
03.25.2010 | UPDATES

COVERED BONDS

On Thursday, March 18, 2010, members of the House Financial Services Committee, Ranking Member of the Capital Markets Subcommittee, Scott Garret (R-NJ), along with support from Chairman Paul Kanjorski (D-PA) and Ranking Member Spencer Bachus (R-AL), introduced the United States Covered Bond Act. Covered bonds are debt securities backed by cash flows originating from mortgages or public sector loans. The proposed legislation would allow for a registration system within the SEC for covered bonds not otherwise exempt and would subject covered bonds to federal regulation under securities laws.

Read the United States Covered Bond Act.

DODD REFORM BILL

On Monday, March 22, 2010, the Senate Banking Committee voted along party lines (13-10) to send Senator Dodd's reform bill, the Restoring American Financial Stability Act of 2010, to the Senate floor. Committee Republicans opted to seek changes before the full Senate vote instead of during the bill's markup.

In the days since the release of the Restoring American Financial Stability Act of 2010, much controversy has surrounded Section 926, which would qualify Regulation D preemption. This preemption allows for federal preemption of state regulation of accredited investor securities offerings. Section 926, as written, would allow the SEC to disqualify certain offerings from preemption under Regulation D based on the size of the offering, the number of States where the security is being offered, and the nature of the offerees, and would also allow any other Regulation D offering not reviewed by the SEC within 120 days after filing to automatically lose preemption. Losing the preemption could subject businesses attempting to raise capital to 50 differing state laws.


Read a letter from the Washington State Bar Association Business Law Section opposing Section 926.

GIFT CARDS

On Tuesday, March 23, 2010, the Federal Reserve issued a final rule amending Regulation E to implement the 2009 Credit Card Act's gift card provisions. Under the rule, gift card terms and conditions must be stated clearly, while prohibiting certain fees unless there has been inactivity for at least one year and clear and conspicuous disclosures were provided. Expiration dates for gift cards must now be at least five years after the issue date or when funds were loaded.

EUROPE

On Friday, March 19, 2010, the International Monetary Fund (IMF) released a working paper entitled "Crisis Management and Resolution for a European Banking System." The working paper proposes an integrated crisis management and resolution framework for the European Union's single banking market, including a European Resolution Authority able to address failing systemic cross-border banks, a European Deposit Insurance and Resolution Fund pre-funded by the industry, and a legal framework allowing for a bankruptcy framework for cross-border banks.

Read the IMF's working paper.

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