graham-Leach-Bliley Act, saying that it is generally permitted for financial institutions to report suspected elder financial abuse to appropriate authorities. Regulators noted that, as older adults can be attractive targets for financial exploitation, employees of financial institutions that are able to spot irregularities or other signs of financial abuse can help protect against elder financial fraud. The guidance was released by the Federal Reserve, Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and the Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC).

SEC

White Lays Out Enforcement, Implementation Priorities

On September 26th, **speaking** at the Council of Institutional Investors fall conference, Chairwoman Mary Jo White laid out the agency's enforcement plans. White said that the SEC plans to shift its focus, to bring more cases against individuals who are in violation of securities law and to seek more mandatory compliance measures in settlements to prevent future wrongdoings. Earlier in the week, in a speech before the 2013 Bloomberg Markets 50 Summit, White also addressed enforcement, saying she has sought to make improvements to their operations, including by revising the "neither admit nor deny" policies. White also spoke to other items on the SEC's regulatory agenda, telling summit participants that regulators have made "lots of progress" on finalizing a joint Volcker Rule and noting that the agency's "highest immediate priority" is finalizing rulemakings under the Dodd-Frank Act and the Jumpstart Our Business Startups (JOBS) Act.

CFTC

CFTC Announces Phase in of Swap Execution Facility (SEF) Rules

On September 27th, the CFTC **announced** that it would delay enforcement of new rules for Swap Execution Facilities (SEF). The rules were slated to take effect on October 2nd but the Commission received significant push back from industry stake holders. For example, on September 23rd the Securities Industry and Financial Markets Association (SIFMA) **wrote** to the CFTC requesting the agency delay the rules governing swap execution facilities (SEFs). In addition, it was clear that within the CFTC, there were some who agreed with the industry's perspective, as on September 26th Commissioner Scott O'Malia said an extension of the SEF effective date would allow market participants time for a smooth transition and then Commissioner Chilton echoed these comments on September 27th, saying that the Commission should extend the compliance date by two months as soon as possible. Later that day, the CFTC announced that the delay would extend to October 30th for foreign exchange (fx) swaps, and until December 2nd for commodity and equity swaps.

Agriculture Committee Leadership Ask CFTC to Use Caution Crafting Customer Protections

On September 25th, the leadership of the Senate and House Agriculture Committees **wrote** to the CFTC urging the agency to use caution when drafting futures consumer protection rules which could have a large impact on the agriculture sector. The CFTC proposed rules in October 2012 following the collapse of ML Global and Peregrine Financial that the agriculture sector has warned could prove costly to customers. Chairman Debbie Stabenow (D-MI), Chairman Frank Lucas (R-OK), Ranking Member Thad Cochran (R-MS), and Ranking Member Collin Peterson (D-MN) advised the CFTC that it should "weigh the benefits of these regulations against both the costs to America's farmers and ranchers and the potential impact on consolidation in the industry."

CFPB

Bureau and Jackson, Mississippi Begin 311 Line for Financial Issues

On September 20th, the CFPB and the City of Jackson, Mississippi announced a partnership to connect consumers with the CFPB to answer questions and submit complaints about financial products and services using their local 311 service. Residents who dial 311 with a financial problem or complaint will be transferred directly to the Bureau where the CFPB will work with consumers on financial problems and handle consumer complaints on credit cards, mortgages, bank accounts or services, private student loans, consumer loans, credit reporting, money transfers, and debt collection.

CFPB Denies Petition to Dismiss Investigation of Tribal Lenders

On September 26th the CFPB denied a petition from three tribal payday lenders requesting that the CFPB end their investigation into whether the companies violated consumer laws. The lenders argued that the Bureau lacked the authority to make civil investigative demands to the companies due to sovereignty of the lenders via their affiliation with Native American tribes. In announcing the Bureau's decision to proceed with the investigation, Director Cordray said that courts have agreed that "Indian tribes, like individual states, do not enjoy immunity from suits by the federal government."

FHA

FHA to Draw on Treasury Funds to Cover Shortfall

On September 27th, the Federal Housing Administration (FHA) announced that it will need to draw on \$1.7 billion from the Treasury in order to cover shortfalls in the mortgage insurance fund. The shortfall, though expected, was larger than the anticipated \$942 million estimate that was included in the President's FY2014 budget proposal. In a letter to Congress on the announcement, FHA

Commissioner Carol Galante said that the “required mandatory appropriation is an accounting transfer and does not reflect an up-to-date view” of the long-term fiscal health of the insurance fund.

NCUA

NCUA Sues Firms Over MBS Credit Union Failures

On September 23rd, the National Credit Union Administration (NCUA) filed lawsuits against JPMorgan, Morgan Stanley, Goldman Sachs, Barclays, Credit Suisse, Royal Bank of Scotland, UBS, Ally and Wachovia alleging the firms sold \$2.4 billion in faulty mortgage-backed securities to two failed credit unions. Speaking on the suits, NCUA Chairman Debbie Matz said that credit unions the agency supervises are sharing the costs of the losses and “the people who are responsible should be required to shoulder that burden, as well.”

Miscellaneous

CRFP Examines Tax Exempt Status of IRAs

On September 27th, the Committee for a Responsible Federal Budget (CRFB) released an analysis of the preferential tax treatment of the Individual Retirement Account (IRA). The report notes that IRAs hold less than 25 percent of all the nation’s retirement assets and are used by only 5 percent of workers. The analysis notes numbers from the Joint Committee on Taxation which estimates that the subsidy will cost \$15 billion in lost income tax revenue in 2013, or more than \$250 billion over 10 years.

Upcoming Hearings

(Schedule subject to change contingent on status of Federal Government)

On Monday September 30th, in H-313 of The Capitol, the House Rules Committee will meet to consider a rule for H.R. 992, the Swaps Regulatory Improvement Act, and H.R. 2374, the Retail Investor Protection Act.

On Tuesday October 1st at 10am, in 2128 Rayburn, the Financial Institutions and Consumer Credit Subcommittee of House Financial Services Committee will hold a hearing on legislative proposals intended to create more accountability and transparency to the Consumer Financial Protection Bureau.

On Tuesday, October 1st at 10am, in 538 Dirksen, the Senate Banking, Housing, and Urban Affairs Committee will hold a hearing titled “Housing Finance Reform: Fundamentals of a Functioning Private Label Mortgage Backed Securities Market.”

On Wednesday, October 2nd at 10am, in 106 Dirksen, the Joint Economic Committee will hold a hearing on the economic outlook.

On Wednesday, October 2nd at 10am, in 2128 Rayburn, the Housing and Insurance Subcommittee of House Financial Services Committee will hold a hearing on the status of the National Flood Insurance Program (NFIP).

On Wednesday, October 2nd at 2:30pm, in 538 Dirksen, the Economic Policy Subcommittee of Senate Banking, Housing, and Urban Affairs Committee will hold a hearing on rebuilding American manufacturing.

On Wednesday, October 9th at 2pm, in 2128 Rayburn, the Capital Markets and Government Sponsored Enterprises Subcommittee of House Financial Services Committee will hold a hearing on legislation that would attempt to reduce impediments to capital formation.

On Thursday, October 10th at 10am, in 2128 Rayburn, the Monetary Policy and Trade Subcommittee of House Financial Services Committee will hold a hearing to examine international central banking models.

On Thursday, October 10th at 2pm, in 2128 Rayburn, the Financial Institutions and Consumer Credit Subcommittee of House Financial Services Committee will hold a hearing on un-banked and under-banked areas in the United States.