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Legislative Highlights

Hedge Fund/Private Equity Taxation/Regulation

S. 1624 (Sen. Baucus, D-Mont.), introduced on June 14, would require private equity firms organized as publicly traded partnerships to pay corporate income tax. H.R. 2834 (Rep. Levin, D-Mich.) would make "carried interest" taxable as ordinary income. During a hearing in July, Senate Finance Committee members on both sides of the aisle took a skeptical view of proposals to raise taxes on the managers of hedge funds and other investment partnerships, citing a concern over new policies that might stifle investment and entrepreneurship; the Bush Administration has also signaled that it views current law as adequate. Senate Majority Leader Reid (D-Nev.) announced in mid-July that the Senate would not consider legislation this year, but might in 2008. The House Financial Services Committee has also indicated that it is not inclined to move legislation that would further regulate hedge funds, while conceding that the failure of unregulated private equity funds pose some risk to the economy.

Mortgage Broker Practices

The "Borrower's Protection Act of 2007" (S. 1299; Sen. Schumer, D-N.Y.) would require that mortgage brokers act in consumers' best interest in making arrangements between a borrower and a lender. The bill was the subject of a hearing in late June. S. 1299 would impose a fiduciary responsibility on brokers and hold front-line lenders legally accountable for the actions of brokers and appraisers. Senate Banking Committee Chairman Dodd (D-Conn.) is urging the Federal Reserve to take regulatory action, rather than a legislative approach. But federal bank regulators do not have statutory authority over the mortgage broker industry. House Financial Service Chairman Frank (D-Mass.) has called for

a third approach — better disclosure of the yield spread premium, an alternative that Sen. Schumer called inadequate to address all predatory practices.

Medical Debt and Bankruptcy

A July House Judiciary Committee hearing on medical debt in bankruptcy turned into a forum for debate over nationalized, taxpayer-funded health care. Committee Chairman Convers (D-Mich) has introduced H.R. 676, the "National Health Insurance Act," to establish a national single-payer program funded by tax dollars. He has also asked GAO to study the effect of medical debt on bankruptcy filings. A Harvard Medical School study supports the argument that many consumer filings are caused by medical debt, but the findings have been questioned by other academics and a 2003 U.S. Trustee system survey showing

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Legislative Highlights

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medical debts to be a minor factor in consumer bankruptcy.

Consumer Credit Disclosures

Several House and Senate oversight hearings have been held on various billing and marketing practices of the lending industry. While several bills are pending that would mandate greater disclosures and bar certain fees, none have reached the floor. Senate Banking Committee Chairman Dodd (D-Conn.) is known to favor regulatory action and voluntary industry reform over a legislative approach.

Student Loan Dischargeability

Sen. Durbin (D-III.) has introduced legislation (S. 1561) that would eliminate

the special status in bankruptcy afforded by BAPCPA to private lenders. Private student loans are more profitable than federal student loans because lenders can charge market interest rates without limit or regulation of the repayment terms. The 2005 provision made private student loans, like federal student loans, nondischargeable except for the hardship discharge.

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