Legislative and Regulatory
Status Update

Association for Financial Professionals®

AFP—Your Daily Resource

A monthly summary of federal issues *September 2009*

Overview

Special Note – This month's edition of Legislative & Regulatory Status Update is set to be released at AFP's Annual Conference in San Francisco. We will use this as an opportunity to highlight a number of the year's biggest events for finance & treasury professionals in Washington, DC, along with AFP's accomplishments this year on behalf of our members. Accordingly, a number of stories will cover events that may not be new, but are of interest to folks new to the publication. Along with these stories, we have some exciting updates, including the Vice Chairman of AFP's Board, Michael Connolly, testifying before an historic joint hearing held by the Securities and Exchange Commission (SEC) and the Commodity Futures and Trading Commission (CFTC) and updates on Congressional efforts to overhaul the financial regulatory system. Next month's edition will go back to the normal format. For those interested in subscribing, please contact Michael Griffith at mgriff@afponline.org to have new editions e-mailed to you.

Although health care has garnered the most attention from policy makers, the House Financial Services Committee continues to hold hearings on regulatory reform, with the latest round focusing on the Administration's legislative proposals, introduced in August (see page 2).

Credit Rating Agencies have been subject to greater scrutiny from both legislators and regulators. Rep. Paul Kanjorski (D-PA), Chairman of the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Entities, introduced a discussion draft on Rating Agency Reform (see page 2) and the Securities and Exchange Commission (SEC) voted on new regulations (see page 4).

Since the steep market down-turn last year, companies have been attempting to find ways to cope with a combination of steep declines in portfolio value and near-zero interest rates affecting their pension plans. CIEBA, AFP's voice on retirement fund policy, has been active in seeking funding relief for plan sponsors. We provide a run-down on efforts to provide relief on page 3.

Inside this Issue

09/09 AFP Releases Advocacy Toolkit – Recently, AFP announced the creation of a new toolkit to assist AFP members with the task of communicating with elected officials. This toolkit was designed to help prepare financial professionals to be effective citizen lobbyists on issue impacting treasury and finance the industry. To download a copy of the toolkit, visit: http://www.afponline.org/mbr/gr/intro.html .

09/09 Rating Agency Legislative Draft Being Circulated – On September 25, 2009, the Chairman of the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, Rep. Paul Kanjorski (D-PA), circulated a discussion draft of potential legislation, titled the Enhanced Accountability and Transparency in Credit Rating Agencies Act that seeks to add more transparency to the credit ratings process. The draft:

•Mandates a review of internal processes for determining credit ratings by requiring that all nationally recognized statistical rating organizations (NRSRO) document internal controls, due diligence and methodologies;
•Requires all NRSROs to publicly disclose their ratings, methodologies and procedures with an annual report delivered to the SEC
•Mandates that every NRSRO establish a board of directors with at least one-third of the Board deemed independent directors;
•Establishes a Compliance Officer to oversee NRSROs;
•Mandates the all NRSROs implement organizational policies and procedures that improve governance functions and manage conflicts of interest.

Although this draft has not been introduced as formal legislation, it is considered to be the blueprint for any legislation going forward. The Subcommittee on Capital Markets will meet on September 30, 2009, to discuss the draft and hear from witnesses on credit rating agency reform. AFP is expected to submit comments for the record of this hearing.

09/09 Obama Administration Delivers Systemic Risk Regulator Legislative Language to Capitol Hill – On July 22, 2009, the Obama Administration delivered proposed legislation to Capitol Hill that would require strong, consolidated supervision and regulation for all financial firms. The legislation also provides a regulatory regime to monitor, mitigate, and respond to risks in the financial system. The proposed language creates a Financial Services Oversight Council that will facilitate coordination of financial regulatory policy, resolve disputes and identify emerging risks in financial markets. The proposed Financial Services Oversight Council will replace the President's Working Group on Financial Markets and will have a permanent, full-time staff at Treasury.

The Financial Services Oversight Council will have eight members, one from each of the principal federal financial regulators: the Secretary of the Treasury, who shall serve as the Chair; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the Commodity Futures Trading Commission (CFTC); the Director of the proposed Consumer Financial Protection Agency; the Chairperson of the Federal Deposit Insurance Corporation (FDIC); the Director of the Federal Housing Finance Agency (FHFA); the Director of the proposed National Bank Supervisor (NBS); and the Chairman of the Securities and Exchange Commission (SEC).

To view the Administration's proposed legislation and plan, click here.

Hearings on the Administration's plan are taking place in the House Financial Services Committee in September and October. The hearings have not been without controversy and it remains to be seen how much of the proposal will be included in legislation. While time tables for actual progress have been delayed several times, staff has set a goal to have a bill out of the Committee before the end of the year.

In the Senate, Banking Committee, Chairman Chris Dodd (D-CT) has said he will propose a vastly different model, with similarities to the British Financial Services Authority. He has yet to introduce any formal legislation and has been focusing on health care and overdraft fees the past few weeks, rather than comprehensive financial regulatory overhaul.

08/09 OTC Derivatives Regulatory Proposals – Between sky-rocketing commodity prices last summer and the role of Credit Default Swaps (CDS) in the financial market crisis, Over-the-Counter (OTC) derivative products have elicited a great deal of scrutiny from regulators and legislators.

On August 11, 2009, the Department of Treasury released proposed legislative language to address over-the-counter (OTC) Derivatives Reform. The language is a proposal and would have to be introduced by a Member of Congress for formal consideration. The goals of the proposal include:

•Preventing activities in the OTC markets from posing risk to the overall financial system;
•Promoting the efficiency and transparency of OTC markets;
•Preventing market manipulation, fraud, and other market abuses; and
•Ensuring that OTC derivatives are not marketed inappropriately to unsophisticated parties.
The language attempts to achieve these goals principally by requiring that standardized derivatives be cleared and traded on regulated exchanges, reporting all OTC trades, and raising capital and margin requirements. The proposal exempts foreign exchange swaps and allows for the exemption of certain

categories of trades that are part of an effective hedge from margin requirements.

Regulatory authority would be divided among the Commodities Futures Trading Commission (CFTC), the Securities and Exchange Commission (SEC), a proposed banking regulator, and the Department of Treasury. Jurisdiction would depend on both the product (physical commodity or security) and the entity engaged in the trade (bank or non-bank). The implementation of this system for complex trades has raised concerns.

This language is likely to be the basis for eventual reforms, but will have to be passed by the legislature. The House Committee on Agriculture held hearing in September on the language and asked for improvements. Agriculture Committee Chairman Colin Peterson (D-MN) specifically asked for input from end-users on how best to preserve risk management practices. AFP is reaching out to members of the committee to work on ideas to achieve this while preventing abusive practices.

On September 3, 2009, AFP Vice Chairman & Tiffany & Co. Treasurer Michael Connolly, testified before an historic joint hearing held by the CFTC and SEC on harmonization of OTC regulations. Mr. Connolly stressed the importance of functional equivalence for corporate finance and treasury professionals. He further argued, regardless of the underlying instrument, that financial professionals should be able to treat all derivative products similarly without having to worry about regulatory jurisdiction.

AFP fully supports regulations that encourage secure and transparent markets. AFP continues to reiterate that derivative products are essential risk management tools financial professionals rely on to help stabilize prices and mitigate risk.

However, AFP has expressed concerns regarding inflexible regulation of OTC derivatives and the potential impact it could have on members attempting to prudently hedge risk. AFP has been actively engaging policy makers on how our members use derivatives to mitigate their risk. As part of this effort, AFP has created an OTC Derivatives Taskforce to highlight how our members hedge risk and how the push to standardization and increased capital and margin requirements could affect these practices. For more information on participating in the OTC Derivatives Task Force, click here.

Pensions and Investments

09/09 **Defined Benefit Plan Funding -** The pension community has spent much of the previous year attempting to get temporary funding relief for defined benefit plans. Many of these plans face large increases in their funding obligations for 2009, 2010 and/or 2011 as a result of the sharp decline in interest rates and asset values at the end of 2008.

At the end of 2008, Congress enacted the Worker, Retiree and Employer Recovery Act of 2008 (WRERA) providing some transition relief with respect to implementation of the Pension Protection Act (PPA). In March, 2009, the Treasury Department issued a ruling that also helped plan sponsors. The revised rule allows additional flexibility for plan sponsors with respect to the interest rate they use for valuing pension liabilities.

While these actions were helpful, they did not address the fundamental problem created by the unprecedented economic crisis – many plan sponsors will have to contribute large sums of money to their plans at a time when their ability to raise cash is very limited. With this in mind, the Committee on Investment of Employee Benefit Assets (CIEBA) and other pension groups have been urging Congress to take action before the end of this year.

Congress has taken preliminary action on several fronts. Minority Leader John Boehner (R-OH) (and father of the PPA) introduced funding relief legislation (H.R. 2021) as part of a larger bill on savings. The Fair Disclosure and Pension Security Act of 2009 (HR 2989) which was reported out the House Education and Labor Committee includes limited relief for defined benefit plan sponsors. The legislation:

•Provides flexibility to plan sponsors by allowing them to change their funding methods in 2010 without Internal Revenue Service approval;
•Clarifies that investment expenses can be amortized;
•Delays the effective date of any regulations implementing the Pension Protection Act that are issued this year;
•Allows plans to amortize 2008 investment losses over a longer period. Plans would pay interest on their plans' losses for the next two years, but would not have to start amortizing those losses until 2011.
•Requires all plans with $50 million or more in underfunding to provide detailed financial and actuarial information to the Pension Benefit Guaranty Corporation (PBGC). The PPA has an underfunding percentage (80%) as the trigger for PBGC notification.
•Provides some funding relief for multiemployer pension plans.

Rep. Earl Pomeroy (D-ND), a senior member of the House Ways and Means Committee, will introduce more expansive relief legislation shortly.

09/09 **PBGC Investment Controversy –** Following a Senate Special Committee on Aging hearing on May 20, 2009, Chairman Herb Kohn (D-WI) introduced legislation to expand the Pension Benefit Guaranty Corporation's (PBGC) Board of Director and address conflict of interest. The hearing explored contacts by the previous PBGC Director, Charles E.F. Millard with investment firms awarded contracts by the Corporation.

The "Pension Benefit Guaranty Corporation Governance Improvement Act of 2009" (S. 1544), would expand the board to include a representative of a company sponsoring a defined benefit pension plan, organized labor, plus two others. The bill calls for these appointees to be Presidential appointments, approved by the Senate.

09/09 **401(k) Fee Disclosure -** The House Education and Labor Committee voted out the 401(k) Fair Disclosure and Pension Security Act of 2009 (HR 2989). The legislation has three major parts – 401(k) fee disclosure, investment advice and defined benefit plan provisions. Rep. George Miller (D-CA) Chairman of the Committee is the chief sponsor of the legislation. The legislation includes disclosure about costs and fees by service providers to plan sponsors; greatly expanded disclosure to participants; and a requirement for all plans to offer at least one very broad index fund (stocks or bonds). The bill calls for detailed information on investment expenses, administrative and transaction fees and any other charges that may be deducted from a participant's account. Bundled services would have to 'unbundled' for purposes of fee disclosure. The bill would require all plans to offer a passively managed investment that is "…representative of the U.S. investable equity market (including representation of small, mid, and large cap stocks) or the U.S. investment grade bond market … or a combination thereof …"

The Department of Labor (DOL) proposed rules for increased disclosure of investment-related information and fees for participants and required disclosures from service providers to plan sponsors are currently under review. The proposed rules, drafted during the Bush Administration, have been on hold since the beginning of the year.

06/09 **Investment Advice in Defined Contribution Plans -** As mentioned above, HR 2989 also includes investment advice. The bill prohibits "conflicted advice." The Pension Protection Act (PPA) allows plan investment managers to provide advice as long as they notified participants of any potential conflicts of interest. This legislation would repeal those provisions. The status of the Department of Labor's advisory opinion [SunAmerica 2001-09(A)] which facilitates the use of a computer model to provide advice is unclear. Some believe that the bill language, as currently drafted, would limit the reach of the SunAmerica opinion and result in less advice being available to defined contribution plan participants.

The proposed rule implementing the PPA investment advice provisions has been formally withdrawn by the Department of Labor. Drafted in the last Administration, the proposed advice rule engendered significant opposition from key members of Congress and participant groups.

Regulatory Issues

Treasury and Finance

09/09 **SEC Adopts Rules Changes for Credit Rating Agencies –** On September 17, 2009, the Securities and Exchange Commission (SEC) unanimously took action on several rule amendments impacting credit rating agencies. The Commission adopted and proposed a series of rules to improve ratings quality, promote accountability, enhance competition and help address conflicts of interest. The Commission's actions would decrease undue reliance on credit ratings by removing references to nationally recognized statistical rating organizations (NRSRO) in SEC rules.

Specifically, the Commission:

•Adopted rules to provide greater information concerning ratings histories and to enable competing credit rating agencies to offer unsolicited ratings for structured finance products, by granting them access to the necessary underlying data for structured products.
•Proposed amendments that would seek to strengthen compliance programs through requiring annual compliance reports and enhance disclosure of potential sources of revenue-related conflicts.
•Reopened the public comment period to allow further comment on Commission proposals to eliminate references to NRSRO credit ratings from certain other rules and forms.
•Proposed new rules that would require disclosure of information including what is covered by the rating and any material limitations on the scope of the rating. In addition, any "preliminary ratings" from other rating agencies - in other words, whether there was "ratings shopping" would need to be disclosed.

Since 2002, AFP has been a vocal advocate of rating agency reform and has submitted proposals to the Administration and Congress. We have conducted several surveys that found that both issuers of corporate/municipal debt and investors of corporate cash and pension assets believe:

1) The information provided by credit rating agencies is neither timely nor accurate,
2) The rating agencies are primarily serving the interest of their shareholders and other parties rather than investors, and
3) The SEC or some other regulatory body must increase its oversight of rating agencies and take steps to foster greater competition in the market for credit rating information.

On May 18, 2009, AFP submitted a letter to Rep. Paul Kanjorski (D-PA), Chairman of the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises outlining AFP's regulatory proposals. On April 15, 2009, AFP President & CEO Jim Kaitz testified before the Securities and Exchange Commission on the need for rating agency reform and proposed significant changes the

SEC could make in terms of regulating rating agencies.

In the coming weeks, several Congressional Committees will hold hearings to further examine the role and functioning of rating agencies. AFP intends to submit comments underscoring our concerns and will continue to advocate for substantial and meaningful reforms.

09/09 **Federal Liquidity Programs -** Signaling that the financial markets have regained a measure of stability, several federal agencies have announced the end of a number of liquidity programs that were created in late 2008. When the markets began to fail last September, federal agencies created a number of guarantee programs to restore public confidence in our nation's financial markets. On September 9, 2009, the Federal Deposit Insurance Corporation (FDIC) announced the expiration of the Temporary Liquidity Guarantee Program (TGLP) on October 31, 2009. On September 18, 2009, the Treasury Department announced the end of its temporary emergency program to sustain money market funds at stable net asset values.

Although many of the liquidity programs put in place late last year are coming to an end, the Federal Reserve Board (Fed) and Treasury Department recently announced a limited extension of one of its joint programs -- the Term Asset-Backed Securities Loan Facility (TALF), a program created to restart the stalled market for asset-backed securities. The program was originally scheduled to expire on December 31, 2009 but has been extended to March 31, 2010.

09/09 **AFP Submits Comments to SEC on Money Market Fund Reform –** On September 8, 2009, AFP provided formal comments to the Securities and Exchange Commission's (SEC) in response to their proposed amendments to the rules that govern money market funds under the Investment Company Act. In the comments, AFP Government Relations Committee Chairman Maureen O'Boyle and Financial Markets Task Force Chairman Joe Meek asserted that "AFP fully supports amending the current rules in a manner that encourages clear and concise transparency which not only protects investors but provides them with the necessary information needed to make the most sound and practical investment decisions for their organizations."

In addition to commenting on rules addressing portfolio quality and disclosure of portfolio information, AFP also commented on the proposal to eliminate the stable net asset value (NAV) in favor of a floating NAV. "AFP believes the introduction of a floating NAV would greatly reduce investors' interest in utilizing money market funds as a cash management/investment tool," said O'Boyle and Meek.

To view AFP's comments in their entirety click here.

08/09 **AFP Provides Comments on FDIC Guarantee Program –** On July 29, 2009, AFP submitted formal comments to the Federal Deposit Insurance Corporation (FDIC) on their proposed rule to extend the Transaction Account Guarantee Program. The program allows participating banks to extend unlimited deposit insurance for non-interest bearing business accounts. It was created in late 2008 as part of the effort to provide additional liquidity to the banking system, as well as increase confidence for corporate deposit holders. In the letter, AFP recommended that the program be extended through June 30, 2010. To read the complete letter, click here.

06/09 **Bernanke to Revise Fed Rules on Rating Agencies –** Last month, the Federal Reserve Board announced the expansion of the number of credit-ratings companies permitted to rate assets for the Term Asset-Backed Securities Loan Facility (TALF). Currently only five of the 10 nationally recognized statistical rating organizations (NRSRO) are eligible to provide analysis.

The Fed said newly issued and older commercial mortgage-backed securities (CMBS) must have at least two AAA ratings from DBRS, Fitch Ratings, Moody's Investors Service, Realpoint LLC or Standard & Poor's and cannot have a rating below AAA from any of them. The Fed said it is "more broadly" determining which ratings companies to use to determine eligible collateral for the central bank's credit programs. For additional information, click here.

Pensions and Investments

09/09 **SEC Proposes New Rules on Proxy Access -** The Securities and Exchange Commission (SEC) has proposed new rules that would allow shareholders to have their nominees for boards of directors included in company proxy materials. The proposal would affect all publicly traded companies and registered investment advisors, such as mutual fund companies. Under this proposal, shareholders could nominate up to 25% of the total number of seats on a corporate board. The proposal calls for certain minimum ownership thresholds for nominating directors as follows:

- At least 1 percent of the voting shares of large public companies, defined as a company with a market value of $700 million or more;
- At least 3 percent of the voting shares of middle size companies, defined as a company with net assets of between $75 million and $700 million; and
- At least 5 percent of the voting shares of smaller companies, defined as a company with less than $75 million.

In addition to the ownership criteria, the proposal requires nominating shareholders to have held the requisite number of share for at least one year prior to proposing a director or slate of directors.

The Committee on Investment of Employee Benefit Assets (CIEBA) the voice of AFP on employee benefit plan asset management and investment issues filed a comment letter with the SEC. The CIEBA letter expressed concern that the low thresholds in the proposed rules may encourage actions that are not in the interests of long-term investors or retirement plan participants. Specifically, CIEBA called for the SEC to consider raising the minimum ownership thresholds and increase the required holding period from one year to at least two years.

08/09 **Foreign Bank Account Reporting (FBAR) –** Increased scrutiny of foreign bank accounts by the Internal Revenue Service (IRS) has lead to concerns on the role of FBAR for retirement plan sponsors. Originally, the IRS indicated plans would have to file FBAR by September 23, 2009, but due to confusion on who the regulation applies to, the filing date has been moved to June 30, 2010. A major issue is whether plans holding an interest in an 'off-shore' comingled fund, such as a hedge fund, must file FBAR.

The Committee on Investment of Employee Benefit Assets (CIEBA), the voice of AFP on employee benefit plan asset management and investment issues, held a webinar on the issue on July 30, 2009. Due to the degree of uncertainty about the current regulation, CIEBA will submit comments to the IRS on the issue by October 6, 2009. To send comments on the issue, click here. If you are interested in learning more about CIEBA resources on FBAR, please contact CIEBA's Coordinator, Michael Griffith, at mgriff@afponline.org.

Financial Accounting and Reporting

09/09 **IRS Issues Report on Reducing Tax Gap –** In an effort to increase revenue, the Internal Revenue Service (IRS) issued a report that outlines initiatives underway to curtail under-reporting in businesses to include:

1) Requiring organizations that process debit/credit card payments for merchants to report business receipts;
2) Businesses' to file information returns for payments made to corporations for any services greater than $600; and
3) Combat under-reporting of offshore income.

09 /09 **IASB Issues Discussion Paper on Credit Risk in Liability Measurement -** The International Accounting Standards Board (IASB) issued a discussion paper on whether an entity's own credit risk should be factored in the liability measurement. Specifically, when a liability is first recognized;

1) Should its measurement always, sometimes or never incorporate the price of credit risk inherent in the liability;
2) Should current measurements follow initial recognition always, sometimes or never incorporate the price of credit risk inherent in the liability; and
3) How should the amount of a change in market interest rates attributable to the price of the credit risk inherent in the liability be determined?

In a comment letter to the Financial Accounting Standards Board (FASB) on FSP 157-f, AFP was not supportive of including credit risk in the fair value measurement. In addition, AFP sent a comment letter to the IASB reiterating that credit risk should not be a factor in fair value measurement.

09/09 **Pension Accounting –** The Financial Accounting Standards Board (FASB) issued staff position that requires companies to prove more disclosures about plan assets of defined benefit pension plans. It will become effective for fiscal years ending after December 15, 2009. The International Accounting Standards Board (IASB) also issued an exposure draft, IAS 19, on whether it should remove the requirement to use market yields on government bonds to determine the discount rate used to discount employee benefit obligations. The Committee on Investment of Employee Benefit Assets (CIEBA), AFP's voice on employee retirement asset investments, will issue a comment letter on IAS 19.

09/09 **SEC's Roadmap to Convergence -** The Securities and Exchange Commission (SEC) is beginning to revisit the Roadmap for adoption International Financial Reporting Standards. Several SEC Commissioners and staff have been reiterating the message that the issue is still on the agenda via recent speeches. It was believed that momentum halted after Mary Schapiro took office at the beginning of the year. If the roadmap is adopted, large multinational corporations could begin to adopt IFRS as early as 2011.

08/09 **FASB to Issue Guidance on Alternative Investment Valuation –** In coming weeks, the Financial Accounting Standards Board (FASB) will be issuing final guidance aimed at remedying practice issues that investors face in estimating fair values of their holdings in private equity, hedge funds and other investment companies.

The planned guidance, which FASB expects to issue by August 31, 2009, would permit use of a "practical expedient" for investors having to gauge the fair value of their interests in investment companies that calculate net asset value per share. The practical expedient for fair value is net asset value per share.

08/09 **Classification of Rights –** The International Accounting Standards Board (IASB) is currently reviewing comments on proposal issued to clarify the accounting treatment for when rights issued are denominated in a currency other than the functional currency of the issuer. Current practice appears to require such issues to be accounted for as derivative liabilities. The proposals state that if such rights are issued pro rata to an entity's existing shareholders for a fixed amount of currency, they should be classified as equity regardless of the currency in which the exercise price is denominated.

08/09 **IFRIC Publishes Draft Interpretation on Extinguishing Financial Liabilities with Equity Instruments -** In the current environment, some entities are renegotiating the terms of financial liabilities with their creditors. In some circumstances, the creditor agrees to accept an entity's shares or other equity instruments to settle all or part of the financial liability. The International Financial Reporting Interpretations Committee (IFRIC) was asked for guidance on how an entity should account for such transactions. IFRIC proposes that:

•The entity's equity instruments are part of any 'consideration paid' to extinguish the financial liability;
•The equity instruments are measured at either their fair value or the fair value of the financial liability extinguished, whichever is more reliably determinable;
•Any difference between the carrying amount of the financial liability extinguished and the initial measurement amount of these equity instruments is included in the entity's profit or loss for the period.

The proposal is open for public comment until October 5, 2009.

07/09 **Accounting Standards Codification –** The Financial Accounting Standards Board (FASB) finalized its accounting standards codification project. This was a major restructuring of the accounting and reporting standards found in various issuance into one consolidated format. The codification is now the single source of authoritative nongovernmental U.S. GAAP. All former references to previous standards are now superseded. New changes will now be communicated through Accounting Standards Updates (ASUs). The ASUs are considered transient documents that convey the changes but are not considered authoritative in their own right.

07/09 **Financial Instruments –** The International Accounting Standards Board (IASB) published an Exposure Draft on proposals to improve financial instrument accounting. The proposals, which the IASB believes will significantly reduce complexity and make it easier for investors to understand financial statements, address how financial instruments are classified and measured. The proposals also answer concerns raised by interested parties during the financial crisis (for example, eliminating the different impairment approaches for available-for-sale assets and assets measured using amortized cost). The proposals also respond directly to and are consistent with the recommendations and timetable set out by the G20 leaders and other international bodies. The IASB plans to complete the replacement of IAS 39 during 2010, although mandatory application will not be before January 2012.

07/09 **IASB Publishes Proposals on the Accounting for Rate-Regulated Activities -** The International Accounting Standards Board (IASB) released proposals on the Accounting for Rate Regulated Activities, the objective of which is to establish how assets and liabilities resulting from rate-regulated activities should be recognized and measured under International Financial Reporting Standards (IFRSs). The IASB was asked for guidance on the issue from many jurisdictions. Clarifying the accounting for rate regulation is of particular importance for jurisdictions that are in the process of adopting IFRSs and where accounting for the effect of rate regulation is in place for some sectors. In those cases entities are currently recognizing sometimes significant 'regulatory' assets and liabilities by reference to the specific US standard. If adopted, the proposed IFRS would

•Define regulatory assets and regulatory liabilities;
•Set out criteria for their recognition;
•Specify how they should be measured; and
•Require disclosures about their financial effects.

07/09 **IASB Issues International Financial Reporting Standard (IFRS) designed for Use by Small and Medium-sized Entities (SMEs) –** The International Accounting Standards Board (IASB) released a new standard for small and medium-sized entities. The standard is a result of a five-year development process with extensive consultation of SMEs worldwide. The IFRS for SMEs responds to strong international demand from both developed and emerging economies for a rigorous and common set of accounting standards for smaller and medium-sized businesses that is much simpler than the full IFRS. In particular, the IFRS for SMEs will:

•Provide improved comparability for users of accounts
•Enhance the overall confidence in the accounts of SMEs, and;
•Reduce the significant costs involved of maintaining standards on a national basis.

The IFRS for SMEs will also provide a platform for growing businesses that are preparing to enter public capital markets, where application of full IFRS is required.

07/09 **Financial Crisis Advisory Group Releases (FCAG) Recommendations –** The Financial Crisis Advisory Group (FCAG) was created to advise the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) on the standard-setting implications of the global financial crisis and potential changes to the global regulatory environment.

The FCAG's report focused on four principles:

1)Effective Financial Reporting;
2)The Limitations of Financial Reporting;
3)Convergence of Accounting Standards and
4)Standard Setter Independence and Accountability.

One of the recommendations made by the FCAG was for the IASB and FASB to reconsider the appropriateness of an entity's recognition of gains or losses as a result of fair value changes in its creditworthiness. AFP argued for this standard in a comment letter written to FASB in response to an exposure draft on fair value measurement for liabilities.

Another important recommendation of particular interest to AFP members is for the Boards to explore alternatives to the current incurred loss model for loan loss provisions that would use more forward-looking information. Alternatives to consider include an expected loss model and a fair value model.

07/09 **FASB Initiates "Disclosure Framework" Project –** The Financial Accounting Standards Board (FASB) announced the addition of a new FASB agenda project aimed at establishing an overarching framework intended to make financial statement disclosures more effective, coordinated, and less redundant. The FASB expects to begin deliberations this quarter and plans to issue a preliminary views document in the first half of 2010. Some specific financial reporting areas the project will evaluate and address include whether the disclosure framework should:

•Apply to all entities or exclude private or nonprofit entities;
•Apply to interim reporting;
•Focus only on high-level principles; and
•Focus only on notes to financial statements or extend to ways to better integrate information provided in financial statements, MD&A, and other parts of a company's public reporting package.

06/09 **Credit Quality of Financing Receivables and the Allowance for Credit Losses –** The Financial Accounting Standards Board (FASB) is reviewing the responses received on an ED issued seeking feedback from constituents on a proposed Statement intended to improve the transparency of financial reporting by requiring enhanced disclosures about an entity's allowance for credit losses as well as the credit quality of an entity's financing receivables. The proposed Statement would be effective beginning with the first interim or annual reporting period ending.

06/09 **IASB Issues Exposure Draft on Fair Value Measurement –** On May 28, 2009, the International Accounting Standards Board (IASB) issued an exposure draft on Fair Value Measurement. The proposed guidance deals with how fair value should be measured when it is required by existing standards. If adopted, the proposals would replace the current fair value measurement guidance with a single, unified definition of fair value, as well as further authoritative guidance on the application of fair value measurement in inactive markets. Sir David Tweedie, Chairman of the IASB, said, "This exposure draft is an important milestone in our response to the global financial crisis. The proposed guidance proposes clear and consistent guidance for the measurement of fair value and also addresses valuation issues that arise in markets that have become inactive. This guidance is consistent with the report of the Expert Advisory Panel and with US GAAP and would achieve overall convergence with US GAAP."

The comments received on the exposure draft will aid the IASB in developing an international standard on fair value measurement, which it plans to publish in 2010. Comments were due September 28, 2009.

06/09 **FASB Proposes More Guidance on Fair Value Measurement -** On June 8, 2009, the Financial Accounting Standards Board (FASB) proposed FASB Staff Position (FSP), Estimating the Fair Value of Investments in Investment Companies That Have Calculated Net Asset Value per Share in Accordance with the AICPA Audit and Accounting Guide (FSP 157-g), to provide application guidance for estimating the fair value of investments in investment companies that have calculated net asset value per share. The FASB determined that that net asset value per share is the most relevant estimate of fair value available that would not require undue cost and effort for investments within the scope of this FSP. As a practical expedient, the Board decided that a reporting entity should be permitted to estimate the fair value of an investment within the scope of this FSP using net asset value per share (or its equivalent, for example, partners' capital per share for an investment in a partnership) without further adjustment, if the net asset value per share of the investment is determined in accordance with the investment companies Guide as of the reporting entity's measurement date. Comments were due to FASB on July 8, 2009

06/09 **Lease Accounting -** The International Accounting Standards Board (IASB) and Financial Accounting Standards Board (FASB) launched a public discussion on lease accounting by publishing their preliminary views in a joint discussion paper that discuss a possible new approach to lease accounting. AFP's Government Relations Committee (GRC) responded by issuing a comment letter. In addition to answering specific questions posed by IASB and FASB, the GRC urged the two standards setters to consider the impact that its rulemaking will have on small to medium size companies with unsophisticated personnel and systems. The GRC advised the standard setters that the proposed standard should not be so complex that implementation of this standard would far outweigh its benefit. The GRC also cautioned that the implementation of this standard could add additional strain on businesses credit lines if this version is passed in a credit constrained market, such as the one we are facing today.

Payments & Technology

09/09 **Cybersecurity –** On September 14, 2009, the Senate Homeland Security and Government Oversight Committee held a hearing to address cybersecurity threats to the nation's businesses. Witnesses include the Chairman & CEO of Heartland Payments Systems, Robert Carr, whose company was victim to the largest data breach in history Also, testifying were Michael Merritt, on behalf of the Secret Service, and Phillip Reitinger of behalf of the Department of Homeland Security (DHS).

Following the hearing, Committee Chairman Joseph Lieberman (I-CT) and Ranking Member Susan Collins (R-ME) expressed their intention to introduce legislation to address the matter. Senator Collins reiterated earlier assertions that DHS should be the lead federal agency with authority over cybersecurity. This idea conflicts with a bill introduced in the Senate Commerce Committee (S. 773) that would give oversight of this policy to an office in the White House, with substantial coordination with the Department of Commerce
In May, President Obama announced his plan to create a "cybersecurity czar" to oversee the disparate aspects of the nation's digital defense. This policy was the result of a 60- day review conducted at the start of his Administration. Melissa Hathaway, the person who conducted the review resigned in August.

This has raised additional controversy surrounding the program, including questions about the Administration's speed implementing the program as well as using a "czar" to administer cyber security policy.

One of the key responsibilities for the Cyber Security Czar, once in place, will be to coordinate between the public and private sectors at securing payment and financial networks

08/09 **Identity Theft Red Flag Rule –** On November 1, 2009, new Red Flag rules from the Federal Trade Commission (FTC) are set to go into effect. These rules require financial institutions and businesses that are creditors to implement a written Identity Theft Prevention Program. A business is a creditor if it regularly provides goods or services first and allows customers to pay later. This may include utilities, health care providers and telecommunications companies. The FTC has posted Frequently Asked Questions that explain who is covered and how to comply.

08/09 **Cash Management Reporting Standard –** Accredited Standards Committee (ASC) X9 has launched a project to update and standardize the Bank Administration Institute (BAI) format for cash management reporting. BAI is widely used for account balance and transaction reports and lockbox detail, but the format often varies from bank to bank. The X9 project will produce a global standard that will increase visibility to cash and be implemented consistently by financial institutions. AFP Payments Advisory Group member Bill Lundeen, Group Manager, Global Banking, Procter & Gamble, is Co-Vice Chairman of the project.

07/09 **Interchange Fees –** On July 30, 2009, AFP Members took part in a call with the Government Accountability Office (GAO) to provide input for a study on credit card interchange fees. Fifteen members discussed their experiences with investigators from the GAO and provided their views on pending proposals.

The study is part of the Credit CARD Act of 2009 (PL 111-24), signed into law by President Obama in May. The law requires the GAO to issue a report by November on interchange fees, how card companies determine them, their effects on businesses and consumers, and business' ability to negotiate. The study is scheduled to be released on November 20, 2009.

AFP will continue to work with legislators and regulators to highlight our members' experience with interchange fees and how they affect American businesses.

One Year Later

AFP Goes to Work for Its Members in Washington to Get Through the Financial Crisis

By Jeanine Arnett, Government Relations Manager, AFP & Michael Griffith, Legislative Analyst, AFP

2009 has been an energetic year in Washington, DC as both a new Administration and new Congress took office at the height of the nation's worst financial crisis since the Great Depression. The Obama Administration, along with the Federal Reserve, created a number of emergency programs in late 2008 order to address declining market conditions.

AFP has been active and vocal advocating on behalf of finance and treasury professionals on a number of legislative and regulatory proposals that are critical to the profession. These proposals include: expanding access to Federal Reserve programs to purchase commercial paper, credit rating agency reform, derivatives regulation, interchange fee reform, and defined benefit funding relief. AFP has brought our members' voices to the national table to provide important input as these reforms are considered.

During the Spring Meeting of AFP's Government Relations Committee (GRC) , members explained their concerns about the effect of the Federal Reserve purchasing Tier 1 commercial paper and its effects on Tier 2 issuers. Following that meeting, AFP staff coordinated a conference call with staff from the Federal Reserve so that

AFP members could speak directly with the decision makers and provide them with actual examples of the real world impact that expanding the program would have. AFP members explained that expanding the program to include Tier 2 commercial paper would provide badly needed liquidity and increase access to credit.

On credit rating agency reform, AFP remained active and engaged in advocating for greater reform. Since 2002, AFP has warned lawmakers of the dangers of an opaque, anti-competitive, and inept credit rating agency system. As the role of rating agencies came to light following the market down turn, AFP has been at the forefront of advocating for loosening the grip of the big three rating agencies and calling for the government to encourage greater competition by using new rating agencies. AFP's President & CEO, Jim Kaitz, testified before the SEC in April about the need for greater reform and, along with the GRC, has been in touch with regulators and legislators on this topic.

AFP has also been working with regulators and legislators on overhauling the over-the-counter (OTC) derivatives markets in a manner that increases transparency, but still preserves financial professionals' ability to prudently hedge risk. AFP has sent numerous comment letters to the Congressional Committees that oversee these products, and the agencies who regulate them. Additionally, AFP has testified on the importance role that derivatives play in managing risk before a joint hearing held be the Commodities Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC).

In July, members of AFP's Board of Directors, GRC, Political Action Committee (PAC) and Payments Advisory Group (PAG) took part in a call with the Government Accountability Office (GAO) to assist with a study on interchange fees. The GAO sought the input of AFP members due to the diversity of the businesses and organizations that we represent. The GAO was particularly interested in our ability to give a range of concrete examples regarding the effects of credit card interchange fees on businesses. The study was mandated by the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act signed into law by President Obama in May of 2009. The results are due to be released by the end of the year and will include policy recommendations for Congress to consider.

In a solid victory for financial professionals, the Federal Deposit Insurance Company (FDIC) extended its Transaction Account Guarantee Program (TAG) to June 30, 2010. The program, originally set to expire on December 31, 2009, allows participating banks to offer unlimited deposit insurance on non-interest bearing business accounts. In a letter to the FDIC recommending extension of the TAG program, AFP's GRC Chairman and Financial Markets Taskforce Chairman observed, "by providing full coverage of non-interest bearing deposit transaction accounts, regardless of dollar amount, the FDIC has provided many organizations with a sense of principal security that is sorely needed during this period of uncertainty in financial markets."

The Committee on Investment of Employee Benefit Assets (CIEBA), AFP's voice on employee benefit fund management, has been active on a number defined benefit and defined contributions this year. CIEBA has participated in a coalition to encourage Congress to provide relief for defined benefit funding requirements as a result of the drastic market downturn in 2008. As a result, Rep. Earl Pomeroy (D-ND) has put out draft legislation to provide an extended amortization period and relief from mandates set to start from the Pension Protection Act of 2006. On the defined contribution side, CIEBA has been advocating for sensible fee disclosure legislation that would provide coherent 401 (k) fee information to participants and not provide overly burdensome regulatory requirements for plan sponsors.

A key component to AFP's success on Capitol Hill is due to AFP's Political Action Committee (PAC). AFP PAC, through personal contributions from AFP staff and member practitioners, has been able to provide donations to Senate and House candidate supportive of our members priorities. AFP PAC has afforded financial professionals with unique opportunities to discuss our policy concerns in an intimate environment that resulted in substantive conversations and deliberate action. In recent months, AFP PAC has attended several small gatherings that provided the opportunity to speak one-on-one with key influential lawmakers and their staff.

A great deal has occurred since last year's AFP Annual Conference and 2010 promises to be an equally riveting year as financial market reforms are finalized. AFP will continue to take the views of financial professionals to Capitol Hill to advocate for issues that matter most to you

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-- Washington on the Web --

The AFP Web site is your direct link to current Washington activities impacting treasury and banking. Links to the following sites, and others, are located at the Government Relations section of http://www.AFPonline.org.

Congressional Record	http://www.access.gpo.gov/su_docs/aces/aces150.html
Department of the Treasury	http://www.ustreas.gov
Federal Register	http://www.access.gpo.gov/su_docs/aces/aces140.html
Financial Accounting Standards Board	http://www.fasb.org
Federal Deposit Insurance Corporation	http://www.fdic.gov
Federal Reserve Board	http://www.federalreserve.gov
The Federal Web Locator	http://www.infoctr.edu/fwl
***FedWorld**	http://fedworld.gov
Financial Management Service	http://www.fms.treas.gov
International Accounting Standards Board	http://www.iasb.org.uk/cmt/0001.asp
Office of the Comptroller of the Currency	http://www.occ.treas.gov
Securities and Exchange Commission	http://www.sec.gov
SEC EDGAR Database	http://www.sec.gov/edgar.shtml
****THOMAS**	http://thomas.loc.gov
The U.S. House of Representatives	http://www.house.gov
The U.S. Senate	http://www.senate.gov
The White House	http://www.whitehouse.gov

--Canada on the Web --

Canadian Payments Association	http://www.cdnpay.ca/
Government of Canada	http://www.canada.gc.ca
Department of Finance	http://www.fin.gc.ca
Canadian Institute of Chartered Accountants	http://www.cica.ca
Canada Deposit Insurance Corporation	http://www.cdic.ca
Bank of Canada	http://www.bankofcanada.ca
Investment Dealers Association of Canada	http://www.ida.ca
Canada Customs and Revenue Agency	http://www.tbs-sct.gc.ca
Canada Pension Plan Investment Board	http://www.cppib.ca
Invest In Canada	http://www.investincanada.com
Canada Business Network	http://www.cbsc.org
Canada Mortgage and Housing Corporation	http//www.cmhc-schl.gc.ca
Auditor General of Canada	http://www.oag-bug.gc.ca

--Europe on the Web --

European Commission Euro	http://europa.eu.int/comm/economy_finance/euro_en.htm
European Union General	http://europa.eu.int/index-en.htm
European Central Bank	http://www.ecb.int/

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* FedWorld is a central access point to locate and acquire government information

** THOMAS is the Library of Congress legislative information site