

Legislative Highlights

As Modifications Lag, Frank Threatens Cramdown

House Financial Services Committee Chairman Barney Frank (D-Mass.) has now joined Sen. Dick Durbin (D-Ill.) in renewing a call for mortgage modification legislation if the pace of voluntary modifications does not improve. Since the Obama administration's "Home Affordable Mortgage Program" (HAMP) went into effect in March, only about 360,000 borrowers have seen their mortgage payments lowered, well below the 500,000 goal set by the administration by Nov. 1, and only 15 percent of the 2.7 million now eligible for relief under the program. In June, HAMP officials began conducting more rigorous reviews of servicers, and have started a "second look" program, in which servicers' decisions to approve or deny HAMP modifications are scrutinized. Compliance officials are also analyzing samples of HAMP-modified loans to track error rates with servicers. Government officials have tried to light a fire under HAMP servicers on several occasions to speed up the modification process. The Treasury has set a target of modifying four million mortgages by 2012, but Moody's estimates that HAMP will in fact modify only about two million. "The best lobbyists we have for getting bankruptcy legislation passed are the servicers who are not doing a very good job of getting mortgages modified," quipped Mr. Frank. He may insert a cramdown provision into legislation that would overhaul the financial

system, a bill that will become a top priority in early 2010.

Financial Protection Agency Attracts Opponents

The Obama administration's plan for a new consumer financial protection agency has become the most controversial aspect of the broader effort to revamp the nation's financial regulatory structure and systemic risk, including more oversight of credit rating agencies and regulation of derivatives. The debate over the Consumer Financial Protection Agency (see page 10 in this issue for more about the CFPA) centers around four issues: (1) whether the new agency should have the power to pre-empt state laws; (2) whether the agency should have the power to require lenders to offer "plain vanilla" products as prescribed by the agency; (3) whether the agency should have sole rulemaking authority over consumer-protection statutes that now rests with a variety of other agencies that are also concerned also with safety and soundness; and (4) whether the enforcement power should also transfer to the new agency. Critics include many groups representing lenders and even existing federal and state regulatory entities. More hearings will be held this fall by the House Financial Services Committee, with the final CFPA hearing set for Sept. 30.

House Holds Hearing on Student Loan Dischargeability

The House Committee on the Judiciary held a hearing Sept. 23

on student loan dischargeability in bankruptcy. Since 2005, private student loans have been as difficult to discharge in bankruptcy as federal student loans backed by taxpayer dollars. Student borrower advocacy groups argue that shielding private loans from bankruptcy means that repayment demands can extend forever. Higher-cost private lenders may also be less cautious, making loans to those who may not be able to afford them, as well as to students at schools with low completion and job placement. The committee is considering amending the Bankruptcy Code to make private student loans meet the same criteria as other forms of consumer debt to be exempt from discharge.

Frank: Fast Forward Effective Date for Credit Card Rules

House Financial Services Chairman Barney Frank is considering legislation to advance by three months new rules limiting credit card rates and fees. The bill would move up the implementation date to Dec. 1, 2009. The Credit Card Accountability Responsibility and Disclosure Act of 2009, law signed by President Obama this past May, is set to take full effect in February. A spokesman for the committee said that Frank was "not happy" about what banks and credit card companies are doing in advance of the effective date. The new rules sharply restrict issuers' power to raise interest rates, charge fees and assess penalties. Since May, issuers have been closing inactive accounts, cutting credit limits and hiking interest rates. ■

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