

Private Fund Update

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President Obama released his FY 2015 budget last week, which increased funding for the SEC and the CFTC, but not by as much as either agency would have liked.

This update describes:

- The President's FY 2015 proposed SEC and CFTC budgets;
- The Association for Corporate Growth's 2014 public policy agenda; and
- A report showing over \$1 trillion in available dry powder for private equity funds.

Interesting items in the week ahead include:

- Senate Banking Committee nomination hearing for the Federal Reserve Board, including Stanley Fischer (Federal Reserve Vice-Chair);
- SBIA's Washington DC fly-in; and
- Multiple Senate and House hearings on the President's FY 2015 budget.

Venable LLP [tracks a wide range of regulatory issues](#), so please [contact me](#) for more information regarding anything contained in this update.

The 113th Congress

House of Representatives

House Financial Services Committee

[Hearing on Federal Reserve](#) – On Wednesday, HFSC will hold a hearing on the Federal Reserve titled "[Federal Reserve Oversight: Examining the Central Bank's Role in Credit Allocation](#)."

Witnesses are:

- Dr. Marvin Goodfriend, Professor, Carnegie-Mellon University
- Mr. Paul H. Kupiec, Resident Scholar, American Enterprise Institute
- Dr. Lawrence H. White, Professor, George Mason University
- Dr. Josh Bivens, Research and Policy Director, Economic Policy Institute

The Committee Memo is [here](#).

[Hearing on Dodd-Frank and International Competitiveness](#) – Last week, HFSC held a hearing on how the 2010 Dodd-Frank Act might be harming U.S. competitiveness in the international arena. The Committee Memorandum notes that "Regulatory disparities between the U.S. and other nations

could result in opportunities for regulatory arbitrage, which could lead to industry, jobs, and capital leaving the United States.”

Witnesses were:

- [Ms. Louise Bennetts](#), Associate Director, Financial Regulation Studies, Cato Institute
- [Mr. Alon Hillel-Tuch](#), Co-Founder and CEO, RocketHub
- [Mr. Peter J. Wallison](#), Fellow in Financial Policy Studies, American Enterprise Institute
- [Professor Michael Barr](#), Professor of Law, University of Michigan

The Committee Memorandum is [here](#) and a link to the hearing is [here](#).

House Ways & Means Committee

[Hearing on the President’s Budget](#) – HHS – On Wednesday, HHS Secretary Kathleen Sebelius will testify before the HW&MC to discuss the President’s FY 2015 budget.

[Hearing on the President’s Budget](#) – Last week, Treasury Secretary Jacob Lew testified before the HW&MC on the President’s FY 2015 budget. Secretary Lew’s written testimony is [here](#).

House Small Business Committee

The HSBC [passed a package of seven bills last week](#) designed to ease regulatory burdens for small businesses, make the federal contracting process more efficient for small businesses, and improve small business development centers. Bills that passed the committee include:

- [H.R. 4093](#) (“Greater Opportunities for Small Business Act”) – Increases the prime and subcontract goals under the Small Business Act.
- [H.R. 4094](#) (“Contracting Data and Bundling Accountability Act”) – Directs the SBA Administrator to develop and implement a plan to improve the quality of data reported on bundled and consolidated contracts.
- [H.R. 2751](#) (“Commonsense Construction Contracting Act”) – Prohibits the use of reverse auctions for construction contracts.
- [H.R. 2882](#) (“Improving Opportunities for Service-Disabled Veteran-Owned Small Businesses”) – Directs the SBA to assume control of database of small businesses owned and controlled by disabled veterans from the Department of Veterans Affairs.
- [H.R. 776](#) (“Security in Bonding Act”) – Revises requirements for assets pledged by a surety by increasing the guarantee rate from 70 to 90%.
- [H.R. 2452](#) (“Women’s Procurement Program Equalization Act”) – Amends the federal procurement program to promote contracts for women-owned small businesses.
- [H.R. 4121](#) (“Small Business Development Centers Improvements Act”) – Provides for improvements to small business development centers.

The Senate

Senate Banking Committee

[Rescheduled Hearing for Federal Reserve Nominees](#) – On Thursday, SBC will hold a rescheduled hearing for several individuals who have been nominated to become members of the Federal Reserve Board: Dr. Stanley Fischer (also to be Vice-Chairman), Jerome H. Powell, and Lael Brainard.

[Hearing on Capital Regulations for Insurers](#) – On Tuesday, the SBC will hold a hearing titled “[Finding the Right Capital Regulations for Insurers.](#)”

Witnesses are:

Panel 1

- Honorable Susan Collins (R-ME), United States Senator

Panel 2

- Mr. Michael W. Mahaffey, Chief of Risk Officer, Nationwide Insurance
- Ms. Virginia M. Wilson, CFO, TIAA-CREF
- Mr. H. Rodgin Cohen, Senior Chairman, Sullivan & Cromwell LLP
- Mr. Aaron Klein, Director, Financial Regulatory Reform Initiative, Bipartisan Policy Center

SBC will also hold hearings this week on [Superstorm Sandy recovery](#) and the [state of the middle class](#).

Senate Finance Committee

[Hearing on President’s Fiscal 2015 Budget](#) – SFC held a [hearing last week](#) regarding the President’s FY 2015 budget. The sole witness was Treasury Secretary Jacob Lew. Secretary Lew’s written testimony is [here](#).

Senate Agriculture Committee

[Hearing on CFTC Commission Nominees](#) – SAC held a hearing on the three individuals who have been nominated to become CFTC Commissioners: Timothy G. Massad (to serve as Chairman), Sharon Y. Bowen, and J. Christopher Giancarlo. A link to a video of the hearing is [here](#). All three are expected to be confirmed without issue.

The Administration

On Tuesday, the President released his FY 2015 budget, which contains \$1.014 trillion in discretionary spending – in line with the spending caps agreed to by the Sen. Patty Murray/Rep. Paul Ryan agreement. The President proposes \$1.7 billion for the SEC, which would be \$26 million more than FY 2014 budget and an increase of \$350 million above current levels. The President also requests \$280 million for the CFTC, which is \$65 million above the current budget level but \$35 million below the amount requested last year. SEC Chairwoman Mary Jo White [issued a brief statement in support](#) of the President’s proposed increase in SEC funding while CFTC Commissioner Bart Chilton [issued a statement](#) calling the President’s proposed CFTC funding level insufficient.

Securities and Exchange Commission

Rule 105 Short Selling Violation

The SEC [obtained a \\$7.2 million settlement](#) against a Long Island-based trading firm for alleged violations of Rule 105, which prohibits short selling of an equity security during a restricted period – generally five business days before a public offering – and the subsequent purchase of that same security through the offering.

Private Equity Fund Manager Charged with Fraud

The SEC [charged a private equity fund manager with fraud](#) in an expense allocation scheme. The SEC alleges that the Arizona-based fund manager improperly paid more than \$3 million of the firm's expenses by using assets from 19 private equity funds that invest in private ethanol production plants. The fund manager did not disclose any such payment arrangement in fund offering documents. When the funds ran out of cash to pay the firm's expenses, the manager loaned money to the funds at unfavorable interest rates and unilaterally changed how they calculated investor returns to benefit themselves. A copy of the SEC order is [here](#).

Commodity Futures Trading Commission (CFTC)

CFTC to Host Public Roundtable on End-Users – April 3

The CFTC announced that it will be holding a public roundtable on April 3 to discuss issues concerning end-users and the Dodd-Frank Act. The roundtable will consist of three panels, discussing (i) the obligations of end-users under Reg 1.35 concerning recordkeeping for commodity interest and related cash or forward transactions; (ii) the appropriate regulatory treatment of forward contracts with embedded volumetric optionality; and (iii) the appropriate regulatory treatment for purposes of the \$25 million (special entity) *de minimis* threshold for swap dealing to government-owned electric utilities.

Weekly Swaps Report

Here is a link to the CFTC's [Weekly Swaps Report](#) for the week ending February 21, 2014. The weekly report provides a detailed view of the swaps marketplace, covering the interest rate and credit asset classes that comprise about 90% of the approximately \$400 trillion swaps market. The report includes: the gross notional outstanding value, the weekly transactions measured by dollar volume, and the weekly transactions measured by ticket volume.

Association for Corporate Growth (ACG)

InterGrowth 2014

Registration has opened for [InterGrowth 2014](#), which will be held April 28 – April 30, 2014 at the Aria Hotel in Las Vegas. To register online for InterGrowth, click [here](#). [Click here](#) for the CEO panel participants and [here](#) for a list of capital providers who are attending.

2014 Policy Agenda

ACG released its [2014 policy agenda](#), which includes the organizations' legislative and regulatory priorities. Top legislative priorities include H.R. 1105 (private equity fund registration under IAA), H.R. 2274 (M&A broker legislation), and protecting deductibility of interest on corporate debt in case of comprehensive tax reform. Top regulatory issues include broker-dealer issues for private equity funds, JOBS Act implementation, and improving the efficiency of SEC examinations.

Private Equity Growth Capital Council (PEGCC)

2013 Annual Report

The PEGCC released its [2013 Annual Report](#). [In the detailed report](#), PEGCC notes its accomplishments and priorities for the year, which include its award-winning *Private Equity at Work* public education campaign, producing and promoting unique research and analysis, defended attacks on the tax treatment of carried interest, House passage of H.R. 1105 (a bill exempting advisers to private equity funds from SEC registration requirements), and maintaining the deductibility of interest on corporate debt. Along with the report, the group also [released a short video](#) by PEGCC President and CEO Steve Judge.

Small Business Investor Alliance (SBIA)

Washington DC Fly-In

The Small Business Investor Alliance holds its [Washington DC Fly-in](#) on Wednesday, March 12. A copy of the agenda is [here](#) and registration is [here](#). The fly-in is for SBIA members only.

U.S. Chamber of Commerce

8th Annual Capital Markets Summit – March 19

The U.S. Chamber of Commerce's Center for Capital Markets Competitiveness will hold its eighth annual Capital Markets Summit on Wednesday, March 19. The agenda for the Summit is [here](#), and to register for the Summit, click [here](#).

Miscellaneous

Report on PE Dry Powder

Bain & Co [released its fifth annual "Global Private Equity Report"](#) last week. The report found that private equity funds collectively have more than \$1 trillion in available dry powder to invest. The report states that this dry powder is likely to keep asset prices high and may result in an uptick in "pricey" deals in 2014.

Better Markets Financial Reform Newsletter

Financial reform group Better Markets released its [March 6, 2014 newsletter](#), with links to several news stories as well as Better Markets' recent media coverage. Issues include the CFTC budget, Better Markets' comment letter to the FSB assessing its Feasibility Study on Aggregate OTC derivatives trading, and FDIC Vice Chairman Thomas M. Hoening.

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