Legislative and Regulatory
Status Update
Association for Financial Professionals®
AFP—Your Daily Resource
A monthly summary of federal issues *January 2010*

Overview

December and January are typically sleepy months in the nation's capital, but 2009 was anything but a typical year and 2010 promises to be even more contentious.

With a very short holiday break (the Senate was in session on Christmas Eve), 2010 began with announcements of a number of retirements, including Senate Banking Committee Chairman Christopher Dodd (D-CT), who faced daunting political challenges back home.

Also in January, the Democrats lost their super majority in the Senate, with Republican State Senator Scott Brown's surprise win over State Attorney General Martha Coakley in Massachusetts. While only a majority of votes are needed to pass a bill in the Senate, 60 votes are required to close debate. Senate Republicans have made this the de-facto number of votes required for any significant legislation to pass. With the balance now 41 Republicans, 57 Democrats, and 2 Independents, it will become even more difficult to pass legislation.

With Republican votes required for legislation to pass, it is unclear what the future holds. If healthcare continues to be the priority, new legislative initiatives will inevitably be delayed. If healthcare is put on hold, the central focus will be on job creation. It is unclear what initiatives will be pursued under this strategy, but AFP has worked to frame a number of issues of concern to our members, such as unfreezing credit markets and defined benefit plan funding relief, as jobs issues on Capitol Hill.

Despite health care and political drama, the House passed its version of comprehensive financial markets reform in December. Meanwhile, the Senate Banking Committee continues behind the scenes deliberations (see page 2). A number of independent efforts to re-introduce restrictions similar to the Depression Era Glass-Steagall Act were introduced alongside these reforms. In January, President Obama and his economic team introduced their proposal to restrict depository institutions from engaging in risky activity (see page 2).

Inside this Issue

01/10 **House Passes Major Financial Regulatory Reform -** On December 11, 2009, the U.S. House of Representatives passed by a 223-202 vote, its version of a comprehensive financial regulatory reform bill, The Wall Street Reform and Consumer Protection Act (H.R. 4173). The bill includes a comprehensive set of reforms that will address a myriad of causes – from predatory lending to unregulated derivatives – that led to last year's meltdown.

Areas of interest for AFP members include the creation of a Financial Stability Oversight Council, regulation of Over-the-Counter (OTC) derivatives, and new accountability for credit rating agencies. For a more comprehensive look, see this edition's Issues Analysis on page 6.

01/10 **Senate Banking Committee Continues to Deliberate Reforms –** Following an initial hearing on a draft bill introduced by Senate Banking Committee Chairman Christopher Dodd (D-CT), the Senate Banking Committee split up into bi-partisan working groups to consider many of the complex issues. Hill sources continue to stress that a new draft bill will be introduced in coming weeks. Given the bi-partisan working groups, it is unclear whether Republican ideas will merely be incorporated into the Committee's legislation or, if it will have robust bi-partisan support. It is also unclear whether this bill will include any of the proposals to limit depository institutions ability to expand into more exotic financial services. For more details on House and Senate efforts to reform the financial markets, see this edition's Issues Analysis on page 6.

01/10 **Financial Transactions Tax Bills Introduced in Congress –** In early December, Rep. Peter DeFazio (D-OR) introduced legislation that would assess a tax on Wall Street securities transactions. The Let Wall Street Pay for the Restoration of Main Street Act of 2009 (H.R. 4191) assesses a securities transaction tax on:

- Stock transactions (tax rate would be 0.25%);
- Futures contracts (tax rate would be 0.02%);
- Swaps (tax rate would be 0.02%);
- Credit default swaps (tax rate would be 0.02%);
- Options.

To ensure the tax is appropriately targeted to speculators and has no impact on the average investor and pension funds, the tax would be refunded for:

- Tax-favored retirement accounts;
- Mutual funds;
- Education savings accounts;
- Health savings accounts; and
- The first $100,000 of transactions annually that are not already exempted.

Under this bill, half of the revenue generated by this transaction tax (approximately $75 billion) would be deposited into a Job Creation Reserve to fund the creation of jobs and put Americans back to work rebuilding our nation's infrastructure. The second half of the revenue generated would be used to directly reduce the deficit.

Similar legislation has also been introduced in the Senate by Iowa Senator and current Chairman of the Health, Education, Labor and Pensions (HELP) Committee, Tom Harkin (D-IA). The Wall Street Fair Share Act (S. 2927) was introduced at the end of December and attempts to amend the Internal Revenue Code to impose a tax on certain securities transactions. In the Senate version, a securities transaction tax would be assessed on:

- Any derivatives financial instruments – an option, forward contract, short position, notional principal contract, credit default swap, or any similar financial instrument (tax rate would be 0.25% of the fair market value of the underlying property or the notional principal amount);
- Any short-term debt instruments that have a fixed maturity date not more than one (1) year from the date of issue (tax rate would be 0.02% of the fair market value); and
- All hedging transactions (tax rate would be 0.25%).

The Senate version does include exemptions for retirement accounts and certain mutual fund transactions. As with the House version, revenue generated by these transaction fees would be used to fund job creation and deficit reduction.

Since both of these bills involve amending the Internal Revenue Tax Code, the bills have been referred to the appropriate Committees of jurisdiction (House Ways & Means and Senate Finance). Currently, neither bill is scheduled for further consideration or action.

01/10 **Members of Congress Propose Repeal of Gramm-Leach-Bliley –** In December, Sens. Maria Cantwell (D-WA) and John McCain (R-AZ) introduced legislation that separates commercial banks and investment banks. The Banking Integrity Act of 2009 (S. 2886) reinstates aspects of the Banking Act of 1933, commonly referred to as the Glass- Steagall Act, which was enacted to separate banks and brokers in order to provide for a safe and secure depository system separate from a more risky investment system meant for professional investors.

This bill would prohibit commercial banks from affiliating in any manner with investment banks and vice versa. The bill would accomplish this by preventing officers, directors, and employees of a commercial bank from serving as an officer, director, or employee of an investment bank; prohibit commercial banks from engaging in all insurance activities; and establish one year from date of enactment as the deadline for financial houses to transition and separate their commercial and investment banking operations. Under this bill, major financial firms currently operating both commercial banks and investment houses will have to make a decision on whether to focus on commercial banking or investment banking.

Similar legislation was also introduced in the House by Rep. Maurice Hinchey (D-NY), The Glass-Steagall Restoration Act (H.R. 4375), which establishes clear limitations on the affiliations that commercial banks and investment banks can have. The bill mandates that neither entity should be allowed to transact business with the other. In a statement, Rep. Hinchey points out that:

"Four huge financial institutions hold half of the mortgages in America, issue nearly two-thirds of the credit cards, and control about forty percent of all bank deposits in the U.S. In addition, the face value of over-the-counter derivatives at commercial banks has grown to $290 trillion, 95% of which are held at just five financial institutions. We cannot allow the security of the American economy to rest in the hands of so few institutions."

On January 21, 2010, President Obama released his proposal to set new limits on the size and risks taken by the country's largest banks. In an effort to prevent banks from becoming too big and complex that they might endanger the entire financial system, the White House described this proposal as a "return to the spirit of Glass Steagall."

This proposal would include new restrictions on the size of the largest financial institutions and could force large institutions to wall off certain activities in their investment banking units, such as proprietary trading desks, from their traditional businesses. These new rules could also keep banks out of running hedge funds and from investing in real estate or private equity.

In order for these rules to be put in place, Congress would have to write and approve legislation.

Recently, AFP's Director of Accounting and Financial Reporting, Salome Tinker, wrote an article on AFP's website providing substantial background on the Glass-Steagall Act. Along with the article, there is a poll asking for AFP members' opinion as to whether provisions that prohibited commercial banks from engaging in investment activities should be reinstituted. To read the complete article, click here.

Pensions and Investments

01/10 **401(k) Fee Disclosure -** The House Education and Labor Committee voted out the 401(k) Fair Disclosure and Pension Security Act of 2009 (H.R. 2989) in June, 2009. 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 covers 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 …"

There is a strong possibility that some parts of the fee disclosure bill will be packaged with defined benefit plan funding relief for action by the House of Representatives early in 2010. It is unlikely that investment advice provisions (see below) will be included in a funding bill.

10/09 **Investment Advice in Defined Contribution Plans -** As mentioned above, H.R. 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. In September, the House Ways and Means Committee held a hearing on several subjects including investment advice.

01/10 **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.

Congress continues to consider various options with respect to funding relief. The Fair Disclosure and Pension Security Act of 2009 (H.R. 2989) which was reported out the House Education and Labor Committee includes limited relief for defined benefit plan sponsors. The legislation would allow plans to amortize 2008 investment losses over a longer period. Plans would pay interest of their plans' losses for the next years, but would not have to start amortizing those losses until 2011.

Reps. Earl Pomeroy (D-ND) and Patrick Tiberi (R-OH), both members of the House Ways and Means Committee, have introduced the Preserve Benefits and Jobs Act (H.R.3936). The bill provides funding relief by allowing plan sponsors to use one of two extended schedules to amortize 2008 losses. Sponsors can opt for an extended payment schedule of nine years with payments during the first two years (2009-2010) consisting of interest-only on their 2008 losses or a fifteen year payment schedule. Employers that take advantage of the longer payment schedules would have to continue to offer ongoing retirement benefits or meet other conditions. The bill also includes a number of other provisions related to plan funding and reporting.

The House Committees of Jurisdiction – Ways and Means and Education and Labor – are working to put together a funding relief package that could move to the House floor early in 2010. The bill could also include increased fee disclosure requirements in defined contribution plans. Both AFP and CIEBA have signed onto letter to the President and the Congress urging quick action on funding relief.

Payments and Technology

12/09 **Data Security Bill Passes House –** On December 8, 2009, the House of Representatives approved The Data Accountability and Transparency Act (DATA) (H.R. 2221). The bill sets a national standard for data breach notification and provides a limited pre-emption from state legislation.

At present, 48 states and the District of Columbia have overlapping data security laws. This bill is a good first step towards offering legal certainty for businesses that may become victims of criminal data breaches.

The bill's future in the Senate is unclear. The legislation has been referred to the Senate Commerce Committee, which has a closely related cybersecurity measure. However, a jurisdictional fight between the Senate Commerce Committee and the Senate Homeland Security Chairman could delay action.

AFP has long advocated for a national legal safe harbor for companies who have robust data security standards in place.

Regulatory Issues

Treasury and Finance

01/10 **SEC Seeks to Enhance Money Market Fund Security –** On January 27, 2010, the Securities and Exchange Commission (SEC) met to announce their decisions on new proposals for regulating money market funds.

The Commission decided to continue to support a stable (as opposed to floating) Net Asset Value (NAV), but will consider moving to a floating NAV in the future. Further, the SEC has mandated that no more than 3% of their total portfolios can be held in Tier II funds. Additionally, the Commission mandated periodic stress tests for funds.

In September, AFP submitted comments supporting a stable NAV, but argued the default rate of Tier II securities is similar and that relying on credit rating agencies has proven ineffective, due to inaccurate and untimely ratings.

In addition, the SEC mandated the disclosure of risks companies face due to climate change. A number of states already mandate this disclosure and a group of institutional investors have used their clout to obtain the data from public companies.

01/10 **FDIC Considers Public Comments on Prepaid Assessments –** Last fall, the Federal Deposit Insurance Corporation (FDIC) announced a proposal to require insured institutions to prepay their estimated quarterly risk-based assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012. At that time, the FDIC encouraged the public to submit their comments on the proposal and has since begun considering the various perspectives offered.

Generally, many of the responses supported the FDIC's decision to consider options that meet the agency's immediate and short-term funding needs but voiced strong concerns over the timing and impact of these assessments. The FDIC received over 110 responses from financial institutions, trade associations and private citizens. While most were sympathetic to the historic lows of the insurance fund, many were resistant to additional premiums and fees during this period of economic uncertainty.

In the formal comments submitted, AFP encouraged the FDIC to consider the impact that these assessments would have on commercial depositors, as it is likely that banks will simply pass these charges through to them. To read AFP's comments in their entirety click here.

01/09 **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 October 20, 2009, the FDIC established a limited, six-month emergency guarantee facility upon expiration of the Debt Guarantee Program. Under this emergency guarantee facility, certain participating entities can apply to the FDIC for permission to issue FDIC-guaranteed debt during the period starting October 31, 2009 through April 30, 2010.

AFP has compiled a list of many of the liquidity programs that includes a brief description as well as expirations/sunset date. To view this document, click here.

In recognition of the possible inflationary effects these program could have as markets recover, the Federal Reserve asked for comments on a "Term Deposit Facility," which would create a program that would provide interest bearing bonds to banks in order to soak up excess liquidity. For more details and comment instructions, click here.

Pensions and Investments

01/10 **Investment Advice -** The Department of Labor has withdrawn proposed rules related to the investment advice provisions of the Pension Protection Act (PPA). The rules, drafted in the Bush Administration, were very controversial. Some argued that the proposal went beyond the PPA provision allowing investment managers to offer advice directly to participants in limited circumstances. New proposed rules that will be more narrowly focused are expected shortly.

01/10 **SEC Proposes New Rules on Proxy Access -** In June, 2009, the Securities and Exchange Commission (SEC) 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 and 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.

In December, 2009, the Commission re-opened the comment period for 30 days on its shareholder director nomination proposal to seek additional data and analysis. Some members of Congress have expressed strong support for the proposed changes and urged the SEC to act expeditiously in implementing them.

10/09 **401(k) Disclosure -** The Department of Labor's (DOL) proposed rules for increased disclosure of investment-related information and fees for participants and required disclosures from service providers to plan sponsors are under review. Revised proposed rules are expected shortly. The original proposed rules were drafted in the Bush Administration.

Financial Accounting and Reporting

Financial Accounting Standards Board (FASB)

01/10 **Cash/Stock Dividends -** FASB issued clarifying guidance that further explains how companies can address the event when shareholders may elect to receive a cash or stock distribution, but the company has limited the total amount of cash, in aggregate, for the distribution. Should a shareholder elect to take stock, the shareholder's election of stock should be treated as a new issuance and not as a dividend. Additionally, the earnings per share should be calculated prospectively rather than retrospectively.

International Accounting Standards Board (IASB)

11/09 **Convergence -** The International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) reaffirmed their commitment to improve International Financial Reporting Standards (IFRS) and U.S. Generally Accepted Accounting Principles (U.S. GAAP) and to bring about their convergence. The Boards also agreed to intensify their efforts to complete the major joint projects described in their 2006 Memorandum of Understanding (MoU), as updated in 2008. In the memo, the Boards committed:

- To complete each major project by the end of June 2011, consistent with the milestones established by the 2008 update of the MoU.

- To improve IFRS and US GAAP for financial instruments and to achieve their convergence by issuing standards by the end of 2010.
These standards would represent a comprehensive and improved solution to this complex and contentious area and provide international comparability.

11/09 **Revision to IAS 39 -** Financial Instruments; Recognition and Measurement -As part of the convergence effort, the IASB published a new International Financial Reporting Standard (IFRS) on the classification and measurement of financial assets. Publication of the IFRS represents the completion of the first part of a three-part project to replace IAS 39 Financial Instruments: Recognition and Measurement with a new standard - IFRS 9 Financial Instruments. Phase I of IFRS 9 focuses on how an entity manages its financial instruments (its business model) and the contractual cash flow characteristics of the financial assets. The new standard also requires a single impairment method to be used, replacing the many different impairment methods in IAS 39. IFRS 9 improves comparability and makes financial statements easier to understand for investors and other users.

The Financial Accounting Standards Board (FASB) expects to publish additional proposals for classification and measurement in the first quarter of 2010 in a comprehensive exposure draft that also addresses impairment and hedge accounting.

Phase II of IFRS 9 would create an impairment model for those financial assets measured at amortized cost.

Currently both the Financial Accounting Standards Board (FASB) and the IASB use an incurred loss model to measure impairment. An incurred loss model assumes that all loans will be repaid until evidence to the contrary (known as a loss or trigger event) is identified. Only at that point is the impaired loan (or portfolio of loans) written down to a lower value. The proposals in the exposure draft Financial Instruments: Amortized Cost and Impairment are open for comment until June 30, 2010. The IASB plans to issue a final standard in 2010 that would become mandatory about three years later with early application permitted.

The FASB is developing a model for accounting for credit losses for financial assets that they have tentatively decided should be measured at fair value through other comprehensive income. That model will, once it is fully developed, be included in the exposure draft the FASB expects to publish in the first quarter of 2010. The IASB will publish a request for views on the FASB's model at the same time that the FASB publishes its proposals. The Boards will consider the comments received on the FASB model and the IASB model together.

11/09 **Hedging –** The FASB and IASB agreed to coordinate the release of new hedge accounting rules.

FASB plans to include hedging as part of a comprehensive exposure draft it expects to publish in the first quarter of 2010. The IASB decided to delay the publication of its hedge accounting proposals until the first quarter of 2010 to coincide with the FASB release in order to coordinate adoption of the new standard.

11/09 **Fair Value Measurement –** FASB is holding joint roundtable discussions with the IASB in Asia, Europe and North America. In May 2009, the IASB published an exposure draft of an International Financial Reporting Standard (IFRS) on fair value measurement. The exposure draft is largely consistent with the FASB requirements. The Boards agreed to a goal of making US Generally Accepted Accounting Principles (GAAP) and IFRS fair value measurement requirements the same other than minor necessary differences in wording or style.

The FASB and the IASB will consider the comments received on the IASB's Exposure Draft together, and the FASB and will propose amendments to US GAAP fair value measurement requirements, if necessary, to achieve that goal by third quarter 2010. A marked up text showing wording differences between the exposure draft and SFAS 157 is available here.

Payments & Technology

01/10 **IRS Announces Regulations for Reporting Card Transactions -** The Internal Revenue Service (IRS) announced a set of proposed rules to establish new information reporting requirements related to card payments. Any organization that settles transactions, specifically merchant acquirers, processors and third-party networks, must begin annual reporting of settlement payments made to their payees, i.e. merchants and other organizations that accept card payments. The Act is effective as of January 1, 2010, but the card payment information will be collected throughout 2010 and included in the first reports due to the IRS in early 2011. The IRS rules are not expected to impact the vast majority of merchants since acquirers routinely collect TIN and other identifying information for their merchants, and card receivables are routinely reported in tax and other financial statements.

These new requirements result from the Housing Assistance Tax Act of 2008. This provision was included in the Act primarily as a tax-raising provision. Legislators felt that more comprehensive reporting of payment receipts would limit opportunities for tax evasion and therefore increase actual tax receipts.

12/09 **Obama Appoints Cybersecurity Coordinator-** On December 22, 2009, President Obama named Howard Schmidt, a former Bush Administration cybesecurity official, as Cybersecurity Coordinator. Mr. Schmidt will be responsible for coordinating cybersecurity across the entire federal government and developing public/private structures to confront national cybersecurity threats.

This position is scaled-back from what the President announced in May of 2009. The initial description had the Cybersecurity Coordinator reporting to the President's National Security Advisor and the Chair of the National Economic Council. Mr. Schmidt will be reporting to the President's Homeland Security Advisor. This position had been filled on a temporary basis for months.

The Senate Commerce Committee has introduced a bill that would enhance the power of the Cybersecurity Coordinator, allow him or her to propose regulations for "critical infrastructure," such as the payments system, and have him report to the President. The bill has been held up due to a jurisdictional dispute with the Chairman of the Senate Homeland Security Committee, Joseph Lieberman (I-CT), who believes the Department of Homeland Security should be the leader on national cybersecurity policy.

11/09 **GAO Issues Report on Credit Card Interchange Fees –** On November 19, 2009, the Government Accountability Office (GAO) issued a report titled Rising Interchange Fees Have Increased Costs for Merchants, but Options for Reducing Fees Pose Challenges. The report found that, despite claims by the card networks, that interchange fees have remained flat, merchants' acceptance costs have been increasing as a result of interchange rates.

The report examines a number of options for reforming interchange fees, including legislative efforts underway today as well as attempts by foreign governments to regulate interchange fees. The report considers the pros and cons of the different options. It is unclear how legislators and regulators will address the issues brought to light by the report.

The report was mandated as a provision of the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act signed into law by President Obama in May of 2009 (PL 111-24). Members of AFP's Government Relations Committee, Payments Advisory Group, and Board of Directors participated in the study. To read the full report, click here.

NACHA Update

01/10 **NACHA Rules Re-Organization -** NACHA has proposed a major revision to the NACHA Operating Rules. The primary goal of the revisions is to simplify the rules by reorganizing them—not making changes to the basic content. In addition to clarifying the language in the rules and removing inconsistencies/redundancies, the rules will be organized around the participant role. These are major improvements to a rules set that has developed one rule change at a time over the past 20+ years. The more user-friendly rules, which will be made available on the Internet, should improve understanding and compliance among all participants in the ACH network.

Comments on NACHA's Request for Comment on the Rules Simplification were due on January 15, 2010. AFP has reviewed the proposal and discussed the changes with NACHA representatives. The changes do appear to make significant improvements to the Rules and AFP has endorsed NACHA's efforts.

Issue Summary

Regulatory Reform Moving Forward

By Jeanine Arnett, Government Relations Manager, AFP

On December 11, 2009, the U.S. House of Representatives passed by a 223-202 vote, its version of a comprehensive financial regulatory reform bill, The Wall Street Reform and Consumer Protection Act (H.R. 4173). The bill includes a comprehensive set of reforms that will address a myriad of causes – from predatory lending to unregulated derivatives – that led to last year's meltdown.

The major sections of the bill include:

Financial Stability Improvement Act – This section would create a Financial Stability Oversight Council to monitor and take actions to address systemic risk. The Council would monitor the marketplace to identify potential threats to the stability of the financial system. This section also seeks to strengthen regulation and supervision of large, interconnected financial firms. The Council would subject financial companies and activities that pose a threat to financial stability to much stricter standards and regulation, including, higher capital requirements, leverage limits, and limits on concentrations of risk.

Over-the-Counter (OTC) Derivatives Markets Act - This section seeks to reform and regulate the OTC derivatives market. The bill requires that swap transactions be cleared if they are accepted for clearing by a clearing house. Further, it mandates that the clearing organizations must seek approval from the appropriate regulator—either the Commodities Futures Trading Commission (CFTC) or the Securities and Exchange Commission (SEC)—before a swap or class of swaps can be accepted for clearing. Finally, the bill requires that swap dealers and major swap participants register with regulators. The bill largely exempts end-users of derivatives by requiring dealers, banks, and swap participants with "major net exposures" to comply. The definition of a "major swap participant" is not exact and AFP is working with legislators to provide certainty for its members to ensure that members' risk management practices are preserved.

Accountability and Transparency in Rating Agencies Act - This section attempts to increase the accountability of credit rating agencies by clarifying and reforming aspects of their liability under the securities laws. The bill requires that more information be made available to investors and users of credit ratings by requiring greater public disclosure. The section would allow investors to sue firms that knowingly or recklessly publish inaccurate ratings.

Consumer Financial Protection Agency Act – This section creates an independent Consumer Financial Protection Agency (CFPA) with the sole mission of protecting consumers when they borrow money, make deposits, or obtain other financial products and services. CFPA would put consumer protection on par with "prudential" safety and soundness regulation and address regulators' past failures to impose effective consumer protections for subprime mortgages, credit cards, overdraft fees, and many other financial products.

Corporate and Financial Institution Compensation Fairness Act - This section attempts to give shareholders a "say on pay" – an advisory vote on pay practices including executive compensation and golden parachutes. It also enables regulators to ban inappropriate or imprudently risky compensation practices, and it requires financial firms to disclose incentive-based compensation structures.

H.R. 4173 also includes the Private Fund Investment Advisers Registration Act and the Investor Protection Act, which seek to provide transparency and regulation to hedge funds and private equity for the first time. Finally, the bill would create a Federal Insurance Office.

For additional information and a section-by-section summary, click here.

Meanwhile, in the Senate...

Separately, Senate Banking Committee Chairman Christopher Dodd (D-CT) released his draft bill to systematically reform the financial regulatory structure of our nation's capital markets in November 2009. However, no action has occurred with regards to his draft. The Restoring American Financial Stability Act of 2009, attempts to "restore responsibility and accountability in our financial system to give Americans confidence that there is a system in place that works for and protects them", said Senator Dodd in a summary describing the bill.

On November 19, 2009, the Senate Banking Committee began debating the regulatory reform legislation. Each Senator serving on the Committee had the opportunity to make statements on the discussion draft. However, no further public progress has been achieved since the hearing. Chairman Dodd and Ranking Member Richard Shelby (R-AL) have been working behind the scenes to create bipartisan legislation that reflects the perspectives of both policy makers. Similarly, Senator Dodd has asked several of his colleagues serving on the Banking Committee to work together on bipartisan task forces to iron out differences in policy before the bill is presented to the full committee. Chairman Dodd has tasked Sens. Jack Reed (D-RI) and Judd Gregg (R-NH) with the job of creating balanced legislation on OTC derivatives reform, Sens. Chuck Schumer (D-NY) and Mike Crapo (R-ID) to create language on executive compensation and corporate governance, and Sens. Mark Warner (D-VA) and Bob Corker (R-TN) to propose legislation on winding down troubled financial institutions.

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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