Roundtable Mentions
November 16 – 30, 2009

(Accounting Today) PEOPLE
(American Banker) Reg Reform: So Much to Fight, So Little Time
(American Public Media) Surprise supporters for pay regulation
(Associated Press) Strong banks, weak credit: Treasury rethinks TARP
(Associated Press) Administration plans new efforts on foreclosures
(Associated Press) Strong banks, weak credit after TARP
(Associated Press) Panel: US can dismantle 'too big to fail' firms
(Atlanta Journal Constitution) Changes made to credit cards add up
(Bloomberg) Bartlett Address U.S. Overhaul of Financial Regulation
(Bloomberg) House Panel Approves Measure to Dismantle Risky Firms
(Bloomberg) Warren Winning Means You Won't Sell It If You Can't Explain It
(Bloomberg) Kanjorski Proposes Breaking up Firms That Pose Risks
(Business Wire) Operation HOPE Founder and Council Vice Chairman John Hope Bryant Issues Public Statement in Support of Financial Literacy
(CNNMoney.com) Credit cards: No holiday help from Congress
(Dow Jones Newswires) Developing Industries Urge Hands-Off Merger Enforcement
(The Guardian) Tobin tax advocates pile pressure on US
(The Hill) ECONOMY: Tough decision on TARP
(The Hill) Kanjorski, Perlmutter measures in crosshairs
(The Hill) Democrats eye stock trade tax
(The Hill) Financial reform pushed back into mid-December
(iMarketNews.com) US Banks Ask Regulators To Delay, Phase In Higher Cap Requirements
(The Journal Sentinel) U.S. Bank Has Edge in Sour Economy
(Milwaukee Journal-Sentinel) U.S. Bank has edge in sour economy
(Mortgage Servicing News) Private-Label MBS Risk Retention Could Be Steep
(National Mortgage News) Dodd Wants to Boost Confidence with 10% Risk Share on MBS
(National Underwriter) NAIC Wins FIO Bill Changes
(New York Times) In Love Affair With Credit, It's Business as Usual
(PBS) Frontline: The Card Game
(Roll Call) Financial Lobbyists Man the Battle Stations
(The Street) Recovery Waits on Bank Regulators
(Wall Street Journal) Groups Urge Support For US Accounting Oversight Change
(Wall Street Journal) Bankers Say Financial Overhaul Bill 'Over-reacts to the Crisis'
(Wall Street Journal) Banks Seek Changes To US House Bill Targeting Tax Evasion

Financial Lobbyists Man the Battle Stations
November 16, 2009
Anna Palmer
Roll Call

As the House Financial Services Committee finishes its long slog through financial regulatory reform, all eyes are on Sen. Chris Dodd (D-Conn.), chairman of the Banking, Housing and Urban Affairs Committee.

Dodd and Banking ranking member Richard Shelby (R-Ala.), along with Treasury Department officials, have been in negotiations over the substance of the financial regulatory overhaul bill for months. But Dodd, who introduced a sweeping regulatory reform bill last week, is now expected to move forward without Shelby, according to lobbyists familiar with the ongoing talks between the Senators.

Dodd's proposal takes a more aggressive approach than the Obama administration and the House bill, in that it strips power from the Federal Reserve. It also consolidates banking oversight from four agencies into a single bank regulator. Dodd would also strip current regulators of their consumer-watchdog role, giving authority to the newly created Consumer Financial Protection Agency. His plan would also create an independent board to identify risk in the financial system and grant shareholders more influence over the companies they invest in, including decisions on executive compensation.

Shelby has supported giving less authority to the Federal Reserve, but he opposes separating consumer protections into a different agency.

While the financial industry has increased its lobbying force heavily on the House side, there will be an even more intense push in the Senate as banking and insurance lobbyists, consumer advocates, and others try to make the bill more palatable to their causes.

K Streeters say they expect to have more success modifying and moderating financial reform in the Senate.

Scott Talbott of the Financial Services Roundtable said the heated debate on the House side will give way to more restraint in the Senate. "It's a very different approach," Talbott said. "The reality is each Senator has so much power. ... The Senate is the saucer that cools the tea."

Talbott has been lobbying for several changes to House Financial Services Chairman Barney Frank (D-Mass.) and the Obama administration's plans,

including limiting the power of the consumer protection agency and keeping the Federal Reserve as the banking industry's regulator.

Other industry groups, including retailers and manufacturers with industrial lending arms and credit card banks, have already turned their attention to the Senate. The House bill grandfathers in existing industrial lending arms, but it will not allow new ones to be created. This affects companies such as Ford, which has an application in to create an industrial loan corporation. Ford competitors Toyota and BMW already have ILCs, and the automaker and other retailers are lobbying the Senate to try to tweak any provisions on systemic risk that would limit the use of these financial tools.

Lobbyists are also keeping Dodd's tough re-election bid in mind. The Connecticut Democrat has been less sympathetic to industry priorities as he has focused on being more consumer-minded to try to win votes, according to financial services lobbyists.

One concrete example they point to is earlier this fall, when Dodd publicly said he would like to pass an interchange bill that would address the fees that credit card companies charge.

Consumer advocates are counting on Dodd to help push back on industry's attempt to narrow reform. Groups such as Americans for Financial Reform have already started reaching out to the Banking panel's staff to establish a dialogue on specific financial reform issues.

In particular, the AFR is hoping to maintain the consumer protection agency's viability and also push back on concessions that were made in the House exempting auto dealers from oversight by the CFPA.

"We intend to fix those before it's final," said Ed Mierzwinski, consumer program director at U.S. Public Interest Research Groups.

But industry lobbyists' concerns over Dodd's populist stance may be mollified if he is unable to get Shelby on board with his bill. "When they get together and they agree, major things happen," one industry lobbyist said. But if there are major disagreements and the bill has to move forward without Republican support, Shelby is likely to use his perch to slow the process down, the lobbyist said.

PEOPLE
Accounting Today
November 16, 2009

<u>WASHINGTON, D.C.</u>

James M. Routh, chief information security officer at KPMG LLP, Washington, D.C., has been presented with the 2009 BITS Leadership Award by the Financial Services Roundtable. ... Molly Ostenberg has been promoted to senior associate in the Forensic and Valuation Services Group in the Washington, D.C., office of Ellin & Tucker Chartered. ... Lawrence McNamara has joined UHY Advisors FLVS Inc., Washington, D.C., as corporate business development manager.

Dodd Wants to Boost Confidence with 10% Risk Share on MBS
National Mortgage News
Brian Collins
November 16, 2009

Democratic lawmakers want to hold lenders' and securitizers' feet to the fire so they won't originate and sell mortgages that burn consumers and investors.

But the mortgage industry fears legislation currently under consideration could stifle a recovery in the private-label securities market, which has been dormant since the credit crisis began.

Senate Banking Committee chairman Christopher Dodd, D-Conn., has drafted a bill that would require sellers of mortgage-backed securities to retain 10% of the credit risk.

"To restore confidence in our markets and encourage investment, we will require companies that sell products such as mortgage-backed securities to keep 'skin in the game' so that they won't sell worthless securities to unsuspecting investors," Sen. Dodd said.

The 1,100-page bill is designed to revamp regulation of the financial services industry and safely shut down firms that are currently considered "too big to fail."

In the securitization section of the bill, the Connecticut senator provides a "total or partial" exemption for government-guaranteed mortgages as well as mortgages purchased and securitized by Fannie Mae and Freddie Mac.

The bill carves out government-guaranteed loans and provides flexibility for other exemptions, according to Scott Talbott, the Financial Services Roundtable's top lobbyist.

The Securities and Exchange Commission and the federal banking regulators can approve a total or partial risk retention exemption for other MBS and allocate risk retention between securitizers and the lenders.

But to issue a private-label MBS, the securitizer would have to make a case for the regulators to reduce the 10% retention requirement.

"We think 10% is too high as a starting point," Mr. Talbott said. "We think 5% is the right place to start."

Independent mortgage bankers also want risk retention reduced to 5%.

But Glen Corso, managing director of the Community Mortgage Banking Project, is wary of the exemptions in the Dodd bill.

He pointed out that the way securitizers are defined it could "rope in" Ginnie Mae issuers and make them subject to risk retention.

"We are not 100% convinced that the way it is worded the exemptions will be effective," Mr. Corso said.

Back in May, the House of Representatives passed a subprime lending bill (H.R. 1728) that requires lenders selling and securitizing subprime mortgages to retain 5% of the credit risk.

House Financial Services Committee chairman Barney Frank, D-Mass., drafted the bill and he wants to attach H.R. 1728 to a regulatory legislation his committee is working on.

But in drafting a regulatory reform bill, Chairman Frank bumped up the risk retention requirement to 10%. He also excluded the exemptions for government-guaranteed loans and other "qualified mortgages" that industry groups liked in H.R. 1728.

This week, the Financial Services Committee resumes markup of its regulatory reform bill. Industry groups are supporting an amendment that will reduce the risk retention requirement to 5%.

"We want 5% to be the ceiling not the floor," Mr. Talbott said.

Industry groups also want exemptions added to the bill. "The amendment will try to reinstate the provisions of H.R. 1728 with regard to qualifying mortgages," Mr. Corso said.

American Bankers Association executive vice president Bob Davis is concerned 5% or 10% risk retention will restrict the availability of credit.

Banks and other leveraged lenders already hold capital and requiring them to hold more has the "potential to choke the system," Mr. Davis said. "My great fear is that the markets won't operate with a 10% risk retention requirement because it has to be capitalized by leveraged lenders."

The ABA executive said there are a lot of other ways to "instill better discipline and more prudence in the underwriting process."

He noted there is recourse as well as representations and warranties that lenders have to provide to investors.

In addition, the Federal Reserve Board has strengthened Home Ownership and Equity Protection Act rules to limit prepayment penalties and prevent another subprime lending debacle. Lenders must assess the borrower's ability to repay the loans and fully document the loan under the new HOEPA rules that went into effect Oct. 1.

These changes will put the brakes on lenders mass-marketing higher-cost alt-A loans as well as 2/28 and 3/28 subprime adjustable-rate mortgages.

Lenders will not be making those "wild high risk" loans again, Mr. Davis said.

Changes made to credit cards add up
Many see limits cut and interest rates increased before new rules set in.
The Atlanta Journal-Constitution
Carrie Teegardin
November 15, 2009

When the next credit card statement arrives in your mailbox, there's a good chance you will find a surprise. And it's probably not a pleasant one.

With new federal rules set to hit credit card companies in February and a high unemployment rate making consumers a risky bet, card issuers are socking even their best customers with significant changes in their accounts.

Interest rates and minimum payments are rising and credit limits are being slashed.

“We are seeing many, many card issuers increase rates to the 27 to 30 percent range,” said Dick Reed, a manager for the debt management team at Consumer Credit Counseling Service of Greater Atlanta.

For people who carry balances on their credit cards, Reed said, the changes are “creating havoc with their budgets.”

Jesse Patterson Jr., a 72-year-old Atlantan, said he had always paid his two Bank of America credit cards on time. But he said the bank upped his rate to 29 percent months ago and he has been unable to get a reduction. Patterson said he owes $12,000 on a business card and $19,000 on a personal card.

The change hiked his monthly minimums to about $1,300. “I’m upset,” Patterson said. “They’re robbing the public.”

Patterson said he plans to pay off the cards, but the increase led him to pay late recently for the first time.

The ratio of credit card debt that cannot be collected generally tracks the unemployment rate, industry experts said, and has risen to about 10 percent.

Decreases in credit limits aren’t the only challenge for consumers. Some credit card issuers are also dramatically increasing minimum payments. Chase bank this year upped minimum payments for some customers from 2 percent to 5 percent of the outstanding balance.

“Chase has brought us a lot of clients,” Reed said. “People just can’t afford that.”

The average consumer seeking help this year with debt and budgeting at CCCS carried unsecured debt, usually on credit cards, of $28,000. CCCS, a nonprofit organization, provides free counseling for consumers needing help with mortgages, debt and budgeting.

Credit card companies started making widespread changes in accounts about a year ago as the economy faltered. The changes came as a shock to customers with perfect payment records and as an extra burden for consumers who had lost their jobs.

“The credit card company will not be your friend or help you,” said Ed Mierzwinski, a credit card expert for U.S. PIRG, a Washington consumer organization. “In fact, they will try to hurt you.”

The banks say that the changes are necessary because of the dramatic increases in risk. "By and large the industry is not profitable," said Peter Garuccio, a spokesman for the American Bankers Association.

But recent changes in accounts have raised questions about whether credit card companies are trying to make adjustments before the February effective day of the credit card reform law passed by Congress this year.

In the past, credit card issuers could change the terms of an account for any reason and with short notice.

The Credit Card Accountability, Responsibility and Disclosure (CARD) Act of 2009 will change that. Banks will no longer be allowed to increase interest rates on existing balances if a customer is paying on time. The law includes a host of other reforms, including longer notice on changes, clearer disclosure statements and limits on cards to consumers under 21.

While the bulk of the new rules become effective in February, the first phase of reforms is already in effect. It requires card issuers to give consumers 45 days notice of a change in terms.

It also requires companies to offer consumers the right to close an account and pay off the card at the lower rate.

Consumer advocates say it's crucial for customers to read the notices they get from their credit card companies so they are aware of changes and don't miss the window of opportunity to negotiate with the lender or to close an account before new terms hit.

Reed, of CCCS, said closing an account can be difficult for consumers who need credit cards for business purposes, especially for travel. "They need to have some credit cards to keep going, but it's awfully tough to do it with that high interest rate," he said.

The U.S. House voted this month to speed up the effective date of reforms to protect consumers from widespread rate hikes on current balances. The Senate has not yet approved the bill.

The industry strongly opposes expediting reforms, saying it needs time to adapt its systems to comply with the changes. "It's impossible to do it in short order," said Garuccio, of the bankers association.

The industry warned that the changes would reduce access to credit and lead to higher rates.

That has Marion Rosiello worried. She has been able to manage thousands of dollars in personal and business credit card debt through balance transfer offers that have allowed her to keep her rates low.

But Rosiello, who lives in DeKalb County and runs an engraving company, said the offers aren't coming in like they used to. She's concerned that she will get hit with increased minimum payments and higher interest rates that could eventually drive her into bankruptcy.

"I'm very worried about it," she said. "I can't live without my credit cards because of my business."

Rosiello, 66, said some provisions in the act are helpful. But she said that as a result of the law, banks are not offering as many low-rate balance transfers and they are raising minimum payments. The new law doesn't address those practices. "Congress ignored the inevitable consequences of this act in favor of political expediency," she said.

Rosiello said she is playing a "hopeful game" that the economy and her business will pick up, allowing her to keep up with her payments.

Industry representatives said the vast majority of changes to accounts are being forced by the increase in risk in the marketplace, not in anticipation of the new law.

Bank of America has stopped changing interest rates on accounts, except when a consumer misses two or more payments within a year, said Betty Riess, a company spokeswoman.

But Riess said Bank of America continues to adjust credit limits and close inactive accounts. "That's nothing new," she said. "We monitor accounts for risk and may adjust customers."

Riess said the company is testing imposing an annual fee on a tiny fraction of its accounts. "The objective there is to evaluate customer reaction," she said.

Industry experts expect a broad range of new strategies as the new CARD act limits past practices. Annual fees might become more common. Variable rate cards are expected to be the norm instead of the exception. The number of cards that offer rewards might shrink.

Scott Talbott, head lobbyist for the Financial Services Roundtable, an industry group that represents banks and insurance companies, estimated that consumers will lose access to $10 billion to $15 billion in credit.

But he said the good news for consumers is that there are 6,000 credit card issuers across the country. "There is a lot of competition out there," Talbott said. "As this market tightens up they will start to become more competitive."

Advocates say that consumers need to be especially mindful as they pull out the plastic for holiday shopping that they are subject to the whims of their credit card companies until many of the new protections kick in.

"Remember that until February, or until Congress acts sooner, credit card companies can still raise the rates on money you have already borrowed," said Nick Bourke, manager of the Safe Credit Cards project at the Pew Charitable Trusts.

Changes

The Credit Card Accountability, Responsibility and Disclosure (CARD) Act of 2009 was signed into law in May. It requires sweeping changes in the behavior of credit card issuers. Here's a summary of the law.

Provisions in effect as of Aug. 20:

● Companies must provide longer, written notice of increases in interest rates or changes in other terms and inform consumers of their right to cancel before new rates take effect.

● They must send statements 21 days before due date.

Provisions that will take effect in February, or earlier if Congress accelerates the law:

● The law prohibits increases in interest rates on debt already incurred, unless a customer pays 60 days late.

● It prohibits over-limit fees unless the consumer authorized over-limit transactions.

● It requires payments beyond the minimum to be applied to balances with the highest interest rate.

● It prohibits early morning deadlines on the due date for payments.

● It restricts access to credit cards to consumers under age 21.

Tips for handling credit card accounts

● Carefully read credit card statements and notices since issuers are making changes.

● If you get hit with a large increase in an interest rate, consider declining the new rate in exchange for closing the account. Make the request before the new rate kicks in.

● Monitor changes in credit limit and try to keep balances below one-third of the limit. Credit scores take a hit when a consumer uses more than a third or a half of the available credit.

● Use balance alerts and due date alerts to make sure you abide by the terms of your card. Make payments as early in the cycle as possible.

● If changes in your interest rate or minimum payments are wrecking your budget, review your accounts with an expert at Consumer Credit Counseling Service of Greater Atlanta. CCCS clients who enter a debt management plan can arrange interest rate reductions to 6 percent to 10 percent. CCCS offers around-the-clock help by phone at 1-800-251-CCCS or at its Web site, www.cccsinc.org.

Reg Reform: So Much to Fight, So Little Time
American Banker
Stacy Kaper
November 16, 2009

WASHINGTON — Financial industry representatives are scrambling to find a strategy for responding to the massive regulatory reform bill the Senate Banking Committee aims to pass by early December.

The list of industry complaints about Chairman Chris Dodd's discussion draft is vast and growing as lawyers and analysts struggle to digest the bill and calculate its impact.

In addition to well-known issues, such as a proposal to consolidate banking regulators into a single agency and create a new consumer protection supervisor, a range of other provisions concern the industry, including tough restrictions on derivatives, a revised method for determining deposit insurance premiums and a requirement that large firms issue new debt instruments.

"It's a revolutionary bill. It just changes the regulatory and supervisory landscape in a very dramatic way," Gil Schwartz, a partner with the law firm Schwartz & Ballen, said of the 1,136-page measure.

The list of objections is so long that industry groups are uncertain what to target first. That has led the American Bankers Association to conclude that blanket opposition is the best bet.

"We just cannot sit down and look at every single issue every time it comes up; there are just hundreds of them," said Ed Yingling, the ABA's president and chief executive.

As a result, the ABA has opted to oppose the entire bill outright, even though it agrees conceptually with some points. "We are on record for over a year supporting the major planks of reform such as a systemic oversight council, a resolution mechanism, and filling gaps in the regulatory system, but we are opposing this bill," Yingling said. "Features in it are so negative that the message we are sending is we just oppose the draft."

Industry representatives will not have a clear read on where the rest of the Senate Banking Committee stands until Thursday, when the panel formally convenes to begin debate on the legislation.

Dodd is expected by next week to have a manager's amendment that makes technical corrections but no substantive changes. Substantive amendments to change the bill are due Nov. 23, and Dodd hopes to hold a vote on the bill shortly after Congress returns from its Thanksgiving recess in early December.

With some tweaks, the Connecticut Democrat is expected to be able to push the bill out of committee on a party-line vote, but he is expected to have to make substantial changes to succeed in passing the bill through the full Senate.

Big banks and community banks have already begun to track separate issues.

The largest institutions are keying on provisions that would create a new consumer protection agency, eliminate national bank preemption, force most derivatives contracts to be cleared by exchanges and require large, systemically important firms to issue debt that can be converted to equity. Another concern is that a new systemic-risk council, which would have the power to break up large, complex institutions that pose a threat to the economy, would cap the size of banks.

Small banks are also focused on the consumer financial protection agency and a provision that would specifically put the enforcement of the Community Reinvestment Act under the new supervisor. But they are most worried about the proposed consolidation of regulators, arguing such an agency would favor the large banks and effectively undermine the dual banking system.

They are also pushing for the bill to take a tougher stance on commercially owned banks. Dodd's bill would put a three-year moratorium on commercial firms seeking to buy or charter industrial loan banks, but would not ban such purchases outright.

"The CFPA is something we obviously have huge concerns with," said Steve Verdier, a senior vice president for the Independent Community Bankers of America. "We're also disappointed that they just have a moratorium on the ILC loophole."

Scott Talbott, the head lobbyist for the Financial Services Roundtable, said his group will "multiply, not divide its efforts" and fight several aspects of the bill at once. He cited additional issues, including a requirement that banks retain 10% of the risk in securitizations, proposed increased liability through third parties, and a provision giving shareholders a nonbinding vote on executive compensation. "We have a number of concerns with the Dodd bill and we will focus on all of them, from the CFPA to the 10% risk-retention requirement, to shifting the deposit base," Talbott said.

Several large-bank lobbyists said they worry that the Dodd bill does not provide enough room for customized derivatives trades by forcing most swaps to be centrally cleared and traded on exchanges. The bill also does not include exemptions for end users of derivatives that were adopted by the House. "Our primary issues on derivatives have been the need to preserve the concept of customized contracts, of not forcing everything on to an exchange or even to mandate that everything be cleared," said Scott DeFife, the top lobbyist for the Securities Industry and Financial Markets Association.

Large banks also object to how the bill would calculate deposit insurance premiums. Currently, premiums are based on domestic deposits. But the legislation would require the Federal Deposit Insurance Corp. to base regular assessments on assets — a move that would cause larger institutions, which rely less on deposits for funding, to pay more.

Some large banks oppose a requirement that large institutions prepare "funeral" plans detailing a plan for their unwinding should they fail. They contend that doing so would lay bare business strategies that would give competitors an unfair advantage.

The Roundtable is also fighting a proposal that would require institutions to bulk up on so-called contingent capital — a hybrid debt instrument that could be converted to equity in a crisis.

"The cost of that instrument is going to be too high" and the measure could spook investors, Talbott said.

More articles in Washington/Regulatory

Kanjorski, Perlmutter measures in crosshairs
Silla Brush and Ben German

The Hill
September 16, 2009

Lobbyists from across the financial industry have their eyes fixed this week on two House Democrats backing a series of changes to overhaul legislation that could have sweeping implications.

Reps. Paul Kanjorski (Pa.) and Ed Perlmutter (Colo.) are each planning to introduce two amendments to wide-ranging legislation in the House Financial Services Committee. The panel is taking up measures that regulate the industry for "systemic risk" and that overhaul oversight of the insurance industry.

While much of the financial debate this year has centered on panel Chairman Barney Frank (D-Mass.) and Senate Banking Committee Chairman Chris Dodd (D-Conn.), lobbyists for financial firms small and large are also watching Kanjorski and Perlmutter closely.

Kanjorski is drafting the most controversial of the amendments, which aims to give the government new powers to break up large financial firms even if they're not about to fail. The Obama administration originally proposed giving the Federal Reserve more power to regulate large financial firms and to give the government power to take them over if they are failing.

Kanjorski, the No. 2 Democrat on the committee, wants to broaden government authority even more. In an op-ed on Friday on the Huffington Post, Kanjorski struck a populist chord, referring to the French Revolution, the risks of "unfettered capitalism" and the need for additional regulations.

"I am not suggesting that the American people are anywhere close to a violent revolt, but they have an intuitive queasiness about having a very small number of very huge financial institutions control an enormous amount of this nation's capital," he wrote.

Kanjorski's comments come as he heads into a potentially tough reelection campaign. He has represented his western Pennsylvania district for nearly 25 years, but in the 2008 cycle he faced a stiff challenge from Republican candidate Lou Barletta. Kanjorski won reelection by four percentage points amid criticism for supporting the $700 billion bailout package for the financial industry.

Big banks and New York City business interests are pressing hard against the amendment, trying to reach out to members before it is introduced. But small community banks have lent their support.

“We’ll be real supportive of Kanjorski,” said Steve Verdier, senior vice president at the Independent Community Bankers of America (ICBA), which represents roughly 8,000 banks.

Perlmutter is drafting a separate but related measure that would give government regulators new power to separate the investment and commercial banking divisions of financial firms. The effort harks back to the aim of the 1933 Glass-Steagall Act, which was effectively overturned in 1999. Critics argue that the repeal enabled firms to grow into financial behemoths that precipitated the crisis.

“If there is a threat to the system, if an entity is getting to that ‘too big to fail’ level, this allows the oversight council or regulator to step in and shift a portion of their business, sell it, divest it or wind it down, if necessary,” said Leslie Oliver, spokeswoman for Perlmutter.

Meanwhile, Perlmutter is working on a measure that would give a new council of financial regulators greater input on accounting standards. Perlmutter and Rep. Frank Lucas (R-Okla.) are working on an amendment that would give the new council greater say with the non-governmental Financial Accounting Standards Board (FASB), which currently falls under only the Securities and Exchange Commission (SEC).

“What Perlmutter’s legislation does now is to allow a broader viewpoint to look at different approaches when and if there is a threat to the financial system,” Oliver said. The amendment has split the business community, with some banks in favor of the switch, while accountants, institutional investors and the broader business community have strongly opposed it.

“We believe this would be a very bad and very unprecedented act on the part of Congress to put the government in charge of accounting standards,” said Barry Melancon, president of the American Institute of Certified Public Accountants. The U.S. Chamber of Commerce, Investment Company Institute, Center for Audit Quality and Council of Institutional Investors oppose the idea of shifting the oversight.

The American Bankers Association, Financial Services Roundtable and National Association of Home Builders were among eight large trade associations on Monday that voiced their support.

Apart from the “systemic risk” legislation, insurance lobbyists have been tussling over a measure that creates a new Federal Insurance Office. The issue taps into a long-running debate between companies that favor federal regulation of the industry and those that prefer maintaining the existing state-based system.

Kanjorski circulated an amendment to the bill that made a significant change to a provision regarding the new office's power on international insurance agreements. In draft language, Kanjorski said that nothing in the bill should be "construed to affect the authority of any federal financial regulatory agency … and to pre-empt state measures." That appears to favor the state-based interests.

Groups Urge Support For US Accounting Oversight Change
Jessica Holzer
Wall Street Journal
November 16, 2009

Several financial and housing trade groups are urging lawmakers to support an amendment to give a proposed systemic-risk council the power to change an accounting rule it has judged a threat to the financial system.

The amendment would give the council the power to override the Securities and Exchange Commission, which currently has final say on accounting matters.

"Since the SEC's mandate is too narrow to take into consideration potential systemic risk created by accounting standards, the Council should be able to review and make recommendations on any accounting principle or standard that it believes poses a systemic risk," the groups wrote in a letter to House Financial Services Chairman Barney Frank (D.-Mass.) and Rep. Spencer Bachus (R-Ala.) on Monday.

They noted the SEC would be a council member and "would be engaged in, and vote on, all Council actions."

The amendment will be offered as soon as Tuesday, after the Financial Services Panel resumes debate on a sprawling financial-overhaul bill to wind down large firms that pose a threat to the economy.

The amendment, sponsored by Reps. Ed Perlmutter (D., Colo.) and Frank Lucas (R., Okla.), comes after "mark-to-market" accounting rules drew fire last fall from critics who said they exacerbated the financial crisis.

The rules require companies to value assets at the price they can fetch in the market. The industry claimed they were forcing banks to write down mortgage-backed securities and other assets to artificially low prices--inflating losses--because there were few buyers. Under pressure from Congress, the Financial Accounting Standards Board, or FASB, eased the rules.

Under the amendment, a new council of regulators could recommend that the SEC modify or suspend an accounting rule or procedure if a majority of the council agrees such action is necessary to avert a threat to the financial system. If the SEC fails to implement the recommendations, the council could force FASB to make the changes.

The Treasury, the Securities and Exchange Commission, the federal banking regulators, the Commodity Futures Trading Commission, the Federal Housing Finance Agency and the National Credit Union Administration would all have seats on the council.

Opponents, including the SEC, FASB and the U.S. Chamber of Commerce, say the amendment would strip FASB of its independence, wrecking market confidence in accounting rules.

The groups disputed this in their letter, saying the amendment preserves FASB's independence and gives the council authority to act on an accounting issue only if the SEC fails to do so. FASB, which is overseen by the SEC, is the U.S. account-standards setter.

The American Bankers Association, the Commercial Mortgage Securities Association, the Council of Federal Home Loan Banks, the Financial Services Roundtable, the National Multi Housing Council, the National Apartment Association, the National Association of Home Builders and the Real Estate Roundtable signed onto the letter.

Other opponents of the amendment include the American Institute of Certified Public Accountants, the California Public Employees Retirement System, or CalPERS, and the CFA Institute.

Democrats eye stock trade tax
Mike Soraghan
The Hill
November 17, 2009

House Democratic leaders are considering imposing a new tax on stock transactions to fund a jobs bill, leadership sources tell The Hill.

Rep. Ed Perlmutter (D-Colo.) has been making the case for such a Wall Street tax, and House leaders have started paying attention as they look for a way to pay for the jobs bill, leadership sources said.

The idea is attractive because it's very small, likely 0.25 percent of each trade. And since Wall Street is perceived by many as having caused the economic slump, brokers have little political standing to try to stop it.

It also has the support of the nation's largest labor union.

The AFL-CIO, one of the Democratic Party's most powerful allies, suggested the idea in August.

The group's policy director, Thea Lee, estimated the tax could raise between $50 billion and $100 billion per year.

Small- and medium-sized investors would hardly notice a transaction tax, but major trading firms may see it as a significant threat to their profits.

Leading financial lobbyists say the tax would harm the economy.

"It would impact all Americans, from retirees to [the] self-employed to parents saving for their kids' education. It would place permanent handcuffs on the economy," said Scott Talbott, senior vice president at the Financial Services Roundtable, which represents 100 large financial companies.

"It would clip the wings of the economy just as it is starting to recover," he added.
Rep. Peter DeFazio (D-Ore.), a senior member of the Transportation and Infrastructure Committee, said that in addition to the transaction tax, there is talk of using money from the $700 billion Wall Street bailout and other sources. But leaders aren't looking at an increase in the gas tax.

"There's very little talk about user fees," DeFazio said.

Leaders said they are trying to pass a jobs bill before leaving for Christmas, at least in the House.

And the legislation could include a renewed emphasis on highway construction.
Committee Chairman Jim Oberstar (D-Minn.) said that transportation will be a "centerpiece" of the jobs legislation. DeFazio said that though only 4 percent of the stimulus package earlier this year went to transportation, it created 25 percent of the jobs.

"We're a proven job-generator," DeFazio said. "The big problem has been the White House, and if the White House is getting on board, I don't think there will be a problem."

Republicans said that if Democrats want to create jobs, they should look at ideas that GOP lawmakers have been pressing for months.

“Republicans have been working for months now trying to forge solutions as to how to get Americans back to work,” said House Minority Whip Eric Cantor (R-Va.).

Speaker Nancy Pelosi (D-Calif.) has asked key committee chairmen for ideas on job creation, said House Majority Leader Steny Hoyer (D-Md.).

There has been debate over whether to do one large, catch-all bill or several topic-specific bills. Hoyer said he expected the work of several committees to be wrapped into one bill.

Hoyer declined to give a dollar figure for what Democrats are planning, but he said he expects Democrats will, at a minimum, extend unemployment benefits and COBRA health insurance assistance for the unemployed.

Other options include aid to states to preserve public-sector jobs and tax breaks for creating jobs. Democrats have consulted extensively with a group of economists, but Hoyer said there have been “differences of opinion” on what tactics are most effective.

The action comes after a report from the Labor Department that showed unemployment hitting 10.2 percent in October. The jobless rate is expected to continue to rise in coming months.

The 26-year high in the unemployment rate has spiked concerns among Democrats at the White House and in both chambers of Congress, particularly with midterm elections less than a year away.

Hoyer rejected the characterization of the House effort as a “second stimulus,” saying it will be more narrowly targeted than the $787 billion stimulus.

The massive stimulus bill also has become a target for conservatives angry at the surge in federal spending. The jobs bill could raise those arguments again from Republicans who oppose public spending and conservative “Blue Dog” Democrats who want to see the spending offset by cuts in programs or by tax hikes.

“When you have a sick economy, you have to do something to fix it,” said Blue Dog Rep. Dennis Cardoza (D-Calif.). “But there are real and legitimate concerns about the deficit.”

But Hoyer indicated that the spending might not be offset, because increasing taxes would counteract the effort to boost the economy.

“The challenge we have is to stimulate the economy and not depress it at the same time,” Hoyer said.

The Senate is also expected to work on a jobs initiative, though it is unclear when the Senate might take up legislation. That chamber is expected to be busy with healthcare reform for the rest of 2009.

Senate Majority Leader Harry Reid (D-Nev.) told Democrats at their weekly policy lunch last week that he plans to bring up a jobs measure, but did not say when he would do so.

The administration announced last week that it would hold a jobs summit, specifying on Monday evening that the summit will take place on Dec. 3.
Obama will follow that event with a trip to Allentown, Pa., for a forum on jobs, part of a "Main Street tour" announced by the White House, in which Obama will travel to a number of cities and towns over the next few months.

Financial reform pushed back into mid-December
Silla Brush
The Hill
November 17, 2009

House Democrats are not planning to vote on wide-ranging financial overhaul legislation until the second week of December at the earliest, Rep. Barney Frank (D-Mass.) said on Tuesday.

Frank, the chairman of the House Financial Services Committee, is trying this week to finish marking up several bills he hopes will be considered as one on the House floor.

Frank had previously aimed to bring the legislation to the full House immediately after the Thanksgiving recess, but he said House leaders have decided to put off debate until the second or third week of December.

Financial legislation is competing directly with a sweeping effort to overhaul the nation's healthcare system, the annual spending bills Congress must pass and now, potential legislation to bolster the economy and reduce the nation's 10.2 percent unemployment rate.

Frank has requested at least three days of floor time.

Frank's committee is working through the final pieces of the overhaul package — regulating systemic risk and winding down failing financial firms, as well as creating a new federal insurance office.

The debate has been among the most contentious of the committee's work this year.

Big banks are wary of an amendment being drafted by Rep. Paul Kanjorski (D-Pa.) that would give the government greater power to break up large financial firms. The amendment has yet to be circulated.

Small banks and credit unions are pushing an exemption from having to pay fees into a new fund that federal officials would use to cover the costs associated with future government takeovers.

Treasury Secretary Timothy Geithner has said so-called “resolution authority” is one of the central elements of the financial overhaul. The aim is to negate the need for government officials to have to turn to Congress in the middle of a crisis in search of bailout funds.

Frank had originally supported levying a fee only on financial firms with at least $10 billion in assets. Among those firms, there are roughly 120 banks and three credit unions that lend directly to consumers.

Rep. Brad Sherman (D-Calif.) has an amendment that would raise that threshold to $75 billion and adjust it each year to inflation. The Independent Community Bankers of America (ICBA), Credit Union National Association (CUNA) and National Association of Federal Credit Unions (NAFCU) have all been pushing to increase the threshold.

“NAFCU strongly supports Rep. Sherman’s amendment,” said Dan Berger, executive vice president at the association.

A coalition of 30 military organizations that represents 5.5 million active, Guard, Reserve, retired and former members of the uniform services and their families has voiced its opposition to the $10 billion threshold.

“This assessment would essentially be a tax on credit union patrons — to include military and Defense Department members and their families,” the organizations wrote to House lawmakers on Tuesday. The Navy Federal Credit Union and Pentagon Federal Credit Union both have more than $10 billion in assets.
The military organizations said one of the credit unions would face fees of roughly $67 million in one year if the resolution authority fund had to raise $100 billion.

Federal regulators would be able to levy fees on a much smaller group of financial companies if the threshold is drawn at $75 billion. According to market research firm SNL Financial, there are 21 banks and thrifts with assets in excess of $75 billion. Five large property and casualty insurance associations are also seeking an industry exemption from the fee.

Lobbyists for larger financial institutions expressed concern with lawmakers drawing a numeric line in the industry and are urging lawmakers to focus on a broader gauge of risk.

"An artificial line will simultaneously be both over- and under-inclusive," said Scott Talbott, senior vice president at the Financial Services Roundtable. "The test should be the riskiness of the activities any particular company chooses to participate in."

Frank said on Tuesday that lawmakers are also weighing questions of risk from various financial firms.

"We will be offering amendments that weight that according to risk. A mutual fund should not be assessed the same rate as a hedge fund," Frank said.

Kanjorski Proposes Breaking up Firms That Pose Risks
Alison Vekshin
Bloomberg
Wednesday, November 18, 2009

U.S. regulators would have the power to dismantle healthy, well-capitalized financial firms whose size threatens the economy under a measure proposed today by Representative Paul Kanjorski.

The amendment to regulatory overhaul legislation would let the government break up a firm, limit its mergers and acquisitions and force a company to stop activities deemed systemically risky, according to a summary from Kanjorski's office. The financial industry is opposed to the legislation.

"Financial firms that want to play in a casino need to have their own resources to cover their bets and not assume that tax dollars are available in reserve if their bets fail," Kanjorski, a Pennsylvania Democrat, said in a statement.

The amendment would modify legislation being considered by the House Financial Services Committee to create a council of regulators, including the Federal Reserve, to monitor large, interconnected firms for risks they pose. It's part of the effort in Congress to overhaul financial rules to prevent a repeat of the worst financial crisis since the Great Depression.

Kanjorski's measure would empower the council to break apart firms considered well-capitalized and healthy if they are "so large, interconnected or risky that their collapse would put at risk the entire American economic system," according to the summary.

It requires the council to consult with the president before taking "extraordinary" actions. The amendment doesn't cap the size of financial firms, the summary said.
Industry Opposition

The proposal would require the council to give Congress an annual report detailing the size, concentration and interconnectedness of the 50 largest U.S. financial institutions based on assets.

The financial industry opposed Kanjorski's proposal.

"It will act as a strong disincentive for financial firms to grow and to be able to serve corporate America," said Scott Talbott, senior vice president of government affairs at the Financial Services Roundtable, representing many of the largest U.S. financial firms in Washington.

While a policy of having government prop up systemically important firms must be eliminated, targeting an institution's size isn't the remedy, said Rob Nichols, president of the Financial Services Forum.

"More effective supervision, coupled with the authority to seize and wind down large firms, is the appropriate remedy," Nichols said.

Lawmakers are seeking to prevent further taxpayer bailouts after last year's rescues of American International Group Inc., Citigroup Inc. and Bank of America Corp. under the $700 billion Troubled Asset Relief Program.

ECONOMY: Tough decision on TARP

Ian Swanson
The Hill
Wednesday, November 18, 2009

Geithner's decision whether to extend the $700 billion Wall Street bailout before the end of the year pits politics versus prudence.

Prudence dictates an extension. Politically, the smart move is to allow the TARP to terminate and pivot to deficit reduction, according to several industry sources.

“Extending TARP makes sense in terms of the economy,” said Scott Talbott of the Financial Services Roundtable, “but it would be extremely unpopular politically.”

An extension would run through next October.

While Wall Street banks are handing out bonuses and markets are rising, there are worries that a new bubble, particularly in financial stocks, is now forming, in large part because of the government intervention.

“I think they are in a bit of a bind,” said one financial lobbyist.

Extending the TARP would give Treasury a cushion of approximately $210 billion in unspent TARP funds, plus tens of billions more that are expected to be paid back over the next 12 months.

Pressure is building to do new things with TARP, given the 10.2 percent unemployment figure and a lack of lending by banks.

“We need a rainy day fund in case it rains,” said one lobbyist who supports an extension.

Yet few pieces of legislation have been less popular, and a request for an extension would not be seen favorably on Capitol Hill, two financial industry sources said.

The AFL-CIO has not taken a position on the issue. Neither have associations representing small and large banks, including the American Bankers Association.

Paul Merski, chief economist for the Independent Community Bankers of America, said restrictions and rules associated with the TARP funds, including compensation limits, make the program unattractive.

“There are plenty of banks that would like to shore up capital, but TARP isn’t the way to do it,” he said.

Others believe that behind the scenes, banks would be happy to see the program extended, though they are loath to say so publicly. Doing so would immediately lead to calls for the program to end, one lobbyist noted.

Warren Winning Means You Won’t Sell It If You Can’t Explain It
Mark Pittman and Bob Ivry
Bloomberg News
November 19, 2009

In Elizabeth Warren's world, credit card contracts would be so simple a teenager could read and understand them in four minutes. Loans would be as easy to compare as toasters, and online credit scores would be free.

"We need a new model: If you can't explain it, you can't sell it," said Warren, 60, a Harvard University law professor who is head of the Congressional Oversight Panel for the Troubled Asset Relief Program, in an interview.

The 1966 high school debate champion of Oklahoma may get what she wants. The House of Representatives will vote in December on her idea. She suggested a Financial Product Safety Commission in a 2007 article in the magazine Democracy. President Barack Obama proposed it to Congress in June as the Consumer Financial Protection Agency.

Warren won't discuss whether she may be a candidate to lead the authority, which would have the power to regulate $13.7 trillion of debt products. A Warren nomination would tell banks that Obama is determined to force reduced checking-account fees and limit lender claims in mortgage advertising, among other measures the industry opposes, said Thomas Cooley, dean of New York University's Stern School of Business.

"She is an ideological crusader," Cooley said in an interview. "She is a person who will stir up a lot of trouble." In a column in Forbes magazine, Cooley accused her of "waging a self-righteous holy war."

The criticism doesn't bother her, Warren said. She learned to shake things off growing up in Norman, Oklahoma, with three older brothers "in a family of car parts and fist fights," she said. "It was get tough or die, and I decided to get tough."

Coors Light

Her detractors confuse prairie-born populism with elitism, probably because of her job, she said. On the faculty of Cambridge, Massachusetts-based Harvard since 1992, she is the Leo Gottlieb Professor of Law. Before Harvard, she taught law at five other universities in four states.

"Those comments are intended to be nasty, not accurate," said Warren, who graduated from high school at 16 and said she prefers Coors Light beer over iced tea. "I think a lot of Americans are not sure which side Washington is on, the side of banks or the side of the people."

Warren is a superstar to anyone who has been baffled by financial fine print, according to Arianna Huffington, editor- in-chief of the Huffington Post, a news and opinion Web site.

“She’s been courageous in a culture where every other official is checking to see if what they’re saying is going to affect their career,” said Huffington, who met Warren when the professor was a guest on CNBC’s “Squawk Box” and Huffington was hosting. “If she doesn’t get the job, it would really mean that the special interests have won.”

Freedom of Choice

A measure the House Financial Services Committee approved on Oct. 22 would empower the consumer agency to set limits on checking account overdraft fees and to ban credit cards with escalating rates and lending practices it deems predatory. Similar legislation is before the U.S. Senate Banking Committee.

If such an authority had existed, Americans might not have taken out the subprime and other mortgages that touched off the recession when house prices fell, Warren said. Congress is rewriting financial rules after the 2007-2008 crisis caused $1.67 trillion in writedowns and losses.

The agency’s opponents, including the U.S. Chamber of Commerce, the American Bankers Association and the Financial Services Roundtable, contend another layer of regulation would bury small community banks and rob consumers of freedom of choice in making basic financial decisions.

‘Pitchforks and Torches’

“It is positively Orwellian that, through this legislation, Democrats will empower an unelected bureaucrat to tell their fellow citizens whether or not they can fly on an airplane, take a vacation or purchase a home,” Representative Jeb Hensarling, a Texas Republican on Warren’s TARP panel, said Oct. 22. He declined through his spokesman, George Rasley, to be interviewed for this story.

If Congress creates the watchdog, the director should have “a working knowledge of how financial institutions operate,” said Scott Talbott, the financial roundtable’s chief lobbyist.

“The time for pitchforks and torches is over,” Talbott said in an interview. “The focus should be on reforming the system and making it better.”

Warren’s Wall Street experience consisted of a three-month summer associate position in 1975 at Cadwalader, Wickersham and Taft, the financial district’s oldest law firm, according to its Web site. Her aunt and mother moved to Rockaway, New Jersey, to care for her 4-year-old daughter while Warren worked at 2 Wall Street. At first, she said she thought she was being made fun of as a rookie from the sticks.

Pork Bellies

"I got out my little notebook, and the senior partner started talking about frozen pork belly futures," Warren said, recalling an early meeting. "How dumb do they think I am? I wasn't going to fall for it because I am a sophisticated person. It finally occurs to me that he is serious, and that there is a market for pork bellies."

At Cadwalader she earned "an astonishing amount of money" that she used to get braces, she said. By the time she received her degree in 1976 from Rutgers School of Law in Newark, New Jersey, she was expecting her second child, Alex. After Wall Street firms showed no interest in hiring a pregnant recent graduate, Warren said she worked from home, writing wills and doing real estate closings for "anyone who came in the door."

"At Cadwalader, I did a $9 million fifth mortgage on a ship," she said. "In private practice, I worked for a couple starting a little business who had to negotiate some insurance contracts for about $18,000, but it mattered more to them than that ship mortgage mattered to anyone."

Trusting FDR

Warren said she probably inherited her populism from her grandparents, who built one-room Indian schools during the Great Depression. While they didn't understand the financial world, they knew President Franklin D. Roosevelt made their money safe by establishing the Federal Deposit Insurance Corp., she said.
There was little cash to spare during her childhood, she said. Her father was a maintenance man and her mother worked part-time taking catalog orders. Warren didn't let them know she paid $25 application fees with baby-sitting money until she won a scholarship to George Washington University in Washington.

"Then, I could tell them I could go to college," she said, "and someone else would pay for it."

Warren began at George Washington at 17. At 19, she married mathematician Jim Warren, who worked at the Johnson Space Center in Houston, and finished her degree at the University of Houston. They divorced in 1978. Her second husband, Bruce Mann, is Harvard's Carl F. Schipper Professor of Law and author of 2002's "Republic of Debtors: Bankruptcy in the Age of American Independence" (Harvard University Press, 358 pages, $29.95).

Credit Card Snakes

Warren said she doesn't know her credit score -- "I assume it's good" -- and maintains zero Visa and MasterCard balances.

“Credit cards are like snakes: Handle ‘em long enough and one will bite you,” she said. “You have to remember what are incomes to banks are outgoes to families.”
Obama, with whom she attended a campaign event during the presidential race, read her work before proposing the consumer agency, according to Warren. She is the author of nine books, including two with daughter Amelia Tyagi, 38, a former McKinsey & Co. consultant who runs an executive placement office. Tyagi and her mother wrote “The Two-Income Trap: Why Middle-Class Mothers and Fathers Are Going Broke” (Basic Books, 255 pages, $26) in 2003 and “All Your Worth: The Ultimate Lifetime Money Plan” in 2005 (Free Press, 289 pages, $24.95).

Senate Majority Leader Harry Reid, a Nevada Democrat, appointed Warren to the five-member TARP committee after she impressed him with her “strong pro-consumer views,” according to Jim Manley, Reid’s spokesman.

Not Always Mainstream

Warren, who began testifying before Congress more than a decade ago, wasn’t always accepted as a mainstream figure in Washington, said Representative Brad Miller, a North Carolina Democrat. He introduced a bill to create a Financial Product Safety Commission in 2007, and it went nowhere because consumers’ rights weren’t recognized as significant, he said.

“It’s now a very serious proposal,” Miller said in an interview. “If it were not for her, I don’t think it would have gotten this much support. She knew what was important, what was necessary and what would help the bill get through,”
Barney Frank, chairman of the House Financial Services Committee, called Warren a “great partner” in crafting the legislation. The Massachusetts Democrat said he speaks with her by phone twice a week.

In her role overseeing the TARP, Warren has been critical of the administration, accusing the Treasury Department of undervaluing the stock warrants that were supposed to compensate taxpayers when banks repay their bailouts. A lack of transparency about how TARP functions “erodes the very confidence” it was to restore, her committee said in a report.

Odd Hours

Treasury Secretary Timothy Geithner declined to comment for this story through his spokesman, Andrew Williams.

Named in May as one of Time Magazine's 100 Most Influential People in the World, Warren teaches three days a week at Harvard, flying to Washington and New York for meetings, sometimes stopping just long enough to charge her laptop.

She keeps a pace few could maintain, Miller said.

"My last e-mail from her one Saturday night was after 11 p.m. and the first one on Sunday morning came before 7 a.m.," he said. "It made me think she keeps some odd hours."

Warren travels to Los Angeles, where her son and daughter live, about every six weeks. She said she was there to share Halloween with her grandchildren, Octavia, 8, and Lavinia, 4, dressed as a sheep to complement Lavinia's Bo Peep costume.

Not Obama Country

Her students suggested she be a guest on "The Daily Show with Jon Stewart" on Comedy Central, she said. She was also interviewed by Michael Moore for his documentary, "Capitalism: A Love Story," in which she makes a one-minute appearance in a segment about TARP.

She'll "talk to anyone" about consumer protection and her belief that government should stop bank profits earned at the expense of people cheated by "tricks and traps," she said.

"I made a decision at the beginning that the experts wrecked this economy and the public has a right to know what's going on," she said. "It's our economy on the line and the experts can't be trusted. I want everyone to be part of the solution to how we want to change our economic world. If it's risky or makes me look stupid to someone, so be it."

Warren, whose TARP job paid her $114,733.04 through Sept. 30, has a high profile the White House should appreciate, said Damon Silvers, an oversight panel member, in an interview.

"We were out in Colorado at a hearing for rural finance and people came up to her," Silvers said. "That wasn't exactly Obama country out there, if you know what I mean."

Warren reflects Obama's belief in the good that government can do, said Howard Marks, chairman of Oaktree Capital Management LLC in Los Angeles, who said he met Warren when Huffington brought her to a dinner at his house.

"We found out over the last eight years what kind of regulation you get from an administration that doesn't believe in regulation," said Marks, whose firm has about $67

billion in assets under management. “Now we’ll find out what oversight we will have from people who do.”

Panel: US can dismantle 'too big to fail' firms
Jim Kuhnhenn
Associated Press
November 19, 2009

A House committee voted Wednesday to give the government the right to dismantle financial firms that are so big, interconnected and leveraged that they could harm the economy, even if they are healthy.

Voting along party lines, the House Financial Services Committee modified a sweeping financial regulation bill to give broad new power to a proposed Financial Services Oversight Council that would monitor risk across the financial system.
The provision, proposed by Rep. Paul Kanjorski, D-Pa., was staunchly opposed by Wall Street because it would let the government break apart firms even if they were sound and well-capitalized.

"No firm should be considered to be too big to fail,'" Kanjorski said in a statement. "Financial firms that want to play in a casino need to have their own resources to cover their bets and not assume that tax dollars are available in reserve if their bets fail."

The amendment approved Wednesday says the government could intervene when a firm presents a "grave threat" to the financial system — a higher bar than what many large financial institutions thought Kanjorski would set.

The legislation also would take into account a number of factors for breaking up a firm. In addition to size, the council would also have to consider the "scope, scale, exposure, leverage, interconnectedness of financial activities."

"This is more moderate than other approaches out there, but we still oppose it," said Scott Talbott, a senior lobbyist for the Financial Services Roundtable, which represents institutions that could be affected by the legislation.

Critics have argued that the legislation would effectively force financial institutions to scale back their size and place them at an international disadvantage.

Kanjorski said he would coordinate with the European Union to ensure that doesn't happen.

NAIC Wins FIO Bill Changes
Arthur D. Postal
National Underwriter
November 18, 2009

The National Association of Insurance Commissioners has won significant changes in a draft of legislation that could create a Federal Insurance Office.
The changes would require the FIO to coordinate its work with the efforts of state insurance regulators, and the changes also would give Congress and the courts the authority to limit the agency's authority in connection with insurance matters.
The new language is contained in a manager's amendment to the Federal Insurance Office Act of 2009 bill.

House Financial Services Committee leaders approved the amendment Tuesday.
Although the changes in the draft have pleased the NAIC, they appear to have upset supporters of a stronger federal role in insurance regulation.

Groups with concerns about the changes appear to include the American Council of Life Insurers, Washington; the American Insurance Association, Washington; the Reinsurance Association of America, Washington; **and the Financial Services Roundtable, Washington.**

The Financial Services Committee might mark up FSIA Thursday, but the controversy over the FIO provision changes could lead to a delay.

The changes the NAIC negotiated in the bill would mandate closer cooperation between the states and the FIO on narrow international agreements; ensure that international agreements would not preempt state prudential regulation of U.S. insurers; limit the scope of agreements to recognizing a level of supervision consistent with state protections; add a congressional involvement and consultation provision; and add a provision requiring judicial review of preemptive determinations made by the proposed agency.

The changed language also would restate that states have the authority to regulate the "business of insurance."

"The recent amendments strike an appropriate balance among the needs of consumers, state regulators and federal negotiators by preserving important state and market regulation while allowing for agreements with equivalent regulatory systems," Roger Sevigny, NAIC president and New Hampshire insurance commissioner, says in a statement. "While the NAIC continues to oppose a federal functional regulator for insurance or misguided attempts to further empower the FIO, the bill as currently drafted is an appropriately narrow and targeted improvement to our system of supervision."

House Panel Approves Measure to Dismantle Risky Firms
Allison Vekshin
Bloomberg News
November 18, 2009

A House committee approved giving the U.S. authority to break up healthy, well-capitalized firms whose size threatens the economy, a step Republicans said would create a "huge accumulation" of power.

The House Financial Services Committee voted 38-29 today on an amendment that would let regulators dismantle a firm, limit mergers and acquisitions and force an end to activities deemed systemically risky. The financial industry opposed the measure, which is part of legislation to overhaul Wall Street rules.

"I recognize this is extraordinary power," Representative Paul Kanjorski, a Pennsylvania Democrat who proposed the amendment, said during debate. "Hopefully it will never have to be used because it is displayed and because it does exist."

The House Financial Services Committee is considering legislation that would create a council of regulators, including the Federal Reserve, to monitor large, interconnected firms for risks they pose. It's part of the effort in Congress to overhaul financial rules to prevent a repeat of the worst financial crisis since the Great Depression.

Republicans opposed Kanjorski's plan as giving too much authority to regulators. "That's a huge accumulation of power that we're going to give to five or six people that are on this council," said Representative Randy Neugebauer, a Texas Republican. "We're already imposing the federal government substantially on these entities."

Industry Opposition

Representative Spencer Bachus of Alabama, the committee's top Republican, said the plan entrusts regulators to decide "what the financial industry should look like" and those agencies failed to anticipate the crisis, "let alone do anything to prevent it," Bachus said.

The Financial Services Roundtable, representing the biggest financial firms, and the Financial Services Forum also opposed the legislation.

Kanjorski's measure would empower the council to break apart firms considered well-capitalized if they are "so large, interconnected or risky that their collapse would put at risk the entire American economic system," according to a bill summary released by Kanjorski's office.

The measure requires the council to consult with the president before taking "extraordinary" actions. The amendment doesn't cap the size of financial firms, the summary said.

The council would give Congress an annual report showing the size, concentration and links with other firms for the 50 largest U.S. financial institutions based on assets.

Kanjorski has met some of the heads of firms that would be covered by the council and said he are is aware of the controversy the proposal has stirred.
'Contentious Amendment'

"I don't want to kid anybody," Kanjorski said. "This is a contentious amendment."

Kanjorski's proposal will discourage financial firms from expanding, said Scott Talbott, senior vice president of government affairs at the Financial Services Roundtable, representing many large U.S. financial firms in Washington.
While a policy of having government prop up systemically important firms must be eliminated, targeting an institution's size isn't the solution, said Rob Nichols, president of the Financial Services Forum.

"More effective supervision, coupled with the authority to seize and wind down large firms, is the appropriate remedy," Nichols said.

Lawmakers are seeking to prevent further taxpayer bailouts after last year's rescues of American International Group Inc., Citigroup Inc. and Bank of America Corp. under the $700 billion Troubled Asset Relief Program.
The committee plans to vote on Kanjorski's amendment later today. The legislation must be passed by the House and Senate and signed by the president to become law.

US Banks Ask Regulators To Delay, Phase In Higher Cap Requirements
iMarketNews.com
November 18, 2009

This will hurt credit availability, banks told regulators.

"We believe that the Proposed Rule would have an adverse and significant impact on the viability of the securitization market and the availability of credit generally," commented Bank of America, echoing many of its peers' views.

"The Proposed Rule will impede the ability of banks to cost-effectively maintain appropriate levels of capital with regard to securitized exposures, severely constrain bank

balance sheets and eliminate important incentives that encourage proper risk transfer," the bank added.

As a result, the bank recommended a six-month delay in the implementation of the proposed rule until June 30, 2009.

"Thereafter, the capital impacts associated with any final rules could be phased in from June 30, 2010 to June 30, 2011, or longer if necessary," it said.

But banks and asset managers were not the only ones to argue for a softening of the proposed rule, especially through exemptions.

Going even beyond banks' request for a moratorium of at least six months, the National Association of Home Builders wants to delay the implementation for "at least three years."

"Unfortunately, regulatory overreach and the multitude of new regulations and proposed financial regulatory reforms threaten a recovery and could potentially create a pro-cyclical impact on credit that must be reversed," the NAHB warned.

In between, the Financial Services Roundtable recommended a moratorium of at least one year, with a preference for three years, "consistent with the time period of some federal liquidity programs such as the Term Asset-Backed Securities Loan Facility."

On the exemption side, Bank of New York Mellon recommended the exclusion of sponsored fund assets consolidated as a result of FAS 166 and FAS 167 from the calculation of the minimum risk-based capital requirement.

At Bank of America, "We recommend that the agencies announce there will be no change in the capital treatment for customer-centered multi-seller ABCP conduits," referring to asset-backed commercial paper conduits.

For Wells Fargo, "We do not believe that sponsors of self-liquidating securitizations backed by amortizing asset pools, including residential mortgage-backed securitization ('RMBS') transactions, should be required to hold any additional risk-based capital to reflect implicit recourse, as such implicit recourse is absent from these transactions."

Without any modification of regulatory capital requirements, the bank writes, "there will also be an incremental burden absorbed by consumers and businesses resulting from reductions in available lending capacity and higher pricing."
Wells Fargo also wants to delay higher capital requirements "at least through calendar year 2010."

Mortgage insurers, represented by The Mortgage Insurance Companies of America (MICA), said "it is appropriate to focus principally on risk-based capital, not the leverage requirements."

In addition, "MICA supports the proposed exemption for government-sponsored enterprise (GSE) securitizations from consolidated obligations for capital purposes, but believes that other securitization structures with private capital at risk should be similarly exempted."

But contrary to what banks are asking, MICA counseled that "any phase-in period should be as short as possible to avoid any new mortgage structures that permit capital arbitrage against direct or indirect credit risk held by the lender, issuer or securitizer."

Distinguishing between ABCP conduits and term market structures on the one hand and term asset-backed securities markets on the other hand, the American Securitization Forum recommends that for ABCP conduits, the rule continues "to permit banks to elect to disregard consolidation of Customer Conduits.

For the term ABS markets, there should be "a six-month moratorium on capital changes" followed by a three-year phase-in period.

In addition, legacy residential mortgage-backed securities "and other legacy transactions and structures (including specific credit card master trusts) that have not received implicit support during the recent crisis from any capital changes" should be exempt from the rule.

Among other arguments to delay the rules, commenters cited divergences between U.S. and international accounting standards, which should first be resolved.

The comment period on the impact of modifications to GAAP on risk-based capital guidelined ended October 15 and bank regulators still have to decide on the final rule.

BNY Mellon Chairman and CEO Bob Kelly Outlines Recommendations for Strengthening the Financial System
PRNewswire
November 18, 2009

Robert P. Kelly, chairman and chief executive officer of BNY Mellon, outlined a series of steps designed to reduce the risk of another major financial crisis in a speech today at the Detroit Economic Club.

"Consumers are saving more and reducing debt, which is exactly what they should be doing. With the exception of some financial institutions and the auto industry, businesses are navigating the downturn fairly well. Where we need to focus our attention is on closing the gaps in our regulatory system, and doing so thoughtfully," Kelly said.

Kelly, who chairs committees on modernizing and reforming the U.S. financial supervisory framework for both the Financial Services Roundtable and the Financial Services Forum, highlighted a set of recommendations for strengthening the financial system that includes:

- Ensuring appropriate standards for capital and liquidity for financial institutions globally.
- Creating an orderly wind-down process for all financial firms deemed to be "systemically important." No institution should be too big to fail.
- Fixing our residential mortgage system and deciding whether our government should remain in the business.

Kelly also called for a new era of international regulatory cooperation and convergence. "It's critical that U.S. reforms not be created in a vacuum. The financial crisis has highlighted how highly interconnected the global financial marketplace has become. The stability of the system calls out for truly global standards for both regulation and accounting, which will also help ensure that U.S. financial companies are competing on a level playing field with the rest of the world."

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. The Financial Services Forum is a non-partisan financial and economic policy organization comprised of the CEOs of 18 of the largest and most diversified financial services institutions doing business in the United States.

The Detroit Economic Club was formed in 1934 as a non-partisan, non-profit organization committed to the discussion and debate of important business, government and social issues. The DEC continues to provide a platform for distinguished international dignitaries and business leaders, who represent the changing global environment. It is known internationally as an important venue for prominent business and government leaders -- a forum they can use to explore issues that will help shape the dynamic 21st century economic environment.

BNY Mellon is the corporate brand of The Bank of New York Mellon Corporation (BK). BNY Mellon is a global financial services company focused on helping clients manage and service their financial assets, operating in 34 countries and serving more than 100 markets. BNY Mellon is a leading provider of financial services for institutions, corporations and high-net-worth individuals, providing superior asset management and

wealth management, asset servicing, issuer services, clearing services and treasury services through a worldwide client-focused team. It has $22.1 trillion in assets under custody and administration and $966 billion in assets under management, services $11.9 trillion in outstanding debt and processes global payments averaging $1.6 trillion per day. Additional information is available at www.bnymellon.com.

Bartlett Address U.S. Overhaul of Financial Regulation
Bloomberg
Wednesday, November, 18, 2009

Steve Bartlett, President and CEO at the Roundtable, appeared on Bloomberg Television to discuss U.S. overhaul of financial regulation. To view the segment, please click here.

“We can’t finance this economy with 100 small banks on the corner”

Recovery Waits on Bank Regulators
Dan Freed
The Street
Friday, November 20, 2009

NEW YORK - Banks are in a holding pattern these days, waiting to hear specifics from regulators about new capital requirements.

The situation has, for a large part, put the brakes on lending, industry consolidation (beyond swooping in on failed institutions), and even capital investment in their existing businesses, at the same time as economists, market observers and government officials are urging banks to put money to work in order to aid in the broad economy's recovery.

"Regulatory uncertainty is having a chilling effect on all operations," says Scott Talbott, a lobbyist with The Financial Services Roundtable, a trade group representing Citigroup (C Quote), Bank of America (BAC Quote), General Electric (GE Quote) and other large financial companies.

The issue comes up again and again in conference calls with analysts, though the impact of this uncertainty is often overlooked.

"It's still too early to tell exactly where the capital regulations are going to come out," said Goldman Sachs (GS Quote) CFO David Viniar, during the bank's presentation related to its third-quarter results last month. "We manage our risk very, very conservatively and always have, but I think we're still in a wait-and-see mode."

One reason that U.S. regulators seem to be dragging their feet is a desire for domestic standards be comparable with international rules, although it's not as if the rest of the world has arrived at any sort of consensus.

"You've got speed cameras on the road without knowing what the speed limit is," says Kinner Lakhani, London-based analyst at Citigroup who follows European banks such as Deutsche

Lakhani says U.S. and European banks currently operate by different standards, and some countries are taking a tougher stance. Switzerland, for example, is adopting standards for the Core Tier 1 capital ratio metric that could be materially higher than what is expected to be the international norm.

A further issue is that banks have to address how they will fund themselves. A recent study by *Moody's Investors Service* says banks in several countries will see a steep rise in funding costs as they look to lock in longer-term funding and wean themselves off government guarantees.

"Capital is a 2009 story and funding could increasingly become a 2010 story," Lakhani says.

Mark Fitzgibbon, analyst at Sandler O'Neill, thinks U.S. legislators and regulators are not waiting for international consensus, despite frequent discussion of international standards set by the Basel Committee on Banking Supervision.

"I think Basel's kind of a joke," Fitzgibbon says. "It's resulted in a lot of paperwork, a lot of fees for the people involved in it, but it really hasn't done much."

Fitzgibbon expects more clarity from U.S. legislators and regulators in about six months.

"There will at least be broad brush strokes of the new plan [in that timeframe]," he says.

Given the near-term uncertainty, however, big banks like JPMorgan Chase (JPM Quote) and Wells Fargo (WFC Quote) aren't doing much lending, a fact that is partially obscured by large acquisitions they have made in the past 12 to 18 months, which make it hard to pinpoint exactly where and how their balance sheets are growing.

Tobin tax advocates pile pressure on US
Andrew Clark
The Guardian
November 23, 2009

Advocates of a Tobin tax on financial transactions accept that any international levy would need US support and an increasingly vocal coalition of Democrats in Washington is pressing a sceptical Obama administration to get on board.

The fourth highest ranking Democrat in the House of Representatives, John Larson, has put forward a plan to impose a 0.25% tax on derivatives transactions. Another congressman, Peter DeFazio, has recruited five colleagues and an array of unions to champion his proposal for a much broader tax.

DeFazio, a left-leaning Democrat from Oregon, says his plan would raise about $150bn (£91bn) annually by targeting dealing in shares, futures, options and credit default swaps. To zero in on speculators, he would exclude certain retirement, healthcare and education savings accounts, and he suggests refunding tax on the first $100,000 of transactions annually.

Wall Street remains opposed, arguing that any measure would hurt wealth generation. But Dean Baker, co-director of the Washington-based Center for Economic and Policy Research, said the US treasury could be persuaded to see a tax as an aid in plugging a huge looming budget deficit. "I think it has a chance," said Baker. "People are really, really angry with the financial industry. We do have budget deficits and this is getting a lot of interest."

Among those signed up to DeFazio's plan are America's largest union confederation, the AFL-CIO, and activist groups such as Americans for Financial Reform and the Campaign for America's Future.

The Obama administration, which has been reluctant to cast itself as anti-Wall Street, is unenthusiastic. The US treasury secretary, Timothy Geithner, said this week that he has "not seen a version of that tax that I think would be appropriate for our country", though activists suggested this was a softening of his line from earlier in the month, when Geithner simply said that a financial transaction tax was "not something we are prepared to support".

The speaker of the House, Nancy Pelosi, said a Tobin tax was "not a priority" but she did not rule it out, saying simply that the US could not act single-handedly: "We couldn't do it alone, we'd have to do it as an international initiative."

Wall Street, having largely dodged any substantive crackdown on bonuses, is yet to take the idea seriously. Americans, who are less likely than the British to have employer-managed pension plans, invest directly in the stockmarket more commonly than Europeans, and any tax would face stiff opposition from free marketeers.

Scott Talbott, a spokesman for the Financial Services Roundtable, which represents banks and financial institutions, said a Tobin tax would strike "at the very heart" of the economic system: "The proposals would have a chilling effect on job creation by reducing the amount of capital available to corporations."

U.S. Bank has edge in sour economy
Paul Gores
Milwaukee Journal-Sentinel
November 21, 2009

Where many Wisconsin banks see growth-stunting loan problems, U.S. Bank executives say they see opportunity.

While many other banks are taking losses and focusing on maintaining adequate capital during the tenacious recession, the relatively strong financial condition of U.S. Bank has put it in a position not only to keep good business customers but also to woo borrowers who have been in longtime banking relationships and off-limits, they said.

"There is nothing more important in times like this than to prove to your customers that you are loyal to them and will be with them through the cycle," Richard K. Davis, chairman, president and chief executive of U.S. Bancorp, said during a recent visit to Milwaukee. Minneapolis-based U.S. Bancorp is the parent company of U.S. Bank.

Davis asserts that its strength among banks has made U.S. Bank attractive to business customers. The bank passed its stress test and paid back its $6.6 billion Troubled Asset Relief Program capital investment from the U.S. Treasury in only seven months. Although its nonperforming loans rose in the third quarter, U.S. Bank's ratio of noncurrent loans to total loans remains better than many of its competitors.

"Customers - middle-market and corporate customers - said, 'Look, I can't afford to have a line of credit that, at one year when I renew it, the bank doesn't want it anymore or can't afford to keep it anymore or won't give me the " Davis said. same terms,'

U.S. Bank was created in 2001 by the merger of U.S. Bancorp and Milwaukee's Firstar Corp., and it always has been an important business lender in Wisconsin. After the merger, local bankers say, competitors took advantage of the perception that U.S. Bank was a gigantic out-of-town financial institution to swoop in and take away some of its customers.

Now, however, U.S. Bank says it expects to win - and has already started winning - more business in the down economy because of its reputation as one of the healthiest big banks.

Maybe so, but pulling businesses away from existing banking relationships won't be easy, said veteran Wisconsin bank analyst David L. Donihue. While U.S. Bank is "a very strong, overall very well-managed bank," he said business borrowers in the state tend to be loyal to banks that have treated them well over the years.

"There's got to be a compelling reason for a company to leave," said Donihue, director of Maximizing Shareholder Value & Co. in Leesburg, Fla. "People overall in the Wisconsin market are still conservative, and they just don't rapidly leave people that they've been dealing with. That's going to be the biggest hurdle that U.S. Bank's going to face."

If customer service slacks off, a business customer may be more inclined to shop for a new bank, and Wisconsin banks realize this, Donihue said.

Milwaukee's M&I Bank, the largest bank based in the state and one with many longtime business borrower relationships, has said repeatedly that customer service has remained a key focus even as it has been posting quarterly losses and wrestling with bad loans in its Arizona market.

Bill Bertha, president of the Wisconsin market for U.S. Bank, said that customers U.S. Bank has been calling on for years, but couldn't start a relationship with because they were entrenched with another bank, now are interested in U.S. Bank.

"Now the doors are open, and they're calling us up and they want to hear what we can do for them, and they're coming over," Bertha said.

Although U.S. Bank operates in faster-growing states than Wisconsin, the Badger state remains "absolutely important" to the bank, not only for businesses and consumer lending, but also for the companywide operations that still are based in Milwaukee, Davis said.

Among corporate functions in Milwaukee are its credit card business, customer service center and mutual fund services.

U.S. Bank has more than 4,800 employees in Wisconsin, about 3,300 of them in southeastern Wisconsin. It operates from the state's tallest building, the 42-story U.S. Bank Center in Milwaukee.

U.S. Bank is second in deposit market share in the state at 12.21%, trailing M&I's 18.79%. That means $12.21 of every $100 deposited in banks in Wisconsin was with

U.S. Bank when the Federal Deposit Insurance Corp. took its annual deposit survey in June.

Davis is chairman-elect of the Financial Services Roundtable, a group that represents most of the biggest companies in the financial industry. In that role, Davis said, he hopes to lobby for balance in Washington's effort to fix industry problems that led to the crisis in the financial system.

Among his concerns is that politicians will impose laws that take so much risk out of the system that it will hamper innovation, investment and economic growth.

"We shouldn't make laws and make decisions at this moment in time without a little more discussion and a little more balance," Davis said.

In Love Affair With Credit, It's Business as Usual
Eric Mink
New York Times
November 24, 2009

Creating compelling television out of jacked-up interest rates, compounded penalty fees and software code rigged to rip off credit card customers is no mean feat. "The Card Game," a new production in the long-running "Frontline" documentary series on PBS, does a fine job of it.

This latest look at the questionable practices of the American credit card industry has two important things going for it: briskly paced content with a high outrage quotient and casting that draws clear distinctions between good guys and bad guys.

The program, a co-production with The New York Times, springs from the enactment in May of the Credit Card Accountability, Responsibility and Disclosure Act of 2009. As the calendar counts down through a lobbyist-induced, eight-month delay to the law's effective date, the card companies have been infuriating consumers by hiking rates on existing balances, lowering credit limits and inventing new ways to induce late payments and trigger multiple penalty fees.

Lowell Bergman, the on-camera interviewer who wrote and produced the documentary with Oriana Zill de Granados, corrals a diverting assortment of players. Opening the program is Shailesh Mehta, a former chief executive of Providian Financial Corporation, a credit card company that pioneered what he calls "penalty pricing" or "stealth pricing." With disarming candor, Mr. Mehta reviews the tactics that lure new cardholders, many with poor credit records, with promises of no annual fees and initial zero-interest periods, only to squeeze them later with high interest rates and fees lurking in the fine print of their account contracts.

The program, which has its premiere on Tuesday night, offers brief case studies of people caught in the resulting credit vise. Among them: Ben Collins, a construction contractor whose small business has been paralyzed by the arbitrary reduction of his firm's credit card limit; Don Bollinger, a rural worker who survived cancer but was forced into bankruptcy after he lost his job and his credit card company doubled the interest rate and minimum payments on his existing balances; and Josette Wermuth, whose debit card's mandatory overdraft "protection" ended up costing her $365 in penalty fees after a $7 pizza purchase left her with a negative account balance.

Caught between the complaints of constituents and industry muscle, politicians including Senator Christopher J. Dodd, Democrat of Connecticut and chairman of the Senate Banking Committee, and Representative Carolyn B. Maloney, Democrat of New York and a member of the House Financial Services Committee, recount repeated legislative and administrative opportunities to rein in abusive practices, only to see reform bills killed or emasculated by lobbying power and regulatory authority neutralized by ideological posturing.

Speaking of which, "The Card Game" also showcases a decidedly unconvincing bunch of industry spokespersons. **Scott Talbott, a Washington lobbyist for the Financial Services Roundtable, conjures up the possible death of American capitalism.** Nessa Feddis, a senior counsel of the American Bankers Association, says that only a minority of cardholders were "confused" about the rules and declares the matter closed in light of the new bill. "The industry is moving on," she tells Mr. Bergman. "End of story."

Despite the documentary's engaging storytelling, it's still a little desperate for gripping visuals. The arresting close-ups of dramatically lighted credit cards, fingers punching PIN numbers into A.T.M.'s, and store clerks swiping cards through credit terminals soon devolve into cliché.

There is also a sense of déjà vu hovering over "The Card Game." "Frontline" and The Times collaborated on a similar report five years ago, "Secret History of the Credit Card," for which Mr. Bergman served as on-camera correspondent and co-writer. That program charted the growth of abusive practices by credit card companies, practices that seem to have become only more robust since the not-unrelated bursting of the credit bubble last year.

The credit card industry's apparent confidence — Senator Dodd calls it "arrogance" — in the face of the new federal legislation may stem from its deep pockets and demonstrated lobbying prowess. Or it may draw strength from its practiced exploitation of innate human weakness.

"Bankers will figure it out to comply," Mr. Mehta says. "You make the stupid laws, and I'll comply and I'll make money." He adds, "And there are always some desperate people who will take the product."

FRONTLINE

The Card Game

On most PBS stations on Tuesday night (check local listings).

Credit cards: No holiday help from Congress
Jennifer Liberto
CNNMoney.com
November 24, 2009

A congressional effort to enact swift rules to protect credit card consumers during the holiday shopping season is all but dead.

Tough new rules are already slated to go into effect on Feb. 22. The new rules, enacted by President Obama in May, prohibit banks from hiking interest rates on existing balances of fixed-rate cards unless the cardholder is two months late in paying the bill.

After credit card companies started hiking rates over the summer, the House and Senate offered proposals to move up the effective date of the new rules or to freeze rates until the new law kicks in.

The House passed a measure, sponsored by Rep. Carolyn Maloney, D-N.Y., to move up the start date to take effect immediately. (Please see correction.)

But the Senate has introduced a different version and has shown no signs of taking up the House bill.

Last week, Sen. Chris Dodd, D-Conn., tried to fast-track a bill he introduced to freeze rates, but Republicans blocked the move.

"The holiday season is upon us. Hard-pressed Americans want go out and do what what they can to help their families and celebrate, in a very difficult time, some joy ... by taking a credit card out and making those purchases," Dodd said from the Senate floor. "They're watching ... an industry continue to skyrocket these rates and fees on people."

Dodd, who chairs the Banking Committee, has not given up on his rate freeze proposal. "Senator Dodd is going to use every opportunity he can to pass this bill," said Dodd spokeswoman Justine Sessions.

But Congress watchers say they don't expect the Senate to pass the freeze now that the effective date is looming, especially as health care reform and the shaky job market dominate lawmakers' attention.

"It's going to be very hard to do, because you just don't have time to move it through the chambers," said Dan Clifton, head of policy firm Strategas Research Partners. "There's probably no room to do it through December or probably through January."

In the meantime, credit card rates continue to inch higher, according to a Government Accountability Office report released last week.

"In recent months, changes in the economy and the passage of the [new law] have led many issuers to 'reprice' their credit card accounts by altering the rates, fees, and other terms that apply to cardholders' cards," the government watchdog said.

Interest rates on consumer credit cards have been increasing steadily since the second quarter of 2008, when rates were 11.88%. Since then, rates have shot up to 13.32% in the second quarter of 2009, according to Federal Reserve data.

The banking industry, which opposed the bills to move up the tougher rules, says its recent rate increases have more to do with accounting for the increased risk in lending to strapped consumers who can't pay their bills.

"It's unfortunate that the economy is struggling during the holiday season, but credit card interest rates reflect the risk in the economy," said Scott Talbott, chief lobbyist for the Financial Services Roundtable, a business group.

Strong banks, weak credit: Treasury rethinks TARP
Jim Kuhnhenn
Associated Press
November 24, 2009

Big banks are roaring back. At crisis' edge last year, they are repaying billions of dollars dumped into their vaults to rescue them. Dividend checks are accumulating at the Treasury. Taxpayers won't recoup the full sum of the government's unprecedented infusion to the financial sector, but the returns are ahead of schedule.

With large bets on bonds, commodities and exotic financial products, big banks are reporting third-quarter profits.

Of the $250 billion that the government initially set aside to spend in direct assistance to banks, it has spent $205 billion and the Treasury is already taking steps to bring that program to an end. The ledger: Banks have paid back $71 billion of the infusions. They have also paid the Treasury nearly $7 billion in dividends.

If propping up much of the teetering financial markets was the goal of the government's $700 billion Wall Street rescue, then mission accomplished.

But there were other objectives for the Troubled Asset Relief Program, too: greater lending to consumers and businesses, mitigating foreclosures and helping banks shed toxic mortgage-backed assets.

On that, it's unfinished business.

A program announced with fanfare four weeks ago that would funnel money to small banks at low rates to increase small business lending is still being designed. Treasury officials are looking at plans that could cost taxpayers between $10 billion and $50 billion but are encountering reluctance from small banks.

"I'm told by banker associations and banks, 'Hey, this is good capital, we'd like to have it, but we don't want to be the only bank in town who takes your capital because the others will advertise against us,'" Herbert Allison Jr., the assistant Treasury secretary in charge of TARP, said in an interview. "There is a stigma and it's frustrating, frankly."

Meanwhile, TARP is set to expire Dec. 31. But with about $140 billion still uncommitted (even more, about $300 billion, unspent), the Obama administration is considering extending at least a portion of the huge fund until next October.

"We are winding it down and will close it as soon as we can," Treasury Secretary Timothy Geithner told a congressional committee. But he stiffly opposed any congressional effort to force the program to end. The struggle facing Treasury is how to continue TARP as insurance against further instability without having Congress use it as a source of new spending.

Officials are keeping a wary eye on smaller banks, which have been failing at the highest rate since 1992 due largely to losses from commercial real estate loans.

"The financial system is stable, but it is not normal and it could be derailed again, and you need to guard against that possibility," said economist Mark Zandi, head of Moody's Economy.com and a regular adviser to congressional Democrats.

Extending TARP as insurance for banks wouldn't be a popular move. Conservatives and liberals object to the direct assistance to big banks and insurance conglomerate American International Group. Republicans have called for the program to end and assigning the unused money to debt reduction. Some liberals want the money for jobs programs.

Overall, the bank infusions alone could end up costing taxpayers about $14 billion, according to estimates by Economy.com. While banks are paying money back, not all of them can be saved. Earlier this month, a San Francisco bank became the first bailed-out institution to fail. More could fall. And two weeks ago small business lender CIT Group, which received $2.3 billion in rescue funds, filed for bankruptcy protection with little hope of repaying taxpayers.

Add to that the money injected into the auto industry, AIG and a $50 billion mortgage assistance program, and Economy.com estimates taxpayers could be left with a bill totaling $155 billion.

For instance, General Motors announced it would pay back a $6.7 billion in U.S. government loans by 2011, four years ahead of schedule. But that still leaves more than $40 billion that the government lent to GM in exchange for a common equity stake. Moody's estimates taxpayers could recoup half of that.

The mortgage assistance program, off to a slow start, has now helped 650,000 homeowners with trial loan modifications, with average savings of $500 a month. The administration aims to help between 3 million and 4 million over three years, but that is $50 billion that won't get repaid directly to the Treasury.

The potential cost to taxpayers illustrates the dramatic change in TARP's purpose from the fall of 2008 when President George W. Bush proposed using the entire $700 billion to help banks get rid of toxic mortgage-backed assets. "We expect that much, if not all, of the tax dollars we invest will be paid back," Bush said on Sept. 24 of last year.

Administration critics say Geithner has not spelled out with clarity how the program will ultimately end.

"Suppose they didn't renew it; there would be shock," said Douglas Holtz-Eakin, a former director of the Congressional Budget Office and an economic adviser to Republican John McCain's 2008 presidential campaign. "There is an implicit expectation that they'll do something. But there is not a nicely framed expectation of how they will exit."

If stabilizing the financial sector was TARP's main goal, increasing lending was the other.

Treasury Department figures released this month show that outstanding loan balances by TARP recipients in September, the latest available data, were 3.8 percent lower than they were in February when the economy was at its worst. Lending by the largest banks that received TARP money declined for the eighth straight month in September.

Analysts and Treasury officials attribute the decline to decreased demand from borrowers and continuing skittishness by banks in the face of economic weakness. **"TARP giveth, but unemployment taketh away," said Scott Talbott, chief lobbyist for the Financial Services Roundtable, which represents large banking institutions.**

Lending volume has declined less than it did during the 1991-92 recession, even though this downturn was deeper. But Allison said there is still a widespread perception that banks could be lending more.

"That's what the business community is telling us uniformly," he said.

Given that, the administration has a dual message for banks that are regenerating their capital.

"We want to see them using their capital for lending as much as they reasonably can," Allison said. "We want to see banks that took TARP capital, especially the larger banks, paying it back when they are able to."

U.S. Bank has edge in sour economy
Paul Gores
The Journal Sentinel
Saturday, November 21, 2009

Where many Wisconsin banks see growth-stunting loan problems, U.S. Bank executives say they see opportunity.

While many other banks are taking losses and focusing on maintaining adequate capital during the tenacious recession, the relatively strong financial condition of U.S. Bank has put it in a position not only to keep good business customers but also to woo borrowers who have been in longtime banking relationships and off-limits, they said.

"There is nothing more important in times like this than to prove to your customers that you are loyal to them and will be with them through the cycle," Richard K. Davis, chairman, president and chief executive of U.S. Bancorp, said during a recent visit to Milwaukee. Minneapolis-based U.S. Bancorp is the parent company of U.S. Bank.

Davis asserts that its strength among banks has made U.S. Bank attractive to business customers. The bank passed its stress test and paid back its $6.6 billion Troubled Asset Relief Program capital investment from the U.S. Treasury in only seven months. Although its nonperforming loans rose in the third quarter, U.S. Bank's ratio of noncurrent loans to total loans remains better than many of its competitors.

"Customers - middle-market and corporate customers - said, 'Look, I can't afford to have a line of credit that, at one year when I renew it, the bank doesn't want it anymore or can't afford to keep it anymore or won't give me the same terms,'

U.S. Bank was created in 2001 by the merger of U.S. Bancorp and Milwaukee's Firstar Corp., and it always has been an important business lender in Wisconsin. After the merger, local bankers say, competitors took advantage of the perception that U.S. Bank was a gigantic out-of-town financial institution to swoop in and take away some of its customers.

Now, however, U.S. Bank says it expects to win - and has already started winning - more business in the down economy because of its reputation as one of the healthiest big banks.

Maybe so, but pulling businesses away from existing banking relationships won't be easy, said veteran Wisconsin bank analyst David L. Donihue. While U.S. Bank is "a very strong, overall very well-managed bank," he said business borrowers in the state tend to be loyal to banks that have treated them well over the years.

"There's got to be a compelling reason for a company to leave," said Donihue, director of Maximizing Shareholder Value & Co. in Leesburg, Fla. "People overall in the Wisconsin market are still conservative, and they just don't rapidly leave people that they've been dealing with. That's going to be the biggest hurdle that U.S. Bank's going to face."

If customer service slacks off, a business customer may be more inclined to shop for a new bank, and Wisconsin banks realize this, Donihue said.

Milwaukee's M&I Bank, the largest bank based in the state and one with many longtime business borrower relationships, has said repeatedly that customer service has remained a key focus even as it has been posting quarterly losses and wrestling with bad loans in its Arizona market.
Bill Bertha, president of the Wisconsin market for U.S. Bank, said that customers U.S. Bank has been calling on for years, but couldn't start a relationship with because they were entrenched with another bank, now are interested in U.S. Bank.

"Now the doors are open, and they're calling us up and they want to hear what we can do for them, and they're coming over," Bertha said.
Although U.S. Bank operates in faster-growing states than Wisconsin, the Badger state remains "absolutely important" to the bank, not only for businesses and consumer lending, but also for the companywide operations that still are based in Milwaukee, Davis said.
Among corporate functions in Milwaukee are its credit card business, customer service center and mutual fund services.

U.S. Bank has more than 4,800 employees in Wisconsin, about 3,300 of them in southeastern Wisconsin. It operates from the state's tallest building, the 42-story U.S. Bank Center in Milwaukee.

U.S. Bank is second in deposit market share in the state at 12.21%, trailing M&I's 18.79%. That means $12.21 of every $100 deposited in banks in Wisconsin was with U.S. Bank when the Federal Deposit Insurance Corp. took its annual deposit survey in June.

Davis is chairman-elect of the **Financial Services Roundtable, a group that represents most of the biggest companies in the financial industry**. In that role, Davis said, he hopes to lobby for balance in Washington's effort to fix industry problems that led to the crisis in the financial system.

Among his concerns is that politicians will impose laws that take so much risk out of the system that it will hamper innovation, investment and economic growth.

"We shouldn't make laws and make decisions at this moment in time without a little more discussion and a little more balance," Davis said.

The Card Game
PBS Frontline
November 24, 2009

Scott Talbott appeared on the PBS Frontline documentary "The Card Game," discussing debit cards. Scott appears at the end of segment 5, and the video can be viewed here.

Private-Label MBS Risk Retention Could Be Steep
Brian Collins
Mortgage Servicing News
November 18, 2009

A revival of the private-label mortgage market - including jumbo securitizations - could be a long way off if newly proposed legislation becomes a reality.

Senate Banking Committee chairman Chris Dodd, D-Conn., drafted a bill that would require sellers of mortgage-backed securities to retain 10% of the credit risk. Total or partial exemptions are granted for GSE-backed loans and FHA products.

Democratic lawmakers want to hold lenders and securitizers feet to the fire so they won't originate and sell mortgages that burn consumers and investors. But the industry fears it could stifle a recovery in the private-label market, which has been dormant since the credit crisis began.

The bill carves out government-guaranteed loans and provides flexibility for other exemptions, said Scott Talbott, the Financial Services Roundtable's top lobbyist. But to issue a private-label MBS, the securitizer would have to make a case for the regulators to reduce the 10% retention requirement. "We think 10% is too high as a starting point," Mr. Talbott said. "We think 5% is the right place to start."

Independent mortgage bankers also want risk retention reduced to 5%.

Glen Corso, managing director of the Community Mortgage Banking Project, is wary of exemptions in the Dodd bill. He pointed out that the way securitizers are defined it could "rope in" Ginnie Mae issuers and make them subject to risk retention.

"We are not 100% convinced that the way it is worded the exemptions will be effective," Mr. Corso said.

The risk retention language is contained in Dodd's 1,100-page bill designed to revamp regulation of the financial services industry and safely shut down firms that are considered "too big to fail."

"To restore confidence in our markets and encourage investment, we will require companies that sell products such as mortgage-backed securities to keep 'skin in the game' so that they won't sell worthless securities to unsuspecting investors," said Sen. Dodd, introducing his bill. In the Dodd bill, the Securities and Exchange Commission and federal banking regulators can approve a total or partial risk retention exemption for other MBS and allocate risk retention between securitizers and the lenders.

Back in May, the House of Representatives passed a subprime lending bill (H.R. 1728) that requires lenders selling and securitizing subprime mortgages to retain 5% of the credit risk.

House Financial Services Committee chairman Barney Frank, D-Mass., drafted the bill and now wants to attach it to regulatory reform legislation his committee is working on. In drafting his bill, Chairman Frank bumped up the risk retention requirement to 10%. He also excluded the exemptions for government-guaranteed loans and other "qualified mortgages" that industry groups liked in H.R. 1728.

This week, the Financial Services Committee resumes the markup of its bill. Industry groups are supporting an amendment that will reduce the risk retention requirement to 5%.

"We want 5% to be the ceiling not the floor," Mr. Talbott said.

Industry groups also want exemptions added to the bill. "The amendment will try to reinstate the provisions of H.R. 1728 with regard to qualifying mortgages," Mr. Corso said.

Developing Industries Urge Hands-Off Merger Enforcement
Brent Kendall
Dow Jones Newswires
Wednesday, November 25, 2009

WASHINGTON (Dow Jones)--Microsoft Corp. (MSFT), Verizon Communications Inc. (VZ) and leading trade groups in the biotechnology, manufacturing and financial services sectors are urging U.S. antitrust authorities to take a hands-off approach to mergers that occur in rapidly evolving industries.

They say technologies and product markets in some industries can change so quickly that antitrust regulators could harm innovation and consumer welfare by challenging merger transactions.

"The agencies should hesitate to challenge mergers absent a high level of confidence as to how the market will evolve," the companies and groups said in written comments to the U.S. Department of Justice and the Federal Trade Commission.

The comments came this month as part of administrative proceedings in which the Justice Department and the FTC are considering possible changes to their merger guidelines,

which are used to determine whether proposed business mergers are anticompetitive. The guidelines have not been revised significantly since 1992.

Among the questions the agencies are asking is whether the guidelines should offer a more-detailed explanation of how to evaluate proposed mergers in so-called dynamic markets that are new, evolving or experiencing significant technological changes.

Joining Microsoft and Verizon in urging antitrust regulators to take a cautious approach to such mergers were the Biotechnology Industry Organization, **the Financial Services Roundtable** and the National Association of Manufacturers.

"The markets that many high-technology companies inhabit today did not even exist a few short years ago," they said. "Rapid cycles of innovation exist in the software, biotechnology and pharmaceutical sectors, as well, at times bedeviling any easy predictions about the direction of future competition in those markets."

The debate about how to approach merger review in high-tech and other dynamic industries is a long-standing one.

"High-tech companies have been making these arguments for a long time and they've pretty much fallen on deaf ears," said Joseph Simons, a former antitrust enforcer at the FTC who is now in private practice at Paul, Weiss, Rifkind, Wharton & Garrison LLP.

Simons said there were good arguments to be made on both sides. Taking a hands-off approach to high-tech transactions could cause significant interim damage to competition because markets can take a long time to correct themselves, he said. "On the other hand, efficiencies in high-tech transactions could be substantial and outweigh any negative effects even in the short run."

David Wales, another former FTC competition enforcer now with the Jones Day law firm, said that given the Obama administration's increased interest in scrutinizing the high-tech sector, the current antitrust regulators are unlikely to make any changes to the merger guidelines that might tie their hands.

"The current administration has a higher degree of confidence that it can intervene in a way that does more good than harm," Wales said. "What you're hearing from the current enforcers is that they're more comfortable making these calls."

The first of five hearings on possible changes to the merger guidelines will take place Dec. 3 at the FTC in Washington. The FTC and the Justice Department will also hold hearings in New York, Chicago and Stanford, Calif.

Bankers Say Financial Overhaul Bill 'Over-reacts to the Crisis'
Damian Paletta
Wall Street Journal
November 29, 2009

A trade group of the nation's largest banks sent a letter to each member of the House Financial Services Committee on Sunday urging them to vote against a bill that would give the government more power to break up a failing financial services firm.

Amendments to the bill would also allow the government to potentially break up healthy financial company, if the government determined its potential collapse could imperil the broader economy. The House panel is scheduled to vote on the bill Wednesday.

The Financial Services Roundtable, whose members including Bank of America Corp., Citigroup Inc., and J.P. Morgan Chase & Co., wrote in an 11-page letter "the bill will have a significant impact on our fragile economic recovery and the long-term growth of the economy."

The letter says "the bill damages the ability of financial institutions, especially larger financial institutions, to finance the economic recovery and facilitate long-term economic growth."

The trade group says higher capital requirements for banks and a requirement that banks pay into a fund to handle future financial collapses would "reduce lending and other activities by large financial companies." For example, the bankers said requiring banks to finance in advance a $150 billion would equate to a loss of $3 trillion in new loans.

Large financial companies will have higher costs of funding "and may accelerate the failure of a troubled institution," the Financial Services Roundtable said.

Administration plans new efforts on foreclosures
Martin Crutsinger
Associated Press
November 29, 2009

Many of the bills that have passed through the House Financial Services Committee to overhaul financial regulation have gone with little Republican support, but the measure to be voted on Wednesday could be different. The bill includes an amendment championed by Rep. Ron Paul (R., Texas) that would subject the Federal Reserve to much more scrutiny. Some Republicans might vote for the broader bill because it includes Rep. Paul's amendment.

The Obama administration, battling a foreclosure crisis that shows no signs of relenting, will step up pressure on mortgage companies to do more to help people remain in their homes, officials said Saturday.

The administration will announce its expanded program on Monday, Treasury spokeswoman Meg Reilly said.

"We are taking additional steps to enhance servicer transparency and accountability," Reilly said. She said the goal was to increase the rate that troubled home loans were converted into new loans with lower monthly payments.

Industry officials said the new effort would include increased pressure on mortgage companies to accelerate loan modifications by highlighting firms that are lagging in that area.

The Treasury is also expected to announce that it will wait until the loan modifications are permanent before paying cash incentives to mortgage companies that lower loan payments.

Under the $75 billion Treasury program, companies that agree to lower payments for troubled borrowers collect $1,000 initially from the government for each loan, followed by $1,000 annually for up to three years.

The government support, which is provided from the $700 billion financial bailout program, is aimed at providing cash incentives for mortgage providers to accept smaller mortgage payments rather than foreclosing on homes.

The program has come under heavy criticism for failing to do enough to attack a tidal wave of foreclosures. Analysts said the foreclosure crisis is likely to persist well into next year as high unemployment pushes more people out of their homes.
Rising foreclosures depress home prices and threaten the sustainability of the fledgling economic recovery.

A report last week from the Mortgage Bankers Association found that 14 percent of homeowners with mortgages were either behind on payments or in foreclosure at the end of September, a record level for the ninth straight quarter.

The Congressional Oversight Panel, a committee that monitors spending under Treasury's bailout program, concluded in a report last month that foreclosures are now threatening families who took out conventional, fixed-rate mortgages and put down payments of 10 to 20 percent on homes that would have been within their means in a normal market.

Treasury's program, known as the Home Affordable Modification Program, "is targeted at the housing crisis as it existed six months ago, rather than as it exists right now," the report said.

Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, said the industry supported many of the changes Treasury was proposing.

But he said the foreclosure problem, which began with heavy defaults on subprime mortgages, was expanding to more traditional types of mortgages because of unemployment which has now hit a 26-year high of 10.2 percent.

"The subprime problem has regrettably morphed into an unemployment problem," Talbott said. He said there was no government program to help the unemployed who are in danger of losing their homes but "many private lenders are modifying loans for the unemployed on their own."

Treasury's Reilly said the expanded program would, among other steps, make more aid available to struggling borrowers and expand the number of organizations providing help.

Strong banks, weak credit after TARP
Jim Kuhnhenn
Associated Press
November 28, 2009

At crisis' edge last year, they are repaying billions of dollars dumped into their vaults to rescue them. Dividend checks are accumulating at the Treasury.

Taxpayers won't recoup the full sum of the government's unprecedented infusion to the financial sector, but the returns are ahead of schedule.

With large bets on bonds, commodities and exotic financial products, big banks are reporting third-quarter profits.

Of the $250 billion that the government initially set aside to spend in direct assistance to banks, it has spent $205 billion and the Treasury is already taking steps to bring that program to an end. The ledger: Banks have paid back $71 billion of the infusions. They have also paid the Treasury nearly $7 billion in dividends.

If propping up much of the teetering financial markets was the goal of the government's $700 billion Wall Street rescue, then mission accomplished.
But there were other objectives for the Troubled Asset Relief Program, too: greater lending to consumers and businesses, mitigating foreclosures and helping banks shed toxic mortgage-backed assets.

On that, it's unfinished business.

A program announced with fanfare four weeks ago that would funnel money to small banks at low rates to increase small business lending is still being designed. Treasury

officials are looking at plans that could cost taxpayers between $10 billion and $50 billion but are encountering reluctance from small banks.

"I'm told by banker associations and banks, 'Hey, this is good capital, we'd like to have it, but we don't want to be the only bank in town who takes your capital because the others will advertise against us,'" Herbert Allison Jr., the assistant Treasury secretary in charge of TARP, said in an interview. "There is a stigma and it's frustrating, frankly."

Meanwhile, TARP is set to expire Dec. 31. But with about $140 billion still uncommitted (even more, about $300 billion, unspent), the Obama administration is considering extending at least a portion of the huge fund until next October.
"We are winding it down and will close it as soon as we can," Treasury Secretary Timothy Geithner told a congressional committee. But he stiffly opposed any congressional effort to force the program to end. The struggle facing Treasury is how to continue TARP as insurance against further instability without having Congress use it as a source of new spending.

Officials are keeping a wary eye on smaller banks, which have been failing at the highest rate since 1992 due largely to losses from commercial real estate loans.

"The financial system is stable, but it is not normal and it could be derailed again, and you need to guard against that possibility," said economist Mark Zandi, head of Moody's Economy.com and a regular adviser to congressional Democrats.
Extending TARP as insurance for banks wouldn't be a popular move.

Conservatives and liberals object to the direct assistance to big banks and insurance conglomerate American International Group. Republicans have called for the program to end and assigning the unused money to debt reduction. Some liberals want the money for jobs programs.

Overall, the bank infusions alone could end up costing taxpayers about $14 billion, according to estimates by Economy.com. While banks are paying money back, not all of them can be saved. Earlier this month, a San Francisco bank became the first bailed-out institution to fail. More could fall. And two weeks ago small business lender CIT Group, which received $2.3 billion in rescue funds, filed for bankruptcy protection with little hope of repaying taxpayers.

Add to that the money injected into the auto industry, AIG and a $50 billion mortgage assistance program, and Economy.com estimates taxpayers could be left with a bill totaling $155 billion.

For instance, General Motors announced it would pay back a $6.7 billion in U.S. government loans by 2011, four years ahead of schedule. But that still leaves more than

$40 billion that the government lent to GM in exchange for a common equity stake. Moody's estimates taxpayers could recoup half of that.

The mortgage assistance program, off to a slow start, has now helped 650,000 homeowners with trial loan modifications, with average savings of $500 a month. The administration aims to help between 3 million and 4 million over three years, but that is $50 billion that won't get repaid directly to the Treasury.

The potential cost to taxpayers illustrates the dramatic change in TARP's purpose from the fall of 2008 when President George W. Bush proposed using the entire $700 billion to help banks get rid of toxic mortgage-backed assets. "We expect that much, if not all, of the tax dollars we invest will be paid back," Bush said on Sept. 24 of last year.

Administration critics say Geithner has not spelled out with clarity how the program will ultimately end.

"Suppose they didn't renew it; there would be shock," said Douglas Holtz-Eakin, a former director of the Congressional Budget Office and an economic adviser to Republican John McCain's 2008 presidential campaign. "There is an implicit expectation that they'll do something. But there is not a nicely framed expectation of how they will exit."

If stabilizing the financial sector was TARP's main goal, increasing lending was the other.

Treasury Department figures released this month show that outstanding loan balances by TARP recipients in September, the latest available data, were 3.8 percent lower than they were in February when the economy was at its worst. Lending by the largest banks that received TARP money declined for the eighth straight month in September.

Analysts and Treasury officials attribute the decline to decreased demand from borrowers and continuing skittishness by banks in the face of economic weakness. **"TARP giveth, but unemployment taketh away," said Scott Talbott, chief lobbyist for the Financial Services Roundtable, which represents large banking institutions**.

Surprise supporters for pay regulation
Marketplace
American Public Media
November 27, 2009

Tess Vigeland: Time's up on your chance to weigh in on the Federal Reserve's proposals to crack down on executive salaries and bonuses at big banks. Today was the deadline for public comment. Marketplace's John Dimsdale reports on some surprise supporters of the idea.

JOHN DIMSDALE: The Fed would require big banks to come up with new salary and benefit guidelines that don't give employees incentives to take extra risks. One example is a bonus sometimes offered loan officers who persuade homebuyers to take out mortgages with higher interest rates. That puts borrowers more at risk of default.

You might think banks would worry about tighter limits on compensation. **Not so, says Scott Talbott with the Financial Services Roundtable.**

SCOTT TALBOTT: The Fed's approach here is very balanced and is targeted toward those exact practices that caused the problem.

Talbott says banks also support the Fed's pay rules because of what they don't do: put a dollar limit on salaries, bonuses and benefits.

TALBOTT: Because that will definitely lead to brain drain or hinder the ability of financial institutions to attract and retain top talent.

Bank consultant Bert Ely can think of one more reason banks are reluctant to be critical. They don't want to look self-serving.

BERT ELY: My speculation would be that this is a tough issue for them to comment on because the commenters, the senior executives, would be expressing concern about a personal pocketbook issue as versus the regulation of their financial institution.

The Fed rules would give the central bank veto power over compensation plans at the 28 biggest banks. The rules are expected to be finalized early in January, with a February deadline for banks to come up with new pay guidelines.

In Washington, I'm John Dimsdale for Marketplace.

Banks Seek Changes To US House Bill Targeting Tax Evasion
Martin Vaughan
Wall Street Journal
November 27, 2009

Banking groups are asking House lawmakers to ease the reporting burden they say they would face under new legislation aimed at catching tax evaders.

The bill from House Ways and Means Committee Chairman Charles Rangel (D., N.Y.) and Rep. Richard Neal (D., Mass), would require foreign banks to report the identities

and account balances of their U.S. customers to the Internal Revenue Service, or pay a 30% tax withholding penalty on any payments to the bank originating in the U.S.

Banking trade groups said the bill in its current form is unworkable, and could cause numerous foreign banks to pull out of U.S. investments.

"One might reasonably conclude that the goals of the bill are unattainable absent a multilateral agreement regarding uniform, universal identification and reporting standards," wrote the European Banking Federation and the Institute of International Bankers in a letter to lawmakers.

The new reporting requirements would require the largest foreign banks to verify that tens of millions of accounts are not U.S.-owned, the groups said.

They sought a change to the bill that would allow banks to rely on data it already has, such as an address or residency information, to establish that the account-holder is not a U.S. person. The bill in its current form would allow banks to rely on a certification from the account-holder that the account is not U.S.-owned.

The foreign banking groups also asked lawmakers to drop a requirement that account activity such as receipts and withdrawals be included in annual reporting to the IRS on U.S.-owned accounts.

The Rangel-Neal bill is also backed by influential Senate Democrats and the administration of President Barack Obama. It is expected to be included in a year-end House bill to extend expiring tax breaks for businesses and individuals.

Congressional tax estimators say the bill would raise $8.5 billion over 10 years by making it harder for U.S. taxpayers to shelter money in offshore accounts.

Besides banks, foreign investment entities like hedge funds, private equity and mutual funds would face new reporting requirements on their U.S. investors.
The Securities Industry and Financial Markets Association, another trade group, argued in a separate letter to House lawmakers that certain foreign partnerships should be carved out of the reporting mandates. Private equity and hedge funds are already required to report to the IRS in some cases regarding their U.S. partners on a Schedule K-1 form.

SIFMA also asked lawmakers to add a de minimis threshold for reporting of $50,000 per account.

In a separate submission, the Financial Services Roundtable urged lawmakers to narrow the kinds of payments to which the 30% withholding penalty would apply.

Under the bill, withholding tax would apply to U.S. payments to account-holders of a non-compliant bank, and also to payments to the bank's own account.

"This penalty will force those foreign financial institutions that simply cannot comply with the new reporting obligations to divest all their U.S. investments," the group wrote.

Lawmakers should remove a provision that would effectively end U.S. tax benefits for foreign-issued bearer bonds, said the Organization for International Investment. "The repeal of U.S. tax benefits for issuers and holders of these bonds could be a major impediment to the ability of U.S. corporations to float debt in the Eurobond market," OFII wrote.

Several groups also urged lawmakers to push out the bill's effective date of Dec. 31, 2010, saying multiple years would be needed to prepare to comply with the new reporting regime.

Operation HOPE Founder and Council Vice Chairman John Hope Bryant Issues Public Statement in Support of Financial Literacy
Business Wire
November 30, 2009

Commending the U.S. House Congressional Financial Literacy Caucus for efforts including proclaiming April as Financial Literacy Month annually, Operation HOPE Founder and Council Vice Chairman John Hope Bryant now asks Congress and the House Caucus to act legislatively on behalf of all Americans, especially the most vulnerable.

STATEMENT:

"In the backdrop of the worst economic crisis in our generation, and the first truly global economic crisis, and considering that even the crippling effects of predatory mortgage and some consumer lending practices required the willing participation of the borrower, I am now respectfully asking Congress to act on progressive, comprehensive kindergarten through college financial literacy (silver rights) legislation. There are currently at least 17 legislative bills in the House and the Senate centered around the need for increased financial literacy in American life, yet additional legislative leadership is still needed.

In this crisis there was without question horrible abuses of and by predatory lending forces, and thankfully these abuses have been well documented, and leaders in government, community and the private sector are working to insure that such a crisis never happens again. This said, there were also countless borrowers who secured a

mortgage inappropriate for them, asking in many cases ‘what’s the payment,’ instead of ‘what’s the interest rate,’ and you never ask what the payment is when there is an interest rate attached. Whether the borrower was economically poor or middle class, all suffer today from what we at Operation HOPE refer to as ’massive levels of payment shock.’

President Obama and his Administration have proposed bold legislation around consumer protections, but consumer protection without a full partner in consumer financial literacy education will not solve this problem long term. At the end of the day, there will be no Mortgage Police, nor Credit Card Police, showing up at your home in times of need and/or decision; you will have to patrol the affairs of your family, proactively and before the fact. An informed and empowered consumer is the best answer long-term to insuring that a crisis like this never happens again.

Once we finally stabilize the fundamentals in our broader economy, and once we insure that credit continues to flow on some reasonable basis to underserved, working class and middle class consumers with less than an 800 credit score, the priority has to be teaching financial literacy, or what Operation HOPE calls ‘the language of money,’ to and for every American. Financial literacy is the new civil rights issue of our time, and the first global ‘silver rights’ empowerment tool for the next generation.

I and we are asking the U.S. 111th Congress and specifically the leadership of the House Financial Services Committee, the U.S. Congressional Financial Literacy Caucus and U.S. Senate Banking Committee to take up meaningful, bi-partisan ‘silver rights’ legislation now. Said support for financial literacy as a ‘business case’ for the future of responsible financial services, and a new values issue for America and Americans, might include:

Consideration of the 15 financial literacy policy recommendations of the non-partisan U.S. President’s Advisory Council on Financial Literacy.

Consideration of broad legislative support for HR1325 authored March 5th, 2009, by Congresswoman Sheila Jackson-Lee, requiring all college students receiving a government guaranteed student loan to also receive a mandatory course in financial literacy, and likewise any college or university receiving federal funds to offer a course in financial literacy. HR1325 was inspired both by the on-the-ground work of Operation HOPE, as well as the recommendations of the non-partisan U.S. President’s Advisory Council.

Consideration of broad House support for House Resolution 65 by Congresswoman Diane Watson authored January 8th, 2009, supporting financial literacy as a new priority for our nation and commending the non-partisan work of the US President’s Advisory Council on Financial Literacy.

Consideration to mandate financial literacy education for ALL children, from elementary school through college, and providing adequate funding support to schools, nonprofit organizations, and faith-based institutions to do this vitally important work. Most financial literacy work done across the nation today is mostly supported by the private sector, some foundations, and volunteer organizations.

Consideration of incorporating a substantial policy framework of and for financial literacy with respect to any final consumer protection legislation. The 5-year framework agreement recently signed by and between Operation HOPE and the FINANCIAL SERVICES ROUNDTABLE with respect to financial literacy as a business case; integrating the "language of money" into the future of responsible, consumer facing financial services, might provide a solid starting point.

Consideration of new legislation which provides for an electronic, debit-card accessed, FDIC or National Credit Union Administration insured bank or credit union account to and for every American as a basic right,. At present, an individual can be denied basic banking access for both good and not so good reasons. Irrespective, having Americans outside of the traditional banking sector consequently works to push them into the unregulated, alternative financial services space populated by payday lenders, check cashers and other providers of high-cost, non-traditional, often predatory providers of credit and cash. With the continuing advances in and around electronic debit-card technology, concerns over potentially serious and costly (paper) check "floating" for mainstream financial institutions is less and less an issue. Pursued in concert with advocates, regulators and banking trade group interests alike, the concept of providing a mainstream deposit (and transaction) account for every American is potentially a win/win for government, community, the private sector, and America too.

Taken together, or as a standalone, any of these actions would represent a rare win for consumers in a time of decreasing consumer confidence; both in themselves and the (financial services) system that is supposed to serve their interests.

We need to promote a future of and for free enterprise and capitalism that relates positively to the poor, the under-served, the working class and the middle class; a system that supports the creation of sustainable wealth for all. We need to promote good capitalism."

About John Hope Bryant

Born February 6, 1966 John Bryant is an American financial literacy and poverty eradication activist, and "silver rights" entrepreneur. He is the founder, chairman and chief executive officer of Operation HOPE, America's first non-profit social investment banking organization, a leading self-help provider of economic empowerment tools and services for the underserved. His work to empower low-wealth communities has earned

him a role as the Vice Chair of the U.S. President's Advisory Council on Financial Literacy and the Chairman of the Council's Under-Served Committee. To learn more about him visit www.operationhope.org or follow John Hope Bryant on Twitter.

About Operation HOPE

Operation HOPE is America's leading nonprofit social investment banking and financial literacy empowerment organization. With more than 400 private sector partners, 1500 nonprofit organizations and schools, and 100 government partners in 30 major U.S. cities as well as South Africa, Operation Hope has raised more than $400 million in its pursuit of educating, assisting and inspiring the next generation of global stakeholders. Through international initiatives and its three principal programs: Banking on Our Future (teaching school children about money), HOPE Coalition America (Mortgage HOPE Crisis Hotline, 877-577-HOPE, financial emergency preparedness and disaster relief), and Walk-In HOPE Centers (loans, bill pay, computer literacy, understanding banking principles) Operation HOPE has assumed the responsibility of piloting the Silver Rights Movement towards making free enterprise and capitalism relevant to all underserved communities. For more information visit www.operationhope.org.