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06.03.10

Legislative Update Report

Industry News

Proposed Amendment to Sunset HVCC. Senator Bob Casey of Pennsylvania agreed to introduce an amendment to sunset HVCC. The amendment known as SA-4007 (if approved and made part of S-3127), would sunset HVCC, if the Senate bill passes and a compromise is reached with the House over their version. A link to the article with a link to the amendment may be found at: http://www.naihp.org/index.php?option=com_content&view=article&id=54&Itemid=59

Senate Passes Financial Regulatory Reform Legislation. On May 20, by a vote of 59-39, the U.S. Senate passed the "Restoring American Financial Stability Act of 2010," a comprehensive financial services reform bill. Among other things, the final bill (H.R. 4173) would create the Bureau of Consumer Financial Protection (BCFP) as a unit within the Federal Reserve Board to regulate consumer financial products and activities. Although the language of the final bill is based in large part upon a version shepherded through the Senate Banking Committee by Senator Christopher Dodd (D-CT), several key changes were made following debate on the Senate floor. Among these changes were provisions that would (i) prohibit any payments to loan originators that vary based on the terms of the loan other than the loan amount (*e.g.*, yield spread premiums), (ii) create a subset of "qualified mortgage loans" for which an issuer or securitizer would not have to retain the credit risk upon sale, (iii) scale back the authority of state attorneys general to enforce consumer protection laws (under the purview of the new BCFP) against financial institutions outside of their state, and (iv) restrict the interchange fee a card issuer or payment card network can charge merchants for debit card transactions. For a copy of the bill, please see http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4173rfs.txt.pdf. For an overview of the Bill please see the 05/25/10 Regulatory Restructuring Bulletin at: <http://www.buckleysandler.com/infobytes/>

OTS Issues Revised Fraud and Insider Abuse Examination Handbook. On May 18, the Office of Thrift Supervision (OTS) issued a revised bulletin on fraud and insider abuse featuring both new and amended material. *OTS Regulatory Bulletin 37-54, Fraud and Insider Abuse, Examination Handbook Section 360* (May 18, 2010). Particular changes of note include (i) the addition of a section about Suspicious Activity Report (SAR) reporting requirements and attendant safe harbor provisions, (ii) discussion of the FDIC's white paper entitled "Impact of New Activities and Structures on Bank Failures," (iii) updated statistics and identifying factors for various forms of fraud and identity theft, (iv) a section about managing the risk of fraud based on recommendations from the American Institute of Certified Public Accountants, and (v) a streamlined discussion of internal controls and other safeguards used to prevent fraud and theft. Electronic copies of the new *Regulatory Bulletin* are available at <http://www.ots.treas.gov/files/74874.pdf>.