

May 29, 2009

Williams & Jensen, PLLC

The Washington Update

NEXT WEEK IN CONGRESS

- **House** – Although an agreement has not been announced, it is expected that the House and Senate will quickly take up a **conference report on the FY 2009 war supplemental** (H.R. 2346) when they return from recess next week. The House will also consider **reauthorization of the Transportation Security Administration** (H.R. 2200), along with suspension bills including the “Central Texas Water Recycling Act of 2009” (H.R. 1120), the “Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2009” (H.R. 1393) and the “Native American Heritage Day Act” (H.J.Res. 40).
- **Senate** – Before leaving last week, the Senate agreed to hold cloture votes **on a bill lifting certain railroad antitrust exemptions** (S. 146) and legislation granting the **FDA regulatory authority over tobacco** (H.R. 1256) at some point during session on Tuesday. If further agreement can be reached, there may also be votes on **outstanding nominations**.

TAXES

Garrett Withdraws Name from Nomination as A/S of Tax Policy

Today it was confirmed by the Treasury Department that Elizabeth Garrett had withdrawn her name from consideration as Assistant Secretary of the Treasury for Tax Policy. Originally nominated three months ago, Garrett cited family considerations as the basis for her decision to withdraw. This leaves the Obama Administration and Treasury Department without a top person on tax issues, meaning tax policy decisions will likely continue to be made out of the White House. The absence is significant given the many tax policy proposals that could be under consideration in the health care reform debate and other policy discussions, suggesting the Administration will need to move quickly to find a replacement nominee.

IRS Budget Hearing On Tap

Next week, on Thursday, June 4, the House Ways and Means Committee’s Oversight Subcommittee will hold a hearing on the IRS

FY 2010 Budget, which can include a discussion of the filing season and budget for additional international tax enforcement measures.

[Ways and Means Hearing Announcement](#)

For more information about tax issues you may [email](#) or call Christopher Hatcher at 202-659-8201.

ENERGY

Hearings and Events Next Week

June 1

On Monday the Federal Energy Regulatory Commission (FERC) will hold a workshop on natural gas pipeline siting. According to the agenda, the “workshop will focus on the importance of pipeline companies working collaboratively with affected stakeholders throughout the environmental review and certification process to successfully site new pipeline infrastructure.” The workshop will include a case study of CenterPoint Energy’s Carthage, Texas to Perryville, Louisiana natural gas pipeline project.

[Workshop Agenda.](#)**June 2**

On Tuesday, the Senate Energy and Natural Resources Committee will hold a hearing on three nominations, including the nomination of Catherine Radford Zoi to be Assistant Secretary of Energy for Energy Efficiency and Renewable Energy.

June 4

On Thursday, the Senate Energy and Natural Resources Committee will continue to mark up energy legislation, including Chairman Jeff Bingaman's (D-NM) renewable energy standard bill.

DOE Stimulus Funding for Solar and Geothermal Projects

On Wednesday, the Department of Energy announced \$467 million in "American Reinvestment and Recovery Act" funding for development of solar and geothermal energy. The Department will spend \$350 million for geothermal energy, including:

- \$140 million for geothermal demonstration projects "of cutting edge technologies. . . as well as geothermal production from oil and natural gas fields, and low to moderate temperature geothermal resources;"
- \$80 million for enhanced geothermal systems technology research and development, including developing technology that will allow the use of geothermal energy in all areas of the country;
- \$100 million for innovative techniques for "exploration, siting, drilling, and characterization" of geothermal resources; and

- \$30 million for a "nationwide assessment of geothermal resources."

The new funding for solar energy, totaling \$117.6 million, includes:

- \$51.5 million for developing advanced photovoltaic technology;
- \$40.5 million to address "non-technical barriers to solar energy deployment," including job training and grid connection issues; and
- \$25.6 million for research and development of concentrating solar technologies.

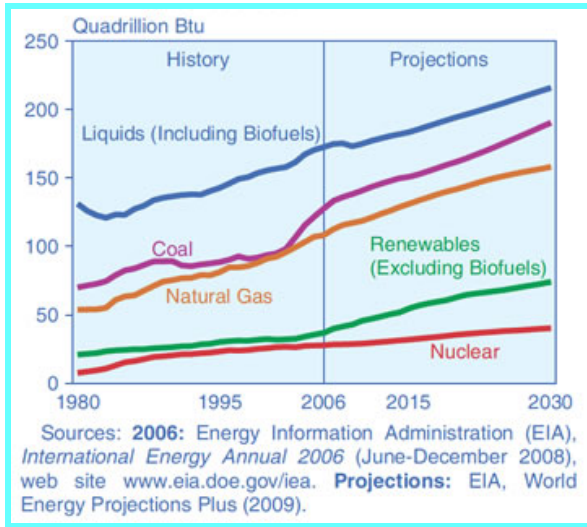
[Department of Energy Press Release.](#)**EIA Releases International Energy Projections**

On Wednesday, the Energy Information Administration (EIA) released its "[International Energy Outlook 2009](#)." This annual publication provides projections of energy production, consumption and prices through 2030. Among the projections included in the report:

- Total world energy consumption will increase by 44 percent from 2006 to 2030;
- Oil prices will increase to \$110 per barrel in 2015 and \$130 per barrel in 2030;
- World oil consumption will increase from 85 million barrels per day in 2006 to 91 million barrels per day in 2015 and 107 million barrels per day in 2030;
- "Unconventional resources (including oil sands, extra-heavy oil biofuels, coal-to-liquids, and gas to liquids). . . are expected to become increasingly competitive. . . [and production will increase] to 13.4 million barrels per day. . . in 2030; and

- Natural gas consumption will increase from 104 trillion cubic feet in 2006 to 153 trillion cubic feet in 2030.

Total World Energy Use 1980-2030:



For more information about energy issues you may [email](#) or call Frank Vlossak at 202-659-8201.

FINANCIAL SERVICES

Hearings and Events Next Week

June 1

GAO Reports – According to the Emergency Economic Stabilization Act (EESA), the Government Accountability Office (GAO), is mandated under this statute to submit to Congress: (1) its 60-day report on the performance and activities of TARP and (2) a “study and report on margin authority” so as “to determine the extent to which leverage and sudden deleveraging of financial institutions was a factor behind the current financial crisis.”

June 3

Federal Reserve Views – The House Budget Committee plans to hold a hearing on “Challenges Facing the Economy: The View of the Federal Reserve,” with Federal Reserve Chairman Bernanke testifying.

Condition of GSEs – The House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises will hold a hearing on: “The Present Condition and Future Status of Fannie Mae and Freddie Mac.”

Remittances – The House Financial Services Subcommittee on Financial Institutions and Consumer Credit will hold a hearing on: “Remittances: Regulation and Disclosure in a New Economic Environment.”

GM and Chrysler Auto Dealers – The Senate Commerce, Science and Transportation Committee has scheduled a hearing on “GM and Chrysler Dealership Closures: Protecting Dealers And Consumers.”

June 4

Off-Exchange Foreign Currency Contracts – The House Agriculture General Farm Commodities and Risk Management Subcommittee will hold a hearing on the implications of a legal case involving the Commodity Futures Trading Commission and off-exchange foreign currency futures contracts.

Consumer Credit – The Senate Judiciary Committee rescheduled for June 4 its markup of pending legislation, including the “Consumer Credit Fairness Act” (S. 257).

Section 8 Voucher Reform – The House Financial Services Housing and Community Opportunity Subcommittee will hold a hearing

on the funding and administration of the Section 8 Housing Choice Voucher Program.

TARP Nomination – The Senate Banking Committee plans to conduct a hearing on the nomination of Herbert M. Allison, Jr. to be Assistant Secretary of the Treasury for Financial Stability (TARP).

Derivatives/Regulatory Reform - The Senate Agriculture Committee has announced a hearing on “Regulatory Reform and the Derivatives Markets.”

Financial Services Regulatory Reform Developments

The Administration may release details of its regulatory reform proposal in the coming weeks. Reports this week suggest that the Administration may favor the Federal Reserve serving as the systemic risk regulator, the creation of a new consumer protection agency, providing FDIC authority to unwind bank holding companies, creation of a single prudential regulator, potential merger of the SEC and CFTC, and a new financial regulators advisory committee. Some of these concepts have already been criticized by some key lawmakers, so the proposal, even though it may be modified prior to its release, is expected to face challenges in Congress, underscoring the difficulty of both houses of Congress passing significant regulatory reform legislation in the near term. In the meantime, the House Financial Services Committee has tentatively scheduled as many as four hearings on regulatory restructuring in June, as well as hearings on insurance and systemic risk and OTC derivatives next month.

Separately, the Committee on Capital Markets Regulation (CCMR) released “[The Global](#)

[Financial Crisis: A Plan for Regulatory Reform](#)” along with an [executive summary](#) of the report on May 26. At a [press conference](#) accompanying the release of the report, the Committee co-Chairs, Glenn Hubbard (Dean of Columbia Business School) and John Thornton (Chairman of the Brookings Institution), along with the Committee’s Director, Professor Hal Scott (Nomura Professor and Director of the Program on International Financial Systems at Harvard Law School), and Roel Campos (Former SEC Commissioner), outlined portions of the report.

Hubbard called for more effective regulation, increased transparency and supervision, credit default swaps (CDS) cleared through clearinghouses, and further relaxation of the ability of private equity firms to acquire depositories. Campos stated that an effective regulatory regime should allow hedge funds to continue their function, and Scott called for a single comprehensive insolvency regime for all financial institutions.

Hubbard also suggested that because the Federal Reserve is the lender of last resort, it makes sense for it to be the overall regulator. Scott agreed with idea of Federal Reserve supervision, and stated that he is not in favor of the council of regulator approach as he believes that this would continue the problems of the past. He added that the report envisions a U.S. Financial Services Authority, the Federal Reserve and possibly a third agency, likely the SEC, plus consumer protection.

Gary Gensler Sworn in as CFTC Chairman This Week

Following his confirmation by the Senate on May 20, Gary Gensler was sworn in as CFTC Chairman on May 26. At his swearing-in

ceremony, he [stated](#) that he would “work vigorously to use every tool and authority available...to protect the American people from fraud, manipulation, and excessive speculation.” Specifically, he called for: (1) urgently closing the gaps in current laws “to bring much-needed transparency and regulation to the over-the-counter derivatives market;” (2) the use of aggregate position limit authority to protect against “excessive speculation;” and (3) the enactment of “broad regulatory reform to ensure that the failures” in this system never happen again.

Representatives Maloney, Frank, Gutierrez ask Fed to Curb Bank Overdraft Abuses

On May 28, Representatives Carolyn B. Maloney (D-NY), House Financial Services Committee Chairman Barney Frank (D-MA), and Luis Gutierrez (D-IL), in a [letter](#) to Federal Reserve Chairman Bernanke, thanked him for bringing attention to overdraft practices through a [proposed rule](#) pursuant to Regulation E, which “establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers and protects consumers when they use such systems.” Still, they called on the Fed “to strengthen its proposed regulation of bank overdraft fees by requiring banks to have consumers opt-in to overdraft programs” for debit card purchases and ATM withdrawals. They also called for a prohibition on posting transactions “in a sequence which maximizes overdraft fees,” which is included in the “Consumer Overdraft Protection Fair Practices Act” (H.R. 1456), introduced by Congresswoman Maloney.

Congressional Oversight Panel Examines Corporate and Commercial Real Estate Lending

On May 28, the Congressional Oversight Panel held a field hearing to discuss “[The Impact of Economic Recovery Efforts on Corporate and Commercial Real Estate Lending](#).” Members of the Panel, created as part of the Emergency Economic Stabilization Act (EESA), include: Chair Elizabeth Warren; Representative Jeb Hensarling (R-TX); Richard Neiman; Damon Silvers; and former Senator John Sununu (R-NH).

Representative Jerrold Nadler (D-NY), who testified before the Panel, suggested that existing foreclosure mitigation efforts have been a “stunning failure,” and stressed the need to reform the bankruptcy code. He indicated that the current plan to get credit flowing again will not be effective, so he suggested that the government should use approximately \$100 billion to create new banks or to fund small and medium sized banks which are unburdened by toxic assets.

Til Schuermann, Vice President, Bank Supervision, Federal Reserve Bank of New York, remarked that banks and the Federal Reserve’s TALF program have picked up some of the slack from the decline in CMBS. Richard Parkus, Head of CMBS and ABS Synthetics Research, Deutsche Bank Securities Inc., suggested that while TALF will help provide liquidity to the CMBS market, it will not help with refinancing.