

## HAPPY BIRTHDAY, DODD-FRANK!

The controversial Dodd-Frank Act was passed on July 21, 2010. Many of the provisions in the Act become effective after one year. As the anniversary approaches, regulators are frantically writing the rules necessary to implement some of the legislation.

What we have to look forward to on July 21, 2011:

### DEATH OF THE OFFICE OF THRIFT SUPERVISION (OTS)

The Office of Thrift Supervision, established in 1989 in response to the savings and loan crisis, will be rolled into the Office of the Comptroller of the Currency (OCC). For 22 years this regulator has looked after savings and loans – those institutions historically focused on taking deposits and lending for residential mortgages. In the last few years, the regulator has been criticized for lax supervision and missing the telltale signs of trouble from such notorious financial train wrecks as Countrywide, IndyMac and Washington Mutual. Additionally, OTS had responsibility as federal regulator for AIG because of its authority over certain financial holding companies. The OCC will now handle thrifts in addition to their original mandate over nationally chartered banks. The Fed and FDIC will continue to have oversight over most regional banks.

### BIRTH OF THE FEDERAL INSURANCE OFFICE (FIO)

As the OTS is relegated to the bureaucratic dustbin, the FIO is being launched. However, despite its looming inauguration, the daily functions of the office are less than clear. As a department of the U.S. Treasury it is charged with identifying issues or gaps in the regulation of insurance that could contribute to a systemic crisis in the insurance industry. The Office will also play a role in the resolution of certain troubled insurance companies. Beyond these broad purposes, its function remains undefined.



### FIRST STEPS OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION (BCFP)

The establishment of the Bureau was one of the most controversial aspects of the Dodd-Frank Act. As of July, the Bureau will gain exclusive rulemaking authority over a wide range of federal consumer protection laws. This authority could, in limited circumstances, be overruled by the Financial Stability Oversight Council. The Bureau has primary supervisory and enforcement authority of consumer affairs over certain mortgage businesses and large providers of consumer financial services and depository institutions with more than \$10 billion in assets. Depending on the approach taken by the Bureau, Title X has the potential to have a very significant impact on what consumer

financial services will be available in the U.S. and the manner in which they will be provided. The Risk & Insurance Management Society Inc. (RIMS) is lobbying for a seat on the FIO's new Federal Advisory Committee on Insurance.

## **DEBIT CARD INTERCHANGE FEE LIMITS (THE DURBIN AMENDMENT)**

“Interchange fees” refer to bank charges paid by retailers to process debit card transactions. At the urging of some of the nation’s biggest retailers, as of July 21, the Federal Reserve will impose new limits on the fees that banks may charge to retail stores. In the past those fees have averaged about 44 cents per transaction (or 1.14% of total purchases). The Fed’s proposed cap of 12 cents per transaction is a reduction of 72%. Banks with under \$10 billion in assets are exempt, but retailers are expected to push back if smaller banks are not competitive with the fees charged by larger institutions. Limits will likely translate into an estimated loss of \$12 billion in bank and credit union revenues.

## **LOTS OF OTHER BIRTHDAY PRESENTS**

- New capital requirements for financial holding companies
- Interest-bearing transaction accounts authorized
- Stricter requirements for interstate acquisitions
- Changes in escrow requirements under the Truth In Lending Act
- Limits on asset purchases/sales with insiders

## **IMPACT**

It may be Dodd-Frank’s birthday, but it is the bankers and regulators that are feeling older. Regulators are strained trying to draft the rules and regulations mandated under the Act. Bank management is struggling to implement the myriad regulatory changes. Neither fully understands how all these interlinking rules and regulations will ultimately impact financial institutions. As institutions rush to comply with the new legislation, the potential for compliance errors increases.

Directors and officers are wishing for an easier second birthday.

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