

Public Insight

REGULATORY ALPHA™

The Weekly Regulatory Update for Alternative Investment Managers

Dear Clients and Friends of Public Insight,

In this October 26th edition of **Regulatory Alpha**, we provide sector-by-sector updates of the key policy and regulatory developments in Washington DC and elsewhere relating to the financial crisis which we believe may have impacts on your portfolio and investment decision-making processes.

As always, Public Insight's global network of regulatory and investment analysts – based in Washington, D.C., each of the 50 United States, all key municipalities, as well as various international jurisdictions – are available for more detailed consultations, to perform due diligence, and provide bespoke research on any of the investment issues and regulatory/policy developments covered here, as well as other investment sectors and regulatory areas of specific interest to you.

Sincerely,

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OCT. 17 - 23, 2009

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Financial Services Reform

Report Says FDIC Failed to Take Action

The Federal Deposit Insurance Corporation's (FDIC) Office of Inspector General analyzed the agency's bank takeovers between August 2008 and March 2009. It found that the agency did not properly enforce its own guidelines, failed to identify issues, or did not take strong enough supervisory action for 20 of the 23 failed banks. "It's often we'll see in our reports that the FDIC detected problems in the bank in a timely fashion, but in some cases forceful corrective action wasn't required by the FDIC to be taken quickly enough," said Jon Rymer, the FDIC's Inspector General.

National Banks May Be Subject to State Rules

On Tuesday, the House Financial Services Committee voted to let state governments protect bank customers by imposing restrictions that are tougher than existing federal laws. Under current law, banks may answer only to federal regulators.

Dodd and Shelby Unite on Financial Reform

Senate Banking Chairman Chris Dodd (D-CT) and Ranking Member Richard Shelby (R-AL) are talking about regulatory reform on a consistent basis.

Both Dodd and Shelby meet regularly with their respective members on the committee, and Dodd said he meets with Republicans as well as his team of Democrats. Dodd has asked other Senate Democrats to assume responsibility over specific issues. Sen. Jack Reed (D-RI) will be heading up rating agencies and derivatives, Sen. Chuck Schumer (D-NY) has taken on corporate governance, and Sen. Mark Warner (D-VA) is will be responsible for asset management. Additionally, many of these Democrats are already working on the issues with their Republican banking colleagues.

Administration Initiative Helps Moderate and Low Income Home Buyers

On Monday, the Obama administration announced a new program to help support low mortgage rates and expand resources for low and middle income borrowers who want to buy or rent a home. The program will contain: (1) a bond purchase program to support new lending by housing finance agencies; and (2) a temporary credit and liquidity program to improve housing agencies' access to credit sources for existing bonds.

Legislation Introduced to Stop Excessive Overdraft Fees

Sen. Carl Levin (D-MI) and Sen. Chris Dodd (D-CT) introduced legislation to stop abusive practices related to overdraft fees imposed on consumer debit card transactions, ATM withdrawals, and other financial account transactions. The bill is entitled The Fairness and Accountability in Receiving (FAIR) Overdraft Coverage Act of 2009.

House Agriculture Committee Approves OTC Derivatives Legislation

On Wednesday, October 21, the House Committee on Agriculture met to mark up the Over-the-Counter Derivatives Act of 2009 (H.R. 3795), sponsored by House Committee on Financial Services Chairman Barney Frank (D-MA). At the markup, Committee Chairman Collin

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C. Peterson (D-MN) introduced an amendment to H.R. 3795 in the nature of a substitute. The Peterson amendment was adopted, as amended, by unanimous voice vote. Relevant documents include:

- [Text of Chairman Peterson's Amendment in the Nature of a Substitute](#)
- [Summary of Chairman Peterson's Amendment in the Nature of a Substitute](#)

Overall, Chairman Peterson expressed a desire to continue to work with members on the bill. Ranking Member Frank D. Lucas (R-OK) said that he was satisfied with the changes the Manager's Amendment made to Peterson's substitute. Because he is pleased with the progress of the legislation, Lucas said that he would not be offering any amendments to the bill. The bill, as reported out of the Committee, does not require end-users to clear and trade on centralized exchanges, provided they meet the requirements of two definitions: "swap dealer" and "major swap participant." However, the current language in the bill is ambiguous as to whether or not there is a presumption of clearing. It may be argued that if a transaction can be cleared and a clearinghouse accepts it, then it must go to a central exchange. Industry trade groups are seeking clarification on this issue.

House Financial Services Committee Approves Consumer Financial Protection Bill

On Thursday, October 22, the House Financial Services Committee approved legislation to establish a "new, independent federal agency solely devoted to protecting Americans from unfair and abusive financial products and services." The Consumer Financial Protection Agency (CFPA) was created by H.R. 3216, and its mission will be to "promote a fair and transparent marketplace for financial products and to safeguard the American public from abusive industry tactics." The bill was approved by a vote of 39-29. For a summary of the bill, see [Summary of H.R. 3126](#).

However, lobbying efforts are now focused on the Senate, where there is hope that Senators may "derail" the CFPA.

Global Banks' Self-Assessments 'More Favorable' than Regulators' Evaluations

The UK Financial Services Authority, U.S. Federal Reserve, U.S. Securities and Exchange Commission and other regulators released a report that said banks in Europe and the U.S. overstated the improvements they made to risk management and supervision in response to the global financial crisis. "Supervisors remain unconvinced that firms are undertaking the full scope and depth of needed improvements," the report said.

Legislation Introduced

S.1799: A bill to amend the Truth in Lending Act, to establish fair and transparent practices related to the marketing and provision of overdraft coverage programs at depository institutions, and for other purposes.

- **Sponsor:** [Sen Dodd, Christopher J.](#) [CT] (introduced 10/19/2009)
- **Latest Major Action:** 10/19/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

S.1803: A bill to amend title 31, United States Code, to authorize reviews by the Comptroller General of the United States of emergency credit facilities established by the Board of

Governors of the Federal Reserve System or any Federal Reserve bank, and for other purposes.

- **Sponsor:** [Sen Merkley, Jeff](#) [OR] (introduced 10/20/2009)
- **Latest Major Action:** 10/20/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

S.1817: A bill to temporarily raise the limits on certain loans under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

- **Sponsor:** [Sen Brown, Sherrod](#) [OH] (introduced 10/20/2009)
- **Latest Major Action:** 10/20/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Small Business and Entrepreneurship.

H.R.3854: To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, and for other purposes.

- **Sponsor:** [Rep Schrader, Kurt](#) [OR-5] (introduced 10/20/2009)
- **Committees:** House Small Business
- **Latest Major Action:** 10/20/2009 Referred to House committee. Status: Referred to the House Committee on Small Business.

H.R.3901: To amend the Internal Revenue Code of 1986 to enhance the administration of, and reduce fraud related to, the first-time homebuyer tax credit, and for other purposes.

- **Sponsor:** [Rep Lewis, John](#) [GA-5] (introduced 10/22/2009)
- **Committees:** House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.3902: To amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit and to eliminate the first-time homebuyer requirement and increase the adjusted gross income limitations with respect to such credit, and for other purposes.

- **Sponsor:** [Rep Heller, Dean](#) [NV-2] (introduced 10/22/2009)
- **Committees:** House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.3903: To amend the Internal Revenue Code of 1986 to provide a partial exclusion of interest from the gross income of individuals, to increase retirement plan contribution limitations, and to temporarily suspend minimum distribution requirements for certain defined contribution plans.

- **Sponsor:** [Rep Rehberg, Denny](#) [MT] (introduced 10/22/2009)
- **Committees:** House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.3904: To amend the Truth in Lending Act to establish fair and transparent practices related to the marketing and provision of overdraft coverage programs at depository institutions, and for other purposes.

- **Sponsor:** [Rep Maloney, Carolyn B.](#) [NY-14] (introduced 10/22/2009)
- **Committees:** House Financial Services
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Financial Services.

Bankruptcy, Corporate Taxation, and Executive Compensation

IRS Chief Tells Boards To Police Tax Policies

On Monday, Internal Revenue Service Commissioner Doug Shulman instructed U.S. board directors to better police tax policy at their companies. Shulman said that boards should oversee decisions about profit allocation to low tax jurisdictions. According to the Commissioner, boards should "discourage or eliminate opinion shopping by tax departments by having an independent tax firm, which has some direct dialogue with the board" review major tax positions.

Corporate Tax Breaks Get Scrutiny

The White House is examining whether to curb the corporate tax code's bias toward raising money from tax-deductible debt issues rather than from stock sales. Headed by former Federal Reserve Chairman Paul Volcker, a bipartisan presidential tax policy panel is reviewing the way multinational corporations pay their taxes. The panel is considering whether to replace the current system, which taxes global income, with one that taxes only profits generated in the United States. Such a move could provide more revenue for the Treasury by simplifying a system that has provided multinationals multiple ways to minimize payments to the government.

Companies Lobby For U.S. R&D Tax Credit

Companies with big research and development spending, including CA and Dow Chemical Co., are lobbying U.S. lawmakers to extend and broaden a multibillion-dollar tax credit they say will preserve Americans jobs. Companies fear that the 20 percent R&D tax credit, available only for R&D done in the United States, will be forgotten as Congress juggles health care and other competing priorities. The tax credit expires on December 31.

Fed Hits Banks With Sweeping Pay Limits

While the moves had been anticipated for weeks, Thursday's separate announcements by the Federal Reserve and Treasury Department represent unprecedented federal intervention in pay decisions traditionally left to boards and shareholders. As expected, Treasury official Kenneth Feinberg said cash salaries paid to the highest-earning executives at seven companies getting exceptional federal aid will be capped at \$500,000, while the group's total pay level, annualized, will be 50% lower than a year before.

Legislation Introduced

S.1835: A bill to amend the Internal Revenue Code of 1986 to allow 5-year carryback of operating losses, and for other purposes.

- **Sponsor:** [Sen Brownback, Sam](#) [KS] (introduced 10/22/2009)
- **Latest Major Action:** 10/22/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Finance.

H.R.3898: To amend the Internal Revenue Code of 1986 to extend the temporary increase in limitations on expensing of certain depreciable business assets.

- **Sponsor:** [Rep Kratovil, Frank, Jr.](#) [MD-1] (introduced 10/22/2009)
- **Committees:** House Ways and Means

- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

Auto Industry

Union Leader Opposes Ford Deal

A key United Auto Workers (UAW) union leader came out against the proposed agreement between the UAW and Ford. Nick Kottalis, President and Chairman of the Dearborn Truck Plant unit of UAW Local 600, has been a union official for 17 years. He does not support how the tentative agreement between the UAW and Ford would freeze entry-level wages, establish a requirement for binding arbitration for wage and benefit disagreements at the end of the current contract, and consolidate skilled-trades classifications.

Top Execs Get 25% Pay Cut

Kenneth Feinberg, the Obama administration's administrative pay czar, has cut the compensation of top GM and Chrysler officials by 25%. Automobile finance companies were also TARP recipients and saw compensation cuts. GMAC compensation was cut more than 85% from last year's levels, and Chrysler Financial compensation was cut by at least 56%.

Broadband, Broadcast, and Intellectual Property

Senators Oppose Potentially 'Devastating Impact' of Performance Royalties Bill

Last week, the Senate Judiciary Committee approved the Performance Rights Act, which would require terrestrial radio broadcasters to pay royalties to performing artists. On October 21, Senators Blanche Lincoln (D-AR) and John Barrasso (R-WY) wrote to Senate Majority Leader Harry Reid (D-NV) and Senate Minority Leader Mitch McConnell (R-KY), claiming the legislation would have a "devastating impact" on local radio broadcasters.

Advanced Television Systems Committee Adopts Mobile DTV Standard

On October 16, the Advanced Television Systems Committee (ATSC) adopted a broadcast standard for mobile digital television (DTV). Industry representatives are applauding this major step in the development and deployment of mobile DTV services. Devices supporting the standard are expected to be available in stores by 2010.

FCC Releases Proposed Rulemaking on Net Neutrality

At an Open Commission meeting on October 22, the FCC released a Notice of Proposed Rulemaking ("NPRM"), codifying net neutrality principles in order to "preserve an open Internet." The proposed rulemaking would codify the four principles articulated in the FCC's 2005 Internet Policy Statement (access to content, access to services and applications, connecting devices, and competition) and extend them to wireless service providers, adding two additional principles: non-discrimination and transparent network management policies. The deadline for comments is January 14, 2010; reply comments are due by March 5, 2010.

Senate Commerce, Science, and Transportation Chairman Jay Rockefeller (D-WV) and House Energy and Commerce Committee Chairman Henry Waxman (D-CA) reiterated their support of the net neutrality proposed rulemaking in a letter to FCC Chairman Genachowski. House Subcommittee on Communications, Technology, and the Internet Chairman Rick

Boucher (D-VA) also supports the FCC's proposed rulemaking. Some members of Congress, however, oppose FCC regulations on net neutrality.

Amazon, Google, and Facebook endorse net neutrality regulation. AT&T and Verizon recently stated that they accept the four existing net neutrality principles but oppose the two additional principles proposed in the NPRM.

Legislation Introduced

S.1836: A bill to prohibit the Federal Communications Commission from further regulating the Internet.

- **Sponsor:** [Sen McCain, John](#) [AZ] (introduced 10/22/2009)
- **Latest Major Action:** 10/22/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Commerce, Science, and Transportation.

Higher Education Issues

Duncan Calls for Improvement of Education Colleges

On Thursday, at a speech at Teacher's College at Columbia University, U.S. Secretary of Education Arne Duncan called for colleges of education to change how they prepare America's next generation of teachers. Duncan said that teachers must be ready to prepare their future students for success. He asserted that a "revolutionary change" was needed. According to Duncan, teacher education must be improved to keep America competitive in a global economy.

Climate Change/ Energy/ Environment

Energy Producers Clash over Climate Bill

U.S. energy companies are at odds over policy decisions as the Senate prepares to discuss climate change legislation. Producers of natural gas are battling the oil companies. Coal companies are fighting natural gas firms. Electrical companies are fighting amongst themselves over the use of coal versus wind power or other renewable energies. Supporters of global warming legislation believe that this split among energy producers could improve the prospects for the legislation.

Murkowski May Support Climate Bill

Sen. Lisa Murkowski (R-AK) said she may support the Democrats' climate change legislation if it includes vigorous provisions to expand nuclear energy and domestic oil drilling. To appease Murkowski, the bill must shield consumers from price hikes and prevent the market from manipulating pollution permits. "Count me as one of those who will keep my mind open as we move forward," Murkowski said.

Oil Companies Need More than Offshore Drilling

Inclusion of a provision allowing expanded oil and gas drilling in the Senate climate change bill will not guarantee the support of America's biggest oil and gas companies. These companies fear that the Senate bill will contain a cap-and-trade program, much like the House bill does. Under the House bill, the cap-and-trade program will start off by giving away 85

percent of available carbon permits. However, petroleum refiners will get the smallest share, and the industry says that additional drilling is not a fair trade-off.

House Agriculture Committee Approves OTC Derivatives Legislation

On Wednesday, October 21, the House Committee on Agriculture met to mark up the Over-the-Counter Derivatives Act of 2009 (H.R. 3795), sponsored by House Committee on Financial Services Chairman Barney Frank (D-MA). At the markup, Committee Chairman Collin C. Peterson (D-MN) introduced an amendment to H.R. 3795 in the nature of a substitute. The Peterson amendment was adopted, as amended, by unanimous voice vote. Relevant documents include:

- [Text of Chairman Peterson's Amendment in the Nature of a Substitute](#)
- [Summary of Chairman Peterson's Amendment in the Nature of a Substitute](#)

Overall, Chairman Peterson expressed a desire to continue to work with members on the bill. Ranking Member Frank D. Lucas (R-OK) said that he was satisfied with the changes the Manager's Amendment made to Peterson's substitute. Because he is pleased with the progress of the legislation, Lucas said that he would not be offering any amendments to the bill. The bill, as reported out of the Committee, does not require end-users to clear and trade on centralized exchanges, provided they meet the requirements of two definitions: "swap dealer" and "major swap participant." However, the current language in the bill is ambiguous as to whether or not there is a presumption of clearing. It may be argued that if a transaction can be cleared and a clearinghouse accepts it, then it must go to a central exchange. Industry trade groups are seeking clarification on this issue.

Senate ENR Committee Holds Hearing on GHG Allocations

On Wednesday, October 21, the Senate Committee on Energy and Natural Resources conducted a hearing to receive testimony on the costs and benefits for energy consumers and energy prices associated with the allocation of greenhouse gas (GHG) emissions. The following witnesses provided testimony and responded to questions posed by Committee members: (1) **Dr. Denny Ellerman**, Retired Senior Lecturer and Economist, Center for Energy and Environmental Policy Research, Massachusetts Institute of Technology; (2) **Dr. Gilbert Metcalf**, Professor of Economics, Tufts University; (3) **Dr. Karen Palmer**, Senior Fellow, Resources for the Future; and (4) **Dr. Chad Stone**, Chief Economist, Center on Budget and Policy Priorities. The relevant hearing documents include:

- [Prepared Statement of Dr. Denny Ellerman](#)
- [Prepared Statement of Dr. Gilbert Metcalf](#)
- [Prepared Statement of Dr. Karen Palmer](#)
- [Prepared Statement of Dr. Chad Stone](#)

Overall, the witnesses and the Senators in attendance expressed a preference for a cap-and-dividend system over the cap-and-trade system as presented in H.R. 2454, the American Clean Energy and Security Act of 2009 (ACES). No members appeared to support the distribution of allowances to generators, local distribution companies, and other covered entities in ACES.

Legislation Introduced

S.1809: A bill to amend the Clean Air Act to promote the certification of aftermarket conversion systems and thereby encourage the increased use of alternative fueled vehicles.

- **Sponsor:** [Sen Wicker, Roger F.](#) [MS] (introduced 10/20/2009)
- **Latest Major Action:** 10/20/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Environment and Public Works.

H.R.3909: To enhance the energy security of the United States by encouraging investments in renewable and alternative energy and to authorize appropriations for research in and development of fungible biofuels.

- **Sponsor:** [Rep Halvorson, Deborah L.](#) [IL-11] (introduced 10/22/2009)
- **Committees:** House Ways and Means; House Science and Technology
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the Committee on Ways and Means, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.3916: To amend the Internal Revenue Code of 1986 to permanently extend and modify the section 45 credit for refined coal from steel industry fuel, and for other purposes.

- **Sponsor:** [Rep Schwartz, Allyson Y.](#) [PA-13] (introduced 10/22/2009)
- **Committees:** House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

H.R.3918: To amend the Internal Revenue Code of 1986 to provide a tax credit for qualified distributed thermal energy storage property, and for other purposes.

- **Sponsor:** [Rep Thompson, Mike](#) [CA-1] (introduced 10/22/2009)
- **Committees:** House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

Health Care Reform

Obama Aides Say Public Option 'Not Mandatory'

Top Obama administration officials are asserting that although the President would like to see a government-sponsored insurance option in the final piece of health care legislation, he is not demanding it.

Obama's aides have admitted that there may not be enough Senate votes to support a public option provision. However, Senator Chris Dodd (D-CT), who is involved in merging the Senate Health, Education, Labor and Pensions Committee bill with the Senate Finance Committee bill, said that some Senate Democrats will push for the public option on the floor. "I haven't given up on [the public option]," said Dodd. However, Senator Tom Harkin (D-IA) said that there are only 52 Democrat votes for the public option in the Senate. Senate Majority Leader Harry Reid (D-NV) is pushing a plan supported by Senator Charles E. Schumer (D-NY)

that would allow states to “opt out” of a national public plan. Additionally, at a White House meeting Thursday night, President Obama told Democratic leadership that he prefers a “trigger” – a plan that allows a public option to “kick in” if private insurance companies do not expand coverage and lower premiums.

However, a poll conducted by *The Washington Post* and ABC News shows that public support for a government-run health care plan to compete with private insurers has increased. But, just 45 percent of Americans support the proposals now moving in Congress, while 48 percent are opposed. 7 in 10 Democrats favor health care reform, while 9 in 10 Republicans oppose it.

On Friday, *The Politico* exclusively reported that House Speaker Nancy Pelosi (D-CA) counted votes – and did not count enough – in support of a “robust public option.” According to *The Politico*, the House bill will likely include a “weaker” version of a public option, possibly a plan that sets rates for the public plan by allowing doctors and hospitals to negotiate with Medicare. Speaker Pelosi plans to present the House health bill at the White House early next week, either Tuesday or Wednesday. However, 36 moderate House Democrats said that the health care bill must cut long-term costs or they will vote it down.

On the Senate side, things are moving slower. Senators are recessing for November 11-13, as well as the entire week of Thanksgiving. Senator Olympia Snowe (R-ME), one of the key players in the debate, said that a bill might not reach President Obama until next year.

Senate Rejects Permanent ‘Doc Fix’

On Wednesday, 13 Democrats and all 40 Republicans voted against a measure to permanently repeal Medicare’s payment formula for doctors. Currently, a formula sets Medicare payments to doctors. Each year Congress acts to temporarily “fix” the formula because under it, doctors are paid too little for their visits with Medicare patients. This annual ritual has become known as the “doc fix.”

The legislation failed because of its high price tag. The cost to pass a permanent “doc fix” is \$247 billion over a 10-year period, and this was just too much for many Senators.

Legislation Introduced

S.1796: An original bill to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

- **Sponsor:** [Sen Baucus, Max](#) [MT] (introduced 10/19/2009)
- **Latest Major Action:** 10/19/2009 Placed on Senate Legislative Calendar under General Orders. Calendar No. 184.
- **Senate Reports:** [111-89](#)

H.R.3887: To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to improve health insurance coverage of dependents.

- **Sponsor:** [Rep Blunt, Roy](#) [MO-7] (introduced 10/21/2009)
- **Committees:** House Energy and Commerce; House Ways and Means; House Education and Labor

- **Latest Major Action:** 10/21/2009 Referred to House committee. Status: Referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.3889: To amend the Internal Revenue Code of 1986 to repeal the percentage floor on medical expense deductions, expand the use of tax-preferred health care accounts, and establish a charity care credit, to amend the Social Security Act to create a Medicare voucher program and reform EMTALA requirements, and to amend Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce.

- **Sponsor:** [Rep Broun, Paul C.](#) [GA-10] (introduced 10/21/2009)
- **Committees:** House Energy and Commerce; House Education and Labor; House Ways and Means
- **Latest Major Action:** 10/21/2009 Referred to House committee. Status: Referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.3895: To authorize the Secretary of Health and Human Services to conduct or support research and demonstration projects on the use of financial and in-kind subsidies and rewards to encourage individuals and communities to promote wellness, adopt healthy behaviors, and use evidence-based preventive health services, and for other purposes.

- **Sponsor:** [Rep Dahlkemper, Kathleen A.](#) [PA-3] (introduced 10/21/2009)
- **Committees:** House Energy and Commerce
- **Latest Major Action:** 10/21/2009 Referred to House committee. Status: Referred to the House Committee on Energy and Commerce.

H.R.3896: To amend title XVIII of the Social Security Act to improve access to health care for individuals residing in underserved rural areas, and for other purposes.

- **Sponsor:** [Rep Emerson, Jo Ann](#) [MO-8] (introduced 10/21/2009)
- **Committees:** House Energy and Commerce; House Ways and Means
- **Latest Major Action:** 10/21/2009 Referred to House committee. Status: Referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.3911: To amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis.

- **Sponsor:** [Rep Maloney, Carolyn B.](#) [NY-14] (introduced 10/22/2009)
- **Committees:** House Energy and Commerce; House Education and Labor

- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R.3917: To amend title XVIII of the Social Security Act to modernize and improve the Medicare payment methodology for radiopharmaceuticals under the hospital outpatient prospective payment system and to ensure equitable payment and patient access to certain low volume, high cost radiopharmaceuticals.

- **Sponsor:** [Rep Stupak, Bart](#) [MI-1] (introduced 10/22/2009)
- **Committees:** House Energy and Commerce; House Ways and Means
- **Latest Major Action:** 10/22/2009 Referred to House committee. Status: Referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Labor and Pensions

House Votes to Exclude Small Business from FTC's Red Flags Rule

On October 20, the House approved a bill that would amend the Fair Credit Reporting Act to exclude legal, accounting, and health care firms with 20 or less employees from the Federal Trade Commission's (FTC) "red flags" rule. The "red flags" rule requires companies that extend credit to establish and implement a program to detect and prevent identity theft in connection with the accounts maintained for clients. The House bill would require the FTC to enact regulations allowing businesses to apply for exemptions from the "red flags" rule. The bill was referred to the Senate Committee on Banking, Housing, and Urban Affairs on October 21.

The American Bar Association (ABA) believes the bill does not do enough to prevent the FTC from enforcing the "red flags" rule against attorneys. A case is pending in D.C. federal court: [ABA v. FTC](#), D.D.C., No. 09-1636 (RBW), 9/23/09.

Estate Tax Issues

Legislation Introduced

H.R.3905: To amend the Internal Revenue Code of 1986 to repeal the 1-year termination of the estate tax, to increase the estate and gift tax unified credit, and to coordinate a reduction in the maximum rate of tax with a phaseout of the deduction for State death taxes.

- **Sponsor:** [Rep Berkley, Shelley](#) [NV-1] (introduced 10/22/2009)
- **Committees:** House Ways and Means

Latest Major Action: 10/22/2009 Referred to House committee. Status: Referred to the House Committee on Ways and Means.

