

# Publications

## Client Alert: Financial Crisis Update 1

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### CLIENT ALERT | 9.24.2008

The prospects that the Treasury Department's proposed bank bailout legislation would be passed by Congress by the end of the week diminished considerably as the proposal received a uniformly hostile reception at a hearing before the Senate Banking Committee ("Committee").

Treasury Secretary Paulson and Federal Reserve Board Chairman Bernanke were grilled for five hours by members of the Committee, all of whom questioned the size, scope and even the need for the proposed bailout. Highlights included:

- Committee Chairman Dodd and others insisted that the bill be amended to expand congressional oversight over the Treasury's implementation of the bailout program.
- Although Secretary Paulson agreed in principle to enhanced oversight, issues such as restrictions on executive compensation, the possible funding of the \$700 billion program in tranches rather than in a lump sum and possible changes to federal bankruptcy law that would allow judges to restructure individual mortgages remain in dispute.

Meanwhile, liberal Democrats and conservative Republicans in the House began circulating different alternatives to the Treasury Department proposal:

- **The liberal proposal:** the proposal included limiting initial funding for the program to \$200 billion, requiring participating banks to invest the proceeds of any sale of distressed assets in the United States for at least five years, and requiring participating federal banks to comply with state and local homeowner protection laws.
- **The conservative proposal:** the Republican Study Committee, a group of more than one hundred conservative House Republicans, rejected the Treasury proposal in its entirety, calling instead for a two-year suspension of the capital gains tax on individuals and corporations, privatization of Fannie Mae and Freddie Mac, repeal of the Humphrey-Hawkins Full Employment Act and suspension of the

mark-to-market accounting rules.

Paulson and Bernanke are scheduled to defend the Treasury's proposal before the House Financial Services Committee this afternoon, where they are expected to face an even more hostile group of lawmakers. House Financial Services Committee Chairman Barney Frank is expected to circulate a revised alternative bailout bill.

Two issues are expected to receive considerable attention at this afternoon's House Financial Services Committee:

- The FBI's announced intent to investigate financial companies that have already received government bailouts for fraud, raising the issue of whether the government should bail out more companies that may become the targets of criminal investigations.
- Senator Schumer's counter-proposal of making an initial "down payment" bailout amount of \$150 to \$200 billion, rather than giving the Treasury \$700 billion in an up front lump sum.

Today is probably the pivotal day in determining whether bailout legislation will be passed this week or in early October. If the Treasury makes some major concessions on executive compensation and mortgage foreclosure relief, a bill could be passed over the weekend. If not, it may be next week before an agreement will be reached. Most observers believe that some form of bailout legislation will pass before Congress leaves town for the elections.

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