

February 13,  
2009



## 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.*

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### Legislative News

#### **Hearing: Senate Banking Committee Holds First Hearing on Credit Cards**

The Senate Banking Committee held a hearing on credit cards on Thursday. Committee Chairman Christopher Dodd (D-CT) expressed interest in having the Committee consider credit card legislation. Chairman Dodd acknowledged federal

regulators actions in issuing new credit card rules saying it was a good first step, however the rules fell far short. Several other Committee members, including Senators Charles Schumer (D-NY), Robert Menendez (D-NJ), Daniel Akaka (D-HI), Sherrod Brown (D-OH) and Jon Tester (D-MT) expressed an interest in seeing action on credit card legislation –several of these Senators have introduced credit card bills. Ken Clayton of the American Bankers Associations Card Policy Council did an excellent job discussing the breadth of the new credit card regulations in relation to the Senator’s concerns.

For more information please contact Paul Begey, [Paulb@fsround.org](mailto:Paulb@fsround.org).

### **Stimulus Legislation Includes New Restriction on Financial Services Companies**

The House has approved and the Senate is expected to approve stimulus legislation that will be signed into law by the President. Included in the stimulus bill are additional executive compensation limitations on companies participating in Treasury’s Troubled Assets Relief Program (TARP). Included in the provisions are:

- Limitations on compensation of the top 5 highly paid executives, which excludes incentives for unnecessary and excessive risks that threaten the value of the entity
- The recovery of any bonus, retention award, or incentives compensation paid to top 5 senior executives and next the 20 most highly-compensated employees based on materially inaccurate statements of earnings, revenues, etc.
- Prohibits “golden parachute” payments to the top 6 most highly-compensated employees during the time that the entity receives the TARP funds
- Prohibits paying or accruing any bonus, retention award, or incentive compensation to top 5 senior executives and 20 next most highly-compensated employees (companies in receipt of over \$500 million)
  - effects fewer employees for recipients that received less
  - provides an exception for long-term restricted stock, which must be limited to 1/3 of total annual compensation
  - does not prohibit bonuses required under contract prior to February 11, 2009
  - is subject to other terms and conditions the Secretary may determine to be in the public interest
- Requires Boards of Directors to establish a company-wide policy regarding excessive or luxury expenditures which may include expenditures on entertainment/events, office and facility renovations, aviation or other transportation services, and conferences, staff developments, performance incentives
- Must allow shareholders a non-binding approval vote on the executive compensation of the TARP recipient
- Grants the Secretary of Treasury a retroactive review of bonuses, retention awards and other compensation paid to senior executives and the next 20 highest compensated employees of TARP recipients (and if the Secretary finds that such compensation was contrary to the public interest)
- No impediment to withdraw from TARP, without regard to whether the financial institution has replaced such funds from any other source or to any waiting period – the Treasury Secretary shall liquidate warrants associated with such assistance at the current market price

Effectively, the bill also includes a ban on the hiring of new H-1B employees by both companies participating in TARP and companies using the Federal Reserve’s Temporary Liquidity facilities. The Roundtable has raised concerns over both of these provisions due to the harm they would cause both financial services companies and our economy. The executive compensation provision was modified to reflect some of these concerns.

For more information please contact Scott Talbott, [Scott@fsround.org](mailto:Scott@fsround.org).

### **Anti-Arbitration Bills Introduced**

This week, two anti-arbitration bills were reintroduced. Representative Hank Johnson (D-GA) reintroduced his arbitration fairness bill, would ban/nullify pre-dispute arbitration provisions in all consumer, employment and franchise contracts. Representative Luis Gutierrez (D-IL) introduced anti-arbitration legislation that would categorize pre-dispute arbitration provisions in consumer contracts as an unfair and deceptive practice. The Roundtable opposes both these pieces of legislation.

For more information please contact Paul Begey, [Paulb@fsround.org](mailto:Paulb@fsround.org).

### **Hearing: House Financial Services Committee Holds Hearing on TARP Oversight**

The House Financial Services Committee held a hearing on Wednesday to discuss how TARP funds were being spent. The Committee heard testimony from CEO’s of the nation’s top eight banks, including six Roundtable member companies (Bank of America, Wells Fargo, JP Morgan Chase, Bank of New York Mellon, State Street, and Citigroup). Each CEO said

their company used TARP funds to increase lending and provide badly needed credit, and was not used for employee bonuses or compensation. The CEOs acknowledged the responsibilities their companies now have to taxpayers, while committee members reiterated the need to strengthen the banking industry and improve investor confidence.

For more information, please contact Scott Talbott, [Scott@fsround.org](mailto:Scott@fsround.org).

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### **Secretary Geithner Outlines Financial Stability Plan Before Senate Banking and Budget Committees**

On Tuesday, February 10 and Wednesday, February 11, Treasury Secretary Timothy Geithner testified before the Senate Banking and Senate Budget Committees. Treasury Secretary Geithner outlined the basic components of the Administration's proposed plan to fix the financial and housing markets. He said the plan must be comprehensive, and it cannot stop too soon. He stated that the government must send a message that they will act to prevent further failure of financial institutions, and he outlined programs to strengthen banks and help them lend. First, he stated the need for more transparency in bank's records. Second, he proposed a stress test to strengthen bank balance sheets. Third, he spoke of plans to establish a Public-Private Investment Fund with the help of the Federal Reserve, the FDIC and the private sector, that will "provide government capital and government financing to help leverage private capital and get private markets working again." The fourth is the establishment of the Consumer and Business Lending Initiative that is intended to kick-start secondary lending markets, lower borrowing costs, and get credit flowing again. The fifth and final item is a comprehensive housing program, to be announced in the next few weeks, which will use \$50 billion of funds already allocated in the Emergency Economic Stabilization Act. The Housing Policy Council and its members support the creation of a loan modification program.

For more information, please contact Paul Leonard, [Paul@fsround.org](mailto:Paul@fsround.org).

### **HOPE NOW Foreclosure Prevention Campaign begins in Newark, NJ**

On Wednesday, February 11, The HOPE NOW Alliance, in partnership with Fannie Mae and other partners, held an outreach event in Newark, NJ featuring actress Queen Latifah and musician Wyclef Jean. The event included a Roundtable discussion and bus tour throughout the city. This was the first of four campaign events to encourage at-risk homeowners to seek assistance. Newark Mayor Cory Booker and New Jersey Governor Jon Corzine also attended the event.

For more information, please contact Larry Gilmore, [Larry@fsround.org](mailto:Larry@fsround.org).

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### **Javelin 2009 Identity Fraud Survey Report Shows Fraud is Up 22%**

The number of identity theft victims rose 22 percent to a record 9.9 million in 2008 from 8.1 million a year earlier, with about one in 23 U.S. adults becoming victims, according to the fifth annual study by Javelin Strategy & Research, released Monday.

The survey findings confirm what ITAC predicted in its Identity Theft Outlook for 2009 – that the recession would put more pressure on consumers and create opportunity for identity criminals.

“The good news is the fraud prevention message appears to be sinking in,” said ITAC President Anne Wallace. “The cost of identity theft and the time it takes to resolve fraud has decreased – evidence consumers are spotting fraud and acting more quickly to contact their financial services company to minimize the damage to their accounts.”

ITAC will hold a briefing on the report and its implications for financial services companies, public policy makers and consumers on March 10, from 9 a.m. to 10:30 a.m., at the Roundtable. The briefing will feature Javelin CEO & Founder James Van Dyke.

For more information, please contact Anne Wallace, [Anne@fsround.org](mailto:Anne@fsround.org).

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# BITS

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## **Financial Services Authority: Financial Risk Outlook 2009**

On February 9, the Financial Services Authority (FSA) published its Financial Risk Outlook (FRO), which outlines the main risks facing firms, consumers, and the regulatory systems in the economic downturn. They recognize the challenges in the current business environment such as banks adjusting their business models to operate successfully in difficult conditions and in the real economy.

This report includes three sections:

1. Financial and economic crisis
2. Economic outlook
3. Outlook for the financial sectors and consumers

Through publishing this report, the FSA seeks to raise awareness of key issues facing the regulated industry. For the complete report, visit [http://www.fsa.gov.uk/pubs/plan/financial\\_risk\\_outlook\\_2009.pdf](http://www.fsa.gov.uk/pubs/plan/financial_risk_outlook_2009.pdf).

For more information, please contact John Ingold, [Johni@fsround.org](mailto:Johni@fsround.org).

## **Massachusetts Data Privacy Law Amendments - 201 CMR 17.00**

On February 12, the Massachusetts Office of Consumer Affairs and Business Regulation filed amended regulations with the Secretary of State for 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth. Key amendments to the regulations include a delay in the general effective date of the data regulations until January 2010 and changes to the standard for third party vendor relationships.

- Section 17.03 (6) concerning the duty to protect and standards for protecting personal information no longer contains a provision requiring a written vendor certification. The revised provision reads: “Taking all reasonable steps to verify that any third-party service provider with access to personal information has the capacity to protect such personal information in the manner provided for in 201 CMR 17.00; and taking all reasonable steps to ensure that such third party service provider is applying to such personal information protective security measures at least as stringent as those required to be applied to personal information under 201 CMR 17.00.”
- Section 17.04 Computer Security Requirements are changed to limit the requirement for encryption to personal data transmitted over public networks or wireless communications.
- Section 17.05 Effective Date is changed to extend the general effective date of the regulations from May 1, 2009 to January 1, 2010

The BITS Vendor Management and Regulation Programs have been monitoring the Massachusetts regulation and have explored options to meet the vendor certification requirements.

For more information, please contact John Ingold, [Johni@fsround.org](mailto:Johni@fsround.org).

### **FTC Report on Behavioral Advertising**

The FTC has released a report on behavioral advertising, along with statements from two FTC Commissioners. BITS is reviewing these documents and comparing the report with our April 2008 comment letter (found here [http://www.fsround.org/policy/regulatory/pdfs/FSRBITSCommentsonFTCAdPrinciples\\_final.pdf](http://www.fsround.org/policy/regulatory/pdfs/FSRBITSCommentsonFTCAdPrinciples_final.pdf)).

For more information, please contact John Carlson, [John@fsround.org](mailto:John@fsround.org)

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### **Other**



“Simplifying Regulation for Agents and Brokers...”

### **Agents for Change Calls Attention to Town Hall Meetings Through Project Town Hall**

Agents for Change will serve as a co-host at a breakfast for Congresswoman Melissa Bean on March 9 in Schaumburg, IL. Please let us know if you have producers or executives in the greater-Chicago area who are interested in attending this event.

As part of Project Town Hall, Agents for Change brings to the attention of our members Congressional town hall meetings throughout the country. These meetings, scheduled directly by Congressional offices, oftentimes focus on the economy, healthcare, and the war. Therefore, when a constituent raises the arcane, but important issue of insurance regulation reform it makes an impact and sticks to the member's ribs.

Please let us know if you have producers (or executives) who are interested in attending town hall meetings and we will provide a detailed list of upcoming meetings.

As the planning season is among us, consider inviting Agents for Change to speak with your producers and/or executives about the benefits inherent in an OFC. Opportunities to educate insurance professionals are paramount to our success.

The 2009 Agents for Change legislative conference will be held on June 23 & 24. The conference will provide producers with opportunities to further their relationships with elected officials, network with peers, hear from high level guest speakers, and engage in substantive conversation on insurance regulation reform. There will also be opportunities to go on personal tours of Washington, D.C. landmarks. Please consider inviting your producers to join us in June.

Agents for Change recently launched a new website. To piggyback on the theme of change that is sweeping through Washington, DC, the enhanced website offers updated news articles, academic and government studies, and tools for insurance producers to write their legislators. Members of Agents for Change will also be able to sign up for our annual legislative conference and in-district meetings directly on the site. Please click [HERE](#) to visit the NEW Agents for Change website (be sure to bookmark it as well).

If you are not a member company of Agents for Change, we welcome your support. Insurance regulation reform is poised to receive a significant amount of attention in the 111<sup>th</sup> Congress.

Membership in Agents for Change includes over 6,600 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](http://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](mailto:Peter@agents4change.net); 202-589-1929.

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## THE FINANCIAL SERVICES ROUNDTABLE



Co-Chairs: Don McGrath, BancWest Corporation • Larry Zimpleman, Principal Financial Group

### **CS09 Registration Underway**

Saturday, February 21, 2009, SunTrust Bank will be holding a financial literacy event hosted by the IRS. This event, an Earned Income Tax Credit (EITC) Seminar, will provide free tax return preparation and filing for 2008 EITC qualifying individuals.

To register your company's community service projects, please use the following database: <https://registration.fsround.org/>

### **Honorary Congressional Host Committee**

There are currently 102 members of Congress on the Honorary Congressional Host Committee. For a complete list of members, please click here: <http://www.fsround.org/community/pdfs/HCHC.pdf>

If your company is interested in hosting a member at a community service event, please contact Aleksia Ilic, [Aleksia@fsround.org](mailto:Aleksia@fsround.org).

As of February 13, 2009:

**CS09 National Sponsors:** AEGON USA, Inc., The Allstate Corporation, AXA Equitable, Bank of America Corporation, BancWest Corporation, Barclays Capital, Inc., Capital One Financial Corporation, Charles Schwab Corporation, Edward Jones, GMAC Financial Services, ING, MasterCard Worldwide, The NASDAQ OMX Group, Inc., Nationwide, Northern Trust Corporation, The PMI Group, Inc., Principal Financial Group, Protective Life Corporation, Raymond James Financial, Inc., Regions Financial Corporation, State Farm Insurance Companies, Toyota Financial Services, Union Bank of California, N.A., U.S. Bancorp, Visa, Inc., Wells Fargo & Company

### **CS09 Participating Companies:**

BancorpSouth Inc., The Bank of New York Mellon Corporation, Brown & Brown Insurance, Caterpillar Financial Service Corporation, Comerica Incorporated, Harris Bankcorp, Inc., KeyCorp, M&T Bank Corporation, Mutual of Omaha, SunTrust, Unum

**CS09 Partners:** Boston College - Center for Corporate Citizenship, Council for Economic Education, Gilda's Club, Habitat for Humanity, Hands on Network, Junior Achievement, March of Dimes, NeighborWorks® America, Operation HOPE, Rebuilding Together, Society for Financial Education and Professional Development

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### **Roundtable in the News**

On February 10, Roundtable President and CEO, Steve Bartlett appeared on Anderson Cooper 360 to discuss Treasury Secretary Timothy Geithner and his Financial Stability Plan.

Please click here to watch the segment (Steve appears at 12:25):

<http://www.cnn.com/video/#/video/podcasts/ac360/site/2009/02/11/cooper.podcast.tuesday.cnn>

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For more information, please contact Elise Brooks, [Elise@fsround.org](mailto:Elise@fsround.org).

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***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.*