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(US News & World Report) House Votes to Extend First-Time Home Buyer Tax Credit for Service

Credit Cards and Congress

CNN

Thursday, October 1, 2009

Scott appeared on CNN to discuss the credit card issue and Congress' motion to move up the effective date as well as address consumer concerns.

Illinois law makes lending money harder

Steve Bartlett

Chicago Tribune

October 1, 2009

A little-known Illinois law is being manipulated in a way that may hamper the ability of banks to increase their lending and speed up economic growth. Originally designed to prevent two parties from agreeing to harm a third party, the state's civil conspiracy law is being used by plaintiffs to sue businesses with whom they have no connection at all.

In the banking field, this can mean trying to hold lenders responsible for what their customers do with loans. For example, a Chicago-area bank was sued because it provided a loan to a business where the funds were then used in an allegedly fraudulent scheme. Instead of focusing on those most responsible for allegedly causing their injury, plaintiffs now sue tangential institutions -- even when the plaintiff had no relationship with that institution. Because the financial services industry faces this liability, banks may be compelled to monitor more actively clients' use of loans, thus driving up costs for lenders and those who rely on them.

This potential exposure is not limited to financial institutions. Churches, hospitals, law firms, governmental entities, trade associations and other businesses have been forced to defend themselves against spurious civil conspiracy claims.

The Illinois approach to civil conspiracy is in direct contradiction to a recent U.S. Supreme Court decision holding that investors in a company cannot bring securities fraud claims against business partners of that firm -- when those partners had no duty to the investors and the investors had not relied on anything they said or did. The decision makes good sense. Imagine if the firm that sold Enron Corp.

its pens and paper were held liable for Enron's stock manipulation.

The court identified two risks in extending liability to unconnected businesses. First, plaintiffs with weak claims could force settlements from innocent companies, simply because of the costs and uncertainty of a trial. Second, contracting parties would have to consider the cost of potential liability and build it into their prices, thus raising the costs of doing business for businesses and consumers.

In Illinois, these risks have become reality. When companies are sued for civil conspiracy, they face the costs of defending themselves and the potential for an unfavorable and unwarranted verdict. Their best and least costly option is often to settle a spurious claim, giving in to what the Supreme Court characterized as "extortion."

Illinois law may also deter firms from locating or expanding business in the state. Why would a company locate its headquarters or expand in Illinois and expose itself to risks that aren't present elsewhere?

Illinois courts and the legislature should take another look at the problems caused by the civil conspiracy interpretation and bring the state into the commercial mainstream.

Steve Bartlett is president and chief executive officer of The Financial Services Roundtable in Washington.

Bernanke Mutes Open Criticism Of Plan For New Consumer Fin'l Protection Body

Jed Graham

Investor's Business Daily

October 2, 2009

The White House's plan for a consumer financial protection agency cleared a big hurdle Thursday as its most visible opponent, Federal Reserve Chairman Ben Bernanke, dropped his open opposition.

Previously, Bernanke had sought to retain the Fed's responsibility to safeguard against unfair financial services products, arguing that risk assessment and consumer protection were closely related.

In testimony before the House Financial Services Committee on July 24, Bernanke had suggested that shifting such authority to a new agency might undermine the

Fed's ability to maintain a sound banking system, waste resources or impede sensible lending.

No Vocal Objection

But appearing before the same panel Thursday, Bernanke merely called for strong consumer protections and for beefing up oversight of nonbank financial firms. Bernanke also clarified his stance on what he believes the Fed's role should be in a new framework, downplaying the notion of a super-regulator.

"We have never supported, and the administration has never supported, a situation in which the Fed would be some kind of untrammelled super-regulator," he said. While the Fed should oversee systemically key financial firms, including nonbanks, Bernanke says, it should share authority with a new interagency council to monitor and respond to systemic risk.

"The broader task of monitoring and addressing systemic risks that might arise from the interaction of different types of financial institutions and markets — both regulated and unregulated — may exceed the capacity" of any individual supervisory agency, he said.

Appointed Fed chairman in 2006 by President Bush and nominated to serve a new term by Obama in August, Bernanke has demonstrated the political acuity to thrive under both parties' dominance.

Fed No Longer Exalted

Still, the Fed's performance leading up to the financial crisis and its involvement in bailouts has created broad unease in Congress about enhancing its powers and made it a lightning rod for some politicians.

A bill authored by Rep. Ron Paul, R-Texas, that would expose Fed policymaking to audits from the Government Accountability Office could undermine public and investor confidence in its independence, Fed General Counsel Scott Alvarez warned last week.

Rep. Scott Garrett, R-N.J., said at Thursday's hearing: "I am not alone in my concern about the Fed as a systemic regulator."

House Financial Services Chairman Barney Frank last week released an analysis demonstrating what he sees as the Fed's recent history of "inattention and inaction on consumer protection."

Bernanke acknowledged the Fed had "not done what we should have done in this area."

His new tone regarding the proposed consumer finance protection agency comes after Frank watered down the initial plan last week.

Gone is a contentious provision to require financial services firms to offer "plain vanilla" versions of any product they sell. Also eliminated is a "reasonableness" requirement. Financial firms had said it would put undue responsibility on them to make sure their products are suitable for a given customer.

"The proponents of this retreated about 10 miles," said Alex Pollock, resident fellow at the American Enterprise Institute. "But what's left is still something better not done."

He believes a new agency is not needed to achieve a sensible goal of requiring clear, straightforward language to consumers.

Pollock also sees a problem with giving a new agency power to promote loans under the Community Reinvestment Act "with no responsibility for the credit outcomes."

A key industry fear is a provision that "could result in a patchwork of 50 state protection regimes," said Scott Talbot, senior vice president for government affairs at the Financial Services Roundtable.

National regulations should provide a ceiling, not a floor of protections, he says. Some centrist Democrats seem to be on the same page. "We should feel comfortable that banks and thrifts that operate nationally will operate under that robust set of protections," Rep. Melissa Bean, D-Ill., said at a Wednesday hearing.

Big Banks Scaling Back Overdraft Fees

Carole Fleck

AARP Bulletin Today

Friday, October 2, 2009

Some of the nation's largest banks are planning to curtail overdraft fees amid a public uproar over the practice.

But those voluntary actions won't stop legislators or federal regulators from cracking down on overdraft and bounced-check fees, which reportedly earned banks and credit unions \$38.5 billion last year.

Currently, many major banks will honor checks or debit card purchases that exceed an account's balance, but assess a fee of up to \$35 for each transaction. This means that if your account is short, your \$3 cup of coffee could cost you \$38.

Wells Fargo and JPMorgan Chase announced last week they would stop charging consumers who overdraw their accounts by \$5 or less, and Bank of America and U.S. Bancorp said it would do the same for overdrafts of \$10 or less. Bank of America and Wells Fargo said they would charge no more than four overdraft fees a day, and JPMorgan Chase and U.S. Bancorp set the limit at three.

Bank of America says those changes will begin Oct. 19. JPMorgan Chase starts applying its new rules in early 2010, while Wells Fargo didn't set an effective date.

Banks are also making changes that will make overdrafts less common.

Starting next June, Bank of America will set an annual limit on the number of times customers can overdraw their accounts. It will also allow customers opening new accounts to choose whether or not they want overdraft protection. U.S. Bancorp says it plans to allow consumers to opt out of a program that allows debit card overdrafts at a charge of up to \$35 per purchase.

JPMorgan Chase also said it plans to start crediting debit card transactions in the order in which they occur, rather than by largest expense first, a practice that ultimately costs consumers more in overdraft fees.

Tracey Mills, a spokeswoman for the Consumer Bankers Association, says banks decided to make these changes in response to complaints from consumers, who are struggling with difficult economic conditions.

"Banks are responding to what their customers wanted," she says. "When banks lose customers, they start to pay attention to what's causing that. It's four times more expensive for a bank to attract a new customer than to keep a current customer. It's very bottom-line."

Scott Talbott, a spokesman for the Financial Services Roundtable, an industry group, says he expects other banks to follow suit and reassess their overdraft fee policies. He also says that any new regulations restricting banks' ability to charge these fees would be unnecessary in light of their voluntary actions.

But Sheila Bair, the head of the Federal Deposit Insurance Corp., disagrees. In an interview with *USA Today* on Friday, she called the banks' actions "significant improvements," but raised concerns about whether they go far enough.

"We do need some regulatory standards in this area," she was quoted as saying.

The Federal Reserve has said it plans to release a rule by the end of the year on overdrafts.

Rep. Carolyn Maloney, D-N.Y., has sponsored legislation to crack down on bank overdraft policies. Sen. Christopher Dodd, D-Conn., chairman of the Senate Banking Committee, also says he plans to introduce such legislation.

Steven Adamske, a spokesman for the House Financial Services Committee, says banks' overdraft policies are "one of the reasons we're so gung ho to create President Obama's consumer protection agency. It's to look at these kinds of issues so we don't have to have an act of Congress every time the industry comes up with a new or abusive product."

Weissman: Industry Needs Reshaping

Robert Weissman

Roll Call

October 5, 2009

Just a year ago, a reckless financial industry self-immolated and devastated the national economy. This is not exactly ancient history, and the effects continue to ripple through communities across the country.

This experience should have prompted a rapid and fundamental reshaping of the U.S. financial regulatory system and a restructuring of the industry to prevent a recurrence of the practices that led to the financial collapse.

It has not.

Instead, Wall Street is acting as if the financial collapse never happened, and the big banks are leveraging their political power to dominate the policy debate in Congress. The most significant evidence of Wall Street's power is what has been ruled off the table for discussion exactly the most fundamental, structural reforms that should have resulted from the crisis.

One short version of the cause of the crisis is that banks and other financial institutions deemed too big to fail engaged in wild speculation, secure in the knowledge that they would ultimately be backstopped by federal support.

Now, thanks to a series of shotgun mergers, the banks are bigger than ever, and there is a greater combination of commercial banking and investment bank operations in single corporate entities. JP Morgan Chase, Wells Fargo and Bank of America together held a quarter of all mortgages in 2007; now they hold almost 42 percent. The same three banks held 21 percent of deposits two years ago; now they hold more than a third of all deposits.

These giant firms are too big. They should be broken up. That discussion is nowhere to be had, however. Instead, the outer edge of proposals in play would impose some modestly tougher capital standards for the too big to fail institutions.

Closely related to the industry concentration problem is the problem of federally insured banks being permitted to engage in risky speculative betting. This problem is worse now than it was before the crash, with investment banks (Goldman Sachs and Morgan Stanley) now registered under the Bank Holding Company Act, and with Merrill Lynch merged into Bank of America and Bear Stearns absorbed by JP Morgan Chase.

The solution is to reinstate Glass-Steagall principles (prohibiting commercial banking from combining with investment banking or insurance operations in a single corporate entity) and to prohibit banks from excessively speculative undertakings. Former Federal Reserve Chairman Paul Volcker has sounded the alarm on this issue. I would exclude from commercial banking institutions, which are potential beneficiaries of official (i.e., taxpayer) financial support, certain risky activities entirely suitable for our capital markets, he recently told the House Financial Services Committee. But this approach is absent from the leading financial reform proposals.

Yet another problem is the proliferation of exotic financial instruments that led to massive leveraging and complicated interconnections among top firms that no one could track. The unraveling of these ties led to the downfall of American International Group. While financial derivatives are justified as helping economic players hedge against risk, it turns out they are primarily speculative tools used overwhelmingly by a small number of players. This concentration of massive speculative betting continues, with five banks owning more than four-fifths of the notional value the total value of a leveraged positions assets of all outstanding derivatives in the U.S. The notional value of these banks derivatives exceeded \$190 trillion in the first quarter of 2009.

The administration has put forward a framework to begin to regulate these instruments. However, what is not being asked is, What is the social utility of these instruments, and how does that utility measure against the risks that they pose to the financial system? In light of recent experience, some exotic instruments such as naked credit default swaps, in which neither contracting party has an interest in the underlying transaction or event allegedly being insured should be prohibited altogether. And new exotic instruments should have to obtain pre-approval from regulators, after demonstrating that they do not pose excessive dangers to the financial system.

Of the leading proposals that are under consideration, creation of a Consumer Financial Protection Agency is the most important. Wall Streets go-go years earlier this decade were fueled by a housing bubble and deceptive lending practices. A strong consumer protection agency not only would have protected consumers, but would have helped stabilize the financial system. **Yet the Financial Services Roundtable has openly announced its intention to kill the Obama administrations proposed consumer protection agency.** Financial Services Chairman Barney Frank (D-Mass.) has dropped one of the important elements of the proposed agency the authority to order financial institutions to offer plain vanilla products, so consumers would always have the option of avoiding tricky products. But despite the chairman's effort to compromise, industry opposition continues apace.

Had there not been a once-in-a-century financial crash, and had not trillions of dollars of public money been conjured to prop up the failing financial sector, the financial regulatory proposals now under discussion would seem a modest and important step forward. But Wall Street did crash. And we are suffering from the worst recession in 70 years. And the public has doled out trillions of dollars of supports for the banks. In this light, the regulations proposed for Wall Street appear woefully short of what is needed. Not out of a sense of retribution, but in an effort to prevent the next crisis.

There is still time for the policy discussion to shift back in the direction of proportionate regulatory restraints on Wall Street. A broad public interest coalition, Americans for Financial Reform, is aiming to do just that. The fate of the Consumer Financial Protection Agency will be an early indicator of whether public interest forces have amassed enough power to offset Wall Streets legions of lobbyists and turn the tide to achieve fundamental reform.

High-Frequency Trading On SEC's Agenda
Christina McEachern Gibbs
Advanced Trading

October 4, 2009

The Securities and Exchange Commission has had a busy year, and the momentum for regulatory change doesn't seem to be slowing. As high-frequency trading has become a hot topic, many in the industry have called on the SEC to look into the practice on the heels of the commission's proposal to ban flash orders.

At a speech addressing the **Financial Services Roundtable** in September, SEC Chairman Mary Schapiro said, "We issued a proposal to ban marketable flash orders last week so that a select group of traders does not receive an unfair advantage by their unequal access to best price information. And we will continue to focus on market activities that favor a few at the expense of overall investor fairness."

She continued, "In short, where market activities are off the screen, below the radar, difficult to track and generally opaque, there is always a greater possibility for mischief. As a country we pride ourselves on our open, efficient and transparent securities markets. Where market activity goes underground, it can undermine investor confidence in our public markets and inevitably raises the question of whether everyday investors are getting a fair deal. Where oversight is lacking, trouble often follows. And where transparency is limited, accountability becomes difficult to achieve."

But what is "fair," and where does high-frequency trading fall in the fairness spectrum?

"'Unfair' means something which structurally biases one class of participants to have an advantage over another," comments Rishi Narang, founding principal at Telesis Capital. "All participants should have a level playing field."

Narang points to three market practices for which the SEC already has proposed or is likely to propose new regulation: flash trading, dark pools and high-frequency trading. "Of these three areas, the only one which truly creates a two-tiered market place is flash trading," he contends. "In this case insiders to the exchange -- the members -- get a first look at certain types of customer order flow. But only about 4 percent of all orders are flashed."

In the case of flash orders, Narang adds, it was obvious that regulators needed to address the issue, and the economic impact of regulatory changes will be minimal. "The actual act of flashing the order wasn't the problem, but it gives the recipient the ability to front run the customer whose order has been flashed," explains Narang. "It doesn't mean that every time an order is flashed there is front running, but it would be illegal if it was caught."

According to Narang, most flash order participants aren't interested in doing anything illegal. But, "Why put a structure in place where someone can front run someone else?" he says.

Fair Game

On the topic of high-frequency trading, however, Narang argues that the SEC should not impede the practice in any way. "There is nothing unfair about the system in this case -- there is no second tier," he asserts. "Anyone who wants to invest the resources can compete."

Narang insists that there are examples of similar models in other industries -- "For example, a pharma firm that creates drugs and has a massive research structure," he relates. "Anyone can go and get funding and start researching [drugs], but the odds that they will succeed are low." Similarly, he continues, "The odds that [retail investors] can pull together the capital [to participate in high-frequency trading] are low, but there is nothing structurally unfair about the [opportunity to] invest their assets -- its Econ 101."

There isn't anything problematic about a trading firm building the infrastructure and putting the expertise in place to gain an advantage, Narang concludes. "Warren Buffet is so good at picking stocks, and he has access to certain resources that mom and pop investors don't have, and no one begrudges him," Narang says. "Why is what he does OK but what high-frequency traders do is not OK? It's the same sort of thing -- the expertise, dedication and the fact that they take it very seriously."

But Henry Gray, head of global equity trading at Dimensional Fund Advisors, cautions that public policy and rule-making for market microstructure shouldn't rely too heavily on the emotions of market participants -- and emotions are running high on the heels of last year's financial crisis, he points out. "Many buy-side traders are, in some sense, paranoid, and they remember the stuff that moves against them and not the stuff that moves for them -- and stuff moves a lot more now," Gray says.

He adds, "From an industry perspective the securities markets want regulation fairness and transparency. But on the other side you want to foster competition and innovation, too, all while keeping it a fair game. You want to find the right balance between those."

According to Gray, there is an inherent tension that exists between transparency and competitiveness, something regulators should not take lightly. "This is how business is when you try to achieve transparency and competitiveness at the same

time," he comments. "If you're playing a competitive baseball game you have objective rules in place to decide outcomes and prevent cheating. But ultimately the pitcher doesn't have to tell the hitter which pitch he is going to throw."

Gray says this analogy applies to the securities markets. "You want to strive for rules that make things more transparent, but if you don't set the rules carefully you can undermine the competitive environment and lose the benefits you have achieved," he comments. "I would hate to see regulation that slows down market speed or limits the control traders have over their orders. Good regulation would provide more transparency and better public disclosure of meaningful information without restricting the flexibility of or delaying the response times to execution instructions."

Continuing Education

Paul Wilmott, a consultant and author with expertise in the quantitative finance arena, adds, "The regulators are not very well educated in this area. I always have a picture in my head of regulators having the wool pulled over their eyes because they don't know as much as the people they are regulating." Regulators should be more proactive and less reactive when it comes to issues such as high-frequency trading, Wilmott adds.

Matt Samelson, principal at Woodbine Associates, agrees. "The SEC should get a chief technology officer and really look at the procedures and operations around high-frequency trading," he says. "[Regulators] tend to be a lot of lawyers, and [they] seem to have been less effective."

Samelson adds, "The markets are not going to become 100 percent high-frequency. What we should be looking at is, does high-frequency trading put other traders at a disadvantage?" But, "At what point does [high-frequency trading] become unfair?" he asks. "It's important to view the differing points in the argument. There is no absolute around these issues."

In a letter responding to Senator Ted Kaufman's call for a broad market structure review by the SEC in August, Chairman Schapiro pointed out that competition among short-term traders can lead to benefits for long-term investors. But Schapiro noted that if the interests of the two conflicted, then her agency had a responsibility to look out for the interests of the long-term investor. She added that the Commission must keep up with advances in trading technology and keep a careful eye on market structure to ensure that sophisticated traders aren't favored and that rule making keeps up with the fast-changing market.

What's the Matter with Dark Pools?

Nina Mehta

Traders Magazine

October 2, 2009

Dark pools are on the regulatory front burner. They're seen as competing with the displayed markets, even as they've captured a segment of trading from the desks of broker-dealers' upstairs.

The Securities and Exchange Commission is now bearing down on issues related to trading in dark pools and how much flow can execute in individual pools without triggering obligations to the rest of the marketplace. To provide some perspective on this broader discussion, a panel at last week's Traders Magazine Live conference addressed the core issue of what role is served by broker-operated dark pools that, by and large, do not print block trades.

The conference, which took place at the Down Town Association in New York on Sept. 24, drew a standing-room-only crowd of almost 200 trading executives. Robert L.D. Colby, counsel at law firm Davis Polk & Wardwell, in Washington, D.C., moderated the panel on dark pools. He is a former deputy director of the SEC's Division in Trading and Markets.

Colby noted that the SEC has traditionally had a "binary view" of dark and lit liquidity, since the lines between them were much clearer. As the structure of the markets has evolved, dark and lit markets began to overlap. Now, Colby said, many venues are "semi-dark" or "semi-lit"--a shift that raises more complex issues for regulators.

Dark pools and exchanges now interact. Many dark pools route orders to one another, exposing flow to other alternative trading systems in the hunt for liquidity. NYSE Arca, Nasdaq, BATS Exchange and Direct Edge have programs enabling dark pools to stream quotes to them, so they can avoid routing orders to other markets if they can't fill orders.

Pools such as Credit Suisse's CrossFinder, Goldman Sachs' Sigma, Level ATS and others also have average execution sizes of several hundred shares, not much more than the average execution size on exchanges. Liquidnet, in contrast, has an average execution size of over 49,000 shares.

For the SEC, this raises questions about whether the functions of these venues have changed in recent years. SEC Chairman Mary Schapiro said a week ago she was concerned that "the public markets may be deprived of the valuable trading information, including price discovery, available in dark pools." **She made that**

comment in a speech at the Financial Services Roundtable's conference on Sept. 24.

Brian Hyndman, senior vice president for transaction services at Nasdaq OMX Group, noted at the Traders Magazine conference that dark pools play a role in the trading industry but that they clearly take information away from the displayed markets. He stressed that Nasdaq isn't against internalization. "For the record," he said, "internalization and dark pools are good." But he went on to point out that "maybe price formation in the public markets could suffer" if enough liquidity doesn't get to the public markets.

Exchanges, it should be said, also have their own dark orders types amidst their displayed market. At Nasdaq, for instance, about 16 percent of executed volume involves a party that was non-displayed. The percentage of volume at BATS that involves at least one dark order is a few percentage points lower.

The brokers on the Traders Magazine panel made a case for off-board trades. Owain Self, head of algorithmic trading for the U.S. and Europe at UBS, noted that blocks have historically traded upstairs and that they "were never done in the displayed market." Many of those big orders, he said, now execute algorithmically in dark pools, where they can seek to avoid the information leakage they might encounter in the displayed markets.

Dan Mathisson, head of Advanced Execution Services at Credit Suisse, admitted that "it's no secret that blocks are all getting carved up," and executed piecemeal. This started with decimalization, he said, which produced "less size on the bid and offer and made it easier for people to jump in front of you."

He put an even finer point on the argument that broker-operated dark pools that don't print blocks are nonetheless executing blocks. "Our view is that virtual blocks are the same as regular blocks," he said.

Mathisson argued that "people attribute a lot of importance to putting up 100,000 shares as one print." In his view, that "argument about blocks is a little artificial." The issue isn't whether a trader can execute a big order in one piece, he said, but whether that order can be executed at a good average price over time. And he stressed that dark pools enable this by avoiding the information leakage that can occur on exchanges and ECNs.

Whit Conary echoed some of these comments. Conary, the chief executive of Level ATS, a dark pool run by a consortium of broker-dealers, said dark pools use technology to execute block orders that upstairs desks weren't always able to execute because they couldn't find the other side.

Instead of an upstairs desk calling around to find naturals, Conary said, a broker can use a dark pool strategy to rope together liquidity residing in numerous spots. Since this is done in an automated way, through algorithms or electronic messages between dark pools, this gives naturals a better chance of finding executions without exposing their intentions in the public markets, he said.

Many of these contra-side orders are now also in algorithms. As these orders interact over time, Conary said, the average execution size is bound to be within range of the average size in public markets.

Justin Schack, vice president for market structure analysis at Rosenblatt Securities, noted that "modes of dark trading are good for the market." Non-displayed orders, after all, have taken many forms over the years, from slips of paper resting in a floor trader's pocket or buyside-to-buyside systems such as Liquidnet.

Schack pointed out that about 75 percent of the industry's volume currently involves displayed liquidity, while the rest is non-displayed, whether that occurs through upstairs desks, dark pools or block crossing platforms. For decades, the volume done on public markets was around 80 percent, with the remaining 20 percent taking place off-board.

Nasdaq's Hyndman raised a couple other issues with dark pools vis-a-vis the displayed markets. He pointed out that another reason these broker-operated pools exist is the "cost factor." It is cheaper for broker-dealers to execute in those pools than in the public markets.

He also argued that automated messages some of these pools send to one another to find liquidity essentially interlink these pools in a way that hurts the displayed markets. Those pools that interact in this way have essentially created "one large dark pool without the 5 percent threshold," Hyndman said. The 5 percent threshold is the SEC's trigger level for displaying quotes and providing fair access (on a name-by-name basis) to the pool. It's based on an ATS trading 5 percent in a particular stock in four of the previous six months.

The executives from Credit Suisse and UBS noted that dark pool IOIs can be harmful to customers for other reasons. From the brokers' perspective, the chief worry is information leakage.

Both firms do not send out IOIs from their pools. UBS also doesn't accept them, while Credit Suisse does consume them. If liquidity is elsewhere, Mathisson said, his firm's pool will route orders to that other ATS. He referred to what his firm does as the "bathing suit on a nude beach strategy" since CrossFinder is not providing a view of what's in its pool to others.

While the broker-dealer representatives on the panel believe their pools help investors execute efficiently, Self noted that the future of dark pools will depend on how the SEC approaches broker-operated dark pools that aren't intended primarily for blocks. Broadly, he said, it will depend on "whether we try to regulate the effect, or try to regulate the cause."

Two "causes" for dark pools, in Self's view, are concerns about getting pennied in the displayed markets and what he called "queue jumping." Institutional traders get pennied when someone jumps ahead of their limit order to grab incoming orders with the hope that they will be able to make a profit on the trade if the market moves in the direction they expect. Queue jumping, on the other hand, is when traders decide to execute in dark pools to avoid waiting in line for an execution behind existing limit orders in the displayed market.

Bair Says Secured Creditors Should Pay for Failures
Rebecca Christie and Christine Harper
Reuters
October 5, 2009

Oct. 5 (Bloomberg) -- Federal Deposit Insurance Corp. Chairman Sheila Bair said regulators should consider making secured creditors carry more of the cost of bank failures.

"This could involve potentially limiting their claims to no more than, say, 80 percent of their secured credits," Bair said yesterday in a speech to a banking conference in Istanbul. "This would ensure that market participants always have some skin in the game, and it would be very strong medicine indeed."

Bair's comments go beyond any of her previous proposals for changing the way large and so-called systemically important financial institutions are regulated. She has long supported broadening the government's powers in order to limit the impact on the financial system of an event such as last year's bankruptcy of Lehman Brothers Holdings Inc.

The proposal would probably increase banks' cost of funding and make it harder to find long-term financing because creditors would be watching closely for any signs of trouble, said William Black, associate professor of economics and law at the University of Missouri-Kansas City and a former bank regulator.

"It would make it gratuitously more expensive for banks to raise funds, even on a secured basis," Black said.

Bair's proposals, which would require legislation, aren't part of the U.S. regulatory overhaul. The Obama administration has defended making auto industry bondholders accept losses as a condition of a government bailout, while saying the same approach shouldn't apply to banks because of the havoc such changes may wreak on the financial system.

'Rewrite Rules'

"It would rewrite the rules of financing," said Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, a Washington-based industry group. "It would cast doubt over existing financing arrangements from auto dealers and AIG to mortgages. Ultimately, it could weaken the recovery efforts."

Bair, while conceding her proposal could increase borrowing costs for banks, said it might encourage them to reduce their reliance on short-term funding while making the broader financial system more resilient. She also said it might reduce the burden of a failure on unsecured creditors, who would then be less likely to press for a government bailout.

Black said the proposal might backfire.

"If you could completely shaft the secured creditors, it's always good for the unsecured creditors," he said. "The secured creditors are likely to figure that out and demand a larger risk premium if you try to ambush them."

Authority Needed

Bair also said regulators should have more authority to close a bank holding company if an insured deposit-taking bank that it owns gets into trouble. Bair was speaking to the Institute of International Finance, which was meeting in Istanbul alongside a separate gathering of finance ministers and central bankers from the Group of Seven nations.

All bank holding companies should be subject to such intervention, even those not deemed systemically significant, she said. Regulators must also weigh how to handle the failure of a major non-bank financial firm, such as an insurance company or a hedge fund, she said.

Bair has been urging Congress to create a U.S. authority to unwind firms whose collapse would disrupt the economy. She has also urged lawmakers to give her

agency powers to disassemble bank holding companies, similar to the role the FDIC now plays with failed banks.

“I think there is a big issue between banks and non-banks and more lightly-regulated or unregulated financial and intermediaries that perhaps need some greater supervision,” Bair said yesterday in an interview with Bloomberg Television.

Ackermann Concerns

She acknowledged concerns raised by Deutsche Bank Chief Executive Officer Josef Ackermann that regulators “could go too far” and snuff out the nascent economic recovery. He is chairman of the Washington-based IIF, a global association of financial institutions.

“The point is well taken about over-regulation because banks are heavily regulated already,” Bair said in the interview.

Bair said the FDIC wants to see bank capital requirements rise over time, not “spike up” in a way that could jeopardize lending as the global economy emerges from the worst recession since the Great Depression. She also said the current system of repaying secured creditors when a bank fails could be a source of systemic risk.

“By totally protecting secured claims and many repo claims as nettable financial contracts, the current priority scheme may encourage greater fragility in the financial markets,” she said.

Repurchase Agreements

In a repurchase agreement, also known as a “repo,” one party provides securities as collateral to another in exchange for cash. The agreements generally take priority over other claims in bankruptcy cases.

Bair’s comments raise broader questions about which creditors should take priority when a financial firm fails, said Joseph Mason, a Louisiana State University banking professor. He said such proposals might increase instability, instead of reducing it, if they interfered with funding relationships within the banking system.

“Certainly you’d want to impose losses on unsecured creditors,” said Mason, who worked at the Treasury Department’s Office of the Comptroller of the Currency.

He said it also might be possible to design a regime where creditors within the banking system take precedence over outside obligations.

Bair predicted more bank failures between now and the end of 2010, and she said the commercial and residential real estate markets still face problems. At the same time, the worst of the crisis appears to have passed. "We're now in a period of relative stability," Bair said.

Banks in Minnesota, Michigan and Colorado were shut by regulators last week, bringing this year's toll of U.S. failures to 98. The banks are Jennings State Bank of Spring Grove, Minnesota; Warren Bank of Warren, Michigan, and Southern Colorado National Bank of Pueblo.

Legislators Push Early Start For Credit Card Rules

Audie Cornish

NPR Morning Edition

October 6, 2009

The new Credit Card Reform Act is supposed to protect consumers against high fees, surprise hikes in interest rates and abusive billing practices.

The law passed in May and is not set to take effect until February. But with the holiday shopping season just weeks away, some lawmakers on Capitol Hill are pushing to move up the start date. They complain that credit card companies have been taking advantage of the lag time: raising interest rates, slashing credit limits and switching customers from fixed-rate to variable-rate cards.

The law will prevent banks from arbitrarily changing the interest rate on a customer's existing balance. It will also bar banks from charging interest on debt that a consumer has paid off on time. Last spring, bankers told Congress they needed time to reprogram computers and get ready for all the new rules.

But now, Barney Frank, chairman of the House Financial Services Committee, wants the new law to take effect on Dec. 1, rather than waiting until early 2010. "Too many in the banking system seem to think they can return to the thrilling days of yesteryear when the lone rangers will ride again unhindered by any kind of regulation."

One Credit Card Customer's Story

Janet Thompson of Chevy Chase, Md., was happy to hear about the legislators' efforts to move up the effective date of the law. She got letters recently from two of her credit card companies. The first bank doubled her interest rate. The second

did the same — and when she argued the rate back down, the company slashed her credit limit from \$7,000 to \$500.

"They're taking advantage and they have made all sorts of money during this time by arbitrarily raising [the interest rate]. We always pay early. We always pay more. You know, we'd like to pay it all off — and we used to do that every year when I was working, but I lost my job," Thompson said.

Thompson doesn't want to close her credit accounts because that would ding her credit score. She and her husband are now retirees carrying two mortgages. They're frustrated with the way they say their banks are treating them.

Industry Advocates And Policy Experts Have It Out

The scenario Thompson describes is exactly why banks are changing rates, according to Scott Talbot of the Financial Services Roundtable. "We are in a recession, and there is a greater increased risk that a customer won't pay their credit card that's spread across the board. So even some customers who haven't done anything wrong, or not missed a payment or not been late, are seeing an increase in their interest rate or decrease in their credit line simply because of the general increased riskiness in our current economy."

Talbot says Dec. 1 is too soon to put that much regulation into action.

But Nick Bourke of the Safe Credit Cards Project at the Pew Charitable Trusts disagrees. "What makes sense is to stop repricing outstanding balances as quickly as possible. Banks can stop doing that right away."

Bourke says some provisions of the law have gone, and should go, into effect as soon as possible to protect consumers. But other parts, like a rule that fees should be "reasonable," need more time, he says. It's going to be up to the Federal Reserve to figure out what terms like "reasonable" actually mean.

"If the Fed doesn't have time to create really strong rules, then I think ultimately consumers will be hurt by that," Bourke says.

Still, the House Financial Services Committee plans to take up the legislation as early as this week. Frank says he is eager to move well before holiday shoppers hit the malls with their plastic.

Experts Warn Against Bair's Proposal For Making Secured Creditors Pay for Bank Failures
Bob Blandeburgo

Money Morning October 6, 2009

Federal regulators should consider ensuring secured creditors face losses when banks fail, the head of the Federal Deposit Insurance Corp. (FDIC) says. However, such an action could make for an even worse credit crunch during periods of financial turmoil and weaken recovery efforts, according to many analysts.

Secured creditors, normally protected from losses if a bank fails, would tread more carefully and monitor the riskiness of a bank before investing if they were held more accountable, FDIC Chairwoman Sheila Bair said in a speech to the International Institute of Finance (IIF) in Istanbul. The speech was a part of Bair's reiteration that the U.S. government's "too big to fail" doctrine for banks should be scrapped.

"We need to establish an effective and credible resolution mechanism to ensure that market players will actively monitor and keep a handle on risk-taking," she said. "This could involve limiting their claims to no more than say 80% of their secured credits," Bair said, adding "this would ensure that market participants always have a 'skin in the game.'"

But Bair's proposal, which isn't a part of the Obama administration's regulatory overhaul, would likely increase banks' cost of funding and make it harder to find long-term financing because creditors would be watching closely for any signs of trouble, according to William Black, associate professor of economics and law at the University of Missouri-Kansas City and a former bank regulator.

"It would make it gratuitously more expensive for banks to raise funds, even on a secured basis," Black told *Bloomberg News*.

While Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, a Washington-based industry group, said Bair's plan "would cast doubt over existing financing arrangements from auto dealers and AIG to mortgages."

"Ultimately, it could weaken the recovery efforts," he added.

While Bair conceded her proposal could increase borrowing costs for banks, she said it also would encourage them to reduce their reliance on short-term funding, make the broader financial system more resilient, and reduce the burden of a failure on unsecured creditors, who would then be less likely to need a government bailout.

But such a proposal could raise the premiums of secured creditors, University of Missouri-Kansas City's Black says.

"If you could completely shaft the secured creditors, it's always good for the unsecured creditors," Black said. "The secured creditors are likely to figure that out and demand a larger risk premium if you try to ambush them."

Bair said the current method of guaranteeing secured creditors and repurchase agreements – also known as "repos" – as nettable financial contracts may weaken the financial markets. These contracts generally take a higher priority over other claims in bankruptcy cases. Repurchase agreements are usually used to raise short-term capital through vehicles such as T-bills, with maturities ranging from one to six months.

The market for these repurchase agreements would be adversely affected and in turn the credit markets if legislators enacted Bair's proposal, says *Money Morning* Contributing Editor Martin Hutchinson, a leading banking expert.

"It would effectively close the repo market in periods of financial stress, and thereby hugely damage credit markets in such periods," Hutchinson said.

Still, Bair did acknowledge concerns raised by Deutsche Bank AG (NYSE: DB) Chief Executive Officer and IIF Chairman Josef Ackerman that regulators "could go too far" and halt any hopes of an economic recovery.

"The point is well taken about over-regulation because banks are heavily regulated already," Bair told *Bloomberg*, adding that the FDIC wants to see bank capital requirements rise over time, not "spike up" in a way that could hurt lending as the global economy starts its recovery. She also said that the current doctrine of repaying secured creditors when a bank fails could be a source of systemic risk.

One major advantage of limiting secured creditors claims, Bair said, is that all general creditors "could receive substantially greater advance payments to stem any systemic risks without the extensive delays typically characteristic of the bankruptcy process."

The FDIC, now with a negative insurance fund for banks with deposits, has seized a total of 98 failed banks this year, compared with 25 in all of 2008.

Policymakers at Work
Scott Talbott
NGenuity in Action
Fall 2009 Issue

A VIEW FROM WASHINGTON

Polymakers at Work: Payments Regulations and Legislative News from Capitol Hill

BY> SCOTT TALBOTT, THE FINANCIAL SERVICES ROUNDTABLE

The 111th Congress is well under way and has enacted a credit card bill to place new restrictions on card issuers. It is also considering overhauling the consumer protection laws and creating a new agency that would have jurisdiction over a large section of the financial services industry and its products.

President Signs Bill into Law

The House of Representatives passed Rep. Carolyn Maloney's (D-NY) bill, H.R. 627, The Credit Cardholders' Bill of Rights Act of 2009, by a vote of 357 to 70. The bill codifies the Federal Reserve's Unfair and Deceptive Practices (UDAP) rules on credit card practices. The Senate passed the same bill by a vote of 90 to 5, and the president signed it into law on May 22, 2009.

The card industry argued against the law on the grounds that it would reduce the availability of credit and increase the cost of credit for those who still qualify. Supporters argued the law would help protect consumers from the "tricks and traps" of credit card contracts.

The new law contains the following restrictions on credit cards:

- > Increases the amount of time consumers have to make a payment on an outstanding bill
- > Dictates how excess payments are used to pay off balances with differing APRs
- > Prohibits credit institutions from applying increased APRs to the outstanding balance on a credit card account
- > Prevents fees on credit holds
- > Prevents double-cycle billing
- > Limits the amount of security deposits and fees
- > Requires that when credit institutions make a firm offer of credit, they must disclose the criteria that will determine whether consumers receive the lowest APR or the highest credit limit
- > Requires interest rate increases to apply only to future credit card debt
- > Requires payments to be applied first to the credit card balance

Bailed-out firms adjust top pay before new rules arrive
Daniel Wagner and Stephen Bernard
Associated Press

October 7, 2009

Several firms that received large taxpayer bailouts have adjusted executive compensation to trim cash payouts before the Obama administration's pay czar issues new rules. Some fear those rules will go too far, preventing them from attracting the talent they need to remain competitive.

Company officials and lobbyists say Bank of America Corp., Citigroup Inc., GMAC Financial Services Inc. and others are reworking their pay plans to ensure compensation reflects executive performance.

They are giving executives more of their compensation in stock and stock options, and spreading pay over a longer period. And they are adopting plans to recapture some pay when bets go bad.

Kenneth Feinberg, the Treasury Department's special master for executive compensation, is expected by next week to announce compensation guidelines for the top 75 earners at the seven firms that received the most taxpayer money. His rules are expected to include some of the same measures companies already have adopted.

The companies acted without government guidance after watching lavish pay packages encourage excessive risk-taking, and after bonus payments sparked public and congressional outrage.

"The threat of failure and the ghosts of the companies that failed are incentive enough," said Scott Talbott, a lobbyist with the Financial Services Roundtable. Talbott's group represents several of the firms Feinberg is overseeing, including Bank of America, Citigroup and GMAC. Some analysts and industry officials fear Feinberg's limits will reflect political outrage rather than focus on reining in risk.

Compensation consultant Mark Borges, a principal with Compensia Inc., said the information could give other banks not subject to the rules "a roadmap" for luring away top performers.

That could threaten their ability to "pull themselves out of their current dilemma," he added.

Feinberg did not respond to requests for comment. But a Treasury spokesman said Feinberg's work will help ensure that companies strike the right balance around their need to compensate employees competitively and protect taxpayer dollars.

Feinberg also is reviewing pay practices at American International Group Inc., General Motors, Chrysler and Chrysler Financial.

Could double-dip recession be near?

Eamon Javers

Politico

October 7, 2009

Never mind the green shoots. Gloom and doom are back.

On Friday, national unemployment was reported at 9.8 percent with a loss of more than 260,000 jobs, leaving a staggering 15.1 million Americans out of work — a downside surprise to analysts who were expecting a better result for September.

The Dow Jones, which had been on a streak so hot since March that some had begun saying it reflected a new bull market, sagged hundreds of points lower on the week.

And car sales, which had surged during the government's Cash for Clunkers program in August, hit the brakes in September as the annualized selling dropped from 14.1 million to just 9.22 million in September.

All that's enough to convince some observers that the economic recovery is faltering and could be heading for a "double dip" recession. And that would mean the recent green shoots of recovery turn out to be just a pause in a much longer economic slide.

Some leading corporate executives worry there's no economic engine available to drive growth in 2010: Technology, construction, finance — all sectors that have powered the U.S. economy out of the doldrums in the past — are flat this year.

And some boardroom denizens offer a bleak assessment: An economy that was driven by consumer overspending for years and by government overspending for the past year will have a tough time making any headway when the government support is withdrawn.

In Istanbul this week, billionaire investor George Soros said the American banking system is "basically bankrupt" and argued that the "United States has a long way to go."

What's got Wall Street even more nervous is the expectation that the commercial real estate sector is poised for a crash of its own, further dragging down the prospects of the national economy.

Investors are so pessimistic that shares of one commercial real estate company, Apollo Commercial Real Estate Finance, lost 5 percent on the day of its initial public offering on Wall Street.

“Commercial real estate is the next economic shoe to drop,” said Scott Talbott of the Financial Services Roundtable. “Industry is working to find a solution.”

And management consultant Peter Cohan wondered in his economic blog: “I don’t know why the market moves up and down from day to day, but lately a growing fear of a double-dip recession could be a contributing factor.”

So even though the Dow started this week on an up note, it’s time to revisit the alphabet soup of potential economic outcomes, which analysts describe by the shapes of the trend lines.

The best-case scenario is a “V”-shaped recovery — a sharp drop and a quick rebound. Next best is a “U” shape, with a sharp drop, a protracted trough, then a recovery.

The worst of all possible scenarios is the “L”-shaped recession, which is a sharp drop followed by a flat line. In other words: No recovery for you.

The numbers have been so bad recently that yet another shape has entered the lexicon — a “square root”-shaped recovery, in which a short bounce back is followed by a long period of stagnation.

New York University economics professor Nouriel Roubini — known as “Dr. Doom” for his grim but accurate forecasts in recent years — said this week that the best the U.S. economy can hope for is a “U”-shaped recovery, with a significant trough before the rebound.

Not everyone is as gloomy, though.

Treasury Secretary Timothy Geithner expressed guarded optimism before an audience of world leaders at the International Monetary Fund and World Bank meeting this week in Istanbul. “We are now witnessing stabilization of the global economy and the beginnings of recovery,” he said. “But we cannot be complacent. Conditions remain fragile.”

And James Paulsen, chief investment strategist at Wells Capital Management, sees a much sunnier picture. Double-dip recessions are extremely rare, he says. There

has been only one in postwar U.S. history, from 1980 to 1982, and that was caused by the Fed's sharp hike in interest rates.

"Many seem to expect double-dip as a common outcome," he told POLITICO. "Actually, it is quite rare indeed."

Paulsen argues that there's one key sector that can help lift the American economy off the mat: exports. Net exports have been adding 1 percent to 1.5 percent to growth every quarter for the past six, he argues, a trend that will only escalate as emerging growth economies around the world continue to expand.

And that could help trigger a virtuous cycle of increased confidence and increased spending, he said. "You think with the revival of profits and real [gross domestic product] growth of 3 percent again, businesses won't spend any money? I don't," he said. "I think they will again add some growth to the economy."

Financial group chief sees revival from the 'freefall' **CEO Update** **October 2, 2009**

Against the backdrop of an economy struggling to right itself, Steve Bartlett is watching his industry contribute to a successful recovery. As CEO of The Financial Services Roundtable, the 97-member group of the nation's largest financial services companies, he came aboard when it was evolving from the then-named Bankers Roundtable to a trade group that he says now represents major companies that finance most of the American lifestyle.

On the job 10 years in June, Bartlett says his current post is his "fifth career." After founding a successful packaging company, he entered politics on the Dallas City Council. He was elected as a Republican member of Congress from 1983 to 1991, serving on the House Banking Committee. Leaving Washington, he was elected mayor of Dallas.

He said his career has been a "terrific" combination of business and politics and the stretch at the Roundtable "is the opportunity to marry both of those careers into one," advocating for companies "serving the customers, serving the shareholders, serving the greater good, but also heavily involved in politics and policy and developing public policy in a way that helps the country as a whole."

"It's the perfect blend," he said.

Bartlett spoke to CEO Update about the projected overhaul of financial regulation, tightening of lobbying rules and how his own role has changed.

CEO Update: What can we expect the financial overhaul to look like? Obviously, your members are going to be interested in what happens with health care, but are you drawing lessons from that reform process?

Steve Bartlett: The obvious similarity is that regulatory reform is on everyone's list of must-pass reform, as is health care. The other similarity is that the administration has proposed specific reform or a reform package. Now the differences are also there. Regulatory reform was proposed by the Bush administration under Hank Paulson before the Obama administration came. Regulatory reform is also proposed by leading Republicans on the Hill as well as leading Democrats, so regulatory reform is much more bipartisan than health care reform.

The other difference is that the industry itself, meaning our trade association, is actively promoting regulatory reform and urging its passage and has done so since 2007. I don't believe that's the case with health care.

At the end of the day, regulatory reform has been prompted by the financial crisis, whereas health care reform is much more broad-based.

So, regulatory reform is a response to a crisis. The regulatory structure is not the only cause of this financial crisis, but it's the proximate cause because the system did not notice an instability that then led to the freefall, and so the chaotic nature of the regulatory structure set up the crisis and then allowed it to happen. I think regulatory reform is going to happen, ought to happen; my organization has advocated it since 2007 when we began to notice there was something amiss. If we had noticed it a little faster, and gotten on top of it a little bit faster, perhaps we could have averted some of the crisis, but we believe that regulatory reform is essential for the stability of the economy going forward.

It's really helpful to note that regulatory reform is directly tied to the economic recovery that we're now beginning to, if not enjoy, at least to notice. The economic recovery has as its foundation well-capitalized, well-managed and well-regulated financial institutions, so if we had not been able to get our financial institutions back onto a foundation of stability, we wouldn't be in the beginnings of an economic recovery today. We would still be in a freefall.

CU: When a broad-based regulatory reform is floated, different groups in different areas may voice support but when it comes down to specifics, there's more to fight about. Where are we on the continuum right now?

SB: Everybody supports reform in theory, as you say, but then the support starts to become thin when you get to specifics. So, where we are now is well into the specific stage. Probably the biggest example is the proposed Consumer Financial Protection Agency. We support consumers; we support the financials; we support the protection; we just don't support the agency.

We've got three out of four. So that's probably the most contentious; that's something that has to get resolved (and will get resolved) because, after all, we all want to provide for better and stronger protection for the consumers and now we're down to arguing about which agencies should do it. Now that's a serious issue, but it's one that can get resolved as reasonable people discuss it.

CU: Is that an area where you face not only political difficulty but public perception being against something like the agency?

SB: We're for something like that; we're just not for that. The public wants reform but the industry wants reform. The public is our customers and shareholders and communities, and so now it's a matter of figuring out how best to do the reform.

CU: On public perception, there has been lot of outcry about large financial institutions in general. How does the association deal with something like that?

SB: Yes, reputation risk is one of the bigger risks in this industry. So here's what we've done—"we" meaning our companies.

Those companies—and I'll choose my words carefully—that [were] in the center of being responsible for the collapse have, by and large, gone away, meaning they went out of business. The marketplace works in brutal ways. Some of the companies that went out of business weren't part of the problem but many of them were. Many of those companies, large and small, were totally unregulated. Fifty-eight percent of all subprime mortgages were made by companies that weren't regulated by anyone at all. And the others were regulated by hundreds of different competing agencies. So those that were at the forefront of the problem certainly aren't with us anymore. The market enforced its pretty severe discipline.

Those companies that are my members have done a lot of soul-searching and have concluded, and said publicly, as painful as this is, we take responsibility for our own actions or lack of actions that contributed to the problem. Some of my companies made mistakes. I made mistakes. Our trade association made mistakes, and so we take responsibility for what we didn't do right and what we failed to do that would have been right. So we take responsibility to correct it.

We have set a course over the last two years not just to say the words, but also to take actions to correct problems that were caused. We're the group that has founded what's called HOPE?NOW, which is responsible, so far, for 4.9 million loan workouts, including mortgage modifications for people who weren't able to pay their mortgage and got them into a mortgage that they can afford.

Mortgage modifications, up until the last four or five years, never happened at all. The norm for mortgages had been: if you can't pay your mortgage, you lose your house. So, we've come [far] as a country to then have an expectation, even from industry, that we're going to modify mortgages on a reasonable basis as best we can. Now, does it happen in every case? No. If you can't afford a reasonable mortgage then you can't keep the house, but as an industry we're going to modify that mortgage to make it so that we can have a win-win situation.

We also take responsibility on other fronts, whether it's credit cards or commercial lending, to be able to offer our products and services in a way that makes things right. Our companies are going through their entire operations, everything they do, taking it apart and putting it back together to see what is it that we can do to make sure that when we speak it's in clear language, that people can understand it, that we provide access so if you need to talk to somebody you can get through to a real human being.

Trust is the key, so I think rebuilding trust and making that commitment to being trustworthy is fundamental and core to the success of this industry. I think my companies are doing that, but it's a rebuilding process. We took an economy that was in absolute freefall—"we" meaning both the industry and Congress, the actions of Treasury and all of us—we took an economy that was in freefall in the fall of 2008 in which literally none of the back office systems were working. Transactions weren't being completed, there was no credit and the economy was sinking fast. We took that and created a foundation of well-capitalized coverage.

Some companies went out of business but they should have. But the ones that are left are well capitalized. The U.S. government provided additional capital through [the Troubled Asset Relief Program]. TARP will go down in economic history as one of the all-time great success stories because it recapitalized the banking system, which then recharged the economic system.

The CEOs and the companies involved rebuilt everything in a way not just to get lending out the door, but to get good lending out the door. Any old fool can make a bad loan; it's being willing and able to make a good loan to somebody who can afford to repay that is the key, and that's what we've done.

TARP has been, in many cases, repaid. I think it's an average of [10 percent] return on investment to the federal government so far, and it will most likely be even greater. So, the taxpayers have actually made a profit on their investment, as they should have. They were the ones who put up the money when we needed it. And then you look at the companies that are doing the rebuilding. They are serving their customers, financing their customers, both business and consumer lifestyles in quite credible ways, ways that in many ways haven't been done a year or two years ago. So it's a success story.

CU: There's been a backlash against lobbying in general and against this industry. What do your members expect from you in this kind of environment?

SB: To tell the truth. Tell it early. Keep focused on good public policy. Stay with strong ethics. Look for allies wherever you can find them and be nice to your adversaries and try to win them over.

As far as lobbying, I see that and I read about it. I think some of the techniques in lobbying have changed somewhat but lobbying is no more, no less than the right to petition your government for redress of grievances. That's all it is and that's protected in the Constitution. It's also common sense. That's one of the things that separates free societies from totalitarian societies. Free societies can petition their government for redress of grievances, so that's what lobbyists do. They petition the government for redress of grievances. Goodness knows we've had a lot of grievances to petition about.

As a trade association [head], I've had the policy for years that we didn't buy dinners and give gifts to members of Congress, so now that's a rule, but we were already complying with it. So it didn't change anything from that. I suppose, there are little things that it sort of changes. If there was a book that was interesting on some subject I'd pass it along to a congressman who was a friend of mine and say, "Why don't you read this book and see what you think." I sort of look at that as transmitting the knowledge in the book as opposed to a gift of book. But you can't do that now if a book is over \$10.

CU: What in your past governing experience has helped you as CEO here?

SB: In Congress I learned the rules of the road of inside-the-beltway politics and that's essential to be able to lead a major trade association. As mayor, I was able to set the mission and identify the mission clearly that causes the rest of the organization to follow you. And then I was a CEO of a manufacturing company with profit and loss responsibility, with hiring, employment responsibility and all that goes with being a CEO. In a sense, CEO of a major trade association is all

three. It's politics and policy. It's leadership in the broad sense and then it's leadership in the CEO sense.

CU: How has your role as leader changed over the last decade?

SB: Well, I'm a change agent. As a CEO and a change agent, I'm always working, leading six months to two years in the future. The current crisis has clearly been all-consuming, but it's also been all-consuming in terms of trying to look six months to two years [ahead on] how to move out of it.

So, the answer is this trade association has gotten a lot stronger over the course of the last 10 years. But it's gotten stronger for fundamental reasons; that is, the larger financial services companies provide some 70 percent of the financing of the American economy and you should have a trade association that speaks for [them] because if we get it right, then 70 percent of the economy will be well-financed.

When I came in, the trade association and the policies in Washington (in some ways, the culture) were still centered on the highly decentralized bank on every street corner, small banks or small financial companies trying to serve the market, and that model had gone away 20 years prior. Large financial services companies could serve their customers better. More convenience, much lower costs, more customized so you can get the exact home mortgage or credit card or business loan that you need.

With the CEOs of the companies, we reshaped it to where it would look more like the current industry, which is large, integrated financial services companies. That means a big role with housing and mortgages, so we created the Housing Policy Council, this separate trade association within our trade association. It's an affiliate. We identified that identity theft had become a huge problem for our customers, so we created a separate affiliate to help people restore their identities when they'd been stolen. We've done that 60,000 times in the last five years. We discovered that the insurance agents (the agents are not our members, but the companies are) had not had anyone to speak for their need for reform. So we created Agents for Change, and 7,500 independent insurance agents are a part of that. And everything we do is based on a foundation of technology, so we created a whole subsidiary just for technology.

What I've done is to work with our members to identify all the needs that integrated financial services companies have, and meet all of those needs at once. We've had huge change. We've quadrupled our budget since 1999, not for any reason other than integrated financial services companies have multiple needs to respond to and we do it.

When the board of directors of this organization hired me, they said everything in their companies had been changing radically and the trade association had not. So they said we want you to change this trade association and make it responsive, integrated and serve our needs moving forward. If I'd come in here with a trade association that had not decided to change, and I started to try to change it, I wouldn't still be here.

Congress is riled up - Overdraft fees

Jennifer Liberto

CNNMoney.com

October 7, 2009

A new battle is brewing in Congress, riding the same populist wave that pitted banks against consumers on credit card fees earlier this year.

Momentum is gaining behind a proposed crack down on overdraft fees -- the big penalties banks charge when customers spend more than they have in their accounts.

More than 75% of banks automatically sign customers up for such programs, according to a study by the Federal Deposit Insurance Corp.

One of the big complaints is that many consumers only discover they have overdraft protection when they check their bank statement. Then it's too late. Suddenly a \$3 latte costs an extra \$35.

"It's extremely frustrating," said Phyllis Blanton, who lives near Wichita, Kan. Blanton said she recently had to straighten out some \$150 in overdraft fees at her local bank, accidentally incurred by her 20-year-old daughter, a college student. "I know the banks are getting stricter and more creative in the ways they're making money, but they're really just socking it to you," she said.

On Capitol Hill, lawmakers are working on bills that would force banks to curb and better disclose those fees. FDIC chief Sheila Bair has lately become a more vocal critic of overdraft fees, calling them "usurious" during a speech last month.

Separately, the Federal Reserve is working on new rules, which could be ready by year's end, to prevent banks from automatically enrolling customers in overdraft protection programs without their knowledge.

Increased criticism on overdraft fees has coincided with a move by banks to voluntarily cut back and change the way they charge overdraft fees.

Some banks are eliminating fees on customers who dip below their balance by a mere \$5 or \$10. Others plan to cap the number of overdrafts that can be racked up in a day.

Bank of America for example, will on Oct. 19 start charging customers no more than four overdraft fees daily. The current cap is 10.

JPMorgan Chase will start processing and clearing expenses in the order purchases were made, chronologically, instead of biggest to smallest, which can deplete bank accounts faster and lead to more fees.

Consumer advocates say the push in Washington to do something about overdraft fees prompted banks to make changes.

"They clearly know something is coming," said Melissa Koide of the New America Foundation, a left-leaning Washington policy group. "It's a very big populist issue so these big banks and the regional ones are reacting in anticipation, and that isn't a bad thing."

Banks say they're just responding to customer demands and market forces. Other banks that recently announced changes include: BB&T , City National, Fifth-Third Bancorp, PNC, Regions Financial, Toronto-Dominion, U.S. Bancorp and Wells Fargo.

The American Bankers Association says the industry is taking action for a small pool of customers, since most don't pay overdraft fees. A September ABA survey found that 17% of customers said they paid an overdraft fee in the previous 12 months and those that did said they were glad the transaction was covered.

"During tough economic times, when people have tapped all their other sources of credit, when they have to pay for gas or groceries, they really need that payment to go through," ABA spokeswoman Carol Kaplan said.

Big money

For banks, overdraft fees are a big revenue generator because so many people rely on debit cards. Some 75 out of 100 financial transactions are electronic, according to Moeb's Services Inc., an economic research firm.

The financial services industry is on track to make \$38.5 billion this year on overdraft and non-sufficient fund fees, up 38% from \$27.9 billion five years ago, Moeb's estimates.

A Center for Responsible Lending study released on Tuesday showed that overdraft fee income grew for banks and credit unions by 35% just between 2006 and 2008.

Mike Moebs, who owns Moebs Services, said the changes that banks have made so far will help consumers, but "we need a second step. ... We need to reduce the price of overdraft fees."

That's where the debate on Capitol Hill could get messy.

Rep. Carolyn Maloney, D-N.Y., has introduced a bill that would require all banks to allow customers to agree to participate in overdraft protection.

The bill would also force banks to tell customers when an account is on the verge of being overdrawn, so customers can make a decision whether a particular purchase is worth an overdraft fee. The legislation would also force banks to clear transactions chronologically, instead of biggest first.

Finally, Maloney's bill would force banks to make sure customers' account balances reflect what they actually have available. Some banks show an available balance reflecting both the customer's actual balance plus what's available through overdraft protection, giving a distorted view of what's available for purchases without fees.

Senate Banking Committee Chairman Chris Dodd, D-Conn., is drafting a bill that consumer advocates and congressional staffers predict will be even more aggressive. It could cap fees and the number of times fees can be charged daily. It could require banks to alert customers to their available balances each day.

But financial industry lobbyists say congressional action isn't needed. They argue that the industry's moves have already started trickling through the entire banking system to regional banks.

"Competition and customer concerns about overdraft fees forced the industry to respond -- that's the way it should work," said Scott Talbott, chief lobbyist for the Financial Roundtable, a banking industry group.

Veteran Hill watchers say they expect Congress to address overdraft fees -- and definitely before the 2010 elections next fall.

Current legislation is stuck behind bigger, more-pressing priorities.

Maloney's bill has yet to be considered by the House Financial Services Committee, which is slammed with hearings on overall financial regulatory

reform. In the Senate, bogged down by health care reform, Dodd's bill is expected to be released in coming weeks.

Credit Card Outrage

CNN

October 6, 2009

Scott Talbott was interviewed during a CNN piece on credit cards. Video can be watched [here](#).

Mortgage Servicing Firms Have Met Administration's Goals

Fox Business

October 7, 2009

Mortgage servicing companies are expected to report Thursday that they have started trial mortgage modifications for about 500,000 struggling homeowners under the Obama Administration's foreclosure prevention program, achieving an Administration goal a month ahead of schedule.

In August, the administration -- frustrated by the soaring number of foreclosures -- pushed servicing companies to accelerate mortgage modifications, asking them to initiate at least 500,000 trial loan restructurings by Nov. 1.

A financial industry source involved in the effort said Wednesday that a Treasury Department report to be issued Thursday will disclose that more than 50 servicing companies have approved about that number of 90-day trial modifications through September.

"This demonstrates that the program is working and demonstrates the industry's commitment to helping homeowners," said Scott Talbott, senior vice president of the Financial Services Roundtable, which represents about 100 of the nation's top financial firms.

The modifications are being made through the government's Making Home Affordable Program, under the administration's \$75 billion Home Affordability Modification Program. You can read more about them at <http://www.financialstability.gov/roadtostability/homeowner.html>.

Through August, servicing companies had approved trial modifications for 360,000 applicants. The companies were expected to begin approving thousands of them for permanent loan changes starting this month.

When the White House announced its mortgage assistance programs in February, it said the loan modification plan could help up to three million to four million homeowners over three years.

Fueled in part by rising unemployment, lenders have pushed more than two million homeowners into the foreclosure process so far this year, according to a recent RealtyTrac report. Government officials have predicted that up to six million homes could be lost to foreclosure in the current economic crisis.

Servicing companies include JPMorganChase (JPM), Bank of America (BAC), Wells Fargo (WFC) and Citigroup (C). They process monthly mortgage payments -- as well as manage foreclosures -- for their own mortgage portfolios and for mortgages held by private investors like pension funds and hedge funds.

In most modifications, within or outside of the administration program, servicers reduce monthly payments by agreeing to lower interest charges for several years.

Critics say the Treasury program does little to help the fastest-growing group of homeowners facing foreclosure -- those that have lost their jobs. Members of Congress and the administration have been considering new initiatives to assist unemployed homeowners, such as offering them short-term government loans to help them make monthly payments.

Mortgage Servicers, Government Head Off Foreclosures

Albert Bozzo

CNBC.com

October 8, 2009

Major mortgage loan servicers showed improved results heading off foreclosures in September, according to a government report released Thursday, helping the Obama administration hit a key target ahead of schedule.

The Treasury said its Making Home Affordable program crossed the 500,000 loan-modification mark earlier this week, well ahead of its previously-announced target date of Nov.1.

The announcement came as the government released its third monthly report, documenting private sector participation in the \$75-billion program, which was first outlined and launched with great fanfare in the spring.

Through the end of September, some 63 firms had signed onto the program, resulting in 487,081 trial modifications, up from 360,000 in July. Some 758,000 borrowers have been made offers so far.

In a statement, the Treasury said "trial modifications are now being issued at a faster rate than new homeowners are becoming eligible," but added "the administration believes that more can and should be done to assist struggling homeowners and to stabilize the housing market."

Data on success rates at this point is limited and in a way lagging. The program is barely six months old and its terms require that a modified loan stay current for three months to be considered a success.

JPMorgan Chase had the most underway as of September —117,196. Citigroup's mortgage unit had modified 68,248 loans through Sept. 30, followed by Wells Fargo with 62,989 loans.

As CNBC.com first reported earlier Thursday before the release of the report, Bank of America had increased the number of customers with a trial mortgage modification by 62% in September to almost 95,000.

The bank, which recently suffered the surprise resignation of its longtime CEO Kenneth Lewis, also increased the total number of modification offers under the Home Affordable Modification Program to 156,120 last month, versus 125,338 in August, saying its overall efforts "continue to grow."

The government program also includes a refinancing component, which is meant to decrease the number of potential defaults. BofA says that as of September it has taken more than 144,000 applications in that category and funded some 60 percent of them.

BofA, which faces lawsuits and investigations by lawmakers and regulators over its takeover of Merrill Lynch, including a bonus scandal, last year, had been among a group of servicers who's efforts had been called into question at the beginning of the program.

After a slower-than-expected start, the government in July set an intermediate goal of 500,000 modifications by Nov. 1. (The initial goal was for 3-4 million in the first two years.) While acknowledging the usual start-up problems, White House officials still blamed servicers for the poor showing and asked them to redouble their efforts.

Industry and government efforts to contain the foreclosure problem are being thwarted by rising unemployment, which is squeezing homeowners, and forcing more to become delinquent.

Foreclosures continue to run at a record rate, despite a multitude of government and private programs. The problem has spread well beyond its original flash point, the subprime sector.

The Obama administration launched the massive Making Home Affordable Program in the early spring, replacing a Bush era one that was widely considered a flop.

In all, the government hopes to assist as many as 7 million to 9 million needy homeowners, through loan refinancing or modification. About 85 percent of the estimated 55 million outstanding mortgages are covered under the program.

BofA has some 875,017 loans classified as past due 60 days or more—a key measure of mortgage delinquency as well as a foreclosure barometer, according to the Treasury report. That number is the most in the nation.

The program is designed to help homeowners already in trouble (the loans have become delinquent) and those who may be headed for it. Loan servicers receive a fee of \$1,000 per loan modification. In addition, they receive a \$1,000 a year for three years if the modified loan stays current.

The program also covers underwater borrowers, another growing problem. Industry groups welcomed the latest data.

"The industry is optimistic that our multi-pronged efforts to keep homeowners out of foreclosure are working," said The Financial Services Roundtable, which represents many of the largest integrated financial services. "But much work remains to be done,"

Mortgage modification program hits initial target

Jim Puzzanghera

LA Times

October 9, 2009

Reporting from Washington - The often-criticized government program to help homeowners avoid home foreclosures has reached its initial goal for modifying mortgages -- after the Obama administration started prodding banks in July to move more quickly in easing loan terms.

But it might be too little too late to stem the tide of foreclosures.

A government oversight report to be released today expressed doubts that the administration would reach its overall objective of preventing 3 million to 4 million foreclosures, much less keep many of those who modified their mortgages from losing their homes.

Federal officials said Thursday that the Making Home Affordable program reached its initial target of 500,000 trial mortgage modifications more than three weeks ahead of schedule.

The result indicated that despite their early sluggish response, banks and mortgage servicing companies could have pushed modifications through the program more aggressively since its launch in March, said Ken Stein, associate director of the California Reinvestment Coalition, an advocacy group for homeowners.

"They're improving and that's good, but the numbers are still insufficient," he said.

Industry officials, however, said banks already were modifying loans on their own -- about 2 million since late 2007 through the industry's Hope Now program -- and they pointed out that it took time for the government initiative to get up and running.

"This is a new program that had a lot of kinks," said Scott Talbott, the top lobbyist for the Financial Services Roundtable, which represents large financial institutions. "And now it is up to speed, and I expect the pace to continue."

But in a report today, the Congressional Oversight Panel monitoring use of government bailout money raised concerns about the effectiveness of the \$75-billion Making Home Affordable program.

"It isn't clear the program in place will do enough to tame the crisis," said Elizabeth Warren, the panel's chairwoman. The report also questioned whether the modifications would put homeowners into "long-term stable situations."

Analysts echoed those worries, saying there's a long way to go to get those 500,000 homeowners into long-term restructured mortgages that they would be able to afford. And although the program is helping ease the foreclosure crisis, it's unlikely to end it.

"The [program] is kicking into a higher gear, but not high enough to forestall a

continued increase in foreclosures and more house price declines," said Mark Zandi, chief economist at Moody's Economy.com.

Borrowers whose mortgages are modified tend to default on the new terms at a high rate, he said. Of the estimated 4.5 million homeowners in foreclosure or headed there with mortgages 90 days or more delinquent, the program ultimately will save only 1 million of them, Zandi predicted.

Obama administration officials said they understood that foreclosures continued to rise and intended to keep the pressure on mortgage companies. But they touted the improved participation in the program.

"We believe we are absolutely moving in the right direction and have reached an important turning point in our modification efforts . . . but we are nowhere near the finish line yet," Housing and Urban Development Secretary Shaun Donovan said.

Officials from HUD and the Treasury Department met Thursday with top mortgage servicers in Washington to discuss improving responsiveness to borrowers and the efficiency of the program.

The program was designed to ease foreclosures by helping struggling homeowners modify their mortgages, such as by cutting interest rates and extending the length of the loans. But government guidelines and other rules weren't released right away, and banks shied away from the program even after it was refined.

This spring, the government added cash incentives for borrowers and lenders to participate. And in July Donovan and Treasury Secretary Timothy F. Geithner pushed the chief executives of mortgage servicers to increase staffing, streamline application procedures and improve their customer response.

Geithner said the three-month trial modifications are being added at a faster rate than homeowners are becoming eligible for the program. Administration officials said that about 40% of the nation's estimated 1.2 million eligible homeowners were taking part.

The latest comprehensive data, as of Sept. 30, showed that JPMorgan Chase & Co. had modified the most mortgages, 117,196, followed by Bank of America Corp.'s 94,918 and Citigroup Inc.'s 68,248.

The pace of loan modifications has nearly doubled since the end of July. But the 487,081 trial modifications as of the end of September amount to just 16% of the eligible delinquent mortgages.

House Votes to Extend First-Time Home Buyer Tax Credit for Service Members

Luke Mullins

US News & World Report

October 7, 2009

Amid mounting speculation over the future of the \$8,000 first-time home buyer tax credit, Congress moved today to give American service members another 12 months to claim the popular incentive. The House of Representatives voted 416 to 0 to pass the Service Members Home Ownership Tax Act of 2009, which pushes the credit's current November 30 deadline back an additional year for members of the military, Foreign Service, and intelligence corps who served at least three months of qualified overseas duty in 2009. "This bill makes sure that the brave men and women who put their lives on the line every day get to enjoy the same benefits as every other American who benefits from their service," said Rep. Charles Rangel, the New York Democrat who introduced the bill. "By extending the first-time homebuyer tax credit for service members overseas, we give these families more time to utilize the benefit, while also helping our economy continue its recovery." Here are five things you need to know about the development:

1. Missing out: The \$8,000 first-time home buyer tax credit was part of President Barack Obama's \$787 billion economic stimulus package

, which he signed into law in February. The incentive has since been popular with home buyers; Mark Zandi, the chief economist at Moody's Economy.com, expects the program to generate as many as 400,000 additional new and existing home sales by the end of November, when the program is set to expire. But since many American service members have been living overseas, it has been difficult for them to take advantage of the program. "If you are in a conflict zone, you don't have time to get together with your spouse and family to go house shopping," says Rep. Ron Kind, a Wisconsin Democrat. Rep. Dave Camp, a Republican from Michigan, expressed similar concerns. "A lot of service members get called overseas at a moment's notice," Camp says. "And because of the time limit on the legislation now, they can't always take advantage of it, not because of anything that they did or didn't do but because of the unique nature of serving in our armed forces." The legislation the House passed today provides American service members with additional latitude to take advantage of the credit.

2. Impact: Robert Dietz, the director of tax issues for the National Association of Home Builders, estimates that the new legislation will result in an additional 10,000 home sales. (Kind projected a similar outcome.) And while these additional sales are unlikely to affect the real estate market at the national level, since service

members tend to live in clusters—around Army bases, for example—the extension could end up benefiting some individual housing markets more profoundly, Dietz says. "Ordinarily, I would say 10,000 [additional home sales] is not a big deal," Dietz says. "But in this case, in certain communities—since housing is local—it could be a decent [boost]."

3. Costs: The housing tax credit components of the bill are projected to trigger a \$77 million loss of federal revenue over the next 10 years. Other parts of the bill, however, generate enough new income—by raising penalties associated with late filings of certain partnership and corporation documents, for example—to ensure that it will not add to the government's yawning budget deficits. "It's revenue neutral," Camp says. "It was fully paid for."

4. Political outlook: From here, the action now moves to the Senate, which must also pass the measure before it can be signed by the president. "I would expect it is going to receive wide bipartisan support," Kind says. "It's the least that our government can do for our service men and women." **Scott Talbott, a top lobbyist for the Financial Services Roundtable, agrees. "It probably has even better odds in the Senate," he says. "Service men and women need it as much as anyone."**

5. Extension for all first-time buyers: The development comes as lawmakers step up their efforts to extend the tax credit for all first-time homebuyers. The issue was raised yesterday during a meeting at the White House between congressional leaders and President Obama. "We need to continue working toward ensuring that more families can stay in their current homes and continue efforts to strengthen the housing market by extending the homebuyer tax credit," Senate Majority Leader Harry Reid, a Democrat from Nevada, said after the meeting. Senator Johnny Isakson, a Republican from Georgia, has introduced legislation that would extend the credit for an additional year. Reid, meanwhile, has endorsed a bill introduced by Maryland Sen. Ben Cardin, a Democrat, pushing the deadline back for six months. **Talbott says the six-month extension is "very likely" to become a reality. "It threads the needles of politics and costs," Talbott says. "The U.S. economy and the housing market desperately need it."**

Credit Card Crackdown

10 NBC News
Friday, October 9, 2009

New fees and higher interest rates. Many credit card companies have been accused of charging consumers more before new legislation aimed at preventing that goes

into effect in February. Now lawmakers are thinking about forcing banks to comply sooner than planned.

The credit card holder's bill of rights, passed last spring, is aimed at helping couples like the Lanes deal with their credit card bills by imposing limits on when and how banks can hike rates but it doesn't go into effect until mid February.

So right now it can't help them with this: "I am calling to find out why my payment jumped from \$370 to \$911 this month," Chuck Lane said.

The Lanes have been paying on time but like many others their credit card company recently more than doubled their minimum payment.

Democratic Congressman Barney Frank, chairman of the House Financial Services Committee, wants to see the credit card rules take effect earlier - December 1 rather than February. Frank said, "We said at the time if this time was used to bring advantage of the lag to move things up- that would be a problematic for us and in my judgment some of that has happened."

Banks have argued that heightened fees are necessary in order to continue to provide credit in a rocky economy and some banks have promised to adopt consumer-friendly policies on their own.

An industry representative says the card companies are just trying to protect themselves.

Scott Talbott from the Financial Services Roundtable said, "The industry is not making changes to interest rates or lines of credits in anticipation of the new law it's simply a reflection of the changing economic times."

Democrats are also pushing for a new consumer financial protection agency which would enforce regulation on the financial industry, something the president is scheduled to talk about this afternoon at the White House.

[\(The Hill\) Banks: Accounting change may hurt economic revival](#)
[\(Reuters\) Pay Czar Kenneth Feinberg to Keynote Nov. 2 Event in Washington, D.C.](#)

[\(RealEstateRama\) Mortgage Servicers Meet Goal of 500,000 HAMP Trial-Modifications: Work Continues to Aid Troubled Homeowners](#)

[\(BBC\) Scott Talbott on CFPA](#)

[\(GovernmentExecutive.com\) Treasury improves communications about financial bailout program, GAO says](#)

Treasury improves communications about financial bailout program, GAO says
GovernmentExecutive.com

Aliya Sternstein

October 9, 2009

The Treasury Department has begun to better inform Congress and the public about the results of the government's financial bailout program, a past failure that had threatened to undermine the initiative, according to federal auditors.

In a review of the Troubled Asset Relief Program published on Thursday, the Government Accountability Office reported that the department has followed GAO recommendations to keep the public and Congress informed of changes and developments through Treasury's Web site.

"In light of the backlash from Congress and others regarding Treasury's initial shift in the program from purchases of mortgages and mortgage-backed securities to capitalization of financial institutions, we made a series of recommendations over the past year aimed at improving . . . communication with Congress and the public," the report stated. "Treasury continues to take steps to address these recommendations, including hiring a communications officer, integrating communication into TARP operations, scheduling regular and ongoing contact with congressional committees and members, and attempting to leverage technology."

In March, GAO reported that Treasury had poorly communicated the financial results of the bailout program, which could have jeopardized future funding for the initiative. For example, the Obama administration failed to report the government received almost \$3 billion in dividend payments from its investments.

Improvements to FinancialStability.gov, the Web site of the bailout program, include the addition of a user survey to collect feedback. Treasury's Office of Financial Stability also formed a working group to ensure the department coordinates internal and external communications and plans to hire appropriate staff to support its communications strategy. The department plans to hire a director of communications who will be stationed at the office, as GAO noted.

Treasury also now publishes online a monthly lending survey of the 22 largest financial institutions in the bailout's capital purchase program. The program, Treasury's largest initiative to stabilize the financial system, will provide as much as \$218 billion to banks through the purchase of preferred shares and warrants.

But some Congress members said the quality of the information that Treasury is posting falls short of transparency. "The most fundamental thing is to know how

much taxpayers are on the hook for and how much assets are being spent and what they are going toward," said Kurt Bardella, spokesman for Rep. Darrell Issa, R-Calif., the ranking member on the Oversight and Government Reform Committee.

Bardella pointed to a report issued by the special inspector general for TARP this summer that criticized Treasury for not upholding its promise of openness. The July 21 report to Congress found that TARP has become a program in which taxpayers are not being told what most fund recipients are doing with their money, how much their substantial investments are worth or the full details of how their money is being invested.

"In [the special inspector general's] view, the very credibility of TARP (and thus in large measure its chance of success) depends on whether Treasury will commit, in deed as in word, to operate TARP with the highest degree of transparency possible," the report stated.

Bardella said he is pleased that Treasury is enhancing its site, but "the more important questions are those being raised by the [special inspector general]."

David John, a senior research fellow at the Heritage Foundation, a think tank that supports limited government, said, "It is very fine for them to have improved communications, but the overall program was flawed from the start. The *Titanic* had good communications, but it still sank."

Financial institutions said the site's online disclosures strike the right balance between holding banks accountable and preventing market disruption. **"You can see who got what, who repaid what -- all the facts and figures that taxpayers need to know,"** said Scott Talbott, senior vice president for government affairs at the Financial Services Roundtable, an industry group. **"There's a risk here -- you don't want to reveal sensitive information that could lead an investor or a depositor to draw incorrect conclusions about an institution which could have"** (Story as published abruptly ends here)

Scott Talbott on CFPA

BBC

October 9, 2009

Scott Talbott appeared on the BBC to discuss the proposed Consumer Financial Protection Agency. Clip is not yet available.

Banks: Accounting change may hurt economic revival

Silla Brush

The Hill

October 13, 2009

Financial and real estate interests are making a strong push for federal regulators to delay the impact of a new accounting rule effective at the beginning of next year.

The rule bans the use of controversial financial entities that allowed firms to shift risks away from their bottom lines. Before the financial crisis, banks and other financial firms relied heavily on special financial vehicles to support the booming market for securities based on residential, commercial and other loans.

By using “qualifying special purpose entities,” banks benefited from not having to maintain more capital to offset the risk in the assets. The special vehicles and their assets were “off balance sheet” and did not appear to affect the banks’ core business.

Industry groups are now lobbying federal financial regulators to delay the implementation of any change in capital requirements resulting from the new accounting rule. They argue the economy continues to struggle and the change could threaten signs of improvement in the financial sector.

The rule was approved earlier this year by the Financial Accounting Standards Board (FASB), the nonprofit organization that sets accounting rules, and is slated to take effect on Jan. 1, 2010.

The nation’s biggest banks and real estate interests are leading the charge in the effort because the securitization process for residential and commercial loans relied heavily on the special vehicles.

When federal regulators stress-tested the country’s 19 largest financial institutions this spring, they concluded that the accounting rule could shift \$900 billion in assets onto bank balance sheets.

That shift would require firms to increase capital to meet regulatory obligations, although the stress-test results took those requirements into account. The new requirements would affect all banks, not just the 19 largest. Industry groups say the rule could force banks to raise tens of billions of dollars in new capital.

John Courson, president and chief executive officer of the Mortgage Bankers Association (MBA), said the accounting rule “may hinder the current economic recovery under way.”

MBA and the Commercial Mortgage Securities Association (CMSA) filed a comment letter to federal regulators last week. Lobbying associations also have made a strong push that the regulations should be delayed because the association that sets international accounting standards has yet to come out with a similar rule.

“This should serve as further reason to delay the regulatory capital impact,” said Dottie Cunningham, chief executive officer of the CMSA.

The Financial Services Roundtable, which includes the 100 largest financial firms, supports delaying the rule from taking effect, said Melissa Netram, the association’s director of regulatory affairs.

The American Securitization Forum, another lobbying association, is seeking a six-month delay in any change to capital requirements, or at least a phase-in period.

“With any increase in required capital, a banking institution is likely to reduce the amount of lending using such securitization vehicles, as well as other lending,” the American Bankers Association wrote in a letter to regulators. The association, the nation’s biggest banking lobby, suggested that any transition period should be three years at least, with no change in regulatory capital impact in the first year.

In a letter to regulators, Capital One bank said it is still difficult to raise capital in private markets and that the change might lead firms to reduce lending.

“This runs counter to the government’s attempts to increase available liquidity and capital to the industry,” the firm said.

The lobbying push comes several months after an industry coalition, the Financial Instruments Reporting and Convergence Alliance (FIRCA), was formed to tackle an array of accounting debates, including the issue of off-balance-sheet rules.

The coalition is led by the U.S. Chamber of Commerce and has supported a delay in the accounting rule.

Pay Czar Kenneth Feinberg to Keynote Nov. 2 Event in Washington, D.C.
Reuters
October 12, 2009

COLLEGE PARK, Md., Oct. 12 /PRNewswire-USNewswire/ -- The University of Maryland's Robert H. Smith School of Business will launch a new Center for Financial Policy on Nov. 2 with a Roundtable on Executive Compensation event in Washington, D.C. Kenneth Feinberg, Special Master for Compensation of the

U.S. Department of the Treasury, will keynote the event, which will explore executive compensation practices and policy reforms. The Center for Financial Policy promotes research and education in financial policy that impacts corporate governance, capital allocation and risk management, emerging markets, and the stability of the global financial system.

"It is crucial to tackle financial policy issues with input from deep thinkers who have been looking at the workings of financial institutions, capital markets and the corporate sector from an unbiased policy perspective. The goal of the Center for Financial Policy is to bring together the thought leadership of Smith School faculty, the vast experience and viewpoints of policy-makers, and the experience and on-the ground capabilities of industry leaders to inform future regulation and help financial institutions operate more effectively," said G. "Anand" Anandalingam, dean of the Robert H. Smith School of Business. "With the Roundtable on Executive Compensation, the center is engaging all parties on a topic of direct relevance and facilitating an open discussion that could have real impact on pay practices."

The roundtable event, "Executive Compensation: Practices and Reforms," will be held at the Ronald Reagan Building and International Trade Center in Washington, D.C. on Nov. 2 from 9:30 a.m. to 3:30 p.m. It will explore the rationale and practices for existing executive compensation structures as well as various alternatives for reform in view of policy and legislative proposals. The global financial crisis has generated extensive debate on the role of executive pay and the possibility that flawed compensation practices have contributed to financial excesses that brought down the entire financial system.

In addition to Feinberg, other speakers include: Daniel Tarullo, Federal Reserve Board governor; **Steve Bartlett, president and CEO of the Financial Services Roundtable**; Patrick McGurn, senior vice president, U.S. Corporate Governance Trends, RiskMetrics; Nell Minow, editor and co-founder of the Corporate Library; Franklin Allen, finance and economics professor at the Wharton School at the University of Pennsylvania; Tony Santomero, former president of the Federal Reserve Bank of Philadelphia and senior advisor at McKinsey; Chester Spatt, finance professor at Carnegie Mellon University and former chief economist with the Securities and Exchange Commission; and Gene Ludwig, founder and CEO, and Michael Dawson, managing director, both of Promontory Financial Group.

Located in Washington, D.C. at the Smith's School's campus in the Ronald Reagan Building and International Trade Center, the Center for Financial Policy is well-situated to take a leadership role with its globally recognized faculty and its extensive relationships with key policy-makers, practitioners and academics.

Lemma Senbet, the William E. Mayer Chair Professor of Finance and a world-leading expert on corporate finance and financial sector reforms, heads the center as director. Senbet is joined by Managing Director Clifford Rossi, an industry leader with nearly 25 years experience in banking and government, most recently as Chief Risk Officer for Consumer Lending at Citigroup where he was intimately involved in TARP funding and stress tests performed on Citi. The center's leadership is rounded out by finance industry veteran William Longbrake, the executive-in-residence and senior policy advisor who joined to work on a variety of business, policy, and governance issues with faculty, students, business leaders, government policy-makers, and executives of not-for-profit organizations.

The Center for Financial Policy will host a regular speaker series to explore financial policy and corporate governance issues, the first of which was held Oct. 5 with leading economist Henry Kaufman. The center will also host the yearly Directors' Institute, an intensive two-day program for board chairs, corporate directors and senior executives of publicly traded companies to address critical issues facing corporate boards. The inaugural program will be held April 7-9, 2010 in Washington, D.C., run by Director Stephen Wallenstein, a senior fellow of finance and recognized expert in corporate governance and best practices for publicly traded companies in the U.S. and abroad.

Mortgage Servicers Meet Goal of 500,000 HAMP Trial-Modifications: Work Continues to Aid Troubled Homeowners
RealEstateRama
October 12, 2009

The Financial Services Roundtable and its Housing Policy Council applauded the efforts of mortgage servicers in meeting the goal of 500,000 Making Home Affordable (HAMP) trial-modifications, announced today. The goal was set by the Treasury Department and mortgage servicers in a July meeting.

“We are pleased with industry efforts thus far in reaching 500,000 trial HAMP modifications, but much work remains to be done,” said Steve Bartlett, President and CEO for the Roundtable. “Although unemployment

and customer responsiveness remain serious challenges, the industry is optimistic that our multi-pronged efforts to keep homeowners out of foreclosure are working.”

“Regardless of the homeowner’s situation, there are options available to them to prevent a foreclosure. Homeowners can get help at the HOPE NOW Alliance’s foreclosure workshops, the Homeowner’s HOPE Hotline, 888.995.HOPE and by contacting their servicer directly,” said John H. Dalton, President of the Housing Policy Council. “Nothing is worse than doing nothing.”

Servicers are continuing to provide additional solutions to help homeowners who do not qualify for HAMP. These efforts will also continue. The most recent data released by the HOPE NOW Alliance stated that over 2.1 million homeowners had received assistance since January 2009. Additionally, 325,000 workouts were implemented in August alone.

“We are also pleased that Treasury is listening to suggestions from homeowners and servicers about the HAMP program and is working to streamline its requirements and reduce unnecessary paperwork,” said Dalton. “We hope they will continue to work with all those involved with the HAMP program to make it as effective as possible.”

The Roundtable’s Housing Policy Council is made up of twenty-six companies that are among the nation’s leaders in mortgage finance. Member companies originate sixty-five percent of the mortgages for American home buyers. Member companies participate in the Council through the senior mortgage executive in their company.

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO.

Roundtable member companies provide fuel for America’s economic engine, accounting directly for \$84.7 trillion in managed assets, \$948 billion in revenue, and 2.3 million jobs.

**Scott Talbott on the Situation Room with Wolf Blitzer
CNN**

October 12, 2009

BLITZER: The Obama administration is touting the success of its mortgage modification program designed to help eligible Americans avoid foreclosure. But our viewers are telling us a very different story about their efforts to try to keep their homes.

CNN national political correspondent Jessica Yellin is here with a reality check.

Jessica, what is going on?

JESSICA YELLIN, CNN CONGRESSIONAL CORRESPONDENT: Well, Wolf, not long ago, we told you the stories of some very frustrated, sometimes even desperate homeowners who are just getting the runaround from their banks when they apply for the president's new mortgage assistance program. Now the administration is saying this program is on track and doing better. We decided to take a closer look.

(BEGIN VIDEOTAPE)

YELLIN (voice-over): After CNN first reported on problems with the president's mortgage assistance program...

MARK KOLLAR, HOMEOWNER: Now I feel like we have been -- what's the proper word? Screwed? YELLIN: ... we were flooded with iReports, like this one from Joe and Jill Woods (ph), trying to hang on to their Ohio house. They say the bank kept losing their paperwork, finally approved them for the program, then came back and denied them.

Now Timothy Geithner's Treasury Department says the program has hit a milestone -- 500,000 Americans now have lower-cost trial mortgages through the program. If those homeowners stay current for three months, the offer could be made permanent.

A financial industry lobbyist is optimistic.

SCOTT TALBOTT, SENIOR VICE PRESIDENT FOR GOVERNMENT AFFAIRS, FINANCIAL SERVICES ROUNDTABLE: We're confident that a vast mortgage of these trial mods will turn into permanent modifications and be able to stay in their homes at the end of the three-month program.

YELLIN: So, how are the banks that got big taxpayer bailouts doing? Citibank, 33 percent of their eligible customers have the trial mortgage payments. J.P. Morgan

Chase, 27 percent, not bad. But Bank of America, they have struck the deal with only 11 percent of their eligible customers. And Wachovia, which is owned by Wells Fargo, also a huge bailout recipient, only 3 percent.

DIANE THOMPSON, NATIONAL CONSUMER LAW CENTER: I think so far the program has been a disappointment.

YELLIN: Attorney Diane Thompson has given congressional testimony about the program. She says plenty is still going wrong.

THOMPSON: Some people are still being asked to sign waivers of all their legal rights. We have lots of examples of people being put out of their homes while they're waiting to hear back on the status of their modification, lots and lots of cases of people being wrongly denied without any explanation.

(END VIDEOTAPE)

YELLIN: Now, Wolf, we reached out to the two banks I mentioned that have the lower participation rates. Bank of America says, look, they're taking the problem seriously. They have increased staffing. They're even going door to door in some instances reaching out to customers who have not responded to offers.

Wells Fargo says in just the last month, the company overall has dramatically increased the number of homeowners in the program. They say they're making it easier to submit documents. Bottom line, banks insist they're working overtime to help folks keep their homes, but we will stay on top of this -- Wolf.

BLITZER: Good reality check from Jessica. Thanks very much for that.

Northern Ireland's former enemies win praise and a promise from Secretary of State Hillary Clinton. Plus, the two top Democratic leaders in Congress, the Senate majority leader, Harry Reid, the House speaker, Nancy Pelosi, they are facing some serious political problems, the Republicans going after both. The best political team on television is standing by.

(COMMERCIAL BREAK)

BLITZER: The best political team on television is standing by.

**Bartlett Sees Financial Overhaul, Consumer Protection
Bloomberg TV**

October 9, 2009

Steve Bartlett, president of the Financial Services Roundtable, talks with Bloomberg's Mark Crumpton about the outlook for an overhaul of U.S. financial regulation. President Barack Obama today urged Congress to close gaps in financial regulations that will protect consumers from practices that have helped push some Americans deep into debt. The president's proposals include creation of a Consumer Financial Protection Agency. Link is [here](#).

Scott Talbott on Bloomberg Radio
Bloomberg
October 9, 2009

Scott Talbott was on Bloomberg Radio discussing the President's remarks on the proposed Consumer Financial Protection Agency on October 9, 2009. Audio clip is currently unavailable.

Scott Talbott on BBC
BBC
October 9, 2009

Scott Talbott was on the BCC discussing the President's remarks on the proposed Consumer Financial Protection Agency on October 9, 2009. Video clip is currently unavailable.

Liam E. McGee Named Chairman and CEO of the Hartford
Biotech Week
October 14, 2009

The Hartford Financial Services Group, Inc. (NYSE: HIG) announced that Liam E. McGee has been appointed Chairman of the Board of Directors and Chief Executive Officer, effective October 1, 2009. Until recently, McGee was President of the Consumer and Small Business Bank for Bank of America Corporation (NYSE: BAC) where he operated the nation's largest retail bank, serving more than 50 million consumer households and small businesses with over 6,100 domestic banking centers, nearly 100,000 employees and the nation's largest online and mobile bank (see also).

"Liam's strong track record of success in leading large, complex financial services organizations makes him the ideal person to build on The Hartford's strong

foundation," said Michael G. Morris, The Hartford's presiding director. "He has an outstanding combination of leadership skills, financial acumen and operational and technology experience, along with a demonstrated ability to evolve and profitably grow businesses in response to changing business environments and customer needs. We welcome Liam to The Hartford and look forward to working with him as he leads the company into its third century."

McGee stated, "The Hartford has a strong brand that has been associated with trust and integrity for 200 years, great business franchises, a talented team of employees, and enduring relationships with distribution partners. In an environment of intense competition, technological innovation and changing consumer and business behavior, there are clear opportunities to create competitive advantages. By leveraging and building on The Hartford's strengths, we will enter our third century as an industry leader, well positioned to achieve the expectations of our customers, shareholders, partners and employees."

McGee succeeds Ramani Ayer, who in June announced his intention to retire from the Company. Ayer will resign as Chairman and CEO effective October 1, 2009 and will retire on November 1, 2009, following a brief transition period. Ayer has served as Chairman and CEO of The Hartford since February 1997 and has spent his entire career serving the company.

Commenting on the announcement, Ayer said, "Liam is a proven leader in the financial services industry with an outstanding set of skills, a deep appreciation of balancing risk and return, and broad experience in a variety of financial businesses. He also shares The Hartford's values, including product and customer service excellence, integrity, and a commitment to giving back to the communities in which we operate. I look forward to working with Liam to ensure a smooth transition."

"Ramani's deep industry experience, integrity, and strong leadership skills have been instrumental to the success of The Hartford over the course of his 36-year career with the company," added Morris. "We are grateful for the contributions he has made and for his continuing dedication to The Hartford. On behalf of the Board and our 29,000 employees, I sincerely thank Ramani for his lifetime of service to - and his distinguished leadership of - The Hartford."

Biography of Liam E.

McGee Liam E. McGee, 55, served until recently as president of the Consumer and Small Business Bank for Bank of America Corporation, where he ran a business that served 50 million consumer households and small businesses through a distribution network that included over 6,100 branches and the nation's largest

online and mobile bank. He was responsible for products and services including Deposits, Debit and integrated solutions for Small Business and Mass Affluent customers. He also oversaw the corporation's global technology and delivery in more than 30 countries. He was instrumental in leading the integration of a number of companies acquired by Bank of America over the years, including FleetBoston, MBNA, and La Salle, as well as teams focused on a number of product innovations like Keep the Change™ and No-Fee Mortgage Plus™.

McGee joined Bank of America in 1990. During a banking career that spans more than three decades, he developed broad leadership experience in consumer banking, corporate and commercial banking, and technology and operations. Prior to Bank of America, he held senior positions at Wells Fargo.

Active in civic affairs and education, McGee is a member of the National Urban League Board of Trustees and **the Financial Services Roundtable Board of Directors**. Additionally, he serves on the board of the Andres H. Bechtler Arts Foundation. McGee has acted as chairman of both the University of San Diego Board of Trustees and the United Way of Greater Los Angeles, and served two terms as a director of the Los Angeles branch of the Federal Reserve Bank of San Francisco.

A native of County Donegal, Ireland, McGee grew up in Southern California and speaks Spanish fluently. He is a graduate of the University of San Diego, with a master's degree in business administration from Pepperdine University and a law degree from Loyola Law School.

McGee and his family currently reside in Charlotte, North Carolina and will relocate to the greater Hartford area. About The Hartford Celebrating nearly 200 years, The Hartford (NYSE: HIG) is an insurance-based financial services company that serves households, businesses and employees by helping to protect their assets and income from risks, and by managing wealth and retirement needs. A Fortune 500 company, The Hartford is recognized widely for its service expertise and as one of the world's most ethical companies. More information on the company and its financial performance is available at www.thehartford.com.

House panel to begin push on financial overhaul
By ANNE FLAHERTY and JIM KUHNHENN
Associated Press
October 14, 2009

WASHINGTON — Small neighborhood banks and the U.S. Chamber of Commerce are overshadowing the nation's biggest banks in influencing lawmakers

as Congress begins the initial phase of its long-awaited overhaul of how the government regulates financial companies.

The House Financial Services Committee on Wednesday is taking up key elements of President Barack Obama's proposal for correcting the practices of banks, investment houses and other financial institutions that caused last year's economic collapse.

Up first is a measure that for the first time would regulate privately sold derivatives like credit default swaps, the complex contracts that brought down Wall Street banking house Lehman Brothers Holdings Inc. and nearly toppled insurance giant American International Group Inc.

The committee also wants to establish a Consumer Financial Protection Agency to police mortgages, credit cards and other consumer products offered by banks and other financial institutions.

Bankers and Republicans generally oppose the new agency, but community banks and the Chamber of Commerce have wielded the most influence in getting the House panel's Democrats to modify and clarify the regulatory powers that Obama would give it.

Neighborhood banks "have some legitimate concerns we're dealing with," Rep. Barney Frank, the committee's chairman, said in a recent interview with The Associated Press.

"The big banks have no clout," added Frank, D-Mass. "Bank of America, JPMorgan Chase. Nobody cares what they think, literally."

However, one sticking point is whether to give states additional powers to regulate the consumer practices of federally chartered banks. Obama and Frank favor doing it; Rep. Melissa Bean, a moderate Democrat from Illinois, is leading the opposition against it.

Obama and Treasury Secretary Timothy Geithner have made the regulatory overhaul a top priority, meeting privately with lawmakers in recent weeks and agreeing to scale back the administration's consumer protection plan in the face of widespread business opposition to it.

Frank dropped several of Obama's proposals, including making banks offer standardized "plain vanilla" mortgages. His draft bill also omits Obama's proposal to make lenders take added measures to ensure that their communications with customers are not deceptive.

"There are some improvements to what we proposed, but the core reforms look intact," Geithner told reporters Tuesday.

The Chamber of Commerce has conducted a \$2 million advertising and organizing campaign against the consumer agency, provoking even Obama to criticize their tactics. But after the group's ads warned that small retailers might fall under the new agency's jurisdiction, Frank made clear that businesses that don't offer financial products won't be covered.

Scott Talbott, senior lobbyist at the Financial Services Roundtable, which represents the biggest banks and financial firms, said the industry supports increased consumer protections but remains overwhelmingly opposed to a new federal regulator enforcing them.

"It's easy to demagogue the industry. But our role in the economy remains as vital as ever," he said.

While big banks may not have Frank's ear, the industry as a whole is a substantial contributor to congressional campaigns. Its influence will undoubtedly grow later this year as lawmakers tackle the risks that the nation's biggest, most intertwined financial institutions pose to the entire economy.

Combined, employees and political action committees from the finance, insurance and real estate industries have contributed more than \$53 million this year to members of Congress and the political parties, according to the Center for Responsive Politics, a watchdog of money and politics.

That broad sector also has spent nearly \$223 million on lobbying this year.

More than \$6 million went to members of Frank's committee as of the end of July, the latest figures available. Twenty-seven of the committee's 71 members have received more than one-quarter of their total political contributions from that business sector, according to a study by the nonpartisan Sunlight Foundation.

Frank has received nearly \$240,000 from the finance-real estate-insurance sector this year; the committee's top Republican, Spencer Bachus of Alabama, has received \$161,000. Bean has received nearly \$270,000.

Wall Street Set for Record Payouts a Year After Crash
News Hour with Jim Lehrer
PBS

October 14, 2009

JIM LEHRER: Now our story on a return to record compensation in the financial industry.

Jeffrey Brown has our report.

JEFFREY BROWN: Profits are rolling in again on Wall Street, just a year after it led a crash that nearly brought down the global financial system.

MAN: The New York Stock Exchange has just passed down Dow 10000 2.0 hats.

JEFFREY BROWN: And now, after trillions of dollars in taxpayer-funded rescues, it was reported today that the financial sector is also on pace to set a new record for executive compensation.

A Wall Street Journal analysis says 23 top firms will pay out \$140 billion this year. That's 20 percent more than in 2008. And it's up by \$10 billion from 2007, when executive pay peaked. Average pay at those companies will be just over \$143,000 when all workers are taken into account.

In Washington today, White House spokesman Robert Gibbs had this to say.

ROBERT GIBBS, White House press secretary: We can't go back to the type of pay structure that incentivized wild speculation, like we had before this economic collapse.

JEFFREY BROWN: The renewed debate over executive pay came as Kenneth Feinberg, the administration's executive compensation overseer, pressed to scale back bonuses at AIG. The financial services and insurance firm received \$180 billion in rescue funds last year.

AIG is now scheduled to pay nearly \$200 million in bonuses next March. That's on top of \$168 million last March, a payout that drew fire from the president on down.

U.S. PRESIDENT BARACK OBAMA: I mean, how do they justify this outrage to the taxpayers, who are keeping the company afloat?

JEFFREY BROWN: A report today on the AIG furor said that, in the midst of the bailout, the Federal Reserve and the Treasury Department did not communicate with each other on the company's compensation structure.

Neil Barofsky is the special inspector general on the federal rescue program, the TARP. He presented his report at a House hearing.

NEIL BAROFSKY, special inspector general, Troubled Asset Relief Program: The Federal Reserve did not view until very recently -- I mean, until recently, before the payments were made -- didn't really view these as much of being a -- of a big deal.

And that's the problem about Treasury outsourcing this, because while Treasury may have been and would be required to have been more sensitive to these issues, the Federal Reserve was looking at this from a creditor. And \$168 million, from a creditor's perspective, just wasn't that much of a concern.

JEFFREY BROWN: Treasury Secretary Tim Geithner came in for particular criticism. He was head of the New York Fed last year when it helped bail out AIG, and he had assumed his present post when the bonus issue blew up.

NEIL BAROFSKY: Much like if anything goes wrong in my organization, I'm responsible, and it's my failure, since we are criticizing both the Federal Reserve and the Treasury for failures of communication, management and oversight, of course, he's ultimately responsible.

JEFFREY BROWN: The Treasury Department would only say it continues to work on compensation packages for firms that participated in the federal bailout. And we have our own debate on the pay issue now with Sarah Anderson, director of the Global Economy Project at the Institute for Policy Studies, a research center in Washington, D.C. She co-authors the group's annual report on executive compensation. **And Steve Bartlett, president and CEO of the Financial Services Roundtable, a trade association representing 100 of the country's largest banking, insurance and securities companies.**

And welcome to both of you.

Sarah Anderson, start with this report from the Wall Street Journal that large institutions are on course for record bonuses. What's your response?

Back to 'business as usual'

SARAH ANDERSON, Institute for Policy Studies: Yes. Well, unfortunately, I think it's a sign that it's business as usual on Wall Street. And I find it very disturbing that, more than a year into this crisis, about nine months since President Obama gave a very powerful speech in which he identified executive

compensation and -- and that system as a key cause of this crisis, that we're still not seeing significant changes in the system.

And, to me, it's just more evidence that we can no longer think that we can rely on the financial industry itself to just voluntarily do the right thing on executive pay. It's time for government to come in and play a responsible role to fix this problem, because, otherwise, you know, the Dow was up today -- hooray about that -- but unless we fix the problem that caused this crisis, we could see more of these bubble-and-bust cycles.

JEFFREY BROWN: All right, we will come back to the question of government role.

But, first, your reaction.

STEVE BARTLETT, Financial Services Roundtable: I have to say, this is a such a bizarre report and a bizarre story of political voyeurism, if you will, that it's hard to know where to start.

So, let me just start with the basics. What did the report -- what does the so-called report say? The -- this report took 23 companies from Wall Street, not banks, not TARP, by and large, but 23 companies that are sort of involved in the securities business on Wall Street, and reported that, at the end of the year, they plan to pay their employees, just like TV stations do and convenience stations do and others.

And they reported that, as the stock market is up and profits are up and earnings are up and the economy is looking better, they will pay their employees more. That makes perfect sense. I mean, so, the idea that you sort of take these 23 companies and the snapshot and say, let's take a snapshot and, therefore, infer all these evil things that are happening or good things that are not happening is just frankly bizarre. The basics just aren't there. It's a snapshot of 23 companies involved in the stock market that are pay -- that -- some of whom are paying more -- more to their employees and as their profits are up.

JEFFREY BROWN: All right. But it's not just in any industry, as Sarah Anderson has said, as the president has said. These...

STEVE BARTLETT: It's in these 23 specific companies that are named in the report. They have an involvement in the stock market. The stock market, as you have just seen, is up, so one would expect their earnings to be up, as they are. And that helps the American people, 56 percent of whom invest in the stock market.

And that, therefore, their compensation is up.

Any changes on Wall Street?

JEFFREY BROWN: Right. But the question is, has anything changed on Wall Street in terms of the way people are compensated, or are we still at business as usual?

STEVE BARTLETT: Absolutely changed, and that should be the story here. Ken Feinberg is doing a pretty good job on the TARP funds. The idea that he has to -- he's trying to jawbone someone, he just orders what happens at AIG in compensation. And that is what he's doing. We think he's doing a pretty good job on that, as well as those handful of the large TARP companies. The Federal Reserve is proposing -- and we support and we have worked with the Federal Reserve -- to examine the pay structure, or the compensation structure, which, frankly, was what President Obama was alluding to, was the structure, to make sure that you avoid structures that cause excess risk. That's what the issue is.

And that's what both the government is doing, Federal Reserve is doing, we're doing. And every company is going through clawbacks, restricted stock, longer vesting periods for stock options. That -- because that's what it takes to bring smack about some stability in the system.

JEFFREY BROWN: All right. Well, those are some things.

STEVE BARTLETT: Things are happening.

The government's responsibility

JEFFREY BROWN: You brought up the government's what you say is responsibility to do more. There are some things that he put on the table that the government has at least talked about doing and started to do.

SARAH ANDERSON: Well, talking about it is one thing, and actually doing it is another.

The pay czar, Ken Feinberg, we don't know exactly yet what he is going to do. He hasn't come out with his report yet. We have heard news stories that he's asking AIG to not give the full amount of bonuses to their employees.

I think a lot of American taxpayers would still wonder why bonuses are even on the table for a company that is completely reliant on taxpayer money. In fact, a lot of the companies that -- that now are seeing some recovery wouldn't even exist today if it weren't taxpayer support. And, so, it is not an appropriate time for them to continue to be doling out these kinds of massive payouts.

JEFFREY BROWN: Let me stop you right there.

STEVE BARTLETT: Well, it's not doling out. And it's not massive payouts. It's compensation.

JEFFREY BROWN: But respond to that. The companies that did take the TARP money...

STEVE BARTLETT: Right. Created a foundation of capital to rebuild the economy. And that's what they have done. Many of them have repaid that.

JEFFREY BROWN: Right. But a lot of people would still wonder at the situation now -- it's not even a year later -- why would they be doing bonuses at all?

STEVE BARTLETT: Pay is set with tens of millions of businesses in this country, hundreds -- 150 million employees. Pay is set by 100 -- by millions of individual decisions every single day, in TV stations, in newspapers, in convenience stores, in technology companies. That's how the pay is set. If you pay too much, you will lose money and go broke. And some of those companies did. If you pay too little, you will lose talented employees and lose money and go broke. So, it's an art, not a science. And it's set by these hundreds of millions of decisions.

Now, the fact is, is that Ken Feinberg, in the case of the TARP money, has a thumb on them, a tough hand, the same with AIG. He doesn't have to negotiate with AIG. He's trying to get it right. We think he's -- we think he's getting it right. We think he's getting it about right.

But that's only because the government has this huge \$170 billion investment in AIG, which we all wish they wouldn't have. Because they have it, he has this special role to oversee pay. That's what he's doing. He's doing it very transparently, seems to be getting it about right.

He's doing the same with the major TARP companies, same thing. The law says that the TARP companies can't pay bonuses this year, as long as they're in TARP. That's why many of them are getting out, so they can retain talented employees. That's what they should be doing to finance the economy.

JEFFREY BROWN: All right. I stopped you as you were about to say what more you would like the government to do...

SARAH ANDERSON: Exactly.

JEFFREY BROWN: ... even on companies that are not taking TARP money?

Compensation and the free market

SARAH ANDERSON: Absolutely.

If the compensation system, as the president and our treasury secretary have said, was a cause of this crisis, we need to fix the system in order to prevent future crises. And I'm hoping that our regulators are going to come in with a firm hand. And the focus right now in Washington is looking at the structure of pay and how it can be formulated to encourage more long-term thinking, deferring bonuses over a number of years.

We can't any longer have these guys cashing in massive bonuses on high-risk investments that then blow up a few years down the road. That just has to stop. But there are other things that I think government should be doing to use the power of the public purse to encourage more rational pay practices throughout the economy, even going beyond the financial industry. They could be using tax policy. They could be limiting how much companies can deduct from their taxes for the expense of executive compensation.

They could be using procurement policies to give preferences to companies that have more reasonable gaps between what their executives and their workers are making. So, there are a lot of ways that government could play a responsible role in turning around this problem.

JEFFREY BROWN: All right. We just have a minute here. So...

STEVE BARTLETT: Or an irresponsible role, if you will.

JEFFREY BROWN: Well, are those irresponsible, or are those legitimate?

STEVE BARTLETT: To have the government set pay in this country, that is irresponsible. It would destroy the economy.

SARAH ANDERSON: That wasn't what I was saying.

STEVE BARTLETT: Or influence pay, or tell what the pay should be, or those things.

I said a year ago on this show, when President Obama came out with a very reasonable plan to limit bonuses to restricted stock, good plan. I endorsed it. But I said at that time, this is a slippery slope. Once you start putting into Congress or government agencies to set what the pay of other people should be, you will begin the destruction of the economy.

And that -- you now see where the slippery slope is going, in that direction. We haven't gotten there. I don't think we will get there. I think calmer heads will prevail. I think we do need to restrict the excessive risk. And that's what companies are doing and the Federal Reserve is doing.

JEFFREY BROWN: All right.

SARAH ANDERSON: That's what we should do.

JEFFREY BROWN: All right. I remember when you said that a year ago. And we will have you back and we will see where this goes.
Steve Bartlett and Sarah Anderson, thanks very much.

Financial regulations coming as Wall Street shows recovery signs
Silla Brush
The Hill
October 15, 2009

Lawmakers took a major step toward overhauling the nations financial system Wednesday as a House panel prepared to pass legislation.

The House Financial Services Committee is slated to vote Thursday morning on a measure reining in the multitrillion-dollar market for complicated financial derivatives that many blame for exacerbating the crisis last year. The panels work to bolster the regulatory system comes as Wall Street shows new signs of recovering from the worst of the financial crisis. The Dow Jones Industrial Average, in the middle of a bull rally, closed above 10,000 points, the highest level in more than a year.

Meanwhile, JPMorgan Chase & Co. on Wednesday posted \$3.6 billion in profits for the quarter, more than six times the profit in the same period in 2008. The Wall Street Journal reported that major banks and securities firms are slated to pay employees record compensation.

Financial derivatives, tools used by a wide range of banks and other industries to

hedge risks, have played a major role in the recent Wall Street profits. Commercial banks in the United States recorded a record \$9.2 billion in revenue on derivatives in the first three months and another \$5.8 billion in the second quarter, according to the Office of the Comptroller of the Currency.

The House committee sped through debate on the derivatives bill on Wednesday, but is now turning to the more contentious issue of creating a new federal Consumer Financial Protection Agency (CFPA). Both are central elements of President Barack Obama's efforts to revamp the regulatory system and have been the source of major lobbying battles.

The proposal for a new consumer agency has come under attack from a wide range of industries and business groups, including the U.S. Chamber of Commerce. Financial Services Committee Chairman Barney Frank (D-Mass.) indicated he expects this to be a tougher battle.

We will be debating this bill for several days, but at some point this bill is coming to a vote, Frank said.

Frank said lawmakers on the panel would continue to mark up legislation until the end of the month, with other divisive issues yet to arise. Democratic leaders are eyeing a vote on the House floor as early as mid-November.

Senate Banking Committee Chairman Chris Dodd (D-Conn.) and Sen. Richard Shelby (R-Ala.) continue to negotiate behind the scenes, and a vote in the upper chamber could be delayed until early next year.

On the derivatives legislation, Frank appeared to balance the major concerns of centrists worried about going too far in overhauling derivatives and liberal Democrats who have called for strong regulations.

Frank included amendments tweaking the legislation to include a presumption that derivatives trades be placed on public exchanges if they are between financial institutions.

But Frank included a broad exemption for end-users. The exemption covers firms with substantial derivatives positions, primarily for hedging, reducing or otherwise mitigating commercial risk.

Big industrial associations, including the Business Roundtable and U.S. Chamber of Commerce, have lobbied heavily to carve out exceptions for these end-users of derivatives. The exemption would help firms that are big clients for derivatives from Wall Street banks.

Scott Talbott, senior vice president at the Financial Services Roundtable, said the committee is moving in the right direction but the industry would like to see additional efforts to help end-users and non-financial businesses.

Frank also removed a provision that he said could be unsettling that would have allowed government regulators to ban abusive swaps. Republicans appeared headed to oppose the bill, with Rep. Spencer Bachus (R-Ala.) calling it fundamentally wrong and others worried that it would cripple business.

Were moving in the right direction, but its still not where most of the people with knowledge on the subject think we should be, said Rep. Scott Garrett (R-N.J.).

But centrist Democrats, including Reps. Melissa Bean (D-Ill.) and Walt Minnick (D-Idaho), who have worked hard to shape the legislation ahead of the markup, appeared largely satisfied.

The bill were considering seeks to modernize and reform derivatives regulation to make sure that what happened last fall doesnt happen again, Bean said.

The debate over the new CFPB agency will likely be tougher. The financial industry and Republicans are overwhelmingly opposed to a new agency that would have regulatory power over products, including home loans, credit cards and payday loans.

Rep. Jeb Hensarling (R-Texas) said it was a draconian federal agency.

One of the biggest battles will be over whether the agency should allow state officials to pursue additional or stronger regulations beyond what the federal agency decides. Centrist Democrats and the industry are in favor of the agency having the power to pre-empt state officials.

Separately, Democrats are considering changes aimed at narrowing the new agencys authority over small banks and credit unions. The changes could leave most of the examination and supervision responsibilities with the existing federal regulators.

Reps. Dennis Moore (D-Kan.) and Brad Miller (D-N.C.) intend to help banks with less than \$10 billion in assets and credit unions with less than \$1.5 billion in assets, according to a draft copy of their amendment.

Such an effort could help ease concerns among community bankers and credit

unions, both powerful lobbying groups that have major reservations about the new agency.

Lobbyists Mass to Try to Shape Financial Reform

Kicking off the latest chapter of this year's Full Employment Act for K Street Lobbyists, representatives from a surfeit of industries descended on an influential Congressional committee on Wednesday as it began writing a law overhauling the nation's regulatory system.

In a lobbying season already booming with business from battles over health care, firms are also closely monitoring the debate over Washington's response to the market crisis. The financial services industry has poured more than \$220 million into lobbying in 2009, much of it in anticipation of this Congressional effort now beginning. As usual for major financial services legislation, lawmakers have heard an earful from small community banks and large Wall Street banks, as well as from insurance companies, credit card companies, credit unions, mutual funds and hedge funds.

But since virtually every imaginable company could be touched by the comprehensive legislation proposed by the Obama administration, the surprisingly broad array of lobbyists trooping to Capitol Hill also includes advocates for airlines, pawnbrokers, real estate developers, farmers, car dealers, manufacturers, retailers and energy and telephone companies. They want to make sure any new oversight of the financial system does not lead to tighter regulations of their businesses or make it more expensive for them to finance their operations or hedge their risks.

Other groups are lobbying over whether the rules should be changed to make it easier to sue corporations and their advisers and whether restrictions should be eased to enable shareholders to have a greater say in the election of directors and the pay of senior executives.

"The legislation proposes to regulate significant aspects of the economy, and any time you have that kind of legislation, it is bound to draw to Congress the interests of many -- lawyers, labor unions, consumer groups and many companies," said Steven A. Elmendorf, a former senior aide to the House Democratic leadership who represents several major financial institutions and groups.

Mr. Elmendorf suggested that the legislation could keep the lobbyists busy for many weeks since it is the subject of deliberations by at least four committees in the House and Senate, along with floor action in both chambers and then more meetings to reconcile competing bills.

"There will be a lot of opportunities and ways the bill can change," he said. "This will be a long process."

Gazing across a hearing room jammed Wednesday morning with lobbyists and lawyers, Representative Barney Frank, Democrat of Massachusetts and the chairman of the House Financial Services Committee, made an observation about a proposed amendment that some lobbyists interpreted as a comment about the keen interest of their clients.

"Watching sausage being made and watching legislation being made isn't always attractive," Mr. Frank said.

Even though President Obama vowed to change the culture of corporate influence on Washington, the administration has contributed, albeit inadvertently, to making this a banner year for lobbyists. As the White House has awakened the alphabet soup of federal agencies from their deregulatory slumber of the previous eight years, lobbying shops have emerged to fight for their clients' newfound interests.

In the case of financial overhaul legislation, the corporate interests have particular sway with moderate and conservative Democrats, whose votes are essential for the legislation to progress through Congress. So far the lobbyists have been moderately successful in influencing the contours of the legislation, judging by the ever-growing list of exemptions from tougher oversight of derivatives and from supervision by the proposed consumer financial protection agency.

The House Financial Services Committee, for instance, approved a provision on Wednesday that Mr. Frank said would exempt "the great majority" of businesses that use derivative instruments to hedge their business risks from trading such instruments through exchanges or clearinghouses. Senior officials at the Commodity Futures Trading Commission and the Securities and Exchange Commission have been critical of the exemptions, saying they would create too large a loophole for financial instruments that were unregulated and played a central role in the economic crisis.

On Wednesday, the administration announced its support for the exemptions. Michael S. Barr, an assistant Treasury secretary for financial institutions, said in a telephone briefing with reporters that, while the administration did not propose the exemptions, they were "reasonable ones" that would still permit aggressive oversight because the legislation would impose supervision on the dealers of derivatives instruments.

The new consumer protection agency has become a particular magnet for lobbying efforts. Bankers have waged a multimillion-dollar campaign to kill the agency or

at least to substantially weaken the powers the administration would like it to have. The United States Chamber of Commerce, which claims a membership of more than three million businesses, is conducting a \$2 million advertising campaign against the agency. The campaign has gained enough political traction to prompt President Obama to publicly chastise it as misleading.

The chamber joined 17 other trade associations, including the Financial Services Roundtable and the Business Roundtable, in a letter sent this week to House members opposing the agency.

The administration has proposed that the new agency protect consumers from abusive or deceptive credit cards, mortgages and other loans. But responding to the concerns that the agency could try to exert its jurisdiction over an array of other industries that lend money, like retailers and car dealers, Mr. Frank has made clear his intention to exempt many other businesses from oversight as part of his effort to steer the measure through Congress.

The political obstacles to the creation of a consumer protection agency are formidable. In the last decade, banking and other interests that now oppose the agency's creation contributed more than \$77 million to the members of the House Financial Services Committee, according to the Center for Responsive Politics, a nonpartisan research organization that studies the influence of money on policy.

Two of the largest recipients of money from the financial sector over the period have been Mr. Frank, whose campaigns have received more than \$3 million, and Representative Spencer Bachus of Alabama, the senior Republican on the committee and a leading critic of the administration's plan.

**Scott Talbott on Fox 5 Morning News
Fox 5
October 15, 2009**

Scott Talbott joined the Fox 5 News Crew with analysis of the Dow's jump past 10,000. Clip is [here](#).