

March 12,
2010



Government Affairs Bulletin

Contact Us

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<http://www.fsround.org>

Core Beliefs of The Financial Services Roundtable:

- . *Large, integrated financial companies finance the nation's economy.*
- . *The competitive marketplace should govern the delivery of products and services.*
 - . *Uniform national standards across state lines are critical.*
 - . *The effective use of technology is essential.*

Legislative:

- **Financial Regulatory Reform**
- **Hearing: House Financial Services Capital Markets and Housing Subcommittees: "Approaches to Mitigating and Managing Natural Catastrophe Risk: H.R. 2555, the Homeowners' Defense Act"**
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- **HPC Urges HUD to Exclude Modification Personnel From SAFE Act**
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- **HOPE NOW Provides Help to At-Risk Borrowers in Arizona**

ITAC:

- **ITAC and Roundtable Help Small Business Owners Protect Against Identity Fraud**
- **ITAC Praises FTC and State AG's \$12 Million Settlement with LifeLock**

Agents for Change

- [“Simplifying Regulation for Agents and Brokers...”](#)

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Legislative News

Financial Regulatory Reform

Chairman Chris Dodd announced this week that he will introduce a new legislative draft of a bill to reform financial services regulation on Monday, March 15th. This draft may incorporate provisions agreed upon by Chairman Dodd and Senator Corker, but it will be a Democratic-only substitute. Despite working closely with Senator Corker over the last month, Chairman Dodd said it's important to introduce and schedule a mark-up considering the legislative clock is ticking, and other legislative items, like health care, are looming on the Senate calendar.

Senator Corker noted in a press conference that only a handful of outstanding issues: derivatives, proxy access, and risk retention, remained in the way of a successful bipartisan agreement. Work on consumer protection standards was not the cause of a stalled agreement. Prior discussions would have placed a new consumer authority within the Federal Reserve while Chairman Dodd expressed a strong preference for the consumer authority to have independence and autonomy under the prudential regulator. A mark-up will be held in the Senate Banking Committee the week of March 22nd.

For more information, please contact Jill Hershey, Jill@fsround.org.

Hearing: House Financial Services Capital Markets and Housing Subcommittees: “Approaches to Mitigating and Managing Natural Catastrophe Risk: H.R. 2555, the Homeowners’ Defense Act”

On Wednesday, the House Financial Services Capital Markets and Housing Subcommittees held a joint hearing entitled, “Approaches to Mitigating and Managing Natural Catastrophe Risk: H.R. 2555, the Homeowners’ Defense Act.” Mr. James Lee Witt, former director of FEMA, Mr. Glenn Pomeroy, CEO California Earthquake Authority, Mr. Steve Ellis, VP of Taxpayers for Common Sense, and Mr. Charles McMillan of the National Association of Realtors testified at the hearing. Witnesses in support of the legislation cited the recent catastrophe in Haiti as a reason why the United States should look to enact legislation creating pre-disaster programs like those outlined in H.R. 2555. Mr. Ellis and some Republican members criticized the bill as an unnecessary federal subsidy. Bipartisan support for the legislation, however, was voiced by Members from Florida and California where natural catastrophe risk is the highest.

For more information, please contact Peter Freeman, Peter@fsround.org.

Retirement Security

The U.S. Department of Labor recently announced a proposed rule regarding investment advice. The proposed regulation would allow investment advice to be given in two ways. One is through the use of a computer model certified as unbiased. The other way is through an adviser compensated on a "level-fee" basis. Written comments on the proposed regulations should be submitted to the Department of Labor on or before May 5, 2010. The Roundtable is currently reviewing the proposal. The Roundtable supports advice and disclosures that provide meaningful information to both plan participants and plan sponsors, helping them to gain a better understanding of their retirement options.

For more information, please contact Brian Tate, Brian@fsround.org.

Senate Passes \$138 Billion Tax, Health and Jobless Benefit Extension Package

The Senate just passed a \$138 billion tax, health and jobless benefit extension package. The bill contains provisions that would provide funding relief for defined benefit (DB) plans. In brief, the bill provides two options (9 or 15 years) for

relief. However, the bill also imposes restrictions, referred to as the "Cash Flow Rule." Under the rule plan, utilizing the relief would make additional yearly contributions to their plans if they pay any employee over \$1 million, pay an extraordinary dividend, or make an extraordinary stock redemption. The rule applies for 3 years for the 9 year option, and 5 years for the 15 year option. The Roundtable supports funding relief for DB plans and opposes the onerous restrictions of the Cash Flow Rule.

It is unclear at the moment if there will be a conference between the House and the Senate or if the House will seek to endorse the Senate's bill. Additional updates will be provided as developments occur.

For more information, please contact Brian Tate, Brian@fsround.org.

Senate Passes Tax Extenders Act

This week the Senate passed H.R. 4213, the Tax Extenders Act. The \$138 billion tax, health and jobless benefit extension package also provides appropriations (\$354 million) to fund and extend the 90% loan guarantee for the SBA 7(a) program and fee reductions for borrowers through the end of the year. The language is consistent with the Roundtable's recommendations to enhance SBA lending programs. It is unclear at the moment if there will be a conference between the House and the Senate, or if the House will seek to endorse the Senate's bill. Additional updates will be provided as developments occur.

For more information, please contact Brian Tate, Brian@fsround.org.

Credit Cards

The Federal Reserve Board (Fed) has issued clarifications to the recent final rules amending Regulation E, the Electronic Fund Transfer Act, and Regulation DD, the Truth in Savings Act (TISA). The Regulation E proposal prohibits banks from charging overdraft fees for ATM and one-time debit transactions, unless the consumer "opts-in." Regulation DD, proposal would change the disclosure requirements for overdraft protection plans. The proposed rule would require that statements include a line clearly displaying "Total Overdraft Fees." The Fed has emphasized that they will not change the substantive provisions of these rules and that these comments should be limited to the proposed clarifications. The deadline to submit comments for both proposals is March 31, 2010.

For more information, please contact Brian Tate, Brian@fsround.org.

Regulatory

Roundtable Files *Amici* Brief

The Roundtable joined an *amici curiae* brief in the 5th Circuit Court of Appeals, in *John Hancock Life Insurance v. United States*, No. 09-31169, a 5th Circuit court case on appeal from a U.S. District Court in Louisiana,. The *amici* ask the 5th Circuit to reverse the district court's holding that the bond-industry's standard indenture agreement does not create a security interest in favor of bondholders. The Roundtable argued that the lower court erroneously disregarded long-established federal tax law and state law when it invalidated the indenture provisions giving bondholders (John Hancock) a security interest in the collateral. The brief also discusses the uncertainty and increased risk that the lower court's decision would inject into the capital markets if it is not reversed.

For more information, please contact Rich Whiting, Rich@fsround.org.

The Federal Reserve requests comments on recent amendments to Regulations E and DD

The Federal Reserve Board published two notices of proposed rulemakings ("NPRM") in response to request for guidance on Regulation E and DD before the mandatory compliance date, July 1, 2010. The Fed solicited comments on the following clarifications and amendments to Regulations E and DD

Regulation E:

- Exemption from requirement to send notice of opt-in for overdraft fees if an institution's policy and practice is to decline overdrafts on one-time debit and ATM transactions. The exception to notice requirement does not permit any institution, regardless of overdraft policy, to charge overdraft fees without customer consent.

- If customer opts-in, institution must send written confirmation of opt-in selection to customer before overdraft fees can be assessed.
- Clarified tiered fee structure and situations when daily or sustained overdraft fees may be assessed.
- Remove an incorrect reference to margin securities from the definition of overdraft services.

Reg D

- All periodic statements must include aggregate fee disclosures, not just those that promote overdraft services.
- Requires industry-wide use of "Total Overdraft Fees" to describe aggregate overdraft charges on periodic statements.
- Clarify that retail sweep accounts can continue to display just a single balance.
- Additional balance may be disclosed if the nature of the funds – as overdraft program, credit line or transfer from another account – is prominently disclosed.
- Comments on both proposals are due on or before March 31, 2010. The NPRMs are available [here](#).

For more information, please contact Rich Whiting, Rich@fsround.org.

Federal Reserve Proposed Rules on CARD Act

The Federal Reserve released a proposed notice of rulemaking ("NPRM") to amend Regulation Z as part of the Board's ongoing implementation of the CARD Act. The NPRM addresses the reasonableness and proportionality of penalty fees and charges, and creditors' re-evaluation of rate increases:

- Penalty fees cannot exceed the amount of the violation (e.g., cannot charge \$39 dollars when customer is late making a \$20 minimum payment).
- Ban inactivity fees.
- Prevent issuers from charging multiple penalty fees based on a single violation.
- Require credit card issuers to inform consumers of the reasons for increases in rates.
- Require issuers that have increased rates since January 1, 2009 to evaluate whether the reasons for the increase have changed and, if appropriate, to reduce the rate.

Once adopted, these measures would become effective on August 22, 2010. The proposed regulation is available [here](#).

For more information, please contact Rich Whiting, Rich@fsround.org.



HPC Urges HUD to Exclude Modification Personnel From SAFE Act

On Friday, March 5, the Housing Policy Council (HPC) submitted a comment letter to the US Department of Housing and Urban Development (HUD) regarding HUD's proposed rule on loan originator licensing and registration under the SAFE Act. HPC is supportive of a national registry system for loan originators. A registry will enhance efforts to ensure that all participants are acting appropriately and provide a means to track and prevent bad actors from participating in the system. However, HPC urged HUD to exclude loss mitigation personnel from the definition of loan

originators. HPC argued that loss mitigation personnel are not performing the same duties as loan originators and that including these employees in the system at this time will also place additional burdens on the effort to assist troubled homeowners. HPC offered some suggestions to HUD to improve the effectiveness of the rule, as well as expressing some concerns over certain definitions. HPC worked with the BITS Mortgage Fraud group on this letter and included some concerns on the publicity of certain loan originator information.

For more information, please contact Katie Wechsler, Katie@fsround.org.

Hearing: The House Financial Services Subcommittee on Housing and Community Opportunity, “The FHA Reform Act of 2010”

On March 11, The House Financial Services Subcommittee on Housing and Community Opportunity held a hearing on “The FHA Reform Act of 2010”. David Stevens, FHA Commissioner; Mike Anderson, President of National Association of Mortgage Brokers; Graciela Aponte of the National Council of La Raza; Andrew Caplin, Professor of Economics at New York University; John Courson, CEO of Mortgage Bankers Association; Charles McMillan, President of National Association of Realtors; John Taylor, President of NCRC; and Mark Alston, Vice President of National Association of Real Estate Brokers testified on the issues facing FHA. Most witnesses agreed that as the nation continues to climb out of the housing and economic crisis, FHA will be a crucial program in helping homeowners. Commissioner Stevens stated that reforms need to be made to FHA and others agreed that more steps are needed to return private capital to the mortgage market. Reforms to FHA that were discussed include the increasing down payments for those with a FICO score of 580 and above making a minimum down payment of 3.5% and those below 580 making a minimum of a 10% down payment. Commissioner Stevens stated that FHA is continuing to crack down on fraud within the mortgage market and they are increasing lender enforcement dramatically. FHA reform legislation will be considered by the House in 2010.

For more information, please contact Paul Leonard, Paul@fsround.org.



HOPE NOW Provides Help to At-Risk Borrowers in Arizona

This week, HOPE NOW is holding Homeownership Preservation workshops in Tucson and Phoenix Arizona. So far 1,209 borrowers have met face to face with their mortgage servicer and/or a Housing and Urban Development (HUD) approved non-profit housing counselor to discuss foreclosure prevention options. Representatives from 14 servicers were able to help 23% of the borrowers, who have attended the events so far, with an on-site decision. HOPE NOW will be holding events in Portland, OR (3/23) and Seattle (3/25) and document collection on 3/26). Events will be held in Las Vegas and the New York City suburbs in April.

This week, HOPE NOW met with Rep. Steny Hoyer (D-MD), Sen. Barbara Mikulski (D-MD) and Rep. Chris Van Hollen (D-MD) on introducing HOPE LoanPort™ later this month to Maryland housing counselors state-wide. HOPE LoanPort™ is a useful tool that allows HUD approved housing counselors to submit completed HAMP applications directly to the borrower's mortgage servicer, and provides the counselor with status updates on the application.

For more information, please contact Joseph Putney, Joseph@hopenow.com.



ITAC and Roundtable Help Small Business Owners Protect Against Identity Fraud

Small business owners are at greater risk of identity fraud than other adults according to research sponsored by ITAC and the Roundtable. To help small business owners protect themselves, ITAC added a new small business section to its site, www.identitytheftassistance.org, and partnered with the Better Business Bureau's to highlight BBB's new Data Security Center. "In addition to funding small business, financial services companies are working to protect small business owners against fraud," said Steve Bartlett, President and CEO of the Roundtable.

For more information, please contact Anne Wallace, Anne@fsround.org.

ITAC Praises FTC and State AG's \$12 Million Settlement with LifeLock

LifeLock has agreed to pay \$11 million to the Federal Trade Commission and \$1 million to a group of 35 state attorneys general to settle charges that the company used false claims to promote its identity theft protection services, which it widely advertised by displaying the CEO's Social Security number on the side of a truck. "While LifeLock promised consumers complete protection against all types of identity theft, in truth, the protection it actually provided left enough holes that you could drive a truck through it," said FTC Chairman Jon Leibowitz. ITAC President Anne Wallace praised the FTC and AG's and stressed that consumers need accurate information to make informed decisions about identity protection services. "We've been worried about LifeLock's advertising for a long time because we felt it was misleading. We want consumers to choose a service based on the protection it delivers, not scare tactics," Wallace said.

For more information, please contact Anne Wallace, Anne@fsround.org.



"Simplifying Regulation for Agents and Brokers..."

"Simplifying Regulation for Agents and Brokers..."

Agents for Change lent support to a breakfast in Schaumburg, IL on March 8 thanking Rep. Melissa Bean for her continued support on the issue of insurance regulation reform.

Agents for Change will exhibit at the General Agents Managers Association (GAMA International) Tradeshow in Las Vegas, NV from March 21-24. Tradeshows offer Agents for Change an excellent opportunity to educate producers about the benefits of an optional federal charter.

The Agents for Change legislative conference will be held from May 18-20 in Washington, D.C. Lauded as "Making an Impact," attendees will have an opportunity to discuss their support of insurance regulation reform with elected officials, hear from high level guest speakers, tour Washington, D.C. landmarks, and network with their peers. Please urge your agents and brokers to attend.

Agents for Change is proud to travel the country to speak with insurance producers and/or executives about the benefits inherent in insurance regulation reform. Please consider inviting Agents for Change to speak with your colleagues as opportunities to educate insurance professionals are paramount to our success

If you are not a member company of Agents for Change, we welcome your support. Insurance regulation is receiving a significant amount of attention in the 111th Congress.

Membership in Agents for Change includes 7,500 producers in 50 states, the District of Columbia, Puerto Rico, and Guam. Members learn about Agents for Change at trade shows, by word of mouth, via the press and our website, and through member companies.

Visit the Agents for Change website – www.agents4change.net – for additional information, updates, background material, FAQ's, and more. To receive periodic e-mail updates from Agents for Change please contact Peter Ludgin, Peter@agents4change.net or 202-589-1929.

THE FINANCIAL SERVICES ROUNDTABLE



Community Service 2009 Congressional Reception



Roundtable CEO, Steve Bartlett, and Congressman Dennis Moore (D-KS), praise efforts by the financial services industry to raise awareness on financial literacy.

This week, The Financial Services Roundtable honored the leadership of the Community Service 2009 (CS09) Honorary Congressional Host Committee and the community service achievements of the financial services industry.

In 2009, 300,000 Roundtable member company employees joined together to produce over 91,000 community service projects that helped 9.4 million Americans.

Speaking at the event were Steve Bartlett, President and CEO of The Financial Services Roundtable, John Hope Bryant, Founder, CEO and President of Operation HOPE, Congressmen Walter Jones (R-NC), Dennis Moore (D-KS) and Congresswoman Diane Watson (D-CA).

To watch video of the Congressional Reception, please follow these two links:

<http://www.fsround.org/video/mpgs/JohnHopeBryantCS09.wmv>

<http://www.fsround.org/video/mpgs/SteveCS09Numbers.wmv>

For more information on the Roundtable's annual community service initiative, please contact Aleksia Ilic, Aleksia@fsround.org.

Roundtable in the News

Clip of the Week

Scott Talbott, Senior Vice President of Government Affairs, went on Bloomberg this week to discuss the status of regulatory reform.

Click [here](#) to view the interview.

For more information, please contact Elise Brooks, Elise@fsround.org.

Roundtable Joins Twitter

Follow the Roundtable's tweets at: <http://twitter.com/fsroundtable>.

For more information please, contact Elise Brooks, Elise@fsround.org.

The Mission of The Financial Services Roundtable:

To be the premier executive forum of the financial services industry.

To provide powerful legislative and regulatory advocacy.

To enhance the industry's reputation.

Led by BITS, to promote best practices and a strong infrastructure in technology.

