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Resources

Senate Passes Financial Overhaul Act; Focus Turns to Regulators and Implementation

July 15, 2010

The Senate today passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the comprehensive financial reform Act that was passed by the House on July 1, 2010. The Act now goes to President Obama, who is expected sign it by early next week. It is the most significant financial services overhaul legislation since the Great Depression.

After intense negotiations that were at times contentious, the House and Senate conferees compromised on numerous issues ranging from proprietary trading by banks to derivatives trading and bank capitalization. The House passed the Act mostly along party lines with 234 Democrats and three Republicans voting in favor. The Senate was able to pass the Act on a 60 to 39 vote, with three Republicans (Brown, Snowe and Collins) joining 55 Democrats (Feingold voted against) and two Independents (Lieberman and Sanders). While there were some gains and losses for most financial entities and related individuals and regulators, many were relieved that the new restrictions and limitations did not have a larger negative impact upon them.

The Act, whose specific provisions are discussed in more detail in the chart following this alert, attempts to stabilize the economy and prevent further financial meltdowns using a number of common methods and principles throughout its various sections. As an initial matter, regulators have been given expanded authority to monitor and regulate potentially risky activity by various financial players from consumer lending and mortgagees to complex derivatives and securities trading. Greater disclosure and visibility of financial activity is also a key element of the Act. Another universal basic requirement involves the reduction in debt and greater capitalization of financial institutions and other financial entities to offset any future financial or investment setbacks. As a last resort, new regulatory entities and procedures have been established to allow the government to intervene earlier and to oversee a more orderly and less disruptive dissolution of troubled major financial entities that could destabilize the economy.

The passage of the Act is merely the framework for the financial reform, with many of the requirements to be implemented through regulation. The Act imposes numerous regulatory obligations and studies on the various financial regulators, including the FRB, FDIC, SEC, and the newly created Consumer Financial Protection Bureau (CFPB). As is usually the case, the devil is in the details and the focus and lobbying has already begun at the regulatory level. The effects of the Act will necessarily be staged since some of the provisions are effective immediately, but many of the statutorily required changes will take months, if not years, to implement, particularly those imposed on the CFPB, which will only be up and running within six to twelve months of enactment. It then will be required to propose and finalize new regulations, which itself will take months.

In the ensuing months, there may be a period of uncertainty as the new regulatory entities are established and the regulations are proposed and debated. Financial institutions and other related entities should review the new requirements and prepare for the changes outlined in the Act. At the same time, on-going compliance with existing regulations and supervisory requirements must, of course, continue.

We will be reporting on developments in future Client Alerts. If you have any questions regarding this Consumer Financial Services Alert, you may contact **Richard Gottlieb**, Director of the Financial Industry Group, at 312-627-2196, or **Arthur Axelson**, the author of this alert and lLader of Dykema's Financial Services Regulatory practice, at 202-906-8607.

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