

## Legislative Highlights

### *110th “Oversight Congress” Hits Stride Early on Lender Practices*

**T**he Democratic majority of the 110th Congress has flexed its oversight powers on a range of issues early in the new legislative session. While BAPCPA has not been a target for reform (or even technical correction), several oversight hearings have been held in the House and Senate to investigate credit card industry practices, subprime mortgages, payday lending and hedge funds, among other concerns. The many issues are being played out on a variety of fronts, such as the House Financial Services Committee (Chaired by Rep. Barney Frank, D-Mass.), the Senate Banking Committee (Sen. Chris Dodd, D-Conn.), the House Committee on Oversight and Government Reform (Rep. Henry Waxman, D-Calif.) and the Senate Permanent Subcommittee on Investigations (Sen. Carl Levin, D-Mich.).

Owing to the difficulty of enacting legislation in a closely divided Congress and with a Republican President ready to use his veto pen, the reform strategy is often directed at regulators. In March, for example, federal banking regulators decided to add new protections affecting exotic mortgages to future subprime borrowers, in response to pressure from the Senate Banking Committee chairman. As Congress continues to delve into the growing concern over the non-bank lending market, Chairman Dodd is asking both federal and state regulators why they were not more aware of industry problems, and what steps they took in response to borrower complaints.

Also in March, the House Financial Services Committee held a hearing on the rapid growth of hedge funds and private equity pools, with witnesses representing

fund managers, investors and regulators. Questions included whether investors in hedge funds, especially pension funds, are sufficiently informed to protect the interests of their members, and whether the investment strategies of the funds are transparent to investors. The potential risks posed by the increasing use of leverage and credit are also a concern, as is the issue of whether the increased liquidity has improved the domestic capital markets. Chairman Frank, Chairman Dodd and the Bush Administration have signaled a bipartisan “light hand” when it comes to proposing new regulations on this trillion-dollar aspect of the economy. On a related issue, a proposed amendment by Sen. Chuck Grassley (R-Iowa), ranking member of the Senate Finance Committee, to require large hedge funds to register with

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the SEC was pulled from a pending bill to implement the 9/11 Commission recommendations.

### **Duberstein Court-naming Bill Advances**

A bill to rename the U.S. Bankruptcy Courthouse in Brooklyn, N.Y., after the late Chief Judge Conrad B. Duberstein (H.R. 430) passed the House of Representatives in March and is now pending in the Senate.

### **New Task “Assigned” to Defunct Bankruptcy Commission**

The National Bankruptcy Review Commission (NBRC) went out of business in 1997, shortly after delivering its final report and recommendations to Congress. But Sen. Maria Cantwell (D-Wash.) apparently didn’t get the memo. This Congress, she introduced the “Cleanup

Assurance and Polluter Accountability Act of 2007” (S. 452) to ensure that liable entities meet environmental cleanup obligations. Among other things, the bill would authorize a bankruptcy trustee to avoid a debtor’s transfer of an asset within 10 years before the filing if the debtor had pre-existing liability under CERCLA (the “Superfund law”) and the debtor made the transfer with the intent to hinder, delay or defraud any person with respect to such liability. The bill also requires the NBRC to “evaluate the interaction between bankruptcy and CERCLA and to provide recommendations for action.”

### **Bankruptcy Code \$\$ Values Increase on April 1**

Certain dollar amounts in Title 11

will automatically increase on April 1, as they do every three years pursuant to P.L. 103-394 (Bankruptcy Reform Act of 1994). The increases reflect changes in the Consumer Price Index and apply to cases filed on or after April 1. Some of the sections affected are the eligibility amounts in chapter 13 (now just over \$1M in secured debts), exemptions under §522(d), priority expenses and claims under §507(a), commencement of involuntary actions and venue provisions under 28 USC 1409(b), among others. A complete list of the new amounts and sections affected is published in the *Federal Register* (Vol 72, No. 30, Feb. 14 p. 7082). ■