



ML Strategies Update

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Financial Services Legislative and Regulatory Update

Leading the Past Week

Once again, the markets and Congress came together to offer an interesting juxtaposition, as [earlier in the week](#) it seemed like synthetic CDOs, the instrument likened to [Financial Weapons of Mass Destruction](#), were rumored to be making comeback. Then, on Wednesday the House [passed legislation](#) to curb the CFTC's authority to regulate the swaps market, and while the bill isn't expected to pass the Senate, it was seen as a strong signal to the CFTC about delaying its cross-border swaps rule, which among other things, will impact how US banks with foreign branches, or international based hedge funds will be regulated when participating in the international swaps market. This vote was [seen by some as a backtrack](#) for necessary financial reforms, but interestingly, the week closed with news that the efforts to revive the CDOs [had failed](#), perhaps an indicator that the market has learned from its mistakes that nearly cratered the global economy only a few short years ago.

In other news, in a yearly show of bipartisanship, the Democrat and Republican teams met for the [Congressional baseball game](#). Once again, Cedric Richmond (D-LA) proved unhittable, and the Democrats dominated leading to a final score of 22 – 0. Despite the Democratic victory, all was not well for the underdog, as [Teddy](#) wasn't able to find the path to victory either.

Legislative Branch

Senate

Senator Tom Udall to Chair Senate Appropriations Financial Services Subcommittee

With the passing of Senator Lautenberg (D-NJ), Senator Tom Udall (D-NM) will take the gavel as Chairman of the Senate Appropriations Subcommittee on Financial Services and General Government. The Subcommittee oversees the budget for the Treasury, SEC, and a number of related agencies.

Senate Banking Examines Community Banking Lessons Learned from the Financial Crisis

On June 13th, the Senate Banking Committee held a hearing titled "Lessons Learned from the Financial Crisis Regarding Community Banks." Witnesses from the FDIC and GAO discussed

common characteristics of community banks which weathered the financial crisis including the existence of strong core, local funding, prudent management and risk standards, and which grew prudently during the housing boom. Notably, both Republican and Democratic Members to suggest that regulators consider a two-tiered approach to oversight of the banking industry – essentially suggesting that community banks and “mega banks” should be regulated differently. Ranking Member Crapo (R-ID) noted concern about “whether we had it right in law and in regulation and in implementation in terms of the regulatory system that we are applying to our smaller and community banks” and Senator Warren (D-MA) pointed out that while the regulatory system is neutral in appearance, smaller institutions cannot afford the additional burdens. Both Senator Moran (R-KS) and Senator Heitkamp (D-ND) raised similar concerns.

House of Representatives

House Passes Swap Jurisdiction Certainty Act

On June 13th the House passed the Swap Jurisdiction Certainty Act ([H.R.1256](#)) in a 301 to 124 vote, with 73 Democrats voting for the measure. The bill would reign in the CFTC’s authority to oversee the global swaps market by exempting foreign banks from Commission rules if their home countries of jurisdiction have generally similar regulations. The bill also directs the SEC and CFTC to coordinate their approach to cross-border derivatives regulation. While an Administration [policy statement](#) made clear that it opposes the legislation for being “preemptive and disruptive” to ongoing implementation of reforms, the measure appeared to divide House Democrats. On June 12th, Ranking Member Maxine Waters (D-CA) and a number of other Democrats [urged their colleagues](#) to vote no on the legislation, warning that it “undermines” the SEC and CFTC’s ability to regulate. On the other side, Representatives Gwen Moore (D-WI), Patrick Murphy (D-FL), John Delaney (D-MD), and Terri Sewell (D-AL) wrote to their peers urging support of the legislation and underscoring the “vital” need for SEC and CFTC regulations to line up. The measure is unlikely to pass the Senate, but was seen as a strong sign that the CFTC should consider further delaying its cross-border rules, which is currently set to expire on July 12th.

House Passes the Reverse Mortgage Stabilization Act

On June 12th, the House passed by voice vote legislation to allow the Federal Housing Administration (FHA) to quickly make changes to the Home Equity Conversion Mortgage program so the agency does not have to follow the normal rulemaking process. The Reverse Mortgage Stabilization Act ([H.R. 2167](#)) was sought by the FHA after it experienced large losses in paying claims for defaulted reverse mortgages. Specifically, the bill would allow the FHA to limit the first draw which borrowers may seek, mandate escrow accounts, and require lenders to review the financial assessments of borrowers. Senator Bob Menendez (D-NJ) has introduced a similar bill in the Senate.

House Financial Services Subcommittee Examines Capital Formation Barriers

On June 12th, the House Financial Services Committee’s Subcommittee on Capital Markets and Government Sponsored Enterprises met to consider the SEC’s approach to capital formation and ways in which to stimulate small business capital formation. Proposals floated at the hearing included speeding implementation of the crowdfunding regulations and registration exemptions under the Jumpstart Our Business Startups (JOBS) Act. In addition, Joseph Ferraro, vice president of Prospect Corp. suggested additional changes to securities laws, going beyond the JOBS Act, to reform laws governing Business Development Companies (BDCs) while Cromwell Coulson, president and chief executive of OTC Markets Group, asked lawmakers to consider revising the Securities Act to require more stock promotion activity disclosure. Other witnesses included Shane Hansen with Warner Norcross & Judd LLP, David Weild with Grant Thornton, LLP, and Professor Donald Langevoort with Georgetown University Law Center.

House Financial Services Meets to Consider Alternative Housing Finance Models

On June 12th, the House Financial Services Committee met to consider testimony on the mortgage finance systems of other countries to determine whether a sustainable system of housing finance is possible that does not rely on government-sponsored enterprises or government subsidies. While witnesses generally agreed that there is no ideal housing finance system, the majority of developed countries have some sort of private capital that funds the majority of their housing sector. For example, a number of witnesses pointed to the Canadian and Dutch system as potential models the US could look to for reforms. Witnesses included Dr. Dwight Jaffee with the University of California at Berkeley, Dr. Michael Lea with San Diego State University, Alex Pollock with the American Enterprise Institute, Professor Lawrence White with New York University, and Professor David Min with the University of California at Irvine.

House Financial Services Subcommittee Examines International Regulation and US Insurers

On June 13th, the House Financial Services Subcommittee on Housing and Insurance met to examine the various international regulatory standards being proposed by the G-20, the Financial Stability Board, the International Association of Insurance Supervisors, and other international supervisory authorities. Witnesses included Roy Woodall, member and insurance expert of the Financial Stability Oversight Council (FSOC), Ben Nelson, CEO of the National Association of Insurance Commissioners, and Michael McRaith, Director of the Federal Insurance Office. McRaith responded to a tough line of questioning from lawmakers who wanted him to defend the FIO's efforts to coordinate with foreign regulators, saying that "the FIO has the power to coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the U.S. in the International Association of Insurance Supervisors."

House Financial Services Subcommittee Hears Testimony on Ex-Im Bank Improvements

On June 13th, Chairman and President of the Export-Import Bank Fred Hochberg appeared before the House Financial Services Committee Monetary Policy and Trade Subcommittee to assess the status of reform at the Bank since its previous reauthorization. Hochberg was joined by the Ex-Im Bank's Inspector General Osvaldo Gratacos and the GAO Director of Financial Markets and Community Investment Matthew Scire. Hochberg awaits confirmation from the Senate to begin a second four-year term heading the bank. During the hearing, Chairman Hensarling made it clear that he thought it was time for the US to cease supporting the Ex-Im bank. How the Chairman's perspective will impact the reauthorization of the bank, which is set to expire in September 2014, will still need to play out.

Bipartisan House Lawmakers Caution Against Extraterritorial Effects of EU Financial Transaction Tax

A bipartisan group of seventeen lawmakers wrote to Treasury Secretary Lew on June 7th to oppose the proposed European financial transaction tax. The Members asked Lew to work with his European regulatory counterparts to ensure that the final EU transaction tax proposal does not include extraterritorial implications for the US. The lawmakers cautioned that, should the EU proposal include provision extending the tax to the US, it would be an "unprecedented, unfair, disruptive extraterritorial excise tax on the global financial markets and the American investing public."

Executive Branch

FDIC

FDIC and CFPB Release Joint Guidance to Prevent Older Adult Financial Exploitation

On June 12th, the FDIC and CFPB announced a new financial resource tool which will help older adults and their caregivers prevent financial exploitation. "Money Smart for Older Adults"

is part of the FDIC's Money Smart financial curriculum and is intended to raise awareness about exploitation, help seniors create a secure financial plan, and inform smart financial decisions. Specifically, the guide is intended to curb scams targeting veterans and homeowners, in addition to identify theft and medical identity theft. A scripted consumer guide can be [downloaded](#) from the FDIC in addition to a [resource guide](#) provided by the Bureau.

CFPB

Bureau Releases Overdraft Fee Report with Plan to Continue to Study Fees' Effect on Consumers

On June 11th, the CFPB released a [report](#) detailing concerns with consumers' ability to anticipate and avoid overdraft fees on checking accounts. The Bureau found wide disparities across financial institutions in the costs and risks of opting into overdraft coverage on transactions. Often customers who opt in to such coverage saw themselves with higher fees and involuntary closures. The report also found that overdraft fees are highly complex for consumers due to complicated fee structure and complex transaction postings. The CFPB noted that it plans to engage in further review of account-level data to better understand how differences in practices affect consumers.

OCC

OCC Policy Statement Gives Minority Banks Additional Capital Formation Tools

In [remarks](#) on June 11th Comptroller of the Current Thomas Curry outlined a [revised policy](#) for treatment of minority institutions which would make it easier for them to raise capital. Curry said that the policy statement revision will allow the OCC to treat an existing minority institution as a Minority Depository Institution (MDIs) even if it no longer meets the 51 percent minority ownership standard, so long as it: 1) primarily exists to serve the credit and economic needs of the community in which it is chartered, and 2) the community is predominantly minority. The policy change results from the fact that MDIs would sometimes be unable to accept equity investment capital from certain investors as it would impact their minority ownership classification. In announcing the change, the OCC said the policy statement seeks to recognize that "minority institutions should be just that — owned by investors who are part of a minority group — but it also provides some discretion to ensure that the financial and credit needs of minority communities are met."

OCC Approval Letters Give Banks Additional Time to Comply with Push Out Rule

In approval letters sent on June 11th, the OCC granted seven large banks an additional two-year transition period to comply with the swaps push out rule, which requires banks to spin off some derivatives trading into divisions not covered by federal deposit insurance or with access to the Fed discount window. The banks receiving a two-year delay include Bank of America, JPMorgan Chase, Citigroup, Wells Fargo, HSBC Holdings, Morgan Stanley, and US Bancorp. The announcement comes a week after the Fed announced foreign banks would be eligible for a two year compliance delay.

CFTC

Derivatives Brokerage VP Rumored Contender for CFTC Opening

Last week Politico reported that Christopher Giancarlo is the leading Republican contender to fill CFTC Commissioner Jill Sommers' seat. Giancarlo is the Executive Vice President of GFI Group, a derivatives broker. In the past, Giancarlo has testified before the House Financial Services Subcommittee On Capital Markets and Government Sponsored Enterprises on concerns with the "futurization" of the swaps market, positing that uncertainty over final swaps rules and futures exchanges are creating "swap future" products which are economically the same as swaps but "allow market participants to avoid swaps regulation entirely." While Giancarlo is rumored to be taking the open Republican seat, the leading candidate to fill

Chairman Gensler's role is said to be Amanda Renteria, former Chief of Staff to Senate Agriculture Committee Chairman Debbie Stabenow.

Upcoming Hearings

On Tuesday, June 18th at 10am in 2128 Rayburn, the Financial Institutions and Consumer Credit Subcommittee of House Financial Services Committee will hold a hearing titled "Examining How the Dodd-Frank Act Hampers Home Ownership."

On Tuesday, June 18th at 2pm in 2128 Rayburn, the Oversight and Investigations Subcommittee of House Financial Services Committee will hold a hearing to review the budget of the CFPB.

On Tuesday, June 18th at 10am in 538 Dirksen, the Housing, Transportation, and Community Development Subcommittee of Senate Banking, Housing and Urban Affairs Committee will hold a hearing titled "Long Term Sustainability for Reverse Mortgages: Home Equity Conversion Mortgage Impact on the Mutual Mortgage Insurance Fund."

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