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**Fed workers tangled in TARP bureaucracy**  
**Politico Staff**  
**The Politico**  
**September 16, 2009**

President Barack Obama told Wall Street this week that the need for federal intervention in the financial markets is almost over — but it seems the federal bureaucracy hasn't gotten the message.

The Troubled Asset Relief Program was created almost a year ago, and it has since doled out hundreds of billions of dollars to ailing banks and auto companies.

But in a classic example of closing the barn door after the horse has escaped, just

last Friday, three days before Obama's speech, federal regulators issued a detailed clarification of rules to rein in lobbying for TARP funds. The problem, of course, is that TARP is largely over — the application deadline has long passed — and Wall Street insiders say no other big firms are expected to apply.

Still, the clarification document detailed how bureaucrats are to deal with lobbying requests from people anxious for TARP funds. It provides several opportunities for people involved to say, "If only we'd known."

For instance, between the receipt of an application for funds and the approval of the money, the document says, "you may not participate in oral communications initiated by any person or entity concerning a pending application for [funds authorized under the law that created TARP], whether or not the initiating party is a federally registered lobbyist."

In a "better late than never" moment, the document includes a form that government officials must fill out whenever they have a conversation with a registered lobbyist who wants to talk about TARP.

And this will be a relief for Treasury officials struggling to understand what they are and are not allowed to do: In a question-and-answer section, the rule writers explain that government officials are, in fact, allowed to speak to other government officials.

For all that, the new rules still are not popular on Wall Street: **"The rules threaten constitutional rights of free speech and the right to petition your government," said Scott Talbott, a lobbyist at Wall Street trade group the Financial Services Roundtable.**

But Treasury spokesman Andrew Williams said the document merely provides a detailed description of rules first announced by Obama in January, adding, "We've been adhering to them all along. ... It just takes a while to get things through the process."

### **What are banks so worried about?**

**David Lazarus**

**LA Times**

**September 16, 2009**

Millions of consumers got burned in the meltdown of the mortgage market. Yet the financial services industry remains adamantly opposed to President Obama's proposed Consumer Financial Protection Agency, intended to streamline and

strengthen safeguards for the little guy.

The proposed watchdog would oversee mortgages and other consumer loans and would ensure that financial institutions comply with all relevant laws -- some parental supervision that most if not all people would agree is long overdue.

Yet the U.S. Chamber of Commerce launched a lobbying and ad campaign to derail creation of the new-and-improved regulatory agency.

"This new agency would have sweeping powers to regulate over 45 industries and add yet another layer of government bureaucracy to an already disjointed and dysfunctional system," declared David Hirschmann, head of the U.S. Chamber of Commerce Center for Capital Markets Competitiveness.

That's a pretty remarkable thing to say as we mark the first anniversary of the fall of Lehman Bros. and the near-collapse of the U.S. financial system.

If anyone's in a position to know why more regulation is needed, it's former New York Gov. Eliot Spitzer, who, as state attorney general, almost single-handedly held Wall Street accountable for all manner of shenanigans.

"The very fact that the chamber is opposed to this new agency shows that it's necessary," he told me. "How many years have we heard them say that industry can regulate itself?"

I know: It's hard not to snicker when Spitzer criticizes others. He stepped down as governor in March 2008 after his fondness for high-priced hookers came to light.

But zipper issues notwithstanding, he's still the man when it comes to highlighting federal regulatory shortcomings and the self-serving actions of the financial services industry.

It was Spitzer's office that exposed dubious practices in the mutual fund industry in 2003, resulting in more than \$4 billion in restitution to consumers. He also engineered a \$1.4-billion settlement with leading investment banks and brokerages over inflated stock prices.

Spitzer believes a Consumer Financial Protection Agency would serve a crucial purpose in ensuring a level playing field as the economy claws its way back to stability.

"I have absolutely no confidence that the agencies now overseeing banks can come back to life," he said. "It's time to start fresh."

Most consumers seem to agree. A poll released last week by the Consumer Federation of America found that 57% of respondents support creation of a new financial watchdog agency that would assume functions currently spread among multiple agencies.

The poll also found overwhelming support for such common-sense measures as requiring banks to clearly disclose mortgage fees upfront and to alert customers if they're about to overdraw an account at the ATM.

It's pretty simple: Trust is something you earn. Banks have shown repeatedly that customers' interests place a distant second to the banks' interests, especially when it comes to finding new ways to raise revenue through fees and penalties.

"Americans are fed up with the tricks and traps they confront daily as they purchase and use financial products and services," said Travis Plunkett, legislative director for the Consumer Federation of America.

"Americans want a cop on the beat to rein in these abuses, which helped trigger the current economic crisis and have worsened the plight of those hardest hit by the recession."

The analogy is a good one. If banks play fair and keep their noses clean, they'll have nothing to fear. So why are they so fiercely opposed to having a new cop patrolling the neighborhood?

**"We're all for consumer protection," replied Scott Talbott, senior vice president for government affairs at the Financial Services Roundtable, an industry group. "But we think the more effective way to do this is to strengthen the tools at existing regulators."**

**He argued that you shouldn't have one agency regulating the various products and services offered by banks, and other agencies overseeing the institutions at a corporate level.**

To which I say: Why not? Our current regulatory regime has proved itself incapable of adequately looking after the interests of consumers. Why not carve out a separate watchdog whose sole job is to make sure that banks aren't cheating their customers?

Obama made the same point on Monday when he traveled to Wall Street to renew his call for regulatory reform. He challenged those who think our current system is good enough.

"Instead of learning the lessons of Lehman and the crisis from which we are still recovering, they are choosing to ignore them," he said. "They do so not just at their own peril, but at our nation's."

Spitzer was more succinct. "They just don't get it," he said of banks' adherence to the status quo.

If for no other reason, that's why change is needed.

## **New Regulations for the Financial Sector**

**Diane Rehm Show**

**NPR**

**September 15, 2009**

**Steve Bartlett** appeared alongside Alan Blinder, Michael Greenberger and Austan Goolsbee in discussing the future of financial regulatory reform. A link to the audio is here: <http://wamu.org/audio/dr/09/09/r1090915-27638.ram>

## **Treasury to Shrink Fed Program to Avoid Debt Limit**

**Bloomberg—Online**

**Wednesday, September 16, 2009**

Sept. 16 (Bloomberg) -- The U.S. Treasury Department plans to cut back its borrowing on behalf of the Federal Reserve as it seeks to keep government debt under a legal limit.

The Treasury will reduce the outstanding borrowing in its Supplementary Financing program to \$15 billion "in the coming weeks," the department said in a statement in Washington. The Treasury has been keeping the account, set up last year to give the central bank more flexibility as it undertook unprecedented lending, at about \$200 billion.

Today's announcement comes as the Obama administration presses lawmakers to lift the \$12.1 trillion debt limit, which Treasury Secretary Timothy Geithner warned last month may be reached as soon as mid-October. Geithner's predecessors sometimes had to shuffle federal accounts in order to keep the debt under the limit while Congress debated increases.

"This action is being taken to preserve flexibility in the conduct of debt-management policy," the Treasury said in its statement today. The Supplementary

Financing Account will drop as outstanding bills mature and aren't rolled over, it said.

A Fed spokeswoman said the Treasury's decision won't affect monetary policy. The Fed has the tools that it needs and is confident it will be able to adjust the stance of monetary policy as necessary, she said.

When the Treasury sells bills at the Fed's behest, it drains reserves from the banking system and makes the central bank's job of controlling interest rates easier.

#### 'Work Jointly'

"Treasury will continue to work closely with the Federal Reserve to ensure that they have the ability to effectively implement monetary policy," said Treasury spokesman Andrew Williams. "We will work jointly to determine the appropriate level of SFP balances given the market environment."

The Treasury's move means the amount of Treasury bills available will shrink over the next six weeks by nearly 10 percent, said Louis Crandall, chief economist of Wrightson ICAP in Jersey City, New Jersey. This will push rates down because of the high demand for bills, and it may have a similar effect on the federal funds rate, he said.

"The net result should be tighter bills supplies and a looser reserves market, giving rates even more of a downward bias in both sectors," Crandall said.

The U.S. Chamber of Commerce and other business groups have urged the Senate to move forward so as not to hurt U.S. credibility or threaten the economic recovery.

#### Industry Lobby

"Raising the statutory debt limit is critical to ensuring global investors' confidence in the creditworthiness of the United States," wrote the chamber, in a Sept. 9 letter also signed by the Business Roundtable, Financial Services Forum, **the Financial Services Roundtable**, the National Association of Home Builders and the National Association of Manufacturers.

Fed Chairman Ben S. Bernanke has said the central bank wouldn't depend on the Treasury to continue with the Supplementary Financing Program.

"Although the Treasury's operations are helpful, to protect the independence of

monetary policy, we must take care to ensure that we can achieve our policy objectives without reliance on the Treasury,” Bernanke said in July.

A daily report from the Treasury yesterday said current U.S. debt subject to the cap is \$11.7 trillion, of which \$7.5 trillion is held by the public.

## **Proposed financial protection agency has friends and foes**

**Silla Brush**

**The Hill**

**September 16, 2009**

The Obama administration’s plan for a new consumer financial protection agency has quickly become the most controversial element of a broader effort to revamp the nation’s financial laws.

An army of interest groups and Republicans is lining up against the proposal, with most hoping to kill it outright. The administration, allied Democrats on Capitol Hill and consumer advocates, meanwhile, argue that the agency is essential to bolstering consumer protection.

House Financial Services Committee Chairman Barney Frank (D-Mass.) strongly backs the Consumer Financial Protection Agency (CFPA) proposal, and he aims to pass it through the full House this year.

Frank and committee Democrats are now negotiating the details of the proposal, with some sources expecting a new draft of the bill within days. Frank is eyeing a markup hearing by mid-October, but he said on Tuesday that he expects the debate to be lengthy and contentious — especially by the time the full House prepares to vote.

“I’ve told the leadership I want a lot of time on the floor,” he said. “I don’t want anyone feeling shut out.”

Apart from the broader fight over whether the CFPA is a good idea, the debate over the agency is crystallizing along at least four main issues.

### **States’ vs. federal rights**

Business lobbyists and centrist lawmakers are raising questions about the relationship between state and federal law under the proposal. The debate revolves around whether the new federal agency should have the power to pre-empt state action.

The administration proposed that the agency would set a minimum for regulation. Regulators and lawmakers at the state level would then be free to pursue stricter or additional regulations. That has business lobbyists worried and cuts to the heart of a long-running debate about state versus federal rights. The financial industry argues that by merely setting a floor for regulation, the proposal raises the specter of firms complying with a patchwork quilt of state laws. A range of laws would, industry lobbyists argue, increase the burden on firms and make compliance much more expensive. Those costs might then be passed on to consumers in the form of higher fees or less attractive deals.

Many centrist lawmakers back partial or full pre-emption of state laws to avoid a hodgepodge of regulation.

#### 'Plain vanilla' products

As part of its effort to bolster consumer protection, the administration wants to encourage simpler terms and contracts for financial products such as home loans. The extraordinary growth in the markets for sub-prime and other loans to riskier borrowers — many of which were made by non-bank lenders — led to a bubble and later a collapse in the housing industry. That, in turn, helped spur the financial crisis.

The administration's proposal authorizes the CFPB to require "plain vanilla" products alongside other products. The agency would also have the power to define product standards. That has many in the financial industry worried. Financial lobbyists argue that consumers want flexibility and "common-sense" products.

Frank earlier this summer raised questions about whether it was possible or even desirable for the government to require that firms offer "plain vanilla" products.

#### Rulemaking authority

The administration proposed that the agency have broad rulemaking authority. While that may not drive the most heated opposition to the proposal, rulemaking authority would be at the heart of the new agency's power. The administration wants the CFPB to have sole rulemaking authority over consumer financial protection statutes — authorities that now reside with many agencies.

As proposed, the administration intends for the agency to "consult" with other financial regulators. There are no strong requirements, however, that the CFPB agree with the other regulators. The industry is concerned that this further separates the government's consumer-protection powers from the responsibilities to oversee safety and soundness. "We would like to see more input from the safety and soundness agencies," said Steve Verdier, senior vice president of the Independent Community Bankers of America (ICBA). "We'd like to see some joint rulemaking."

## Supervisory and enforcement authority

Closely related to the issue of rulemaking authority is a debate swirling about the scope of enforcement power. At root, the issue is over the agency's teeth. The administration wants to move the consumer protection responsibilities of the nation's existing financial regulators under one roof. Lobbyists against the proposal want to see the consumer protection powers reside with the existing regulators. **"The fate of the institution and the fate of consumers are inextricably linked," said Scott Talbott, senior vice president of government affairs at the Financial Services Roundtable. "We want one regulator overseeing both aspects."**

The current regulators, worried about losing their turf, have pushed back against the proposal. Consumer watchdog groups and some congressional critics, meanwhile, have lashed out at the regulators for neglecting their responsibilities in the run-up to the crisis.

Business lobbyists, particularly for banks, raise the possibility that examinations and enforcement could remain with the existing regulators even if the new agency has broader rulemaking power. "I think there is a strong possibility to keep the enforcement for the banks within the existing banking agencies," Verdier said. "That's probably our highest priority." Banks are worried about the burdens of additional examination from different regulators.

### **Friar Finance 101**

**Michael Lepri**

**The Cowl**

**Thursday, September 17, 2009**

The Troubled Assets Relief Program (TARP) was signed into law nearly a year ago. The \$700 billion dollar plan designed to help ailing banks was amended to help other large companies including insurance giant American International Group (AIG) and automakers General Motors and Chrysler. Currently, \$550 billion is committed to these struggling companies and \$70 billion has been returned to the United States Treasury.

The entire bailout program will conclude at the end of 2009 without a letter to Congress from Treasury Secretary Timothy Geithner asking for more time. It is likely that the program will continue since Geithner believes it has been very successful.

When questioned by an oversight panel last week Geithner responded to some questions about the effectiveness of TARP funding. "The nation's financial system

is in better shape today than it was three months ago, six months ago and even on the eve of this recession," Geithner stated.

**The Financial Services Roundtable, an industry association of 100 top financial firms, agrees with Geithner's plan to continue TARP-"We believe the economy is beginning to recover, but we believe that TARP should be extended to provide continued liquidity to the markets and the economy," said Scott Talbott, the FSR's senior vice president of government affairs.**

The government is now attempting to decide what to do with the remaining funds in TARP. One of the government's priorities is to support a program to help aid small-business lending. Lending and borrowing are necessary to run a fully functioning banking system.

Elizabeth Warren of the Congressional Oversight Panel (COP), which was created to oversee the expenditure of the Troubled Asset Relief Program, found that TARP has not been helping lending at all. She believes that taxpayers have been subsidizing tens of billions in investor profits while producing no discernible uptick in bank lending.

There are many opponents to continuing TARP. Capitol Hill has been criticized by their constituents for continued taxpayer bailouts.

The companies that are currently receiving TARP funding "don't like all of the restrictions that come with it, which is why banks have been very aggressive in trying to pay back those TARP investments." according to Bert Ely, of Ely & Co. Another analyst says "extending TARP may send mixed signals to taxpayers and investors about the health of the financial system just as the Obama administration says the financial crisis is ebbing."

Although the government has actually made money from their paybacks on TARP funding so far, many banks continue to fail. The Federal Deposit Insurance Corporation (FDIC) which insures bank deposits up to \$250,000 in U.S. banks (formerly \$100,000) faces losses of \$21 billion from banks that have failed just this year. This is more than all of last year and there are roughly 400 additional banks the FDIC is watching which could collapse at any time.

The problem with TARP strategy seems to stem from the fact that the Treasury is basically providing struggling companies a blank check rather than using the program for its original purpose, which was to purchase "troubled assets." These toxic assets are still on the banks balance sheets and continue to be a problem, especially for smaller banks that face more difficulty raising capital.

Since these banks' balance sheets are riddled with such assets, "How much of the

remaining invested funds that will be recovered is impossible to predict," notes Elizabeth Warren, "because the loans have been converted to stock." In addition, the loans made to automakers might also never be reimbursed. "Although taxpayers may recover some portion of their investment in Chrysler and GM, it is unlikely they will recover the entire amount," says a recent report from the COP. Inherently, this makes tax-paying American families liable for much of the bailout funding.

### **Intersections Inc. Helps Celebrate Five Year Anniversary of ITAC, the Identity Theft...**

Joyce Carcaise

Intersections Inc.

Thursday, September 17, 2009

CHANTILLY, Va., Sept. 17 /PRNewswire-FirstCall/ -- Intersections Inc. (Nasdaq: INTX), a leading global provider of consumer and corporate identity risk management solutions, today helped celebrate the fifth year anniversary of its partnership with ITAC the Identity Theft Assistance Center (ITAC). **ITAC is a non-profit that was founded in 2004 by the Financial Services Roundtable to fight identity theft through victim assistance, law enforcement partnerships and consumer education.** Intersections is the exclusive service provider of ITAC and has helped 60,000 consumers recover from identity theft.

"Intersections is proud to support ITAC and its efforts to combat the growing threat of identity theft," said Intersections' CEO Michael Stanfield.

"Intersections and ITAC are both committed to educating consumers about identity theft protection and awareness."

ITAC is celebrating its five year anniversary with the launch of a new site where consumers can learn how to protect themselves against identity theft. In partnership with Intersections, ITAC is offering, ITAC ID Protection, [www.itacidprotection.com](http://www.itacidprotection.com), a free identity monitoring for six months to consumers who take a quiz to test their knowledge of personal information safety. The free monitoring will be offered to the first 1,500 consumers who complete the quiz.

"Intersections' commitment to customer service and their knowledge about identity theft have made them a great partner for ITAC and its member companies who are on the leading edge of fighting identity fraud," said ITAC President Anne Wallace.

**"We are grateful for the professionalism and high quality service that**

**Intersections has delivered over the past five years," said Steve Bartlett, President and CEO, The Financial Services Roundtable.**

Intersections provides the technology and service behind ITAC Sentinel(R), ITAC's branded identity theft protection services. The ITAC Sentinel line of identity theft protection products combine Intersections' market-leading identity theft prevention and detection services with ITAC's world-class victim assistance services. The products are available as breach response products, as endorsed product offerings for marketers such as financial institutions, telecommunications companies and retailers, as employee benefit programs, and via [www.itacsentinel.com](http://www.itacsentinel.com)).

Intersections Inc. (Nasdaq: INTX) is a leading global provider of consumer and corporate identity risk management services. Its premier identity theft, privacy, and consumer solutions are designed to provide high-value opportunities to its marketing partners, including leading financial institutions, Fortune 100 corporations, and other businesses. Intersections also markets full identity theft protection solutions under its brand, IDENTITY GUARD(R) ([www.identityguard.com](http://www.identityguard.com)). Intersections' consumer identity theft protection services have protected more than 20 million consumers.

To address the growing threat of corporate fraud, Intersections and its subsidiaries provide cutting-edge identity management solutions including security breach remediation; pre-employment background screening; and corporate brand protection.

ITAC, the Identity Theft Assistance Center, is a nonprofit coalition of 38 financial services who display the ITAC logo to demonstrate their commitment to protecting customers from identity theft. ITAC's victim assistance service - which has helped more than 60,000 consumers recover from identity theft - is available at no cost to the millions of consumers who have an account at an ITAC member company. A leading provider of identity protection services through its ITAC Sentinel(R) brand ([www.itacsentinel.com](http://www.itacsentinel.com)), ITAC protects all consumers through partnerships with law enforcement, education and identity management services.

**Bankers Face Sweeping Curbs on Pay**  
**By Damian Paletta and Jon Hilsenrath**  
**Wall Street Journal**  
**September 18, 2009**

Policies that set the pay for tens of thousands of bank employees nationwide would require approval from the Federal Reserve as part of a far-reaching proposal to rein in risk-taking at financial institutions.

The Fed's plan would, for the first time, inject government regulators deep into compensation decisions traditionally reserved for the banks' corporate boards and executives.

Under the proposal, the Fed could reject any compensation policies it believes encourage bank employees -- from chief executives, to traders, to loan officers -- to take too much risk. Bureaucrats wouldn't set the pay of individuals, but would review and, if necessary, amend each bank's salary and bonus policies to make sure they don't create harmful incentives.

A final proposal is still a few weeks from completion and could be revised along the way, according to people familiar with the matter. It requires a vote by the central bank's board, but no congressional approval.

The U.S.'s largest banks, about 25 in number, would get especially close scrutiny. The central bank intends to compare these banks as a group to see if any practices stand out as unusually dangerous to their firms.

The Fed's latest move marks another striking exertion of power by the nation's central bank since the financial crisis struck with ferocity two years ago. It has bailed out firms such as American International Group Inc. and has flooded the financial system with money.

Some congressional critics, especially Republicans, argue the Fed is exerting itself too aggressively, a complaint that will surely be amplified by its move to oversee bank pay practices.

The proposal will likely please congressional Democrats, for whom corporate compensation has become a rallying cry, at a time when the Fed is defending itself from moves by Congress to restrain its independence.

The Fed itself believes it has the legal authority to take such action through its existing supervisory powers, which are designed to oversee a bank's soundness. Its strategy appears to go further than what some in the industry were expecting, given that it would apply to many employees, not just top earners. It would go beyond a more generic list of "best practices" that many thought the central bank would craft.

The proposal will likely push banks to use "clawbacks" -- provisions to reclaim the pay of staffers who take risks that hurt their firms -- in certain pay packages, among other tools, to punish employees for taking excessive risks with their firms' money. The central bank could also demand that more pay be offered through restricted stock or other forms of long-term compensation designed not to reward short-term performance.

The Fed's likely move is a response to a growing critique of pay practices that began building even before the onset of the financial crisis. Previously, regulators generally viewed pay as a matter for firms to determine themselves as they tried to attract top banking talent. Fed officials have since shifted their view.

Pay is now seen as a factor that could make a firm, and more broadly the financial system as a whole, vulnerable to collapse. The financial crisis turned up many examples of how pay can give employees incentives to take risks. One example: loan officers who churned out thousands of low-quality loans in order to claim annual bonuses for themselves.

In a Wednesday speech, Former Fed Chairman Paul A. Volcker noted that one of the causes of the financial crisis "was the ultimately explosive combination of compensation practices that provided enormous incentives to take risks" just as new financial innovations "seemed to offer assurance -- falsely, as it has turned out -- that those risks had been diffused."

The Fed's planning comes amid an intensifying global debate about the way bank employees are paid ahead of the Group of 20 meeting of world leaders in Pittsburgh next week. U.S. and foreign officials worry that if they don't coordinate their rules, some countries could draw talent away from others.

On Thursday, European Union governments issued a communiqué urging the G-20 to adopt strict rules to restrict bonus payments. Speaking after the meeting of EU leaders in Brussels, French President Nicolas Sarkozy said he would support the idea of linking the size of bonuses at each bank to their level of capital.

The Fed's thinking is the latest in a series of moves by Washington to clamp down on bank compensation. The Treasury earlier this year appointed Kenneth Feinberg to set and review pay for top executives at the largest recipients of federal bailout cash. In July, the House Financial Services Committee approved a bill to give bank regulators the ability to ban "imprudently risky compensation practices" at banks with more than \$1 billion of assets, which means it would apply to roughly 700 banks, a piece of legislation in line with the Fed's likely proposal.

President Barack Obama, Treasury Secretary Timothy Geithner and Fed Chief Ben Bernanke have all criticized executive compensation for having pushed employees to take short-term risks with little regard for the long-term effect on their companies and clients.

Republicans will likely strongly oppose the move and will be joined by industry leaders.

**"Given the changes the industry has already done, if the restrictions on income-producers or salespeople are too draconian, it will actually undermine the strength of the institution," said Scott Talbott of the Financial Services Roundtable, a trade group of financial companies.**

The Fed regulates more than 5,000 bank holding companies, which include the nation's largest banks, as well as hundreds of smaller, state-chartered institutions. Since the financial crisis hit, banks have been tinkering with their compensation systems to make them more palatable to investors and regulators. Citigroup Inc., for example, is shifting pay packages to include more stock and less cash.

At the same time, banks have been boosting the salaries of traders and investment bankers to prevent the recipients' overall compensation from shrinking. Some top banks have been poaching traders, bankers and brokers from rivals by doling out multimillion-dollar signing awards and guaranteeing hefty first-year bonuses, regardless of performance.

The Fed effort is being driven by its newest governor, Daniel Tarullo, who was named to the central bank's board by Mr. Obama. Mr. Bernanke has also been involved in crafting the proposals.

The Fed board will consider the proposal in the coming weeks. If approved, it will be proposed for public comment. Officials expect to move forward with the plan quickly, said people familiar with their planning.

The policies would apply to banks regulated by the Fed, not savings-and-loans or state banks that are overseen by the Federal Deposit Insurance Corp. The proposal would let regulators determine whether the type of pay -- such as bonuses based on the volume of business -- creates incentives for behavior that risk the safety and soundness of the bank.

**Feds and States Discuss Ongoing Anti-Fraud Efforts**  
**National Mortgage News**  
**September 18, 2009**

Single-family housing starts fell 3% in August as builders took a breather after five straight months of increased construction activity. The U.S. Census Bureau reported that single-family housing starts fell to a seasonally adjusted annual rate of 479,000 in August from a 494,000 rate in July. The July rate was revised upward by 4,000 starts. Since February, single-family starts are up 34%. 'So it is no surprise to see builders take a breather,' said Mike Larson, real estate analyst for Weiss Research. 'There may be some nervousness about the upcoming expiration of the first-time homebuyer tax credit, and we clearly have some lingering reluctance among bankers to fund construction projects,' Mr. Larson said. The tax credit has been an important factor in stimulating demand, according to the National Association of Home Builders. 'However, the window is now basically closed for being able to start a new home that can be completed in time for buyers to take advantage of the tax credit before it expires at the end of November,' NAHB chairman Joe Robson said. NAHB, the National Association of Realtors and other housing groups are urging Congress to extend the tax credit for another year. September 17, 2009

A group of state and federal officials met in Washington to discuss trends and improve coordination in the efforts to combat mortgage fraud. Treasury Secretary Timothy Geithner hosted Attorney General Eric Holder, Housing and Urban Development Secretary Shaun Donovan, Federal Trade Commission Chairman Jon Leibowitz, Financial Crimes Enforcement Network Director Jim Freis and attorneys general from 12 states. They also spoke about proactive strategies to combat fraud against consumers in the housing markets as well as best practices to bolster coordination across state and federal agencies. This meeting follows up on an announcement by the Obama Administration in April of a multi-agency crackdown on foreclosure rescue scams and loan modification fraud designed to protect homeowners from predatory financial practices. 'A clear lesson of this financial crisis is that American consumers need better protection against fraud,' said Mr. Geithner, adding that government agencies 'will not wait for problems to peak before we respond.' Treasury, FinCEN and DOJ, HUD and FTC are working on taking proactive measures to curb abuse by coordinating information and resources across agencies to maximize targeting and efficiency in fraud investigations. Secretary Donovan announced that HUD has requested \$37 million in its 2010 budget to combat fraud. FTC Chairman Leibowitz announced two new law enforcement actions in a continuing crackdown on mortgage foreclosure rescue and loan modification scams, bringing to 22 the number of these cases the Commission has filed since the housing crisis began. The FTC also announced developments in similar pending mortgage-related actions, several of which have involved coordinated casework from FinCEN. September 17, 2009

Residential Credit Solutions is the winner of the first FDIC Legacy Loan sale involving \$1.3 billion in residential mortgages from the failed Franklin Bank in

Houston. RCS, a residential mortgage investor and servicer based in Fort Worth, Texas, bid \$64.2 million in cash to purchase a 50% equity stake in a limited liability company that will own the troubled assets. The Federal Deposit Insurance Corp. said the pilot sale was 'very competitive' and it expects to recover 70% of the outstanding balance on the nonperforming loans. 'The bid received from RCS for the financed sale of assets to the LLC using 6-1 leverage was determined to be the offer that would result in the greatest return to the [Franklin] receivership of all competing bids,' FDIC said. RCS will manage the LLC portfolio and service the loans under the Home Affordable Modification Program. The company could not be reached for comment. September 16, 2009

The Internal Revenue Service and Treasury Department have issued new regulations related to certain modifications of commercial mortgages held by real estate mortgage investment conduits. The new regulations, which were not expanded to include mods of commercial mortgages held by investment trusts as some in the industry have proposed, would allow lenders to modify commercial real estate loans held by REMICs in some cases without incurring tax penalties. The IRS and Treasury Department said they would continue to consider whether the new regulations should also be expanded to investment trusts. The Real Estate Roundtable has been a proponent of the REMIC change. September 16, 2009

When banks modify a mortgage to make the payments more affordable, it is not only considered a troubled debt restructuring by the federal banking regulators, the regulators also expect banks to increase their allowances for loan losses. 'It could result in more significant allowances for TDRs,' said Kathy Murphy, chief accountant for the Office of the Comptroller of the Currency. The OCC official told the certified public accountants at their annual banking conference that most banks don't have a history of doing loan modifications. Nevertheless, banks are expected to do a Financial Accounting Standard 114 analysis of future cash flows on modified loans using current market trends to determine the appropriate impairment, she said. 'Trends right now don't look like real estate is recovering,' OCC's chief accountant said. Tom Kelly of PriceWaterhouseCoopers told the CPAs that a lot of firms are struggling with the complexity of FAS 114 and TDRs. 'It is complex from an accounting standpoint and from an operational aspect,' Mr. Kelly said. September 16, 2009

The mortgage and finance company subsidiaries of bank holding companies will now be subject to consumer compliance reviews by the Federal Reserve Board. 'The policy, which takes effect immediately, also provides for investigation of consumer complaints against nonbank entities,' the Fed said. The Fed is the primary supervisor of bank holding companies but it has traditionally taken a hands-off approach to nonbank subsidiaries. There have been exceptions, however. Fleet Finance, the Atlanta subsidiary of a BHC, was charged and settled

state allegations of predatory lending in 1992. Under chairman Ben Bernanke, the Fed initiated coordinated exams of nonbank subs with the Federal Trade Commission and state regulators in 2007. The new policy 'builds on the pilot program and responds to a need for more effective supervision and consumer protection,' the Fed said. September 16, 2009

The House of Representatives late Tuesday approved legislation to beef up the Federal Housing Administration program including a provision that encourages the Obama administration to provide support for warehouse lending. The '21st Century FHA Housing Act' gives the Department of Housing and Urban Development secretary more flexibility to appoint and fix the compensation for FHA personnel and to fund technology projects to replace FHA's aging information systems. Passed on a voice vote, the bill (H.R. 3146) also says that the Treasury Department, HUD and the Federal Housing Finance Agency should work together to provide financial support and assistance to increase warehouse lending capacity to nonbanks. The National Association of Home Builders, National Association of Realtors and Mortgage Bankers Association supported the bill. September 16, 2009

Former top executives at Fannie Mae, PMI, and Countrywide have launched and are seeking to expand a new advocacy group that will lobby on behalf of what it calls 'independent, community and regionally-based' mortgage banking firms. The Community Mortgage Banking Project already has 26 members and is talking to eight more, said group founder, Glen Corso, a former senior vice president for The PMI Group, a mortgage insurance firm. His partners in the project include Robert Engelstad, a former senior vice president at Fannie, and Pete Mills, who was Countrywide Financial Corp.'s top lobbyist in Washington. In an interview with National Mortgage News Mr. Corso said his group would not compete with the Mortgage Bankers Association per se but would be involved in lobbying, and legislative and regulatory analysis on behalf of its members. Mr. Corso noted that the CMBP is a 'not-for-profit company' but for tax purposes will not be filing as a nonprofit (which enjoy certain federal tax breaks). The MBA, by contrast, is a (Form 990) nonprofit organization with annual results that are publicly available. He said the CMBP would stay away from holding trade shows and getting involved in educational programs two major sources of revenue for MBA. Mr. Corso is a founding member of The Warehouse Lending Project. That group has been lobbying regulators for government help with efforts aimed at increasing warehouse-lending capacity for nonbanks. September 15, 2009

Ahead of its first hearing this week, the Financial Crisis Inquiry Commission has named Thomas Greene its executive director. Mr. Greene moves to the commission, which is charged with investigating the cause of the financial crisis, after 25 years in the California Attorney General's Office. He was most recently

the chief assistant attorney general of the public rights division and has worked on the antitrust case against Microsoft Corp. 'Tom has the skills and experience needed to help the commission conduct the full, fair inquiry into the financial meltdown that the American people deserve,' Phil Angelides, the commission's chairman, said in a statement. September 15, 2009

House Financial Services Committee chairman Barney Frank, D-Mass., said he is working with small banks and credit unions to craft a bill that will create a new consumer protection agency. Many financial services groups and the U.S. Chamber of Commerce have lined up against the creation of a new agency that would write and enforce the rules for mortgage and other forms of consumer lending. But chairman Frank is trying to get small depositories on his side as his committee prepares to mark up a Consumer Financial Protection Agency bill on Sept. 23. 'We are working with them on legitimate concerns and I am confident we will get a tough enforcement agency to protect consumers,' Rep. Frank said in an interview with Bloomberg News. The Independent Community Bankers of America has been talking with Rep. Frank. 'We have offered our ideas. We will have to see how far he goes,' said ICBA's top lobbyist Steve Verdier. **The Financial Services Roundtable opposes the idea of stripping the federal bank regulators of their consumer protection functions and giving the CFPB enforcement and rulemaking authority over national banks. 'The better answer to consumer protection is to amend the charters of the existing prudential regulators, giving consumer protection parity with safety and soundness regulation,' Roundtable president and chief executive Steve Bartlett said.**

**Dodd Preps Bill to Limit Fees on Overdrafts**  
**Stacy Kaper**  
**American Banker**  
**September 18, 2009**

WASHINGTON — A drive to restrict overdraft fees is rapidly gaining momentum on Capitol Hill, potentially threatening a revenue stream that has become crucially important to many institutions during the financial crisis.

Senate Banking Committee Chairman Chris Dodd is drafting a bill that he hopes to introduce next week. Though details of the legislation are unclear, it is likely to require banks to get their customers' permission before enrolling them in an overdraft program.

The bill is already being actively supported by Sen. Charles Schumer, D-N.Y., the No. 3 Democrat in the Senate, who pledged last week to help push it through.

In the House, Rep. Carolyn Maloney, who helped enact credit card reform this year, is also looking for a way to kick-start overdraft legislation introduced in March.

With recent media attention on the issue, industry observers and banking industry representatives said the bill looks as if it could gain traction relatively easily — and would be hard for lawmakers to oppose.

"They are going to go to town with this stuff," said Chris Low the chief economist at First Horizon National Corp.'s FTN Financial. "Just like the first pass of card reform, I think it's too tempting because it's so clearly popular. There is so much outrage. ... I don't think anyone can stop it. It's going to appeal to a lot of people." Brian Gardner, an analyst at KBW Inc., agreed. "It's one of those few banking issues that plays well with the electorate," he said.

Though Dodd appears to have his hands full with regulatory reform and the health-care debate, his staff has been busy bringing in industry representatives and consumer groups to discuss several issues related to overdraft programs.

Though the staff members have said little about what Dodd's bill would do, the senator gave a clue in a June letter to the Federal Reserve Board, urging it to craft a final overdraft rule to require that customers "opt in" to such programs. The Fed issued a proposal last year asking for comment on the pros and cons of opting in to or out of overdraft protection. A final rule is expected by yearend.

"I write to urge you to finalize as soon as possible the proposed rule amending Regulation E that would curb abusive overdraft practices, and to provide stronger consumer protections in the final rule by requiring that financial institutions obtain the affirmative consent of consumers to overdraft services before they can charge overdraft fees (the 'opt-in' approach)," Dodd wrote.

Sources said Dodd's staff is also zeroing in on how banks decide which overdrafts to cover and how banks decide the order in which they clear transactions.

For example, some industry lobbyists argue that banks clear the biggest check first, such as a mortgage payment, because it is the most significant charge the consumer must pay. But critics, including some members of Congress, have asserted that the system is just a ruse to rack up fees since the consumer might have five smaller checks that clear the same day. If the first transaction overdraws the account, each subsequent charge will incur a fee.

The Maloney bill seeks to curb banks' imposing multiple overdraft fees by prohibiting them from manipulating the order of transaction clearing.

Sources also said that Dodd's staff is looking carefully at the best practices included in a 2005 interagency guidance that said financial institutions should not engage in marketing that encourages overdrafts, should fairly represent alternatives like lines of credit, and should clearly explain overdraft program features including that it is discretionary.

The guidance said that fees should be specific and clearly disclosed, the impact of transaction-clearing policies should be clearly explained, and consumers should be alerted before a transaction triggers any fees, including at automated teller machines. The guidance also said banks should consider capping customers' potential daily cost for the overdraft program.

Consumer groups are pushing Dodd to consider the Maloney bill. It would require banks to give consumers notice and a chance to cancel a transaction at the point of sale or at an ATM machine when the transaction would trigger an overdraft fee. Schumer has also been talking about the subject, including touring New York this month and vowing to help enact reform. He has said that he will fight for legislation that sounds similar to the Maloney bill, requiring banks to give consumers a choice about overdraft programs. Banks should either be forced to make consumers opt in to the program, he has said, or provide an "easy method" to opt out.

Legislation should also increase disclosure in advance of fees and annual percentage rate charges on overdraft loans, Schumer has said, require banks to warn customers that an electronic transaction may trigger an overdraft loan fee and let the customer cancel a transaction after getting this warning. He also wants to prohibit banks from manipulating the order in which checks and other debits are posted if it causes more overdrafts and maximizes fees.

According to Schumer, legislation should also require banks to be proportional in the fees they charge — the fee for a nickel overdraft should not be the same as a fee for a \$100 overdraft.

"Bottom line, debit cardholders are getting scammed by their banks," Schumer told constituents in Syracuse on Sept. 8. "Families across central New York are being involuntarily placed in these overdraft loan programs and getting ripped off by excessive fees. It's time to stop them dead in their tracks. This legislation will provide cardholders with a warning when they are about to overdraft from their accounts to protect them from sky-high fees and prevent banks from rearranging charges so that customers are placed in the worst possible position."

Restricting overdraft fees would hit institutions, particularly community banks, when fee income has become increasingly more important to their bottom line.

"It's hard to make money in straight banking, so you have to have fee-based activities," said Kip Weissman, a partner in Luse Gorman. "Overdraft is the flavor of the month right now. Overdraft provides support for all kinds of non-fee-based products that community banks have to offer to compete. I haven't heard any community banks that are in favor of this."

Industry groups are mobilizing against the bill, but it is unclear whether they can stop it.

"As we have said when this issue came up before, these are important programs that work very well for most consumers, and we are very concerned about legislative initiatives that can affect availability and efficiency of overdraft protection," said Floyd Stoner, the head lobbyist for the American Bankers Association.

Though broad regulatory reform remains the dominant banking issue, analysts and lobbyists said they could easily see Congress adopting reforms targeting overdraft fees either as a stand-alone bill or as part of the financial services revamping. Some lobbyists speculated that Maloney might seek to add an amendment specifically dealing with overdraft charges to a bill to create a consumer protection agency. "I'm working closely with Chairman Frank to bring relief to consumers who have been overburdened with outrageous overdraft policies," Maloney wrote in an e-mail to *American Banker*. "I'm redoubling my efforts on the issue this fall to give consumers the kind of notice and opt-in provisions that were applied to credit cards in my credit card reform bill."

**Obama to Call on Wall Street to Take Responsibility**  
**Washington Wire**  
**Monday, September 14, 2009**

President Barack Obama's speech at Federal Hall today comes a year after the failure of Lehman Brothers and as the White House tries to kickstart its drive to overhaul the financial-regulatory system. The president, whose call for financial reform has been overshadowed by the fight over health care, will make the case for "immediate action," an administration official said.

"He will reflect on the state of the economy one year ago and the aggressive actions taken by the administration to stabilize the financial system and bring about a broader economic recovery," officials said. "He will also urge the financial community to take responsibility, not only to support reforming the regulatory system but also to avoid a return to the practices on Wall Street that led us to the financial crisis, and to recognize their obligation to help produce a wider recovery on behalf of the American people."

Obama will follow up the economic address with a pair of televised interviews also on the financial crisis and have lunch with former President Bill Clinton.

Here's a list of expected attendees at Federal Hall, as released by the White House:

**ADMINISTRATION OFFICIALS:**

Department of the Treasury, Secretary Timothy F. Geithner  
White House Council of Economic Advisers, Christina Romer

**PRESIDENT'S ECONOMIC RECOVERY ADVISORY BOARD:**

Paul Volcker, Chairman  
William H. Donaldson, Former Chairman, SEC  
Roger W. Ferguson, Jr., President & CEO, TIAA-CREF  
Mark T. Gallogly, Founder & Managing Partner, Centerbridge Partners L.P.  
Charles E. Phillips, Jr., President, Oracle Corporation  
Penny Pritzker, Chairman & Founder, Pritzker Realty Group  
David F. Swensen, Chief Investment Officer, Yale University  
Robert Wolf, Chairman & CEO, UBS Group Americas

**MEMBERS OF CONGRESS:**

Representative Barney Frank, D., Mass. Chairman of the Financial Services Committee  
Representative Gary Ackerman, D., N.Y.  
Representative Joseph Crowley, D., N.Y.  
Representative Jim Himes, D., Conn.  
Representative Michael McMahon, D., N.Y.  
Representative Gregory Meeks, D., N.Y.  
Representative Anthony Weiner, D., N.Y.

**NEW YORK OFFICIALS:**

New York City Mayor Michael Bloomberg  
New York City Council Speaker Christine Quinn  
New York City Comptroller William Thompson  
New York City Public Advocate Betsy Gotbaum  
New York State Assembly Speaker Sheldon Silver  
Manhattan Borough President Scott Stringer  
First Deputy Mayor Patricia Harris  
Deputy Mayor Robert Lieber, Economic Development  
Deputy Mayor Kevin Sheekey, Intergovernmental Affairs  
President of the New York City Economic Development Corporation Seth Pinsky  
New York City Small Business Services Commissioner Robert Walsh  
New York City Department of Consumer Affairs Commissioner Jonathan Mintz

New York City Department of Consumer Affairs Senior Policy Advisor Mitchell Kent

**MEMBERS OF THE FINANCIAL AND CONSUMER ADVOCACY COMMUNITIES AND OTHER OUTSIDE ORGANIZATIONS:**

*(in alphabetical order by last name)*

Roger Altman, CEO, Evercore Partners  
John Atlas, Executive Director, National Housing Institute  
Robert Azeke, Managing Director, Parish Capital  
Jeep Bryant, Executive Vice President, BNY Mellon Corp  
Pamela Banks, Policy Counsel, Consumers Union  
Jeffrey Barker, Market President, Bank of America Corporation  
Ron Baylock, President, Baylock & Co.  
Pam Bennet, Director, NY Citizen Action  
Tom Bernstein, President, Chelsea Piers  
Shonali Bhowmik, President, Little Lamb Recordings  
Bill Borner, Executive Vice President, Spraylat  
Nicholas Bourke, Manager - Safe Credit Cards Project, The Pew Charitable Trusts  
Darcy Bradbury, Senior Vice President, D.E. Shaw  
John Breyault, Vice President of Public Policy Telecommunications and Fraud, National Consumers League  
Paul Calello, Investment Bank, Credit Suisse CEO  
Michael Campbell, Managing Director, Phene Capital  
Roel C. Campos, Partner, Cooley Godward Kronish  
Margaret Cannella, Professor, Columbia University  
Elizabeth Caputo, Chair, Democratic Leadership for the 21st Century  
Monty Cerf, Managing Director, Barclays  
Jim Chanos, President, Kynikos Associates  
Jaimie Cloud, President, Sustainability Education  
Rodge Cohen, Senior Partner, Sullivan & Cromwell  
Daniel Cohen, President, Cohen and Company  
Eleni Constantine, Director, Financial Security Portfolio, The Pew Charitable Trusts|  
Rebekah Cook-Mack, Southern Brooklyn Legal Services  
Sheila Davidson, EVP and Chief Legal Officer and General Counsel, New York Life Insurance Company  
Kim Davis, President, JP Morgan Chase Foundation  
Jamie Dinan, Chairman, York Capital  
Donald Donahue, Chairman & Chief Executive Officer, The Depository Trust & Clearing Corp  
Kelly Dougherty, Columbia University  
Tamara Draut, Vice President of Policy and Programs, Demos

Richard Dresdale, Managing Director, Fenway Partner  
Hazel Dukes, President, NYS NAACP  
Tim Duncan, Chairman, American Business Leaders for Financial Reform  
Doug Dunham, Partner, Skadden, Arps, Slate, Meagher & Flom LLP  
Wes Edens, CEO, Fortress Investments  
Steven Gallen Edersheim, Founder & Principal, Credit Renaissance Partners LLC  
Marjorie Elias, Genworth Life Insurance Co of NY  
Raudline Etienne, Chief Investment Officer, NYS Common Retirement Fund  
Harold Ford, Vice Chairman, Bank of America  
Wen Gao, Credit Renaissance Partners LLC  
Teddy Goff, Account Manager, Blue State Digital  
Sally Greenberg, Executive Director, National Consumers League  
Robert Greifeld, Chief Executive Officer , NASDAQ OMX  
Agnes Gund, Chairman, Cultural Affairs Advisory Commission of NY  
Doug Hammond, Coordinator, American Sustainable Business Council  
Kathy Harget, Program Director, Green America  
Carla Harris, Managing Director, Morgan Stanley  
Jane Hartley, CEO, Observatory Group  
David Heller, Managing Director, Goldman Sachs  
Robert Henrikson, CEO and President, MetLife Chairman  
Marten S. Hoekstra, CEO, Wealth Management Americas, UBS Financial Service  
Brad Madison Hoylman, Senior Vice President, Public Affairs and General  
Counsel, Partnership for New York City  
Glenn Hutchins, CEO, Silver Lake Partners  
Heidi Schloegel Hynes, Community Leader, Northwest Bronx Community and  
Clergy Coalition  
Mel Immergut, Chairman, Milbank, Tweed, Hadley & McCloy  
Alan Jenkins, Executive Director, The Opportunity Agenda  
David Jones, CEO, David Jones LLC  
Robert S. Kapito, President, BlackRock  
Shiegsuke Kashiwagi, President and CEO, Nomura Holding America Inc.  
Karen Spar Kasner, Owner, Karen Spar Kasner, P.C.  
Phyliss Salowe Kaye, Executive Director, NJ Citizen Action  
Kirsten Keefe, Senior Staff Attorney, Empire Justice Center  
Saywallah Kessely, Executive Director, African Center for Community  
Empowerment  
Gene Kirby, President, New Alliance  
Peter Robert Knitzer, Group Executive Vice President, Citigroup  
Orin Kramer, Managing Partner, Boston Provident  
Vivien Labaton, Director of Strategic Program Initiatives, Atlantic Philanthropies  
Vivienne C. LaBorde, Attorney, Skadden, Arps, Slate, Meagher & Flom LLP  
Marc Lasry, Managing Partner, Avenue Capital  
David Levine, Co-Founder, American Sustainable Business Council

William Lewis, Co-Chairman Investment Banking, Lazard Freres & Co. LLC  
James H. Lewis, Director of Policy and Organizing, Communities Homeowners  
and Neighbors Gaining Economic Rights Inc. (C.H.A.N.G.E.R.)  
Peter Lewis, Chairman, Progressive Insurance Companies  
Kevin Liles, Managing Partner, KWL Enterprises  
Dan Loeb, CEO, Third Point Capital  
Sarah Ludwig, Co-Director, Neighborhood Economic Development Advocacy  
Project  
Tracy Maitland, CEO, Advent Capital Management  
Monika Mantilla, Altura Capital  
Robert Marchman, Executive Vice President, NYSE  
Ellen S. Marmur, M.D., Chief, Division of Dermatologic Surgery, The Mount  
Sinai Medical Center  
Don Marron, CEO, Light Year Capital  
Brian Mathis, Managing Partner, Provident Group Asset Management  
Katherine McFate, Program Officer, The Ford Foundation  
Ray McGuire, Head of Global Banking, CitiGroup  
Christopher Meyer, Vice President, Consumers Union  
Donna Marcy Milrod, Managing Director and Deputy CEO, Deutsche Bank  
Eric Mindich, Managing Partner, Eton Park Capital  
Daniel Mintz, Campaign Director, MoveOn.org Political Action  
Calvin A. Mitchell III, Executive Vice President, Federal Reserve Bank of New  
York  
Robert S. Nichols, President and COO, Financial Services Forum  
Thomas Nides, Chief Administrative Officer, Morgan Stanley  
Janice Nittoliz, Associate VP, Rockefeller Foundation  
Michael J. O'Neill, Senior Vice President, Corporate Affairs and  
Communications, American Express Company  
Deven Parekh, Managing Partner, Insight Venture Management  
James Parrott, Chief Economist, Fiscal Policy Institute  
Dick Parsons, Chairman, CitiGroup  
Don Peebles, CEO & Chairman, The Peebles Corporation  
Lawrence Penn, Managing Partner, The Camelot Group  
Pete Peterson, Founder, Blackstone  
Al Puchala, Managing Director, Signal Equity Partners  
John Rhea, Chairman, NYC Housing Authority  
Tarrus Richardson, Founder & Managing Director, ICV Capital Partners  
Janice Cook Roberts, Director, Kohlberg Kravis Roberts & Co.  
MarySol Rodriguez, Senior Vice President, Partnership for NYC  
Marcos A. Rodriguez, Managing Director, Palladium Equity Partners LLC  
Brian Rogan, Senior Executive Vice President, BNY Mellon  
Marvin Rosen, President, Fusion Telecommunications  
Bill Rudin, President, Rudin Management

Jeronimo Saldana, Program Associate, OSI US Programs  
Thomas Schick, EVP Corporate & External Affairs, American Express Company  
Ralph Schlosstein, President, Evercore Partners  
Walter Schubert, CEO, The Schubert Group  
Paul Sheridan, Managing Director, Schechner Barclays  
Stan Shuman, Managing Partner, Allen & Co.  
Esther Silver-Parker, Senior Vice President, Wal-Mart  
Sam Simon, Executive Director and Board Member, National Consumers League  
Brian Snyder, Principal, HBJ Investments  
Marc Spilker, Co-Head of Asset Management, Goldman Sachs  
Seymour Susswein, VP Sales, Sartorous LLC  
**Scott Everett Talbott, SVP Government Relations, Financial Services**

**Roundtable**

Andy Tobias, Financial Advisor  
Kevin Toner, Managing Partner, Arestia Capital  
Jim Torrey, Chairman, The Torrey Fund  
Seth Waugh, CEO, Deutsche Bank Americas  
Rebecca Weber, Executive Director, NYPIRG  
Peter Weinberg, Perella Weinberg  
Chris Williams, Chairman and Chief Executive Office, Williams Capital  
Anre Williams, President, American Express  
Deborah Wright, Chairman & CEO, Carver Federal Bank  
Josh Zinner, Co-Director, NEDAP

**Federal Reserve Wants to Veto Excessive Bank Pay**

**Andrew Clark**

**Guardian Unlimited**

**Friday, September 18, 2009**

The Federal Reserve wants to flex its muscles by vetting the pay policies of America's banks in an effort to tackle concern about multimillion dollar Wall Street bonuses, an issue that is threatening to cause a transatlantic rift at next week's G20 international summit.

By invoking supervisory powers to ensure the financial soundness of banks, the Fed intends to exercise a right of veto over remuneration arrangements that it views as an incentive towards excessive risk-taking.

The proposal, revealed in the Wall Street Journal, emerged just hours after leaders of the European Union's 27 member states met to agree on a push for a cap on bankers' bonuses at next week's summit in Pittsburgh, raising the prospect of a

confrontation with a reluctant President Barack Obama.

The Fed believes it can act without legislative approval because it has authority to intervene if it believes that a retail bank is behaving in a way that compromises its financial stability. In the fallout from the collapse of Lehman Brothers last year, Wall Street's two remaining standalone investment banks, Goldman Sachs and Morgan Stanley, converted into regulated "bank holding companies", giving them the ability to take deposits from the public but putting them under the same Fed oversight as any high-street institution.

Top bankers have accepted that the structure of bonus packages contributed to a culture of reckless risk that precipitated the credit crunch. Yet critics contend that Wall Street has failed to change its ways - Citigroup, which lost \$18.7bn (11.55bn) last year, still gave bonuses of more than \$1m to 738 of its employees.

In a frank admission, Citigroup's chief executive, Vikram Pandit, suggested to an audience in New York on Thursday evening that one of his own employees is overpaid. A British-born Citigroup trader, Andrew Hall, stands to receive a payout of more than \$100m for presiding over a highly lucrative commodities business. When asked whether he believed \$100m was an excessive amount for an individual, Pandit replied: "Yes."

America's top 25 banks would get particularly close scrutiny from the Fed. But any attempt by the central bank to regulate pay will face opposition from the industry. Scott Talbott, a spokesman for the Washington-based Financial Services Roundtable, said banks have already introduced "clawback" measures to recoup pay from staff whose performance proves poor, together with lengthier vesting periods for incentive schemes to encourage a longer term outlook.

**"The threat of failure and the ghosts of other institutions have prompted banks to better manage compensation," said Talbott. "Our concern is that the Fed will place restrictions on sales people that will undermine the ability of companies to produce revenue."**

The Obama administration has already appointed a so-called compensation "czar", Kenneth Feinberg, who has the authority to reject any pay deal that he views as excessive at banks in receipt of government bailout funds.

The White House has also thrown its weight behind the introduction of British-style "say on pay" votes giving shareholders a voice on remuneration at corporate annual meetings.

But European leaders want the US to go much further. The French president,

Nicolas Sarkozy, says he will walk out of next week's Pittsburgh summit unless a deal is struck to curb bonuses. Despite reservations from Britain, EU leaders vowed in Brussels on Thursday to push for a limit on bonuses. Luxembourg's prime minister, Jean-Claude Juncker, said members had agreed to pursue "an absolute limit on bonuses, in other words a cap".

## **Fed Eyes Wide-Ranging Bank Pay Rules to Combat Risk**

**Alister Bull**

**The Washington Post**

**Friday, September 18, 2009**

WASHINGTON (Reuters) - The U.S. Federal Reserve plans new rules on bank pay to curb excessive risk-taking, which is blamed for sparking the global financial crisis and has triggered international demands for action.

Public outrage at the stratospheric compensation of some bankers has boiled up to the level of the Group of 20 nations, whose leaders meet next week in Pittsburgh.

The United States, under pressure to act at the G20 from France and Germany, has already said it aims to curb the culture of excessive risk-taking at the root of the crisis.

A Fed source said Friday that the guidelines would be proposed in the next few weeks and would apply to any employee able to take risks that could imperil the institution.

The rules will be aimed at all firms regulated by the Fed and will be enforceable under its existing supervisory powers, said the source, who spoke on the condition of anonymity.

Massive losses inflicted by risky bets on U.S. subprime mortgages destroyed some of the oldest names in U.S. finance last year and intensified a stubborn recession that has cost millions of jobs.

The Financial Stability Board, which answers to the G20 and will issue guidelines at the summit on September 24-25, said on Tuesday that poorly capitalized banks should not be able to pay large bonuses.

The Obama administration has already appointed a "pay czar" to oversee executive compensation at firms getting taxpayer aid, and has indicated it will take further steps.

"The crisis has newly highlighted the potential for compensation practices at financial institutions to encourage excessive risk-taking and unsafe and unsound behavior," Fed Governor Daniel Tarullo told Congress last month.

Tarullo, a law professor named to the Fed by President Barack Obama earlier this year, is leading the central bank's push for tighter pay rules.

But industry officials say many financial firms had already changed pay practices in anticipation of the Fed's proposals, and that a heavy-handed approach could be harmful.

**"What we're worried about is if they place undue restrictions on the sales people because that could weaken the company itself," said Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, the industry's lobbying group.**

Some financiers complained that Washington was bowing to populist pressure for payback after taxpayer money was used to bail out their industry last year.

"I think that talking about curbing Wall Street pay is emotional and not rational," said Tom Sowanick, co-president and chief investment officer of Omnivest Group LLC.

The Fed's proposal would aim to curb excessive short-term risk-taking by any employee, not just bank executives, and would take a two-pronged approach.

Larger firms would be subject to a horizontal review process to compare their practices against rivals, while the compensation review for smaller banks would be part of their regular bank exams, the Fed source said.

Goldman Sachs, which set aside \$11.3 billion in the first half of the year toward bonuses for its employees but has also spoken out against excessive pay at firms that lost money, said excessive risk-taking should not be rewarded.

"We think it entirely appropriate that people are rewarded for performance, but compensation should correlate directly with the performance of the firm," said Goldman Sachs spokesman Lucas van Praag.

The Fed's proposal has not yet been voted on by its Board of Governors, but the timeline for the guidelines to advance was weeks, not months, the Fed source said.

The proposed rules would face a period of public comment before they could be made final.

But the Fed would launch the horizontal review process for large firms as soon as the proposal goes out, rather than waiting for all the comments to come back, the source noted.

The guidelines would not apply a one-size-fits-all prescription to cap pay at any specific level, the source added. Rather, the guiding principle would be to aim for a longer view of profits from banking practices that squeezes out short-term risk-taking.

In addition, officials are discussing the possibility of "clawing back" compensation in instances where it later becomes apparent excessive risks were taken. But no decision on whether to include such a provision has been made, the source said.

## **Intersections Inc. Helps Celebrate Five Year Anniversary of ITAC**

**Reuters**

**September 17, 2009**

Intersections Inc., a leading global provider of consumer and corporate identity risk management solutions, today helped celebrate the fifth year anniversary of its partnership with **ITAC the Identity Theft Assistance Center (ITAC)**. **ITAC is a non-profit that was founded in 2004 by the Financial Services Roundtable to fight identity theft through victim assistance, law enforcement partnerships and consumer education.** Intersections is the exclusive service provider of ITAC and has helped 60,000 consumers recover from identity theft.

**"Intersections is proud to support ITAC and its efforts to combat the growing threat of identity theft," said Intersections' CEO Michael Stanfield.**

**"Intersections and ITAC are both committed to educating consumers about identity theft protection and awareness."**

**ITAC is celebrating its five year anniversary with the launch of a new site where consumers can learn how to protect themselves against identity theft. In partnership with Intersections, ITAC is offering, ITAC ID Protection, [www.itacidprotection.com](http://www.itacidprotection.com) , a free identity monitoring for six months to consumers who take a quiz to test their knowledge of personal information safety. The free monitoring will be offered to the first 1,500 consumers who complete the quiz.**

**"Intersections' commitment to customer service and their knowledge about identity theft have made them a great partner for ITAC and its member companies who are on the leading edge of fighting identity fraud," said ITAC President Anne Wallace.**

**"We are grateful for the professionalism and high quality service that Intersections has delivered over the past five years," said Steve Bartlett, President and CEO, The Financial Services Roundtable.**

**Intersections provides the technology and service behind ITAC Sentinel(R), ITAC's branded identity theft protection services. The ITAC Sentinel line of identity theft protection products combine Intersections' market-leading identity theft prevention and detection services with ITAC's world-class victim assistance services.** The products are available as breach response products, as endorsed product offerings for marketers such as financial institutions, telecommunications companies and retailers, as employee benefit programs, and via [www.itacsentinel.com](http://www.itacsentinel.com)).

### **Will the \$8,000 First-Time Home Buyer Tax Credit Be Extended?**

**Luke Mullins**

**US News and World Report**

**September 18, 2009**

As we mark the one-year anniversary of the financial meltdown's most gut-churning period—Uncle Sam's takeover of Fannie Mae and Freddie Mac, the downfall of Lehman Brothers, the hasty sale of Merrill Lynch—signs of optimism in the housing market are everywhere. Existing home sales rose in July for the fourth time in as many months, something the market hasn't seen since 2004. Inventory totals are off their record levels of a year ago. And prices, while still declining sharply, are no longer in free fall. However, the looming expiration of a popular federal tax credit has some worried that the housing market may give back its recent gains, and the real estate and home building industries are pushing lawmakers to extend the incentive. Here's a look at the impact of the \$8,000 first-time home buyer tax credit, and the political outlook for its extension:

1. The specs: In an effort to stimulate housing demand, President Barack Obama included a tax credit of up to \$8,000 for certain first-time home buyers in the \$787 billion economic stimulus package he signed in February. Only buyers of principal residences who make purchases before December 1 and have an adjusted gross income of \$75,000 or less (or \$150,000 for married couples) are eligible for the full credit. "The thinking about this tax credit is that it helps to support sales when the job market is still a mess," says Mark Zandi, the chief economist of Moody's Economy.com.

2. Impact: The tax credit is one of a number of factors that have worked to bolster the housing market in recent months. Even more important than the government's

incentive has been the increasing affordability of real estate, says Mike Larson of Weiss Research. Rates on 30-year fixed mortgages fell to just above 5 percent this week, according to Freddie Mac. Meanwhile, home prices at the national level have plummeted more than 30 percent from the second quarter of 2006. The first-time home buyer tax credit "is the icing on the cake, not the cake itself," Larson says. "Falling home prices have worked their magic. That's why we are where we are." Still, Larson believes that the tax credit has played a key psychological role in pushing buyers off the sidelines and that its expiration would take some of the wind out of the market's sales. For his part, Zandi estimates that the credit will add nearly 400,000 new and existing home sales by the time of its scheduled expiration.

3. Extension efforts: Although the credit's deadline isn't until the end of November, buyers may need to make an offer on a house by the end of September to take advantage of it, according to the National Association of Realtors. (That's because it's taking longer to complete transactions these days, the trade group says.) In the face of this looming deadline, housing and real estate interest groups have stepped up their efforts to convince lawmakers in Washington to extend the credit. Sen. Johnny Isakson, a Georgia Republican who worked in the real estate business before turning to politics, has been pushing for an expansion of the credit for some time. "December through February is historically the worst time for home sales anyway because of the winter months, so with the credit ending November 30, you have a double whammy" on the market, Isakson says. On Wednesday, he and several other lawmakers—including Senate Majority Leader Harry Reid, a Nevada Democrat—introduced a bill that would extend the tax credit for an additional six months. (Isakson had previously introduced legislation to extend the credit by a year.)

4. Opposition: Supporters of an extension of the credit will have to overcome mounting concerns about budget deficits and rising government spending. "There is no doubt about it that, compared to when we were working on this last winter, people are asking questions about the cost, when before it was not as much of a factor," says Jerry Howard, the president of the National Association of Home Builders. Zandi estimates that it would cost between \$15 billion and \$17 billion to extend the tax credit for another six months, which he considers money well spent. "If you extended it to mid next year . . . by then the job market will be stable enough that we can allow the tax credit to expire and it won't totally submarine the housing market," he says.

5. Odds: Senator Isakson believes lawmakers will eventually move to extend the credit in one form or another. "I don't believe either this administration or the current leadership would look November 30 in the eye and let this thing die," he says. White House spokesman Robert Gibbs said this week that the administration

is evaluating the credit's impact and will make a recommendation to the president, the Associated Press reported. The outlook for an extension appears to have brightened. **Scott Talbott, a top lobbyist at the Financial Services Roundtable, put the odds of its extension at 50-50 earlier this week, but he said that the chances improved to 75-25 after Reid endorsed the six-month extension. Still, as lawmakers remain consumed with other matters, such as healthcare reform, action on the tax credit is unlikely to take place until the expiration date nears, Talbott says. "Congress works best on deadlines and crisis," he says. "And we sort of will have both with this one."**

**Dodd's single bank regulator adds new wrinkle to reform  
Questions still remain over key battles on consumer protection agency  
Ronald D. Orol,  
MarketWatch  
September 21, 2009**

WASHINGTON (MarketWatch) - A proposal floated by Sen. Christopher Dodd to create a single bank regulator out of the existing hodge-podge of oversight agencies is throwing a wrench into the largest financial regulation reform effort since President Franklin D. Roosevelt ushered in the New Deal to lift Americans out of the Great Depression.

The proposal from the chairman of the Senate Banking Committee would be at odds with other reform efforts in Washington, including ideas advanced by the White House and by Dodd's counterpart in the House, Rep. Barney Frank, D-Mass.

The agencies have issues with the proposal as well. "This would add a whole number of conflicts," said Dwight Smith, partner at Alston & Bird LLP in Washington. "Depending on how it's formulated, certainly the Federal Reserve and the Federal Deposit Insurance Corp. would have significant concerns about it."

At issue is a proposal reported to be under consideration by Dodd, chairman of the Senate Banking Committee, that would create a single unified bank regulator from the FDIC, the Fed, the Office of Thrift Supervision and the Office of the Comptroller of the Currency.

The proposal comes as key lawmakers continue to debate the reform effort, with a growing number of committees becoming involved. One year after credit markets came to a grinding halt, legislators have yet to schedule a vote on key aspects of

the reform effort, in part because of disputes between the White House, the agencies, congressional committees and major lobbyists.

According to the proposal, which would face political, logistic and legal hurdles, the Fed would continue to have authority over monetary policy while the FDIC would continue to be responsible for maintaining a deposit insurance fund and setting up a process to allow banks to fail without harming the rest of the economy.

Lobbyists for the financial services industry support having a unified regulator because it would streamline the system and lower their costs. John Dearie, vice president at the Financial Services Forum in Washington, which represents large financial institutions, said he believes the idea "has a lot of merit."

Dearie said the legislation "has legs" because it would reduce the power of the Fed, as advocated by Sen. Richard Shelby, R-Ala., the panel's ranking member.

The Dodd proposal conflicts partly with the White House and with Frank, who is developing reform legislation in the House. The White House and Frank envision combining the OTS and OCC, but keeping a separate Fed and FDIC, said Steven Adamske, a spokesman for Frank.

"We're moving ahead with the White House proposal, but we'll come up with a compromise bill and work it out with our friends in the Senate," Adamske added.

The effort by Dodd and Shelby to declaw the Fed reflects populist frustration with the Fed for bailing out the banks with trillions of taxpayer dollars.

Having just one regulator could eliminate the problem of regulatory arbitrage that takes place when banks get regulations or enforcement watered down by playing regulators off against each other.

However, critics argue that a single regulator would lack needed checks and balances.

"When you have four bank agencies, their policies get vetted through each other," said Kevin Petrasic, an attorney at Paul Hastings, Janofsky & Walker LLP in Washington. "Different viewpoints get the opportunity to get aired; you may come up with a better product."

Working together

Dodd spokeswoman Justine Sessions said Dodd and Shelby are writing a bipartisan package for bank reform they hope to introduce soon. Sessions said she

couldn't provide more information about the timing but said that the committee plans to hold a few more hearings before bringing any proposed legislation to a vote.

Frank's committee, the House Financial Services Committee, is holding a series of hearings beginning this week before the language of any legislation is released.

Unlike Frank and Rep. Spencer Bachus, R-Ala., the ranking Republican on the House committee, "Dodd and Shelby get along well and will likely work together," said Petrasic.

Consumer protection agency?

The Dodd proposal also sets up a reinvigorated battle between bank lobbyists and Congress over creation of a Consumer Financial Protection Agency. The CFPA, which is backed by the White House and Frank, would take away existing consumer protection responsibilities from the bank regulators and place it with the new agency.

Dodd's proposal still envisions such an independent agency, but bank lobbyists argue that a consolidated bank regulator would eliminate the need. The Fed has been criticized for failing to rein in subprime mortgages, which were a key contributor to the financial crisis.

**"The biggest criticism against the current regulatory system is that consumer protection is spread out among the regulators," said Scott Talbot, government affairs vice president at the Financial Services Roundtable.**

However, Smith pointed out that Dodd and Congress would like to create an independent CFPA, in part because it would be easier for legislators to exert oversight if they find consumer protection officials aren't doing their jobs right.

## **Bernanke Would Control Pay for Thousands**

**Julie Crawshaw**

**MoneyNews.com**

**Monday, September 21, 2009 9:04 AM**

Ben Bernanke isn't waiting for Congress to expand the Fed's regulatory powers. Instead, he wants to put regulators directly inside banks to monitor (and possibly reject) pay packages.

The new proposal from the Fed requires a vote by the central bank's board but no congressional approval.

If enacted, pay for tens of thousands of bank employees nationwide would require approval from the Federal Reserve, empowering the Fed to reject any compensation policies it believes encourage bank employees to take too much risk.

**"Given the changes the industry has already done, if the restrictions on income-producers or salespeople are too draconian, it will actually undermine the strength of the institution," Scott Talbott of the Financial Services Roundtable, a trade group of financial companies, told The Wall Street Journal.**

Bernanke's proposal would, for the first time, inject government regulators deep into compensation decisions traditionally reserved for the banks' corporate boards and executives.

Though it wouldn't set salaries, the proposal would enable the Fed to review and amend each bank's salary and bonus policies. The U.S.'s largest banks, about 25 in number, would get especially close scrutiny.

Ron Paul, Republican of Texas, says the Fed is already doing too much.

"The Fed not only creates our problems, they perpetuate the problems" and the sooner we all understand that, the better, says Rep. Paul.

According to figures posted at the politician's Web site, Paul's bill to audit the Federal Reserve (HR 1207) now has 290 co-sponsors and a companion bill in the Senate (S 604) has already attracted 25 co-sponsors.

**Frank Puts Off Reform Effort**

**Brian Collins**

**National Mortgage News**

**September 21, 2009**

WASHINGTON-Like health care, the whole debate over regulatory reform has become so divisive a key Democratic chairman has hit the reset button.

House Financial Services Committee chairman Barney Frank, D-Mass., has decided to put off a legislative markup for now and restart the hearing process to give everyone another chance to address the issues.

This means the committee probably won't start marking up a regulatory reform measure bill until late October and the first markup session may not involve the creation of a Consumer Financial Protection Agency, which has become one of the hottest issues - pitting the Obama administration against bankers and regulators.

Chairman Frank wants to mark up the CFPB section first, but that could change, committee spokesman Steve Adamske said.

Last week Rep. Frank put out a schedule for 11 hearings that will focus on systemic risk, consumer protection, credit rating agencies, derivatives and capital markets. Treasury secretary Timothy Geithner will kick off the hearings on Sept. 23. The financial regulators will testify on Oct. 1.

Meanwhile, lobbyists expect Chairman Frank to start releasing drafts of sections of the regulatory reform bill soon.

The American Bankers Association, **Financial Services Roundtable** and the U.S. Chamber of Commerce have lined up against the creation of a new consumer protection agency that would write and enforce the rules for mortgage lending and other forms of consumer credit.

The idea of stripping the federal bank regulators of their consumer protection functions and giving the CFPB enforcement powers over national banks is unacceptable, according to the ABA and roundtable.

**"The better answer to consumer protection is to amend the charters of the existing prudential regulators, giving consumer protection parity with safety and soundness regulation," roundtable president and chief executive Steve Bartlett said.**

But Rep. Frank is trying to get small banks and credit unions on his side and isolate the big banks.

"We are working with them on legitimate concerns and I am confident we will get a tough enforcement agency to protect consumers," Rep. Frank said in an interview with Bloomberg News.

The Independent Community Bankers of America has been talking with Rep. Frank. "We have offered our ideas. We will have to see how far he goes," said ICBA's top lobbyist Steve Verdier.

Meanwhile, a group of finance professors and think tank fellows known as the Shadow Financial Regulatory Committee say they are "sympathetic" to the CFPB proposal advanced by the Obama administration.

It is "no secret" that the federal banking regulators did not do a "great job" of protecting consumers during the subprime lending crisis, committee member Robert Litan said. Consumer protection will never be a "core mission" for the bank regulators. It will always take a "backseat" to safety and soundness concerns, he added.

**Scott Appears on BBC World News**  
**BBC World News**  
**September 18, 2009**

Scott appeared in an interview discussing bank bonuses. Unfortunately, the clip is no longer available.

**'Vanilla' banking mandate falls flat**  
**Sean Lengell**  
**Washington Times**  
**September 23, 2009**

In a Tuesday memorandum from Mr. Frank to Democratic members of his committee that was obtained by The Washington Times, the Massachusetts Democrat said he was making several changes to the president's plan "to make clear that CFPB will not disrupt merchants, retailers and other nonfinancial businesses or subject banks and other depository institutions to needless additional regulatory burdens and costs."

Key among those changes is Mr. Frank's decision to omit the "plain vanilla" mandate from his pending CFPB bill.

So-called "exotic" financial products -- particularly subprime mortgages that typically offered low introductory payments that later ballooned in size -- have caused soaring default rates and were considered a major factor in last year's financial crisis. The administration had wanted to ensure that banks and other mortgage lenders give customers the option of less risky fixed-rate and simple adjustable-rate home loans.

But the mandate for "plain vanilla" products has appeared politically unattainable amid growing opposing from financial institutions, Republicans and even some

Democrats.

**Forcing banks to offer such products would mean that financial products not labeled "plain vanilla" would be ripe for lawsuits, said Scott Talbott, a spokesman with the Financial Services Roundtable, which represents some of the nation's biggest financial-services firms.**

"The government should not dictate products," he said.

The proposal also was expected to fall flat in the Senate, where even some Democrats questioned the wisdom of mandating "vanilla" products.

Kirstin Brost, a spokeswoman for Senate banking committee Chairman Christopher J. Dodd, told the Associated Press that the Connecticut Democrat "has a hard time seeing how plain vanilla would work," but he is still working with his colleagues to draft the legislation.

Mr. Frank also is calling for "nonfinancial" businesses, such as merchants and retailers, to be exempt from CFPB oversight, according to the memo.

But Mr. Frank's revised plan still would create a new agency with many new powers. It would monitor the fine print on such products as mortgages and credit cards, and require that lenders be upfront about the cost of their products.

It also would consolidate many of the regulatory duties that are spread over several agencies, such as the Federal Reserve, the Office of Thrift Supervision, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corp.

The financial-services industry has waged an aggressive advertising campaign against the proposed agency, saying it would stifle investment and innovation in the financial world and possibly slow down the flow of capital.

"There were some fissures that became apparent around mid-July when people said, 'Wait a minute, what does this thing really do?' " said one banking industry official. "It's really a huge government overreach."

**BofA, JPMorgan to Limit Overdraft Fees**  
**Joseph Woefel**  
**TheStreet.com**  
**September 23, 2009**

Bank of America (BAC Quote) and JPMorgan Chase (JPM Quote) plan to overhaul the way they collect overdraft fees, caving into the criticism of these practices.

Bank of America said starting next month it won't charge overdraft fees when a customer's account is overdrawn by less than \$10 for one day, changing its mind on moves it made earlier this year. BofA also said it won't charge overdraft fees on more than four items per day. The bank had raised that cap to 10 from five earlier in 2009.

The bank will still impose a \$35 fee if an account isn't brought into balance within five days.

Customers also will be allowed to opt out of the overdraft program, meaning purchases won't go through if a customer doesn't have enough money in an account to purchase an item.

A JPMorgan spokeswoman told the

Associated Press late Tuesday that starting in the first quarter of 2010 it will make overdraft protection opt-in for all customers, eliminate fees when accounts are overdrawn by \$5 or less, and will reduce the maximum number of fees per day to three from six. The changes will apply to all customer accounts, the spokeswoman said.

**The Financial Services Roundtable, an industry group, applauded the banks for limiting overdraft fees.**

**"In these challenging economic times, it is important to help customers maintain a healthy financial future," said Steve Bartlett, the Roundtable's president and CEO, in a statement. "We applaud Bank of America and JPMorgan Chase for leading the industry to serve the consumer in the best manner possible by greatly reducing overdraft fees."**

**Non-Finance Firms to Be Exempt From Consumer Agency, Frank Says**  
**Alison Vekshin**  
**Bloomberg**  
**September 23, 2009**

Retailers, merchants and non-financial businesses will be spared from oversight by a consumer protection agency, Representative Barney Frank said in proposing to alter the Obama administration's proposal.

Financial institutions won't have to offer "plain vanilla" products and services or assess whether consumers understand the products they offer, according to a proposal that Frank, chairman of the House Financial Services Committee, sent yesterday to panel Democrats and confirmed by a spokesman. The committee today continues hearings on the regulatory overhaul.

A proposal "will make several key changes to the Obama administration's draft legislation to make clear that CFPB will not disrupt merchants, retailers and other non-financial businesses" or overburden banks, Frank, a Massachusetts Democrat, said in an outline.

The agency, aimed at shielding consumers from lending abuses, is part of President Barack Obama's plan to overhaul financial regulations. The agency proposal has been criticized by the banking industry, which is lobbying to kill the plan, saying it would reduce consumer choice and access to credit.

Obama and other Group of 20 leaders who meet in Pittsburgh this week will discuss plans that would force banks to curb leverage, hold more equity capital and keep a greater pool of assets that can be easily traded. Officials are seeking an accord to prevent a repeat of the worst crisis since the Great Depression and ensure a sustained recovery.

System 'Failed'

"The need for a dedicated, consolidated consumer-protection agency is clear," Treasury Secretary Timothy Geithner said in testimony prepared for Frank's committee today. The current system "failed to protect consumers from unexpected risks," and instead "led them into a housing and consumer-debt crisis." The American Bankers Association and other industry trade groups say the Obama consumer agency has the potential to raise costs and restrict innovation by mandating the products banks can offer.

**The banking industry supports Frank's plan to drop the plain vanilla language and a requirement to determine what a consumer understands, said Scott Talbott, senior vice president of government affairs for the Washington-based Financial Services Roundtable.**

**"We don't think a separate agency is necessary," he said yesterday in a telephone interview. "Strengthening the existing regulators is a more effective way to protect consumers."**

Frank's draft requires banks to have simultaneous federal safety and soundness and consumer compliance exams. The Federal Reserve will fund the agency, which will be run by a director with a board of financial and housing regulators. Obama proposes giving the regulator power to set standards and enforce violations at banks and non-banks. The Fed and regulators that oversee credit-card and mortgage companies would cede their consumer-protection powers to the agency. Frank, who is leading efforts in the House to translate Obama's regulatory reform plan into legislation, has scheduled a hearing on the agency proposal on Sept. 30.

### **Next Up: Bank Employee Unions?**

**Glen Fest**

**US Banker**

**October 2009**

In the corporate war on the proposed Employee Free Choice Act, bankers are nowhere to be found.

The American Bankers Association offers up no position about the controversial legislation that would ease restrictions on union-organizing activity. **On the Web site of the Financial Services Roundtable, a link on labor policy issues passes visitors off to the U.S. Chamber of Commerce to read polemics against the act's "card-check" union election rules and controversial federal arbitration for contract disputes.**

But a small band of anti-union consultants is alerting bankers that they are more vulnerable to potential workforce organization than they realize. Worried about the proposed provisions in the bill, as well as growing public anger and job insecurity among low-level financial workers, they warn that unions are beginning to place banks in their cross-hairs by participating in corporate campaigns on ancillary issues, such as executive pay and consumer-protection initiatives. These corporate campaigns are a "very common and increasingly popular tool of organized labor," said Kevin Elliott, a senior vice president in the San Francisco office of the public relations firm Hill & Knowlton. The not-so subtle message, Elliott says, is that the campaigns would stop if the companies let employees unionize.

The proposed Free Choice Act is fully supported by the Obama administration, but it has a long way to go before it becomes law. The general consensus is that it will pass the House sometime later this year but that it faces a tougher road in the Senate.

Business groups say that the bill, as currently written, would create the most drastic change in labor laws in 60 years. Among other things, the legislation would allow workers to organize collective bargaining units by majority sign-up (instead of employer-contested elections), and would let government arbiters decide on contracts in the event of stalemates. Most banks are non-union, but if concentrations of bank employees at, say, call centers or large urban branch offices take advantage of these new rules to organize, there can be a substantial impact to not only a bank's salary and wage structure, but to their capital standing and merger prospects as well, experts say.

Union organizers typically set their sights on the likes of retailers and health care providers, but the financial crisis has set the stage for some aggressive campaigns against the financial-services sector.

Earlier this year, for example, the Service Employees International Union launched an email campaign against Bank of America over CEO Ken Lewis' approval of bonuses for Merrill Lynch executives. The protest encouraged activists to engage BofA employees with the talking point that tellers' average annual salary (\$24,000) is less than what former Merrill Lynch CEO John Thain famously spent on curtains in a \$1.2 million office renovation.

Steven Lerner, an SEIU director, says the labor powerhouse ultimately wants bank workers to have a larger say in an institution's affairs. "We've agreed that part of fixing finance is regulating from above," he said. "But, as important, there needs to be regulation from below...in allowing workers to get a voice in the job."

For example, union-organized bank employees could negotiate compensation for selling sound products and services, he said, "versus having quotas and incentive systems that encourage, and force, people to sell products that don't work."

A unionized organized workforce would take a big bite out of bank profits, according to a report this year from Griffin Financial Group in Pennsylvania. Citing data from an unnamed unionized bank, the report estimates that the bank pays 7 to 8.5 percent more in salaries and benefits than its peers, and typically pays \$50,000 to \$100,000 more in legal expenses, which can double during years with contract talks. The report notes that another unionized bank, Ameriserv Financial in Johnstown, Pa., has suffered lower market valuation despite having a higher tangible common equity ratio, more regulatory capital and a better net interest margin than its peer group. Ameriserv's price-to-earnings ratio is only 7.36 percent, compared to a peer group average of 11.27 percent; and its price-to-tangible book value is less than half that of similar banks. Ameriserv officials declined to comment.

There have been signs that the legislation could be effectively neutered by the Senate, where conservative Democrats (including GOP-convert Arlen Specter of Pennsylvania) appear willing to compromise on card-check and arbitration. But that could depend on the political momentum the White House and unions have from the health care debate, and Elliot says there are other provisions that should make employers and bankers wary, such as limits on employer communication to workers during an organization campaign.

He's counseling banks on surveying workers now to discover what's eating them. That, more than savvy PR tactics, may be the best way approach. If employees "believe they have a clear understanding of role with bank, and they like that role they have, then [the bank is] less vulnerable."

**Financial Regulatory Blitz**  
**Brian Wingfield and Aleksandra Kulczuga**  
**Forbes.com**  
**September 22, 2009**

WASHINGTON -- Contrary to popular belief, health care has not entirely consumed the domestic policy agenda in Washington. This week, lawmakers are blitzing Capitol Hill with hearings on financial regulatory reform. The House Financial Services Committee holds the biggest show in town Wednesday. In the morning, Treasury Secretary Timothy Geithner will testify about the Obama administration's reform proposals.

"There is little doubt that we have moved back from the financial brink and toward economic recovery," Geithner is expected to say in his remarks Wednesday. "But make no mistake: The flaws in our financial system and regulatory framework that allowed this crisis to occur, and in many ways helped cause it, are still in place."

The Treasury Secretary is expected to make the case for the creation of a Consumer Financial Protection Agency, and he'll say that regulation must prevent taxpayers from having to foot the bill for future government-funded bailouts, such as those for Citigroup, American International Group and General Motors. He'll also say that the administration's regulatory proposals will not establish a "fixed list" of firms of so-called Tier 1 financial holding companies, also known as firms that are too big to fail.

Later in the day, the panel will grill the chairmen of the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the Office of the Comptroller of the Currency.

Also on Wednesday, the Senate's banking committee will hear government experts testify about the effects of the \$700 billion bailout package, originally intended exclusively for the financial services sector. On Tuesday, the House Agriculture Committee hauled in Mary Schapiro and Gary Gensler, the respective heads of the Securities and Exchange Commission and the Commodity Futures Trading Commission, to talk about oversight of over-the-counter derivatives.

Over the last year, hearings on financial regulation have proliferated on Capitol Hill. The new element is that the Obama administration has produced all the legislative language on its overhaul proposals, giving lawmakers something solid on which to grill regulators. And to be sure, Democrats also want to claim some victories this year in the financial regulatory arena.

The renewed reform effort is reviving opposition to some proposals. House Republicans have already outlined their own, very different goals, which include a rewrite of the U.S. bankruptcy code to wind down non-bank financial firms that are considered too big to fail.

**Deep-pocketed industry groups like the U.S. Chamber of Commerce and the Financial Services Roundtable remain opposed to the creation of a Consumer Financial Protection Agency, a key goal for Democrats.**

"The scope is too broad, the authority is massive and it won't fix transparency for consumers," says David Hirschmann, president of the Chamber Center for Capital Markets, who spoke a briefing for reporters Tuesday. "It's not an approach that will direct resources toward what will actually fix the things that got consumers in trouble. The problem is regulatory attention and enforcement."

Especially worrisome, says Hirschmann, is that the CFPA would separate consumer protection regulation from so-called "safety and soundness" rules for financial institutions, which currently resides with existing banking regulators. That could lead to more red tape and perhaps contradictory regulation. Because states would be able to add their own layers of regulation on top of the federal CFPA, they might shop around for jurisdictions with the least amount of regulation, which could also harm consumers, Hirschmann says.

In addition to consumer protection, look for lawmakers to grill Geithner and FDIC Chairman Sheila Bair on the status of the FDIC's dwindling deposit insurance fund, which has been sapped by the failure of 94 banks so far this year. The agency could borrow as much as \$100 billion from the Treasury Department, but instead is considering borrowing money from healthy banks, according to a report

by *The New York Times* Tuesday. An FDIC spokesman said that while all options are on the table, borrowing from banks isn't being given serious consideration. If that were to occur, it would cast banks in the role of "good citizens" and their "political standing will dramatically improve," says Brian Gardner, a financial services analyst with Keefe, Bruyette & Woods, in a research note. This leverage could also reduce the chances of a new consumer protection regulator, an idea opposed by many in the banking industry, adds Gardner.

Another twist that's sure to come up in hearings this week: consolidation of some of the regulatory powers of the Federal Reserve, FDIC, OCC and OTS into one banking regulator, an idea being pushed by Senate Banking Committee Chairman Chris Dodd, D-Conn.

Dodd's pitch is just that--he hasn't proposed any legislation--and it's considered to be more of a legislative starting point than a realistic proposal for what the future of U.S. financial regulation might look like. But for now, it doesn't seem to have legs. Bair has publicly opposed merging regulatory agencies. (See "Financial Regulatory Round-Up.") Moreover, the idea doesn't have the support of House Financial Services Chairman Barney Frank, D-Mass.

"He'll be moving ahead with the administration's proposal," says a spokeswoman for Frank. The White House has suggested merging the OTS and OCC, an idea endorsed by both Republicans and Democrats.

One area where there's likely to be some progress this year: closing loopholes and tightening oversight of the derivatives markets at the heart of the financial crisis last fall, especially credit default swaps that are traded over the counter. The Obama administration wants swaps traded on an exchange, or at least cleared by a central party.

By Sept. 30, the SEC and CFTC are expected to present Congress with a report on harmonizing their regulation of derivatives. SEC Chairman Mary Schapiro wants securities-related swaps to be regulated like securities and futures-related swaps to be related by the CFTC. But lawmakers will still have to figure out how to reduce the risk of regulatory arbitrage, since some derivatives don't fall neatly into those categories.

None of it will get solved this week, of course, but this week's hearings are a sure sign that financial regulatory reform will soon reclaim its place in the policy spotlight. Consider this blitz the beginning of a fourth-quarter drive.

### **Lobbying intensifies over regulatory plan**

**Silla Brush**  
**The Hill**  
**September 22, 2009**

Industry opponents and consumer advocates are sharpening their lobbying efforts this week as lawmakers begin debating a new regulatory agency that's part of President Barack Obama's financial overhaul.

House Financial Services Committee Chairman Barney Frank (D-Mass.) is preparing a new draft of legislation that would set up a Consumer Financial Protection Agency (CFPA) with broad authority to regulate consumer products such as home loans and credit cards.

**The U.S. Chamber of Commerce is leading a coalition of 25 lobbying associations against the agency plans. The associations include: the Business Roundtable, Consumer Bankers of America, Financial Services Roundtable and National Association of Homebuilders, among others.**

At the same time, a group of 15 law professors sent lawmakers a letter this week backing the new regulatory agency.

The proposal for a new agency has emerged as an early flashpoint in the broader debate over a series of new financial regulations that also include major changes to the regulation of banks and complicated financial derivatives.

Amid a lobbying push and a series of concerns from centrist Democrats and Republicans, Frank delayed a hearing before the August recess. Frank is now reworking parts of the bill and is eyeing a markup on the legislation by mid-October.

"This is a long game," said Elizabeth Warren, a Harvard University professor who strongly backs the CFPA proposal, in an interview with The Hill. "The opponents have a lot of money to spend, but the proponents have a lot of voters on their side to answer to. Those groups may work on different timelines, horizons, but what matters is the end result."

Sen. Chris Dodd (D-Conn.), chairman of the Senate Banking Committee, is working to draft legislation with Sen. Richard Shelby (Ala.), the ranking Republican on the panel. Centrist senators are expected to have concerns with the CFPA proposal, according to financial lobbyists.

Several of the biggest financial lobbying associations — including the American Bankers Association (ABA) and Independent Community Bankers of America

(ICBA) — are notably missing from the business coalition campaign. They are opposed to the CFPB proposal as written, but are working on other efforts to win over lawmakers.

David Hirschmann, president and CEO of the Chamber's Center for Capital Markets Competitiveness, said on Tuesday that the coalition would spend at least \$2 million to defeat the CFPB proposal.

Hirschmann said the coalition, which began during several summer meetings, has organized 22,000 letters to members of Congress in opposition to the agency proposal.

The coalition is running ads in Washington-area publications and has focused its efforts primarily on making the case that small businesses, such as butcher shops and bakeries, would be harmed by a new agency. "We'll spend whatever it takes," Hirschmann said. "It's a high priority for the Chamber."

Apart from those wholesale attacks on the agency, which congressional supporters and consumer advocates decry as red herrings, opponents argue that the proposed agency's broad authorities must be more narrowly tailored.

Frank and centrist Democrats have been debating several more specific changes to the bill, including on the issue of federal pre-emption of state laws. Frank has said for weeks that he is opposed to a provision in the administration's draft bill that would require firms to offer "plain vanilla" products alongside others.

Those changes are unlikely to satisfy the Chamber and many opponents. Hirschmann said the coalition opposes any new agency that would oversee consumer protection while the existing bank regulators continue to oversee the same firms for safety and soundness.

"What we cannot support is a competing power," said Hirschmann. But he recognizes that there is substantial support in Congress for strong and new consumer protections, and particularly under a new agency.

"I don't know if we'll win on whether a separate consumer regulator is the right idea," Hirschmann said.

Among those supporting the idea are the law professors, who urged "swift action" in their letter.

“An independent agency with consolidated authority and a consumer-oriented mission such as the one being considered by your committees is likely to improve public confidence,” the law professors wrote.

## **Fannie Mae Chief Named Bank Bailout Chief**

**Kathie Kroll**

**Cleveland.com (Plain Dealer - Online)**

**Wednesday, September 23, 2009**

Allison's selection presents the administration with yet another challenge. If Allison is confirmed, both Fannie Mae and Freddie Mac would be without chief executives. David Moffett, formerly Freddie Mac's CEO, resigned in March.

In Allison, the White House selected a former Merrill Lynch investment banker who became chairman of the retirement fund manager TIAA-CREF. Allison served as finance chief for John McCain's 2000 campaign for the Republican presidential nomination. But politically, Allison has shown himself to be bipartisan in his allegiances, contributing to both Democrats and Republicans, according to Federal Election Commission records.

Since taking over in September at Fannie Mae, where he took no salary, Allison, the son of an FBI agent, developed a reputation for open-mindedness with consumer advocates, even those who have had an contentious relationship with the giant company.

**"Mr. Allison is well-positioned to lead the TARP," said Scott Talbott, chief lobbyist for the Financial Services Roundtable, an industry group. "He has a wealth of experience with buying, selling, protecting, and managing assets to protect the taxpayer investment and strengthen the economy."**

Some industry officials said that by pulling Allison away from Fannie Mae, the White House was signaling that TARP would remain a viable component of the government's stabilization efforts for the financial industry, even in the face of hostile lawmakers and wary bankers.

Bert Ely, a banking industry consultant in Alexandria, Va., said Allison has the advantages of being a known quantity to the Obama administration who is "much more of a financial heavyweight" than Kashkari.

Plus, he said, the new job would likely be more of a challenge than running Fannie and Freddie, which have been operating under tight government oversight since

last September. "In this new situation, he's going to be much more of a policymaker," Ely said. "I can understand why he would want to take it."

## **Banks Win Round 1 in Consumer Fight**

**CNNMoney.com**

**Wednesday, September 23, 2009**

WASHINGTON (CNNMoney.com) -- This summer, when Obama administration officials talked about overhauling financial regulation, they threw around a catchy phrase sure to appeal to consumers: "Plain vanilla" mortgages and credit cards.

"Plain vanilla" was used to illustrate the powers of a proposed new consumer agency. The agency could set basic standards -- like one-page, easy-to-understand applications for 30-year-fixed mortgages.

Now, the so-called Consumer Financial Protection Agency won't get that power, according to a memo on the agency released by House Financial Services Chairman Barney Frank.

The memo also says that some key providers of financial services, such as consumer reporting agencies, real estate brokers and auto dealers, would not be subject to the new agency's oversight.

Although the final bill language has yet to be released, experts on both sides of the fight agree the memo signals that top Democrats have made concessions to smooth passage of the most controversial yet symbolic part of regulatory reform.

And so far, the Obama administration appears to be OK with the changes.

"There's nothing in there that troubles me significantly," said Secretary Tim Geithner during a Wednesday House hearing. "I think the chairman's proposals are a pragmatic helpful way to make sure you have a better balance of choice but protection."

Several advocates of the consumer agency said they weren't surprised to see that the "plain vanilla" provision got yanked, because it had become the loudest complaint by the financial services sector. Banks argued that such a provision would hurt their ability to provide consumers with financial product choices.

"'Plain vanilla' was just such a no-go for the industry, that was loud and clear," said Melissa Koide of the New America Foundation, a left-leaning Washington policy group. "It's disappointing it's coming out, because there was some middle ground on the issue."

Still, some experts said the loss of the "plain vanilla" mandate is not a significant blow to the proposed agency, which would still be able to "promote the use of safer products," said Ed Mierzwinski, the consumer program director for U.S. Public Interest Research Group.

More troubling is that the House appears intent on exempting from new regulation some big players that provide auto loans and reports on consumers' credit-worthiness, Koide said.

The Frank memo also makes it clear that lawmakers don't want to regulate merchants and retailers who give their customers credit or layaway plans. An ad campaign paid by the U.S. Chamber of Commerce opposing the proposal featured a butcher and baker concerned about its possible impact on their businesses.

The consumer agency would still have a mandate "to set strong rules" for banks and non-banks, the memo said. And states would still be allowed to pass their own laws aimed at protecting financial consumers, even if such laws are tougher those set by federal regulators.

Even after the changes, the financial services industry still isn't on board.

Statements from the American Bankers Association, **the Financial Services Roundtable** and the Chamber of Commerce acknowledged the committee's efforts to address their concerns, while making it clear they still want to kill the bill.

They all oppose any agency that could set new rules without considering whether those rules threaten the safety and soundness of financial institutions.

**"We agree with the CFP, just not the A," said Scott Talbott, chief lobbyist for the Financial Services Roundtable.**

At a hearing on Wednesday, Frank made it clear that he's not interested in the alternative embraced by the financial services sector: Beefing up existing consumer protection departments inside banking regulators.

"It is simply not the case that they've paid much attention to [consumer issues]," Frank said. "They never cared about consumer affairs. It's not that they are bad people, it is a fact that safety and soundness is their main concern. They regard consumer affairs as kind of a nuisance."

Frank said he plans to ask federal regulators to tally their record on consumer affairs activity. "It's not very impressive," he said.

## **Banks Take Over the G20, and Their Own Bailout**

**Ruth Conniff**

**Progressive Magazine**

**Wednesday, September 23, 2009**

At the G20 meeting this week in Pittsburgh, world leaders will take up financial regulation that might stave off future meltdowns, such as the crisis that hit when some of the world's largest banks found they couldn't back up their risky bets.

The world's finance ministers and central bankers have agreed to impose limits on bonuses and increase capital requirements on the banks, the Wall Street Journal reports, making sure they have the assets to cover their debts. It sounds like a good idea.

But wait a minute, why the G20? The most undemocratic forum in the world economy?

It's not like citizens of Pittsburgh are going to be invited to any of these meetings. In fact, so convoluted are the rules thrust upon us ordinary citizens by the G20 and the World Trade Organization that these entities are taking up financial regulation precisely because these regulations, if imposed by an individual member country, could be struck down as an unfair barrier to trade under WTO rules.

Look what happened last April, when the G20 met in London. In the middle of the financial crisis, G20 leaders reached an agreement to re-regulate the financial industry . . . and, simultaneously, agreed to continue the deregulation practices that had precipitated the crisis in the first place. It was, as Public Citizen's blog on Globalization and Trade put it at the time, a "bizarre contradiction."

By pledging to refrain from raising new barriers to investment or to trade," the G20 leaders committed themselves "to eliminate non-trade measures that many have employed to stop certain risky financial activities and stimulate economic activity, Public Citizen's Lori Wallach explained. What is supposed to be an anti-protectionism pledge is so broadly cast that it snares policies totally unrelated to trade, such as tough new financial service regulations that will incidentally limit trade and investment in risky financial services.

Now the group is trying again. As it strives to build consensus among the financial interests of its member countries, look for more watered-down pledges and hostility to regulation on investments and trade.

Here's another one for the "bizarre contradictions" file as business and government leaders grapple with the financial crisis: Mary Bottari over at PR Watch points out in her blog that the FDIC has leaked the news that it is seriously considering asking banks to lend it the money it needs to . . . shore up banks. Because the FDIC has been running out of money to cover all those bad loans the financial industry made in its mad subprime lending spree, the agency has floated the notion of borrowing from "healthy banks" to bail out the government.

"Generally federal agencies are wary of using funding mechanisms that might give the appearance that they have been 'captured' by the very institutions they are charged with regulating. But apparently FDIC chair Sheila Bair would rather pursue this cockeyed strategy than ask sparring partner -- Treasury Secretary Timothy Geithner -- for a government check," Bottari writes. "Not surprisingly, banks welcomed this development with open arms. The Independent Community Bankers of America's Karen Thomas claimed, 'Borrowing from healthy banks instead of the Treasury has the advantage of keeping this in the family. It is much better for perceptions than having the fund borrow from someone else.' If the banksters really think we are all one great big family, perhaps they'll start giving consumers a break on 27% credit card interest rates."

While the banks and the government are busy working out the fine print of these circular deals, Jobs With Justice is raising the alarm. During the **Financial Services Roundtable** meeting in Washington, DC, September 24, the group is holding a rally to "Stop the Bailout Bandits."

**The Financial Services Roundtable** is a group of 90 companies in the finance and insurance industry. Members received some \$214 billion in taxpayer bailout money and, Jobs With Justice points out, spent \$43.9 million on lobbying between 2000 and 2008. Roundtable members oppose regulation, consumer protection, and the Employee Free Choice Act. One year after the massive bank bailout, Jobs With Justice is calling on proponents of regulation and reform to converge on Washington during this week's Roundtable meeting at the Mandarin Hotel.

Protesters will also converge on the G20 meeting later this week. Howard Zinn is among those calling on ordinary citizens to attend the People's Summit to take place during the G-20 meetings to demand sane and just policies--"what working people need . . . what homeowners need . . . what consumers need," instead of the bizarre contradictions and self-dealing the banks feel they need.

## **White House Retreats on Key Part of Proposed Financial Overhaul**

**Jim Puzzanghera**

**Los Angeles Times**

**Thursday, September 24, 2009**

Reporting from Washington - Lawmakers began an intensive push to pass the most sweeping revision of financial regulations since the Great Depression, but the Obama administration's proposed overhaul might undergo an overhaul itself along the way.

The congressional committee chairmen handling the administration's 600-page proposal weighed in this week with significant changes as they tried to meet the president's deadline for action by the end of the year.

On Wednesday, Treasury Secretary Timothy F. Geithner backed down on a key component that has stirred opposition -- a requirement that companies providing financial products offer a "plain vanilla" option, such as fixed-rate mortgages or no-frills credit cards.

His retreat came after Rep. Barney Frank (D-Mass.), chairman of the House Financial Services Committee, floated details of his own version of regulatory legislation that eliminated the requirement.

Geithner's move showed that, just as with healthcare legislation, the administration is willing to accept significant revisions to get its plan passed.

"As the president likes to say, we don't have a monopoly of wisdom on these things," Geithner told Frank's committee, adding that the administration was generally "very supportive" of the changes. "Our test is, what is going to work?"

Congressional and industry leaders now expect significant revisions to be made to the administration's plan. However, any bill is still likely to contain key components that give the government greater power to oversee the financial system for major risks, a new ability to seize and dismantle large financial institutions, and the authority to create a new agency to look out for consumer interests.

**"I think there's still more changes to come," said Scott Talbott, the chief lobbyist for the Financial Services Roundtable, which represents large financial institutions.**

The industry has objected strongly to parts of Obama's plan, particularly the creation of a Consumer Financial Protection Agency to be the people's watchdog over financial products that companies offer.

Frank, promising to push forward aggressively, has scheduled 11 hearings through

early next month and said the House would vote in November on the legislation his committee produces. After discussions this week with Senate Banking Committee Chairman Christopher J. Dodd (D-Conn.), Frank said he expected the Senate to act this year as well.

Obama used a major speech last week on Wall Street to try to jump-start momentum for his regulatory overhaul, which was unveiled in June. On Wednesday, Geithner warned lawmakers who wanted to take more time to consider proposals that "it's a huge risk" to put off the legislation.

Dodd, who is drafting his own legislation, said he would propose a major departure from the administration plan -- merging the four existing bank regulatory agencies into a single national bank regulator. The Obama plan did not go so far in that regard, proposing only to merge two of the agencies, the Office of Thrift Supervision and the Office of the Comptroller of the Currency.

Dodd and Frank are strong supporters of a consumer agency that would have the ability to draft rules as well as inspect financial institutions for compliance. The heads of the OTS, the OCC and the Federal Deposit Insurance Corp. reiterated their opposition Wednesday to a provision that would move consumer enforcement powers from them to the new agency.

"We care about consumer protection," said FDIC Chairwoman Sheila C. Bair.

In a two-page memo this week, Frank offered several changes for the consumer agency. He would eliminate the plain-vanilla requirement for financial products, which has drawn criticism because the government would dictate what products companies could offer.

Frank also wants to exempt nonfinancial businesses from the agency's oversight even if they offer financial products. That would include retailers who have credit or layaway plans and auto dealers who offer loans to buy vehicles.

Even with those changes, the Financial Services Roundtable and the U.S. Chamber of Commerce said they still opposed creating the agency.

Frank also said it was crucial to deal with institutions deemed "too big to fail." The administration wants tougher oversight and the ability to seize and dismantle them if they're on the verge of collapse. Regulators now can do that with banks, but not with other financial institutions such as insurance companies.

Frank opposed the administration's plan to identify those firms, which some argue would imply the government's willingness to bail them out. Geithner said the firms

would be held to tougher standards to reduce risk, such as keeping a larger amount of money in reserve to handle losses, and that would be impossible to do without identifying them.

"But you have to do it in a way that doesn't . . . create an expectation that the government will be in there if they fail," Geithner said.

## **Key Democrats Seek to Speed up Law Restricting Credit Card Companies**

**Nancy Trejos**

**The Washington Post**

**Thursday, September 24, 2009**

Two members of Congress plan to introduce a bill Thursday that would accelerate the implementation of a law restricting the ability of credit card companies to raise interest rates and fees. Rep. Carolyn B. Maloney (D-N.Y.), chairman of the Joint Economic Committee, and Rep. Barney Frank (D-Mass.), chairman of the House Financial Services Committee, are seeking to move the effective date of the credit card law to Dec. 1 from Feb. 1.

Signed into law in May, the Credit Card Accountability, Responsibility and Disclosure Act forbids card companies from raising interest rates on existing balances unless a borrower is at least 60 days late. If the cardholder pays on time for the next six months, the company would have to restore the original rate.

Consumer advocates praised the bill as a landmark reform but complained that it would not take effect until February. Since the law was passed, several card companies have raised interest rates and fees, sparking outrage on Capitol Hill.

Maloney said that since the bill was signed, "too many" card companies have been "taking advantage and using the time before the effective date badly. Changing the effective date to December 1 is both warranted and wise."

The industry has argued that making such sweeping changes takes time. **"The industry is already moving quickly to be in compliance with the massive changes in the new law," said Scott E. Talbott, senior vice president of government affairs for the Financial Services Roundtable.**

## **Frank Appeases Some Consumer Agency Foes**

**By Silla Brush**

**The Hill**

**Wednesday, September 23, 2009**

Rep. Barney Frank's effort to scale back a new regulatory agency over consumer financial products is starting to dampen some of the lobbying opposition.

Frank (D-Mass.) said on Tuesday that he would carve out a series of non-financial businesses from the proposed Consumer Financial Protection Agency (CFPA) in an effort to blunt K Street criticism and win over Democrats who were wary about the new agency's power as originally envisioned by the White House.

The National Automobile Dealers Association (NADA) and Consumer Electronics Association (CEA) on Wednesday cheered Frank's decision to exempt automobile dealers and telecom, cable and other communication providers from the new agency. Both associations withheld final judgment on the proposal, but approved of the direction Frank announced in a memo on Tuesday.

"NADA is pleased that Chairman Frank has indicated that auto dealers are not to be regulated by this new agency," said Bailey Wood, a NADA spokesman. "The chairman's decision reflects the fact that dealers are already subject to numerous federal and state financial regulations."

NADA ran print ads last week against the agency proposal as the association held a fly-in to lobby lawmakers.

Jason Oxman, CEA's spokesman, said the association is awaiting the full details of Frank's bill, but found much to like in the initial proposal.

"We are heartened and appreciate Chairman Frank's memo," Oxman said.

The proposed agency has emerged as one of the most controversial elements of President Barack Obama's efforts to revamp financial regulations and has been the source of major lobbying efforts from a wide range of industries.

The agency would serve as a single federal regulator to oversee products such as home loans and credit cards.

While some lobbying groups struck a new tone on Wednesday, the largest financial industry associations remain overwhelmingly opposed to the creation of a new agency. Frank's changes did not go far enough, for instance, to win the support of associations such as **the Financial Services Roundtable** and American Bankers Association (ABA).

Meanwhile, the U.S. Chamber of Commerce is leading a coalition of 25 lobbying groups in a multimillion-dollar campaign against the proposal.

The coalition effort so far has focused primarily on the impact the new agency would have on small businesses and non-financial companies, such as butcher shops and bakeries. CEA signed a recent letter as part of the Chamber coalition.

David Hirschmann, president and CEO of the Chamber's Center on Capital Markets Competitiveness, said the coalition could not support a new regulatory agency that would compete with existing bank regulators that oversee firms' safety and soundness.

Some coalition members, such as the American Land Title Association (ALTA) and National Association of Mutual Insurance Companies (NAMIC), on Wednesday said Frank's changes did little to shift their views.

Kurt Pfothauer, chief executive of ALTA, said Frank's memo may have "muddied the waters" and made it unclear when some businesses, such as law firms, fall under the proposed agency's oversight.

Other members of the coalition said the agency, either as envisioned by the White House or by Frank, was not a big concern for them because it was not something that would affect most of the companies they represent.

"We're in it only at the margins," said Jade West, senior vice president of government relations for the National Association of Wholesaler-Distributors.

"We're in the coalition just to stay informed."

The agency as envisioned by Frank would oversee fewer businesses than the White House had originally proposed. His proposal exempts accountants, tax preparers, real estate brokers and agents, lawyers, auto dealers and consumer reporting agencies, among others.

Centrist Democrats had worked behind the scenes with Frank on many of the changes announced on Tuesday.

Still, the agency proposal will draw heated debate in the House and later in the Senate. Republicans are opposed to the agency concept, and centrist Democrats have other concerns. Atop the list of unsettled issues is whether the new agency should have the power to pre-empt regulatory actions taken at the state level.

"I think pre-emption is likely to be the single largest issue yet to be resolved," said Rep. Jim Himes (Conn.), a New Democrat and supporter of pre-emption.

Himes said the agency proposal and Frank's changes haven't won over all centrist Democrats, but that most believe there is momentum behind the legislation.

"Most of us say that if we can make the lines of accountability and mission clear, that's a step in the right direction from where we are today — where consumer protection is the ugly stepchild," Himes said.

## **Unions to Target Banks in New Round of Protests**

**By Silla Brush**

**The Hill**

**Wednesday, September 23, 2009**

Labor union activists are kicking off a month of demonstrations against banks that they say are trying to thwart new financial regulations on Capitol Hill.

Starting on Thursday at **the Financial Services Roundtable's** annual meeting in Washington, labor activists will protest against big banks for returning to practices on corporate pay and other issues that led to the financial crisis.

“They’re back to their old tricks and the same practices that caused this crisis in the first place,” said Anna Burger, secretary-treasurer of the Service Employees International Union (SEIU). “They’re getting bailed out and normal people are losing.”

Unions have lashed out at financial institutions throughout the crisis for receiving government bailout money while average Americans suffer from lost jobs and eroding bank accounts. Unions and other consumer advocates are particularly critical of banks for being slow to alter foreclosure policies and for collecting billions of dollars in overdraft fees on credit cards.

The government has supported the financial industry with trillions of dollars in taxpayer money to avert an economic depression and complete seizure of credit markets. The Obama administration is working to bolster the housing market and reduce the number of foreclosures, as well as to wind down government programs that are no longer necessary.

As the debate shifts to a legislative fight over financial reform, union advocates and others are criticizing banks for attempting to stall or scuttle new regulations.

The U.S. Chamber of Commerce and other financial trade groups are focusing in particular on an Obama administration proposal to create a new federal regulatory agency over consumer financial products. The financial industry is overwhelmingly opposed to the agency proposal and argues that it would raise costs on consumers and create unnecessary competition between existing federal regulators.

SEIU is organizing the protests alongside other union and community organizing groups. The protests will start on Thursday with a “modest crowd,” said Stephen Lerner, assistant to the SEIU president.

The protests lead up to a demonstration in Chicago between Oct. 25 and Oct. 27 at a meeting of the American Bankers Association (ABA), the largest bank lobbying association. "There will be thousands of people in Chicago," Lerner said.

"The bankers at the convention are from smaller institutions and are community banks," said John Hall, spokesman for ABA. "These are local bankers who are serving as the engine of recovery for their hometown economy. I think their target may be off in that regard."

SEIU has planned additional protests on Oct. 2 in Charlotte, N.C., outside Bank of America and Wells Fargo, and during mid-October at a meeting of the Oregon Bankers Association.

**U.S. Treasury's Wolin Says Banking System Mending**  
**ABC News**  
**Thursday, September 24, 2009**

WASHINGTON (Reuters) - The United States has moved away from the financial brink and is heading toward economic recovery, a senior Treasury official said on Thursday.

In prepared remarks to the **Financial Services Roundtable**, Treasury Deputy Secretary Neal Wolin also reiterated the Federal Reserve was the agency best equipped for the task of supervising the largest and most complex firms.

"There are indications that we have moved back from the financial brink and are headed toward economic recovery. Important parts of the financial system are back to functioning on their own," Wolin said.

Wolin said these signs of recovery should not shift the focus away from reforming the nation's regulatory system, which he described as outdated and ineffective. The Obama administration is pushing for the U.S. central bank to be in charge of overseeing large interconnected firms and systemic risk to the economy.

"In our view, the Federal Reserve is the agency best equipped for the task of supervising the largest and most complex firms. The Fed already supervises all major U.S. commercial banking organizations on a firm-wide basis," said Wolin.

He said the government's proposed plan would push for tougher standards and the largest and most interconnected firms would face significantly higher capital and liquidity requirements.

"Through tougher prudential requirements, we aim to give these firms a positive incentive to shrink, to reduce their leverage, their complexity and their interconnectedness," said Wolin. "We aim to ensure that they have far greater capacity to absorb losses when they make mistakes."

The plan also would make clear that being among the largest, most interconnected firms did not guarantee support in times of stress, he said.

"Indeed, the presumption should be the opposite: shareholders and creditors should expect to bear the costs of failure," said Wolin.

### **Key Democrats wants to Speed Up Law Restricting Credit Card Companies** **Harkamal Singh**

**TopNews**

**Thursday, September 24, 2009**

Today, two members of Congress mull to introduce a bill, which would increase the implementation of a law prohibiting the ability of credit card companies to lift interest rates and fees.

The names of these two members are Rep. Carolyn B. Maloney (D-N.Y.), chairman of the Joint Economic Committee, and Rep. Barney Frank (D-Mass.), chairman of the House Financial Services Committee. They both aim at moving the effective date of the credit card law to Dec. 1 from Feb. 1.

The Credit Card Accountability, Responsibility and Disclosure Act was signed into law in May, and it restricts card companies from increasing interest rates on existing balances unless a borrower is at least 60 days late. The company requires restoring the original rate, if the cardholder pays on time for the next six months.

The bill was described as a landmark reform by consumer advocates. However they expressed their unhappiness for it would not take effect until February. Many card companies were seen raising interest rates and fees, sparking outrage on Capitol Hill, from the time the law has been passed. As per the industry, a lot of time is needed to make such far-reaching changes.

**Scott E. Talbott, senior vice president of government affairs for the Financial Services Roundtable said, "The industry is already moving quickly to be in compliance with the massive changes in the new law."**

### **Banks Fight to Kill Proposed Consumer Protection Agency**

**Kevin G. Hall**

**McClatchy Newspapers**

WASHINGTON -- If you doubt that U.S. banks long to return to the days of impotent regulation, you need only look at one of the financial sector's top legislative priorities: killing a proposed new agency that would be dedicated solely to protecting consumers' financial interests.

The Obama administration is asking Congress to create a new Consumer Financial Protection Agency to regulate consumer financial products ranging from credit cards to mortgages, and to simplify disclosure about them all.

Though virtually every cause of the nation's recent financial crisis was rooted in weak consumer protection, the U.S. Chamber of Commerce is leading the fight against the proposed agency on grounds that it would make credit less available and more costly. The American Bankers Association, the Independent Community Bankers of America, and the **Financial Services Roundtable** also oppose the measure.

"We have no argument that regulation failed. Consumer protection is just one of the many areas where it fell down," said David Hirschmann, the president of the U.S. Chamber of Commerce's Center for Capital Markets, which opposes the panel. "It just simply adds a new layer of regulation without fixing ... our outdated, broken regulatory structure that was a contributing factor in our crisis."

The Chamber said it's spending about \$2 million on ads, educational efforts and a grassroots campaign to kill the agency. It said that the grassroots effort has led to more than 23,000 letters sent to Congress to date.

The Center for Responsive Politics said that for the 2010 election cycle, commercial banks have donated almost \$3.7 million to lawmakers - 54 percent of it to Republicans. Companies that provide credit have given about \$1.4 million, 59 percent to Democrats. Mortgage bankers and brokers have given \$581,423.

"Maybe instead of making government BIGGER, we should focus on making government BETTER," reads one Chamber ad.

The Chamber warns that the agency could morph into a monster regulator.

"If you look at this actual bill, the powers are so broad and so ill-defined that the scope of who is covered is incredible. They've managed to create a proposed new regulator for anyone who directly or indirectly provides credit to consumers," Hirschmann said. "If you allow people to give gift cards for your store ... you've got a new regulator. It's amazingly broad in scope, scale and power."

The administration scoffs at those charges.

"Contrary to some advertisements you may have seen, we have no desire to interfere with Main Street retailers' ability to provide credit to their customers.

That argument is to the financial regulation debate what the Death Panel argument is to the health insurance debate," Lawrence Summers, the chief economic adviser to President Barack Obama, said in a recent speech. "We have become convinced that it is essential that consumer financial regulation be carried on by an independent body whose mandate is uniquely and exclusively consumer and investor protection."

Until the current crisis, responsibility for these consumer protections fell to several separate regulators, who made consumer protection subservient to their core mission of regulating institutions for safety and soundness.

Predatory lending and no-documentation loans helped spawn the housing crisis. Weak oversight by federal regulators allowed mortgage bonds to be sold to investors as the safest of investments when they were far from it.

## **World Leaders Disagree Over Bonus Culture**

**Jim Zarroli**

**NPR News**

**Thursday, September 24, 2009**

There will be much more talk about the economy today as world leaders gather in Pittsburgh. It's a summit of the leaders of the world's 20 largest economies. And one issue they're expected to consider is whether to impose new restrictions on the financial industry's culture of paying big bonuses. American officials say the collapse of the financial sector last year was at least partly due to compensation practices that encourage banks to engage in risky practices. As NPR's Jim Zarroli reports, the U.S. is at odds with other countries about what steps to take.

**JIM ZARROLI:** There's a kind of bipartisan rage being directed at the world's biggest financial companies right now. On talk radio, conservatives rail against the federal government bailout, furious that taxpayers have been forced to prop up bankers who took irresponsible risks. Meanwhile on Wall Street this week, AFL-CIO head Rich Trumka led a protest demanding stricter regulation of banks.

**Mr. RICH TRUMKA (President, AFL-CIO):** We have a message for Congress. We're asking them which side are you on. Either you're with us or you're against us.

**ZARROLI:** The anger has mushroomed this summer following reports of more huge payouts for executives of big financial institutions, including some that received bailout money. And Paul DeNicola, who studies corporate governance at the Conference Board, says banks are having to respond.

**Mr. PAUL DENICOLA (Associate director, Conference Board):** Boards are

facing increasing pressure, be it from their institutional shareholders or also from a public outcry to rein in executive compensation to a reasonable level.

ZARROLI: In recent weeks, the Federal Reserve has taken up the cause. It's expected to release new regulations on executive pay within a few weeks. One change nearly everyone agrees on is a ban on compensation plans that encourage traders and brokers to engage in risky behavior.

**Scott Talbott of the Financial Services Roundtable says one example is what are called yield spread premiums.**

**Mr. SCOTT TALBOTT (Senior Vice President for Government Affairs, Financial Services Roundtable): It was a compensation practice where the mortgage broker received a bonus if he sold a mortgage at an interest rate higher than the borrower would've otherwise qualified for. Well, that type of practice has stopped and did not benefit anybody except the mortgage broker.**

ZARROLI: But Talbot, whose organization lobbies on behalf of financial companies, opposes some of the other ideas now coming out of Washington. The House passed a bill this summer that would give regulators a lot more power to determine executive salaries. Meanwhile, because most big banks tend to operate globally, foreign governments are also weighing in.

France and Germany have proposed strict caps on bankers' salaries. Talbot says that would be a huge mistake. He says it would mean banks would have to throw out the incentive-based compensation plans that help them compete. He also says draconian measures aren't necessary, because after the crisis of the past year most banks have become a lot more cautious anyway.

**Mr. TALBOTT: The threat of failure and the ghost of the institutions that have failed are threat enough for the institutions to change their practices to ensure that they stay in business, that their customers receive good products and their employees are compensated well.**

ZARROLI: But others are skeptical. J Robert Brown of the University of Denver Law School says big banks might be acting responsibly now, but once the economy turns around they will revert to their old practices. As for the Obama administration, it has been so far been cool to some of the more aggressive proposals like the pay caps favored by some Europeans. But Brown thinks that may change. He says there's a growing sense that not much has been accomplished in the year since the financial crisis.

Professor J ROBERT BROWN (University of Denver Law School): And I think for this administration they need to fix something to say we took some step to prevent this from happening again, and the most obvious step to take is to say we are not going to allow for the kind of compensation practices that may have caused this crisis to begin with.

ZARROLI: U.S officials are expected to release details of their compensation proposals over the next few weeks. And Brown says that will give them a chance to take a stand on a politically contentious issue and show that they are ready to reform a system and that wreaked so much havoc last year.

**Consumer Protection Agency at the Heart of the Financial Reform Battle**  
**Michael Zielenziger**  
**AARP Bulletin**  
**Thursday, September 24, 2009**

If you think the fight over President Obama's health care reform plan is brutal, just wait until the administration tries to face down the nation's banks and mortgage brokers.

One year after the collapse of Lehman Brothers triggered a global financial panic, and huge housing lenders like Washington Mutual and Countrywide Finance were forced out of business, the administration is determined to prevent another crisis. Obama says the nation's banks, having been given billions in federal funds just to stay afloat, must now accept tougher regulations that offer consumers better protection while reducing risk to the financial system.

"To protect our economy and people from another market meltdown, our government needs to fundamentally reform the rules governing financial firms and markets," Obama told the nation Sept. 19 in his weekly radio address.

A key part of the reforms that Obama wants Congress to establish is creation of a consumer financial protection agency (CFPA).

"Consumers shouldn't have to worry about loan contracts written to confuse, hidden fees attached to their mortgages, and financial penalties—whether through a credit card or debit card—that appear without a clear warning on their statements," Obama said. "And responsible lenders, including community banks trying to do the right thing, shouldn't have to worry about ruinous competition from unregulated and unscrupulous competitors."

The president noted that some borrowers signed contracts they didn't fully understand, offered by lenders who didn't fully disclose the facts. "That's why we need clear rules, clearly enforced," Obama said.

### **A voice for consumers**

The new CFPB would centralize consumer protection authority that now resides in seven different agencies. It would issue rules compelling financial institutions to make their loan documents more readable and transparent, would outlaw exotic loans too complex for most consumers to understand, and would offer guidelines for mortgage products and credit card agreements.

The agency would be staffed with examiners, much like those in existing bank regulatory agencies, with authority to issue subpoenas and seek penalties.

The proposal would also give individual states the power to impose stricter rules than federal mandates.

The plan is already drawing fierce opposition from financial institutions.

**"We all agree that we have to protect consumers," said Scott Talbott, senior vice president of government affairs for the Financial Services Roundtable, which represents large banks and credit card issuers. "But let's strengthen the regulators we already have. If consumer protection is not today the core mission for federal regulators, then let's step that up."**

### **Poll cites broad support**

Those who advocate placing all consumer protection authority in a single agency say the CFPB would "streamline government and allow the market to flourish with good products," in the words of Susan Weinstock of the Consumer Federation of America (CFA). A recent poll by the group found that 57 percent of respondents support the creation of the new federal agency, even though Americans in general tend to support a smaller government.

**Treasury's Wolin: Without Reform, Government Action May Have Made Things Worse**  
**Damian Paletta**  
**Wall Street Journal**  
**Thursday, September, 25, 2009**

Treasury Deputy Secretary Neal S. Wolin on Thursday said that if policy makers don't make changes to financial market rules, the extreme government intervention in the economy might end up making things worse.

“There is no question that, unless we enact meaningful reforms, the fact that the federal government intervened this past year will have made the problem worse,” he told a group of bankers in a speech. “We take this moral hazard challenge very seriously.”

The speech was at a meeting **of the Financial Services Roundtable**, a group of the country's largest financial institutions that are lobbying aggressively to kill several key parts of the White House's proposal. During the speech, Mr. Wolin was standing below a large sign put up by the banking group that read: “Changing the Dialogue: Rebuilding Trust.”

Afterwards, Mr. Wolin spoke briefly with reporters and talked about a range of issues, ranging from the creation of a consumer financial protection agency to the best way to regulate the country's largest banks.

He also spoke about a less-noticed part of the White House's June proposal to overhaul financial market supervision, which included this sentence:

The Federal Reserve, in consultation with Treasury and external experts, should propose recommendations by October 1, 2009 to better align its structure and governance with its authorities and responsibilities.

The Fed isn't expected to meet the deadline and it's not clear if it will prepare the report, people familiar with the matter have said. Mr. Wolin didn't sound terribly disturbed about it.

“We just wanted to be thorough and make sure we were looking at all the various pieces of our reform proposal and all things that were related to those pieces,” Mr. Wolin said. “They [the Fed] continue I think to look at these issues. And as to how that's going and where they are, you ought to ask them.”

**Credit Countdown**  
**Charles Bogue**  
**Napa Valley Register**  
**September 26, 2009**

As home sales increase in Napa and across the country, the number of days for first time homebuyers to take advantage of the \$8,000 government credit is decreasing.

Instituted as part of the \$787 billion economic stimulus package signed by President Obama in February, the First-Time Home Buyer Credit has done its job in both a practical and psychological way. Mark Zandi, Moody's chief economist, estimates that the credit will create 400,000 new and existing home sales before its termination.

History and the economy have shown that the two primary stimuli to housing affordability and sales have always been low prices or low interest rates. The two lines have crossed, giving would-be home buyers interest rates near 5 percent and home prices 25 to 40 percent of values of just six years ago.

As if these two factors were not enough to get would-be buyers into the market, the true tipping point may well have been the \$8,000 tax credit that caused new homeowners to take the plunge.

The demographic of this portion of the buyer market was released last week in the California Association of Realtors 2009 First-Time Home Buyers Tax Credit Survey. A median age of 31 years, median home price of \$323,400 and median income of \$103,390 typified the 40 percent of home buyers who stated "they would not have purchased a home if the federal tax credit for first-time home buyers was not offered."

Ranking their motivation to purchase a home on a scale from one to five, participants in the survey gave the tax credit and low prices the same rating — 4.5. The results also reported that the tax credit was measured less important as income increased; 94 percent of those earning under \$100,000 intended on using the credit while only 51 percent of those earning over that amount expected to apply.

With the credit scheduled to expire on Nov. 30, most lenders and Realtors are seeing the end of September as the practical deadline for having a contract accepted.

The remaining 60 days create a tight time line for obtaining funding and closing escrow.

The Realtor, home building associations, lenders and would-be first time buyers are pushing Congress for a continuation of the \$8,000 credit. The estimated cost of extending the program for another six months is at \$15 billion to \$17 billion.

The momentum of opinion on an extension of the credit moves from even to slightly in favor. Senator Majority Leader Harry Reid, along with others, has introduced a six month extension to retain life in the market place as the employment situation and general economy improve.

**In an interesting and perceptive comment, Financial Services Roundtable lobbyist Scott Talbott was quoted as saying, "Congress works best on deadlines and crisis; and we sort of have both in this one."**

The White House has its own economic team collecting data to make recommendations for what action to the president will elect to take. The decision to extend the \$8,000 credit or allow it to expire is being watched eagerly by home builders, lenders, Realtors and most carefully by would-be, first-time home buyers.

To close the window on this element of economic stimulus may block on of the major rays of light shining on economic recovery.

**Global summit sets new direction, but misses chance for climate fix**  
**Margaret Talev and Kevin G. Hall**  
**McClatchy Newspapers**  
**September 25, 2009**

PITTSBURGH -- Leaders of the world's most developed economies agreed late Friday to restrict runaway financial-sector executive pay, give emerging powers a bigger role in global institutions and create a new structure to promote global economic growth.

"In short, our financial system will be far different and more secure than the one that failed so dramatically last year," President Barack Obama said at the close of the Group of 20 summit.

The G-20 members launched what they termed a Framework for Strong, Sustainable and Balance Growth. This framework, sought by the Obama administration, requires member nations to develop a common gauge of sustainable economic growth and to assess their progress.

Summit participants agreed to give big developing economies such as China, India and Brazil a greater voting stake in the International Monetary Fund and World Bank - a rebalancing that reflects their growing stature on the global stage.

Most of the summit drama centered on executive compensation, with France pushing for strict caps in how much financial sector executives can be paid. The Obama administration successfully beat back that effort, and the G-20 leaders instead agreed on a series of steps to address excessive risk-taking by executives. These include deferring compensation and tying bonuses to performance over a longer timeline.

Although not a binding commitment, the framework for growth could create a face-saving structure for both the U.S. and China to address imbalances in consumption, trade and currency policies that have helped fuel a deep global economic downturn.

"Our new framework will allow each of us to assess each other's policies," Obama said.

The meeting in Pittsburgh was the third this year by leaders of the U.S., European Union and other large economies. Here, the leaders decided to bury the old Group of Eight meeting of the world's most industrialized economies and replace it with G-20 meetings to reflect a changing world.

"It is a historic change, because the system we had is the system we came up with after World War II. Now we recognize the importance of the big emerging powers," said Uri Dadush, the director of economics programs at the Carnegie Institute for International Peace.

The shift is significant because big emerging economies represent important seats at the bargaining table when negotiating everything from global trade accords to environmental policies.

"That means that the G-20 is going on to bigger, more-important issues and going beyond the financial crisis," Dadush, a former World Bank director of international trade, said in a phone interview from Geneva, Switzerland.

On the environmental front, G-20 leaders reached a general agreement on the elimination of fossil-fuel subsidies over the medium term. They agreed to develop implementation strategies and timetables, and report these back at next year's G-20 summit meetings, to be held in Canada and South Korea. Significantly, however, they failed to agree on how to wean poorer countries off fuel subsidies.

"Overall, the Pittsburgh G-20 summit represents a missed opportunity to move the ball forward on climate change," Alden Meyer, the director of policy at the Union of Concerned Scientists, said in a statement. "On the critical issue of funding for developing countries to deploy clean technologies, reduce deforestation and adapt to the impacts of global warming, the G-20 leaders didn't take the bold steps needed."

As Congress begins revamping regulation, the Pittsburgh summit amounted to a bullet dodged for the financial sector, because pay caps weren't adopted.

**"The right way to regulate is to focus on the risk and pay-for-performance, connecting the employee's compensation with the long-term risk horizon," said Scott Talbott, the senior vice president of government affairs for the Financial Services Roundtable, which represents banks and other big financial players.**

**The new pay rules - which are currently being drafted in the U.S., Britain and Europe - address what industry officials, including Talbott, acknowledge was a severe shortcoming.**

**"The failure in the past was an overreliance on the short-term and not enough on the long term. Now that's changed," he said. "You've seen a number of companies fail because they didn't manage that risk properly."**

G-20 members also agreed to:

-Require that companies that sell pools of mortgages or other loans retain an unspecified portion on their books to discourage excessive risk-taking.

-Adopt international rules by 2010 and implement them by the end of 2012 on capital buffers for banks. Banks will have to retain more cash in reserve, especially in good times, to be able to weather stormy times.

-Pledged to facilitate the transfer of clean energy technology from rich nations to poor ones.

-Agreed to publish, beginning on Jan. 1, complete and timely data on oil production, consumption, refining and stock levels.

-Reaffirmed support for multilateral development banks to address poverty in Latin America, Africa and Asia, pledged to find new funding sources.

## **Banks target consumer watchdog plan**

**Kevin G. Hall**

**McClatchy Newspapers**

**September 27, 2009**

If you doubt that U.S. banks long to return to the days of impotent regulation, you need only look at one of the financial sector's top legislative priorities: killing a proposed new agency that would be dedicated solely to protecting consumers' financial interests.

The Obama administration is asking Congress to create a Consumer Financial Protection Agency to regulate consumer financial products ranging from credit cards to mortgages, and to simplify disclosure about them all.

Leading the opposition

Though virtually every cause of the United States' recent financial crisis was rooted in weak consumer protection, the U.S. Chamber of Commerce is leading the fight against the proposed agency on grounds that it would make credit less available and more costly.

**The American Bankers Association, the Independent Community Bankers of America, and the Financial Services Roundtable also oppose the measure.**

“We have no argument that regulation failed. Consumer protection is just one of the many areas where it fell down,” said David Hirschmann, the president of the U.S. Chamber of Commerce's Center for Capital Markets, which opposes the panel. “It just simply adds a new layer of regulation without fixing ... our outdated, broken regulatory structure that was a contributing factor in our crisis.”

The chamber said it's spending about \$2 million on ads, educational efforts and a letter-writing campaign to kill the agency. It said that the effort has led to more than 23,000 letters sent to Congress to date.

Millions in donations

The Center for Responsive Politics said that for the 2010 election cycle, commercial banks have donated almost \$3.7 million to lawmakers — 54 percent of it to Republicans. Companies that provide credit have given about \$1.4 million, 59 percent to Democrats. Mortgage bankers and brokers have given \$581,423.

“Maybe instead of making government BIGGER, we should focus on making government BETTER,” reads one chamber ad.

The chamber warns that the agency could morph into a monster regulator.

“If you look at this actual bill, the powers are so broad and so ill-defined that the scope of who is covered is incredible. They've managed to create a proposed new regulator for anyone who directly or indirectly provides credit to consumers,” Hirschmann said. “If you allow people to give gift cards for your store ... you've got a new regulator.” The administration scoffs at those charges.

“Contrary to some advertisements you may have seen, we have no desire to interfere with Main Street retailers' ability to provide credit to their customers. That argument is to the financial regulation debate what the ‘death panel’ argument is to the health insurance debate,” Lawrence Summers, the chief economic adviser to President Barack Obama, said in a recent speech. “We have become convinced that it is essential that consumer financial regulation be carried on by an independent body whose mandate is uniquely and exclusively consumer and investor protection.”

Until the current crisis, responsibility for these consumer protections fell to several separate regulators, who made consumer protection subservient to their core mission of regulating institutions for safety and soundness.

Predatory lending and no-documentation loans helped spawn the housing crisis. Weak oversight by federal regulators allowed mortgage bonds to be sold to investors as the safest of investments when they were far from it.

When economic times got tough last year, banks began padding their balance sheets by socking surprised consumers with new credit card fees that were hidden in contractual fine print.

“In practice, nobody really took it seriously. ... I think clearly you have had a lot of abuses, and whatever was on the books wasn't being enforced,” said Morris Goldstein, a former top official at the International Monetary Fund and a researcher for the Peterson Institute of International Economics. “I think it makes sense to try to wrap it together and give someone the responsibility to deal with the great bulk of it.”

Rep. Barney Frank, D-Mass., the chairman of the House of Representatives' Financial Services Committee, said last week that he intends to exempt most nonfinancial businesses from oversight by the new agency.

At a congressional hearing on Wednesday, the chamber's Hirschmann said that while he appreciated Frank's modifications, the Chamber still opposes the bill.

**FDIC chief wants overdraft fees restricted**

**Kathy Chu**  
**USA Today**  
**September 28, 2009**

Even as some banks pull back their policies, the head of the Federal Deposit Insurance Corp. is calling for tight restrictions on fees charged for overdrawn checking accounts.

In the past week, some of the nation's largest banks have announced plans to change the way they assess overdraft fees.

The moves are "significant improvements, but do they go far enough?" FDIC Chair Sheila Bair said in an interview with USA TODAY on Friday. "That's an open question. We do need some regulatory standards in this area. We need the Fed to finalize rulemaking in this area."

The Federal Reserve has said it plans to release a rule by the end of the year on overdrafts. But it's unclear whether, and to what extent, it will require banks to curtail overdraft practices.

Richard Bove, an analyst at Rochdale Securities, warns that "putting any type of limitation on overdraft fees will just result in some consumers being kicked out" of the system if banks find that they can no longer make money off them.

Other analysts say that onerous restrictions could also make it harder for the troubled industry to recover. Overdraft fee income has been a huge source of profits for banks. In 2009, banks are expected to reap a record \$38.5 billion from overdraft fees, nearly twice the \$20.5 billion they stand to collect from credit card penalties such as late and over-limit fees, according to research firms Moebs Services and R.K. Hammer.

Banks are hoping changes to their overdraft policies will stave off further regulation. Chase has said that by early next year, it will stop approving debit-card overdrafts, and charging a fee, unless consumers have consented to the service. Wells Fargo, meanwhile, plans to limit the number of times consumers can get hit with overdraft fees each day, to four from 10.

**"The changes the industry has made, and will make, will address customers' concerns," says Scott Talbott, a senior vice president at the Financial Services Roundtable.**

But Leslie Parrish, a senior researcher at the Center for Responsible Lending, says the industry "remains badly in need of reform."

Bair said that any major restriction to bank policies "needs to be done very carefully, given the state of the industry."

She supports regulation to require banks to get consumers' permission to approve transactions that overdraw their accounts and charge a fee. She also believes overdraft coverage should be treated as a loan, which would require banks to calculate and disclose the average APR to consumers. In the past, banking regulators have said that overdraft coverage is a credit product, but have stopped short of regulating it as a loan.

Officials should have acted to curb bank practices sooner, added Bair: "If we had early regulatory intervention on this, the genie would have never gotten out of the bottle."

### **Wall Street Money Rains on Chuck Schumer Politico September 28, 2009**

Wall Street has showered nearly \$11 million on the Senate since the beginning of the year, and more than 15 percent of it has gone to a single senator: Democrat Chuck Schumer of New York.

Schumer's \$1.65 million take from the financial services industry is nearly twice that of any other senator's — and more than five times what the industry gave to any single Republican senator.

While the industry has scaled back its political spending in the wake of last year's economic collapse, data from the Center for Responsive Politics show that it's still investing heavily in the Senate, where it's likely to have its best shot at stopping — or at least shaping — the crackdown on Wall Street that President Barack Obama has proposed.

And it's clearly looking to Democrats to do it.

Of the \$10.6 million the industry has given to sitting senators this year, more than \$7.7 million has gone to Democrats. Schumer got his \$1.65 million; his New York colleague Kirsten Gillibrand took in \$886,000; Senate Majority Leader Harry Reid of Nevada received \$814,000; Senate Banking Committee Chairman Chris Dodd of Connecticut scored \$603,000; Colorado freshman Michael Bennet got \$401,000; and Agriculture Committee Chairman Blanche Lincoln of Arkansas—who will have a big say on the derivatives portion of regulatory reform — got

\$336,000.

“Democrats are holding the reins in Washington now with a Democratic-run White House and Congress,” said one financial services lobbyist. “It only makes sense that donors want to put their money into the coffers of those who are driving the agenda.”

Among Republicans, the biggest recipient of financial-industry money so far this year is Richard Shelby of Alabama. But although he’s the ranking Republican on the Banking Committee — ground zero for the regulatory reform bill in the Senate — he’s received just \$313,000 from the industry this year.

That’s smaller than the haul for Bennet, the most junior Democrat on the Committee, or Lincoln, who isn’t even on it. And Shelby is the only Republican senator on the industry’s top-10 giving list.

The industry’s giving pattern this year may upend the traditional notion of Republicans as the bagmen for Wall Street. But it also reflects political reality: Democrats hold a commanding if not quite filibuster-proof majority in the upper chamber, and some of them may be willing to side with the financial industry on key aspects of the regulatory reform effort — even if that’s not immediately obvious from the Democrats’ populist rhetoric.

**The Financial Services Roundtable, an industry association that gave almost \$425,000 to members during the past election, says the issues — not the party — drive its donations.**

**“We support members that understand the issues facing our industry,” said Scott Talbott, the Roundtable’s senior vice president of government affairs. “This is done on a case-by-case basis.”**

Democrats insist that industry money doesn’t influence their votes.

“Contributions don’t really affect — my basis of decision making is whether it’s going to be beneficial to Arkansans,” said Lincoln, who noted that financial services firms aren’t among her biggest contributors.

Schumer spokesman Brian Fallon says his boss “calls the shots the way he sees them” — regardless of who’s giving him money.

“The financial services industry is a vital part of New York’s economy, but he doesn’t hesitate to go after the institutions when they are wrong, such as with credit cards, corporate governance and overdraft fees,” Fallon said.

To compare the \$1.7 million he's gotten from the so-called FIRE lobby — that's finance, insurance that's not health insurance and real estate — with his positions on key elements of reform, you might think his donors are suffering from Stockholm syndrome.

## **FDIC chair calls for federal regulation of bank overdraft fees**

**Candice Choi**

**Associated Press**

**September 29, 2009**

Several of the country's biggest banks unveiled consumer-friendly makeovers of their overdraft programs last week. The changes may be too little, too late.

Sheila Bair, chair of the Federal Deposit Insurance Corp., is the latest federal official to call for tighter regulation of overdraft programs, which have become an industry standard in recent years.

In an interview with USA Today published Monday, Bair questioned whether the changes banks announced last week "go far enough."

"We do need some regulatory standards in this area. We need the (Federal Reserve) to finalize rulemaking in this area," she said.

Bair or an FDIC representative was not immediately available for comment Monday.

Overdraft programs typically penalize customers with a fee of about \$25 or \$35 for making purchases when there isn't enough money in their accounts.

Consumers are generally automatically enrolled in the programs, and can't opt out. Critics say the programs are misleading because most people assume they can't spend more than they have when using debit cards.

Last week, Bank of America, JPMorgan Chase, U.S. Bank and Wells Fargo announced plans to start requiring customers to opt into the programs.

Even with the bigger banks backing off automatic enrollment, however, federal regulations could force smaller and community banks to follow suit, said Linda Sherry, a spokeswoman for Consumer Action, an advocacy group in Washington, D.C.

"There's so much money in this for even the small banks, I can't see them backing off it without a fight," she said.

**Scott Talbott, a spokesman for the Financial Services Roundtable, an industry group, said competition will eventually drive smaller banks to follow the lead of the larger banks. Given the changes announced last week, he said any regulations would be redundant.**

**"The industry has already made a number of changes. The regulations are no longer needed," Talbott said.**

Meanwhile, the Federal Reserve plans to issue a final rule on the matter by the end of the year.

The central bank has proposed two approaches for dealing with overdraft programs. The first would bar a bank from assessing fees on a customer's account unless notice and an opportunity to opt out of the bank's overdraft protection service was provided in advance. Under the second proposal, a bank would have to secure the customer's consent, or require them to opt in, before overdraft fees could be imposed.

Neither Fed option would put a limit on the fees charged. The law the Fed is tapping to try and crack down on overdraft abuses doesn't give agency authority to cap or limit the fees. It's unclear whether the Fed could do so under other powers.

The Fed's proposal would apply to overdrafts for ATM withdrawals and one-time debit card purchases. It would not cover overdrafts involving checks or recurring overdrafts on debit cards. Consumer testing by the Fed found that people would not opt out if that meant their most significant bills — typically paid by check or recurring debit — would not be paid.

The American Bankers Association is urging the Fed to permit banks to require customers to opt into a blanket overdraft program.

Resistance to the central bank's proposal is expected, as overdraft fees have become an important revenue stream for banks. In 2007, the industry earned about \$29 billion from overdraft fees, according to Oliver Wyman, a Boston-based consulting firm for the banking industry.

As part of the changes announced last week, the Bank of America, JPMorgan Chase, U.S. Bank and Wells Fargo also said they were capping the number of times per day customers would be penalized for overdrawing accounts. For instance, Bank of America and Wells Fargo say they will penalize customers no

more than four times a day.

One of the criticisms of overdraft programs is that fees can continue piling up if customers don't realize they've overdrawn the account, and continues spending.

The changes from the banks came after Sen. Chris Dodd, D-Conn. said he planned to introduce legislation to prevent auto enrollment into overdraft programs. Rep. Carolyn Maloney, D-N.Y, has already introduced similar legislation.

It's not clear how much traction the legislation would get, given all the other matters in Congress right now, Sherry of Consumer Action noted.

Earlier this year, President Barack Obama signed a credit card law that banned automatic enrollment in over-the-limit programs, which work much the same way as overdraft programs. The law does not apply to debit cards.

### **FDIC Prepayment Likely for Banks**

**Damian Paletta**

**Wall Street Journal**

**September 29, 2009**

The Federal Deposit Insurance Corp. is expected to propose Tuesday that the bulk of the banking industry prepay three years' worth of fees to replenish the fund that insures trillions of dollars of customers' deposits, people familiar with the matter said.

Having banks pay up front for 2010, 2011 and 2012 could bring between \$36 billion and \$54 billion to the government agency, which insures deposits at more than 8,000 banks, these people said. It couldn't be learned when the assessments would have to be prepaid.

An FDIC spokesman declined to comment. The agency's board, which will make the final proposal, could still decide to pursue a different strategy before it meets Tuesday morning.

The move is expected to be met by complaints from the banking industry because of the amount of money that would have to be paid upfront. Still, some might see prepaid assessments as preferable to another option, a one-time charge that wouldn't offset any future obligations to pay into the fund.

The industry would have time to comment after the FDIC board votes on the proposal Tuesday.

The FDIC, which backs several trillion dollars of U.S. deposits, had \$10.4 billion in its deposit-insurance fund at the end of June, compared with \$45.2 billion a year earlier. The fund is typically financed by assessments on the banking industry, but its reserves have been depleted recently as bank failures have outpaced fees coming into the agency.

The FDIC has to rebuild its fund when it dips below a certain level -- which happened months ago -- and it has been debating how best to do that. Options included hitting the industry with a special assessment, borrowing money from the industry, borrowing money from the Treasury Department, or having banks prepay their assessments.

Many in the industry, and some in Congress, have urged the FDIC to borrow the money from the Treasury because the banking industry is still reeling from the financial crisis and needs the money to rebuild reserves.

**"There are plenty of other options that won't hit the industry as hard," said Scott Talbott, a senior vice president at the Financial Services Roundtable, a trade group of large financial companies. "Prepaying three years' worth of assessments is the exact wrong strategy at the exact wrong time."**

But FDIC officials have been reluctant to borrow from the Treasury, both because of the potentially worrying message it would send to the public and because some believe such moves should be done only in an emergency.

It's possible not all banks would have to prepay assessments. A special exemption could be made for banks struggling financially, though a policy in this area hasn't been finalized.

In 2009, 95 banks have failed and more failures are expected in the next year. The FDIC's deposit-insurance fund helps resolve bank failures. FDIC officials have stressed that the agency is backed by the full faith and credit of the U.S. government and that no depositor has ever lost a penny of insured deposits. It has already reserved an additional \$32 billion to cover bank failures in the next year.

**Wall Street Invests Heavily in Schumer**  
**Victoria McGrane**  
**Newsday**  
**Tuesday, September 29, 2009**

Wall Street has showered nearly \$11 million on the U.S. Senate since the beginning of the year, and more than 15 percent of it has gone to a single senator: Democrat Chuck Schumer of New York.

Schumer's \$1.65-million take from the financial services industry is nearly twice that of any other senator's - and more than five times what the industry gave to any single Republican senator.

While the industry has scaled back its political spending in the wake of last year's economic collapse, data from the Center for Responsive Politics show that it's still investing heavily in the Senate, where it's likely to have its best shot at stopping - or at least shaping - the crackdown on Wall Street that President Barack Obama has proposed.

And it's clearly looking to Democrats to do it.

Democrats raking it in

Of the \$10.6 million the industry has given to sitting senators this year, more than \$7.7 million has gone to Democrats. Schumer got his \$1.65 million; his New York colleague Kirsten Gillibrand took in \$886,000; Senate Banking Committee chairman Chris Dodd of Connecticut scored \$603,000; and Agriculture Committee chairman Blanche Lincoln of Arkansas - who will have a big say on the derivatives portion of regulatory reform - got \$336,000.

"Democrats are holding the reins in Washington now with a Democratic-run White House and Congress," said one financial services lobbyist.

Among Republicans, the biggest recipient of financial-industry money so far this year is Richard Shelby of Alabama. But although he's the ranking Republican on the Banking Committee, he's received just \$313,000 from the industry this year.

The industry's giving pattern this year may upend the traditional notion of Republicans as the bagmen for Wall Street. But it also reflects political reality: Democrats hold a commanding majority in the upper chamber, and some of them may be willing to side with the financial industry on key aspects of the regulatory reform effort.

**The Financial Services Roundtable, an industry association that gave almost \$425,000 to members during the past election, says the issues drive its donations. "We support members that understand the issues facing our industry," said Scott Talbott, the Roundtable's senior vice president of government affairs.**

Influence on votes

Democrats insist industry money doesn't influence their votes. "Contributions don't really affect - my basis of decision making is whether it's going to be beneficial to Arkansans," said Lincoln.

Schumer spokesman Brian Fallon said his boss "calls the shots the way he sees them," regardless of the money. "The financial services industry is a vital part of New York's economy, but he doesn't hesitate to go after the institutions when they are wrong, such as with credit cards, corporate governance and overdraft fees," Fallon said.

To compare the \$1.7 million he's gotten from the so-called FIRE lobby - that's finance, insurance that's not health insurance, and real estate - with his positions on key elements of reform, you might think his donors are suffering from Stockholm syndrome.

Schumer, No. 3 in the Senate Democratic leadership and the former chairman of the Democratic Senatorial Campaign Committee, has offered scads of proposals that the industry doesn't like on issues from corporate governance to the creation of a new consumer watchdog for the financial world.

But his top donors include New York Life Insurance, private equity firm Lightyear Capital, futures clearinghouse MBF Clearing Corp. and real estate companies Rudin Management and Related Companies.

Quite a few financial insiders express frustration with Schumer, feeling he's thrown the industry under the bus now that it's politically popular to do so.

Others contend that, despite his positions the financial reform effort, Schumer remains an important ally for Wall Street on issues that aren't grabbing headlines, such as capital requirements for financial institutions.

### **F.D.I.C. Moves to Replenish Bank Fund**

**Stephen Labaton**

**New York Times**

**Tuesday, September 29, 2009**

WASHINGTON — Acknowledging that they greatly underestimated the problems plaguing the nation's banking system, federal officials proposed a plan on Tuesday to replenish the fund that protects bank depositors.

They also announced that the fund, which began the year with more than \$34 billion on hand but has been battered by bank collapses, would fall into deficit this week.

The plan proposed by the Federal Deposit Insurance Corporation would, in effect, have the nation's banks collectively lend money to the insurance fund by requiring the banks to prepay this year the annual assessments that they would otherwise have been due through 2012.

If adopted, the plan would raise \$45 billion from the banks to replenish the fund, which is suffering severe problems with both its capital and liquidity.

Officials said that the plan would be less expensive than a direct loan from the banks — an idea that many banks supported — because no interest would have to be paid and because the plan would not be voluntary. In addition, the banks would face an increase in their annual assessments beginning in 2011 of 3 cents for every \$100 in deposits. The healthiest banks now pay 12 cents to 16 cents on every \$100.

Created during the 1930s to restore confidence and arrest a wave of bank runs that contributed to the Great Depression, the insurance fund now stands behind some \$4.8 trillion in deposits. It is financed by the industry and backed by the United States. Officials have the ability to borrow \$100 billion from the Treasury immediately, and up to \$500 billion with the approval of the Treasury secretary and the Federal Reserve.

The plan proposed by the deposit insurance agency was a partial victory for industry executives and lobbyists, who fought against the idea of levying another special assessment on the banks. Last May, an additional 5 cents was collected for every \$100 in deposits as a special assessment on top of the regular premiums.

The plan proposed by the deposit insurance agency was a partial victory for industry executives and lobbyists who fought against the idea of another special assessment imposed on the banks. Last May, the government imposed a special assessment of 5 cents for every \$100 in deposits on top of the regular premiums. The prepayment option also offers a significant bookkeeping benefit to the industry. If the plan is ultimately approved, banks will be able to list the prepayment as an asset on their books, and not charge it against earnings until the time when the payment would normally have been due.

**“The decision to not impose any additional assessment for 2009 but rather to require institutions to prepay assessments over the course of three years, while accounting for such expense on a quarterly basis is a positive alternative to rebuilding the deposit insurance fund while not impacting an institution's earnings,”** said Steve Bartlett, president of the Financial Services Roundtable, which represents 100 of the nation's largest financial services companies.

But some bank executives expressed concern about the increase in premiums in two years.

“The premium increase in the out years was a surprise,” said Edward L. Yingling, president of the American Bankers Association. “The industry agrees that this is a better alternative to what clearly would have been several special assessments, but this prepayment will decrease the ability to lend.”

There was a split in the industry about whether the fund should borrow from the Treasury, as it had after the savings and loan crisis, with the loan to be repaid later by the banks. Some saw that as a low-cost way of replenishing the fund, while others opposed it because of fears that it would be seen as another taxpayer bailout and could come with a new round of conditions on the banks in areas like executive pay. Some executives also expressed concern that the proposal could limit the ability of banks to expand lending.

“This prepayment will be a short-term asset, like an investment, but particularly for banks with a high percentage of loans, the prepayment will mean they have less money to lend as it will be tied up in this asset,” Mr. Yingling said. “There will and should be a discussion of whether it makes sense to use the Treasury line. Banks will pay the whole thing one way or another, but the line will not constrict ending as much in the short term.”

Meeting with reporters before the F.D.I.C. board voted to publish the proposal for comment, Sheila C. Bair, who heads the agency, emphasized that despite the fund problems bank depositors need not worry about the insurance coverage on their accounts.

“I hope you will report this in a way that depositors don’t get scared,” Ms. Bair told the reporters. “For depositors, this is a nonevent.”

But for policy makers and the banking industry, the announcement on Tuesday that the insurance fund was in significantly worse condition than was projected just three months ago was startling, particularly since officials had already approved an initial effort in May to rescue the fund based on more upbeat projections. In May, officials projected \$70 billion in losses to the fund from bank failures. That estimate was a \$5 billion increase from earlier in the year.

On Tuesday, the F.D.I.C. increased that loss estimate by more than 40 percent, to \$100 billion in total losses — mostly over this year and next. . They said that as of this week, the fund, which began the year at more than \$30 billion and had about \$10 billion over the summer, would now have a negative balance. Officials

declined to say what that balance is, saying they are awaiting tabulations that could take another month or longer.

Officials said that if nothing were done, the fund would also be holding almost exclusively illiquid assets by early next year. At last report, the fund had about \$22 billion in cash and other marketable securities. As more banks have collapsed, most of its liquid assets have been exchanged for the less marketable assets seized from the failed institutions, like foreclosed property.

Ms. Bair said that she and other officials had decided against imposition of another special assessment on banks because it would be counterproductive while the banks were being encouraged to extend more lending to help revive the economy. Despite requests from several senior lawmakers that the agency borrow money from the Treasury, Ms. Bair said such an approach was unattractive.

“It’s clear that the American people would prefer to see an end to policies that look to the federal balance sheet as a remedy for every problem,” she said. “In choosing this path, it should be clear to the public that the industry will not simply tap the shoulder of the increasingly weary taxpayer. This proposal is a vote of confidence for the banking industry’s resilience and will continue to recover its strength as we work through the significant challenges ahead.”

Ms. Bair said that the prepayment proposal would have little impact on the ability of most banks to continue their lending businesses since the payments were a tiny fraction of the industry’s available assets. She also said that the banks did not face a significant liquidity problem now because of the many lending programs that have been created by the Treasury and the Federal Reserve.

## **Banks win round 1 in consumer fight**

**Jennifer Liberto**

**CNNMoney.com**

**September 23, 2009**

This summer, when Obama administration officials talked about overhauling financial regulation, they threw around a catchy phrase sure to appeal to consumers: "Plain vanilla" mortgages and credit cards.

"Plain vanilla" was used to illustrate the powers of a [proposed new consumer agency](#). The agency could set basic standards -- like one-page, easy-to-understand applications for 30-year-fixed mortgages.

Now, the so-called Consumer Financial Protection Agency won't get that power, according to a memo on the agency released by House Financial Services Chairman Barney Frank.

The memo also says that some key providers of financial services, such as consumer reporting agencies, real estate brokers and auto dealers, would not be subject to the new agency's oversight.

Although the final bill language has yet to be released, experts on both sides of the fight agree the memo signals that top Democrats have made concessions to smooth passage of the most controversial yet symbolic part of regulatory reform. And so far, the Obama administration appears to be OK with the changes. "There's nothing in there that troubles me significantly," said Secretary Tim Geithner during a Wednesday House hearing. "I think the chairman's proposals are a pragmatic helpful way to make sure you have a better balance of choice but protection."

Several advocates of the consumer agency said they weren't surprised to see that the "plain vanilla" provision got yanked, because it had become the loudest complaint by the financial services sector. Banks argued that such a provision would hurt their ability to provide consumers with financial product choices. "'Plain vanilla' was just such a no-go for the industry, that was loud and clear," said Melissa Koide of the New America Foundation, a left-leaning Washington policy group. "It's disappointing it's coming out, because there was some middle ground on the issue."

Still, some experts said the loss of the "plain vanilla" mandate is not a significant blow to the proposed agency, which would still be able to "promote the use of safer products," said Ed Mierzwinski, the consumer program director for U.S. Public Interest Research Group.

More troubling is that the House appears intent on exempting from new regulation some big players that provide auto loans and reports on consumers' credit-worthiness, Koide said.

The Frank memo also makes it clear that lawmakers don't want to regulate merchants and retailers who give their customers credit or layaway plans. [An ad campaign paid](#) by the U.S. Chamber of Commerce opposing the proposal featured a butcher and baker concerned about its possible impact on their businesses.

The consumer agency would still have a mandate "to set strong rules" for banks and non-banks, the memo said. And states would still be allowed to pass their own laws aimed at protecting financial consumers, even if such laws are tougher those set by federal regulators.

Even after the changes, the financial services industry still isn't on board. Statements from the American Bankers Association, the Financial Services Roundtable and the Chamber of Commerce acknowledged the committee's efforts to address their concerns, while making it clear they still want to kill the bill. They all oppose any agency that could set new rules without considering whether those rules threaten the safety and soundness of financial institutions.

**"We agree with the CFP, just not the A," said Scott Talbott, chief lobbyist for the Financial Services Roundtable.**

At a hearing on Wednesday, Frank made it clear that he's not interested in the alternative embraced by the financial services sector: Beefing up existing consumer protection departments inside banking regulators.

"It is simply not the case that they've paid much attention to [consumer issues]," Frank said. "They never cared about consumer affairs. It's not that they are bad people, it is a fact that safety and soundness is their main concern. They regard consumer affairs as kind of a nuisance."

Frank said he plans to ask federal regulators to tally their record on consumer affairs activity. "It's not very impressive," he said

### **CNN Newsroom Transcript September 29, 2009**

COLLINS: On Wall Street today, a not so happy anniversary. Exactly one year ago, the Dow plunged nearly 800 points. The drop to this day is unrivalled. Susan Lisovicz is on the floor of the New York Stock Exchange with a look at where we stand. Hi there, Susan, and a whole different day today. SUSAN LISOVICZ, CNN CORRESPONDENT: Heidi, it was just a remarkable period as you and I remember quite vividly. Because September 2008 was a period of crisis. It started, of course, with the failure of Lehman Brothers, September 15th. Escalated two weeks later when the House of Representatives failed to pass the first draft of the financial rescue plan known as T.A.R.P. That is when the blue chips plunged nearly 800 points.

And I might add the volatility didn't end there. Even though that plan was passed a few days later. We saw the 2nd, 4th, 5th, worst point losses ever for the Dow in the following month. Just to give you some insight into what it was like following the stock market then, Heidi, your producers, the assignment desks, all sorts of

people were calling us constantly asking us what would it take for the New York Stock Exchange to halt trading. That's how scary it was then.

COLLINS: Yes. I remember.

LISOVICZ: And there is a mechanism in place, just so you know. It's adjusted every quarter. It would have taken a point loss of 1,100 points for there to be a halt in trading. That was put in place after the 1987 crash.

We never got to that point, but it was scary indeed. I'm happy to say that the market has certainly stabilized since then. The market has been rallying since early March, basically been nearly seven-month rally at this point.

To put it in perspective, Heidi, we are still not where we were when the Dow closed even after that nearly 800-point loss. The Dow is just above 10,365. So, we have some ground still to make up. No question about it, Heidi.

COLLINS: Absolutely. So, if you are a person that believes confidence is returning to Wall Street, then the question would be how long before that optimism will hit Main Street?

LISOVICZ: That's a great question. It's a question that's always asked here. We're getting a lot of information this week, including the big jobs report for September. We get earnings report in the next few weeks from corporate America.

What we did get this morning since we last spoke was consumer confidence that unexpectedly dipped last month. Why is that? Well, I'll just read from the report itself. It says, "Consumers remain quite apprehensive about the short-term outlook and their incomes with the holiday season quickly approaching. This is not very encouraging news."

The road to recovery is not a smooth one. It's tough, and with a very high unemployment rate that could rise later this week, Heidi, it's going to be tough sledding. That consumer confidence reflects that. In fact, what we saw with the Dow, the Dow has dipped into the negative territory. That happened after we got that report.

COLLINS: No question. That jobs report coming out on Friday. All of this together, I think there are still a lot of people, whether you are Main Street or Wall Street who are...

LISOVICZ: Not happening fast enough.

COLLINS: ... cautiously optimistic. All right. Susan Lisovicz, thank you.

One bank goes bust. FDIC makes sure your money is protected, but the insurance fund that guarantees those savings needs to be propped up. CNNmoney.com's Poppy Harlow is in New York with more on this. So Poppy, what's being done to ensure that savings are safe?

POPPY HARLOW, CNNMONEY.COM: Let's be clear here, Heidi. Savings are safe if you see that plaque, FDIC, at bank teller, you know the money is insured.

But the FDIC is saying today, Heidi, that unless action is taken to shore up those funds, they could be in the red by the end of this month and stay there through 2013. Let's be clear again. Your funds are safe, but take a look at this chart.

It's over the past five quarters or so. If you look at June, you have a big depletion in terms of those insurance funds. Just over \$10 billion set aside for bank failures and another \$32 billion reserved for bank failures over the next year.

But bank failures over the last year or so have taken a huge toll on this fund. If you go back to June of 2008, you had more than \$45 billion in the fund, and as 95 banks have failed over the year so far, Heidi, compared to 25 bank failures last year, the funds have really, really been weighed on. A lot of pressure. The FDIC is estimating losses from bank failures, Heidi, still to come could climb to \$100 billion through 2013. They're meeting on that right now.

COLLINS: All right. How will the FDIC replenish the insurance funds?

HARLOW: They're talking about a proposal right now that a closed-door meeting in Washington right now. The proposal here is to have big banks pay three years of fees into the fund upfront to try and shore it up.

As you can imagine, banks not exactly embracing that idea. **What we heard from a rep from the Financial Services Roundtable, they say the exact wrong strategy at the exact wrong time, saying the banks need their cash on hand to stimulate the economy and do their own business.**

Other options. One, the FDIC can tap a \$500 billion line of credit from the Treasury. Banks could lend the FDIC money. Otherwise, we could see a one-time assessment charge on banks. That's another thing that's gotten a lot of attention. Whatever happens, the FDIC want to make it clear Americans have nothing to worry about. Take a listen.

(BEGIN VIDEO CLIP) SHEILA BAIR, FDIC CHAIRMAN: I think what

depositors need to understand is obviously we full faith and credit; we're backed by the government. We have wide ability to assist the industry to cover our costs. We have substantial lines of credit with Treasury. There's no reason why anybody would ever need to worry about their insured deposit. Nobody's ever lost a penny, and no one ever will.

(END VIDEO CLIP)

HARLOW: What happens now? The banks, Heidi, after they will get to comment on that proposal. We'll get a final decision on that in November or December. We'll bring you the latest when we have it.

COLLINS: Very good. Poppy Harlow, thank you.

"The Wall Street Journal" is reporting the Obama administration is close to committing an additional \$35 billion to help the housing market. The money would boost funds to agencies that provide lower- cost mortgages to first-time and low-income buyers. But the idea is getting blowback from critics concerned about massive government spending.

Deborah Solomon is "The Wall Street Journal" reporter who broke the story. She's joining us now from Washington.

So, Deborah, this is money not coming from TARP. Is it correct to say it's not really additional money, and where is it coming from?

DEBORAH SOLOMON, REPORTER, "THE WALL STREET JOURNAL": Well, I mean, it will be additional money. They're still working out the financing. Some of the money will come from Fannie Mae and Freddie Mac, which were the two government controlled mortgage giants, and the rest is going to come from the Treasury. Not through TARP, but through authorization that they have under another bill passed by Congress last year. But they are still working out the financing, and it will probably impact our debt levels in terms of we'll be spending more money, so our debt will go up.

COLLINS: We have quite a bit of debt already. I imagine people want to know why this is happening. Why are these housing finance agencies in trouble?

SOLOMON: Well, they're not in trouble because they made bad loans or got involved in the subprime area. They're in trouble because of reason a lot of states are in trouble. They can't access debt. They can't sell the bonds that they normally rely on for financing. And since they can't sell those bonds, they can't...

COLLINS: Why is that?

SOLOMON: Oh, because the municipal bond market has been pretty tight ever since the credit crunch started. Investors have been really wary of buying debt that governments sell to fund everything from sewer systems to schools.

It's really expensive right now for those governments to borrow because they worry about the risk of default. Because state and local governments aren't doing well, and they worry that governments are not good creditors. So, that's made it hard for housing finance agencies to raise the money they need to raise to offer lower-cost mortgages.

COLLINS: Yes. I bet there are people out there that will say, "Throw in more money at the housing sector? Is that the right thing to do?"

SOLOMON: The government, obviously, is trying to unwind support in other areas. I mean, we have seen the Federal Reserve start moving away from some of its liquidity facilities. But housing is really the one area where the administration and a lot of other folks think it's way too early to pull back support.

Now, you could argue whether or not you should be artificially propping up the housing market, but they argue that if they weren't, the economy would sink back into a recession. I mean, a lot of people think we're coming out of the recession. They say things would be a lot worse than they are now, and this is needed not to prevent what's a natural correction but to make it more palatable for the economic situation.

COLLINS: OK. More palatable for the economic situation. What if it doesn't work?

SOLOMON: Well -- if what doesn't work, this plan?

COLLINS: Yes.

SOLOMON: Well, I mean, you know, there's some risk to the taxpayer because the government is essentially going to be buying this debt. That said, they're going to charge premiums or fees based on how risky they think the debt is that they're buying. And the Treasury isn't saying this isn't going to come without risk, but they say risk is pretty much in hand and they're not worried about big defaults from these agencies.

COLLINS: OK. Well, we appreciate the reporting. We'll certainly be watching. Thirty-five billion -- always a lot of money when there's a b on the end.

Appreciate it. Deborah Solomon with "The Wall Street Journal."

SOLOMON: Thank you.

COLLINS: Thank you.

## **Homebuyer Credit to Hit Rough Road**

**Victoria McGrane**

**Politico**

**Wednesday, September 30, 2009**

With the housing market still fragile, lawmakers and lobbyists alike are pushing Congress to extend two temporary measures aimed at boosting sales.

One of these, continuing higher limits for so-called conforming loans in high-cost areas, appears to be on a glide path for approval by the end of the year.

But the other, an \$8,000 tax credit to first-time homebuyers, set to expire Dec. 1, will be a much tougher pitch to make on Capitol Hill. It's already cost taxpayers \$15 billion, and adding to that price tag will not be popular at a time when Americans are increasingly worried about growing deficits.

Still, the idea of an extension has support from top lawmakers, including Senate Majority Leader Harry Reid (D-Nev.), who recently endorsed a bipartisan bill to extend the existing tax credit for six months.

Reid called the bill — sponsored by Sens. Ben Cardin (D-Md.), John Ensign (R-Nev.) and others — an "important tool to help stabilize the housing market." Nevada suffered the worst of the housing bust and is expected to take much longer to recover than the rest of the country.

"This remains a top priority for Sen. Reid, and we are examining the best way to get this done," spokeswoman Regan Lachapelle told POLITICO.

Supporters of extending the credit say it's important that the federal government not pull the rug out from under the housing market just as it's starting to get back on its feet.

"Congress: Don't Let America's Real Estate Recovery Expire," urged an ad last week by the Mortgage Bankers Association, the National Realtors Association and the National Association of Home Builders. The groups want a one-year extension. The coalition says the tax credit is working, citing statistics that show

home sales to first-time homebuyers grew 25 percent in 2009 so far and now make up half of all home sales.

The Realtors say the tax credit drew 350,000 new buyers into the market who otherwise would not have bought a house. Cardin's office cites Treasury data showing that around 530,000 people have applied for the credit. Extending the credit would ensure the early signs of recovery aren't killed off, which could hurt the overall economy, supporters say.

“What we fear is, if you don't extend the tax credit, ... and [don't] keep stimulating demand, that that'll fall off again, and we'll be back trying to struggle just to keep from falling further,” said David Crowe, chief economist for NAHB. “The recovery is very slight and it's very delicate, and it could easily fall apart.”

In fact, housing industry groups would prefer to see Congress expand the credit to all homebuyers, not just first-timers, and bump the tax credit up to \$15,000, as Sen. Johnny Isakson (R-Ga.), a former Realtor, has proposed.

“If we do this, home values will return, unemployment will go down, our economy will turn and consumer price confidence will go up,” Isakson said in a Sept. 11 floor speech. “It is a part of the main solution we need to take an economy that is on the bottom and move it back toward equilibrium and prosperity for America.”

Isakson — the original proponent of using homebuyer tax credit to stimulate the economy — also wants to do away with the income caps his colleagues inserted with the \$8,000 version of the bill the president signed in February.

But a number of housing experts have come out against extending the tax credit, arguing that it is poorly targeted and not worth the enormous cost.

In a paper posted on the Web last week, Brookings Institution economist Ted Gayer wrote that more than 85 percent of the 1.9 million buyers who will use the credit would have bought a house without it.

“This suggests a price tag of about \$15 billion — which is twice what Congress intended — for approximately 350,000 additional home sales. At \$43,000 per new home sale, this is a very expensive subsidy,” he concluded.

The other change being pushed by the housing lobby is far less controversial but no less important, experts say.

As part of the stimulus, Congress approved higher limits on the size of loans mortgage finance giants Fannie Mae and Freddie Mac could purchase, as well as the size of loans the Federal Housing Administration could insure.

Those temporary limits are set to expire at the end of the year. The problem: Those three government entities are providing most of the mortgage financing to the market, and to take away the higher limits could cramp an already tight market.

For instance, the FHA's share of mortgage applications has skyrocketed to 31 percent, according to the most recent numbers from MBA. In August 2005, the government-insured share was a mere 5.8 percent.

**“The general view is that the housing market is not stabilized enough to have them go away, because pretty much the [government-sponsored enterprises] and FHA are the predominant backers in the secondary market,” said Paul Leonard, vice president of government affairs at the Housing Policy Council of The Financial Services Roundtable.**

The House passed an extension of the higher loan limits, often called “conforming” loan limits, as part of its 2010 transportation and housing appropriations bill. The Senate did not, but lobbyists say the higher limits have bipartisan support in the Senate and are expected to be part of the final bill hammered out by the House-Senate conference.