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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:

- **Updates on Retirement Security, Credit Cards, and Attorney-Client Privileges**
- **Hearing on "Condition of Financial Institutions"**
- **Hearing on "Compensation in the Financial Industry"**
- **The President unveiled two new proposals aimed at limiting the size and scope of financial institutions**

Regulatory:

- **Final Rule Issued for Regulatory Capital Standards Relating to FAS 166 and 167**

Housing Policy Council:

- **Housing Policy Council Statement on Changes to FHA Program**

BITS:

- **SEC Proposes Risk Management Rule**

Other:

- **Agents for Change**
- **Roundtable in the News**

It is likely that the House and the Senate will take legislative action focused on providing defined benefit plan funding relief this year. Funding relief would help businesses of all sizes maximize their resources and allow them to remain focused on expanding their businesses and job creation. The Roundtable believes that providing funding relief to DB plans will immediately strengthen DB plans by reducing administrative burden, which benefits employers and employees alike. The Roundtable has is a member of a coalition led by the Chamber of Commerce focused on seeking funding relief for DB plans. Recently, the Roundtable has signed onto a letter drafted by the Chamber urging Congress to support funding relief for DB plans. This is similar to a letter the Roundtable signed onto last month that was forwarded to the President.

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

Credit Cards

The Federal Reserve recently issued its final regulations that put into effect the Credit Card Accountability Responsibility and Disclosure Act of 2009 ("Credit CARD Act"). In many respects the final rules mirror the provisions contained in the CARD Act. However, a provision regarding variable interest rates in the final rule that was not included in the proposed rule, specifically section 226.55(a), prohibits a card issuer from imposing an annual percentage rate increase, a fee or a charge, unless the increase falls within one of six express exceptions. Included within these exceptions is an exception for a variable rate increase that is outside the control of the issuer and is available to the general public (Section 226.55(b)(2)).

This distinction regarding the variable rate programs was not included in the Notice of Proposed Rulemaking ("NPR") of this regulation. As such, the Roundtable has requested that this section be removed from the final rule and submitted in another NPR to provide the industry with the opportunity to comment on this aspect of the proposal.

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

Credit Cards

H.R. 4300, the Restoring America's Commitment to Consumers Act of 2009, sponsored by Representative John Tierney (D-MA), would artificially set a national usury rate for credit cards at 16% and limit credit card fees to \$15. Together these anti-competitive measures amount to government price controls. H.R. 4300 was scheduled to be the focus of a hearing on January 27, 2009, in the House Committee on Rules. However, that hearing has been postponed until further notice. The Roundtable opposes this bill. The Roundtable believes prices should be set by free market forces in the private sector.

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

Attorney-Client Privilege

The Financial Services Roundtable supports H.R. 4326, the Attorney-Client Privilege Protection Act of 2009, sponsored by Representative Bobby Scott (D-VA). If enacted, H.R. 4326 would preserve the attorney-client privilege, protect attorney work product, and guard employee rights by codifying and extending the Department of Justice's (DOJ) guidelines to the entire Executive Branch.

DOJ guidelines issued in 2008 maintain the ability of prosecutors to obtain the non-privileged factual material they need to punish wrongdoers and enforce the law. However, DOJ's guideline only cover DOJ prosecutions, and do not alter the policies adopted by other federal agencies. Policies that violate the Sixth Amendment right to counsel and Fifth Amendment right against self-incrimination. The Roundtable supports maintaining the Attorney-Client and Attorney Work Product Privilege both in law and practice.

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

Hearing on "Condition of Financial Institutions"

This week, the Sub-Committee on Financial Institutions and Consumer Credit held a hearing entitled "The Condition of Financial Institutions: Examining the Failure and Seizure of an American Bank." The first panel of witnesses included Michael Kelly, former CEO of First Bank of Oak Park Corporation (FBOP), a small community bank based in Chicago that was negatively affected by the economic downturn, and Richard Hartnack, Vice Chairman of U.S. Bancorp, which completed an acquisition of FBOP in late 2008. Witness testimony centered on government regulators' excessive oversight of community banks and their lack of action toward saving community banks from closing. Also, the sub-committee explored the FDIC's action in seizing FBOP and selling company assets to U.S.

Bancorp. Mr. Kelly commented that had the government not “encouraged” purchasing of Fannie Mae and Freddie Mac preferred stock, almost \$900 million of bank capital would not have been rendered “worthless.” Mr. Hartnack said his company “has good capital and good profits,” and will do “all it can” to continue to lend in low income communities.

The second panel included members of the Treasury Department, Office of the Comptroller of Currency (OCC), and FDIC. Under intense questioning by sub-committee members as to the panel’s actions in assessing FBOP’s liquidity and stability, regulators indicated that a “thorough process” had been undertaken to work with FBOP and save its deposits, but ultimately its charter was pulled and assets were sold to U.S. Bancorp in October 2008. The Sub-Committee on Financial institutions and Consumer Credit will keep this hearing open for 30 days so as to submit questions and receive answers from panelists in their ongoing inquiry.

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

Hearing on “Compensation in the Financial Industry”

On Friday, Jan. 22, 2010, The House Finance Services Committee held a hearing on "Compensation in the Financial Industry". The focus was on compensation levels and structures in the industry and on recent private, Federal and foreign government efforts to address compensation structures that have encouraged excessive risk taking. The members on the panel agreed that the current compensation structure had and still has an impact on risk taking and decision making by executives, in and out of the financial industry. All had the same opinion on necessity of introducing new compensation legislation focusing on long-term performance, and empowering shareholders with regards to compensation of their executives.

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

The President unveiled two new proposals aimed at limiting the size and scope of financial institutions.

The first prohibits banks, or firms that own banks, from trading in stocks for their own purposes. The banks can still trade to make a market or for their clients. Banks also will not be able to continue to own a hedge fund or private equity fund. The final proposal is to place a limit on an institution’s liabilities, similar to the ten percent deposit cap. The proposals are being pushed by former Fed Chairman Paul Volker. The Roundtable has serious concerns about these proposals and their impact on risk and asset management. The Senate is currently working on compiling its regulatory reform bill.

For more information please contact Scott Talbott, Scott@fsround.org

Regulatory News

Final Rule Issued for Regulatory Capital Standards Relating to FAS 166 and 167

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) issued their final rule on risk-based capital related to the Financial Accounting Standard's Board (FASB) of Financial Accounting Standard (FAS) No. 166 and 167. FAS 166 and 167 require entities to report securitized assets and special purpose entities on their balance sheets.

Specifically, the final rule amends the risk-based capital rules to -

- Eliminate the exclusion of Asset Backed Commercial Paper (ABCP) programs from risk-weighted assets
- Require banks to include assets held by newly consolidated variable interest entities (VIEs) in its leverage and risk-based capital ratios.
- Permit agencies to require banks to treat non-consolidated VIEs as if they were consolidated for risk based capital purposes.
- Provides banks with the option to use a “transition mechanism” for risk-weighted assets which would provide relief from agencies’ limits on including ALLL in tier 2 capital during the phase-in period.

The final rule grants financial institutions an option to delay implementation of this rule for six months and phase in the impact on risk-weighted assets and tier 2 capital over an additional period of six months.

The Roundtable previously filed a comment letter on this issue, recommending this delay and that securitized loans not be subject to the same All Loan and Lease Losses (ALLL) provisions.

The new rule is available here. (<http://www.fdic.gov/news/news/press/2010/pr10012a.pdf>) The Roundtable's comment letter can be found at www.fsround.org.

For more information on this issue, please contact Melissa Netram, melissa@fsround.org.



Housing Policy Council Statement on Changes to FHA Program

On Wednesday, January 20, the Housing Policy Council (HPC) released a statement regarding HUD's proposed changes to the FHA program which are intended to insure the stability of the program, while enabling it to continue to meet its mission. Among the changes proposed by FHA are to increase the down payment to ten percent for borrowers with FICO scores below 580 and to increase the up-front mortgage premium to 2.25%. HPC believes that the FHA program is a critical component of the overall recovery of the housing market. HPC looks forward to providing detailed comments directly to HUD on the proposed changes through the notice and comment period.

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



SEC Proposes Risk Management Rule

On January 20, the Securities and Exchange Commission (SEC) issued a notice of proposed rulemaking to regulate broker-dealer access to trading exchanges and alternative trading systems (ATS). The SEC is reviewing how technology has changed financial markets, particularly risks associated with high-frequency trading and markets that do not post trades publicly.

The rule seeks to:

- Ensure trades are correctly authorized under credit or capital ratios;
- Ensure trades are in compliance with regulatory requirements by requiring broker-dealers to maintain controls for all trades, as well as "direct market," "naked," or "unfiltered" client access;
- Target the broker-dealer's and client's access to trading systems;
- Require broker-dealers to implement a supervisory risk management framework; and
- Force broker-dealers to filter their client's direct access trades.

Public comments must be filed within 60 days of publication of this notice of proposed rulemaking in the Federal Register, which is expected next week. (<http://www.sec.gov/rules/proposed/2010/34-61379.pdf> - Rule 15c3-5)

BITS is attempting to line up an SEC expert to review the rule on a future BITS conference call.

For more information, please contact John Carlson, John@fsround.org.

Other



“Simplifying Regulation for Agents and Brokers...”

Agents for Change Legislative Conference Dates Announced

Lauded as “Making an Impact,” Agents for Change will be hosting its 5th annual legislative conference from May 18 – 20 in Washington, D.C.

The goal of this year’s conference is to ensure that members of Congress recognize that the insurance regulatory system is in dire need of an overhaul and that modernization will benefit consumers, producers, and insurers alike.

Participants will attend meetings on Capitol Hill with their elected officials to discuss the need to increase speed to market of products, enact licensure reform, and implement free market pricing. Attendees will hear from high level guest speakers, network with peers, attend a Washington Nationals baseball game, and enjoy private tours of Washington, D.C. landmarks. The conference is also an excellent opportunity for agents and brokers to further their relationships with elected officials.

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.

Roundtable in the News

Clip of the Week

Steve Bartlett, President and CEO for the Roundtable appeared on C-SPAN’s Washington Journal this week to discuss the proposed financial crisis responsibility fee. To view the segment please click [here](#).

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.

