



Strategies Key Contacts

Roy Coffee
202-220-6930
rcoffee@lockelord.com

Shane Doucet
202-220-6929
sdoucet@lockelord.com

Denise Hanna
202-220-6992
dhanna@lockelord.com

Harriet Miers
202-220-6925
hmiers@lockelord.com

Jim Moriarty
202-220-6915
jmoriarty@lockelord.com

Phil Rivers
202-220-6927
privers@lockelord.com

Mark Siegel
202-220-6926
msiegel@lockelord.com

www.lockelord.com

The D.C. Update is prepared by members of the Locke Lord Strategies Team. It is intended for general information purposes only and does not constitute legal advice. This information is not intended to create, and it does not create an attorney-client relationship. Readers should not act upon this information without first consulting a lawyer.

The D.C. Update is published weekly. If you would like to be removed from our mailing list, please contact us at either unsubscribe@lockelord.com or Locke Lord Bissell & Liddell LLP, 111 South Wacker Drive, Chicago, Illinois 60606, Attention: Marketing. If we are not so advised, you will continue to receive this newsletter.

Attorney Advertising

© 2009 Locke Lord Bissell & Liddell LLP

DECEMBER 7 - 11: THIS WEEK

The House reconvened for legislative business on Monday. The schedule for the week includes a full week of votes on financial services regulation legislation, extension of expiring tax breaks, and possibly an omnibus appropriations package.

The Senate also reconvened Monday morning to continue consideration of the health care overhaul bill.

CONGRESSIONAL UPDATE BY ISSUE

Budget/Appropriations

Democratic leaders in the House are currently working on a two-part omnibus plan to be passed before the continuing resolution expires on December 18. The first part would include six of the remaining appropriations bills and possibly jobs boosting items and a short-term extension of the PATRIOT Act, as well as the "Doc fix"-the plan which would prevent a reimbursement cut for physicians who participate in Medicare that is set to take effect in January.

The package could be attached to the FY10 Military Construction-Veterans Affairs bill, the FY10 Transportation-HUD bill, or the FY10 Commerce-Justice-Science bill, all of which have passed both chambers and are awaiting conference report approval. The second part of the omnibus would be the FY10 Defense Appropriations bill, which might also serve as a vehicle for the debt limit increase.

Banking/Financial Services

Members of the Congressional Black Caucus ("CBC") continue their refusal to vote on financial regulatory legislation until the Obama administration and House leaders address their economic concerns. **Rep. Maxine Waters (D-CA)**, co-chair of the CBC, said on Wednesday that the lack of proper protection of the African-American community during the bank bailouts and economic stimulus have prompted this boycott by the CBC. They plan to introduce a proposal to be included in the jobs package that the House leadership is currently considering which would address concerns of the minority community. Despite their absence, **HR 3996**, which is designed to stem the systemic risks posed by the failure of major financial institutions passed out of the House Financial Services Committee by a vote of 31-27.

Bernanke's nomination to a second term as Federal Reserve Chairman, citing unemployment levels, bank failures, consumer protection lapses, and loose monetary policy as Bernanke's failures as Chairman. On Thursday, the Senate Banking Committee held a hearing to consider the current Fed Chairman's nomination to a second term, and Bernanke defended his record as well as outlined the potential dangers in his view of the financial regulation proposals currently moving through Congress. **Chairman Chris Dodd (D-CT)** announced his intention to support Bernanke when the committee holds a vote on the nomination, however **Ranking Member Richard Shelby (R-AL)** remained non-committal. Despite criticism by some committee members, confirmation is expected if the hold is lifted.

On Wednesday, **Sen. Bernard Sanders (I-VT)** announced that he is placing a hold on Ben

Defense

On Tuesday, **President Obama** announced a 30,000-troop surge in Afghanistan. The move is expected to cost \$30 billion this fiscal year, however, it is still unclear where the funds will come from. The President said he made his

decision after a lengthy review of the military situation and consultation with military commanders. He also set July 2011, as the target to begin withdrawing troops.

Energy/Environment/Climate Change

The White House has announced that **President Obama** will attend the United Nations Climate Change Conference in Copenhagen. During his appearance, he will outline U.S. emission reduction goals through mid-century, including a goal of reducing greenhouse emissions to roughly 17 percent below 2005 levels by 2020. This is the same goal set by the legislation passed in the House earlier this year. **Senate Foreign Relations Chairman John Kerry (D-MA)** also plans to attend the conference despite the Senate's full schedule and plans to have an outline for striking a bipartisan deal in the Senate before he leaves for Copenhagen. However, **Sen. Lindsey Graham (R-SC)** said on Tuesday that he feels it is unlikely that he, Chairman Kerry, and **Sen. Joseph Lieberman (D-CT)** will have a deal worked out before early next year.

Republican members of both the House and Senate, including **Global Warming Committee Ranking Member James Sensenbrenner (R-WI)** and **Environment and Public Works Ranking Member James Inhofe (D-OK)**, are calling for investigations into leaked e-mails that indicate scientists in England altered data that did not support prevailing theories of global warming and suppressed opposing views. Administration officials as well as Global Warming **Chairman Ed Markey (D-MA)** and Environment and Public Works **Chairwoman Barbara Boxer (D-CA)** expressed their continued support for global climate change efforts and discounted the importance of the data cited in the emails.

Health Care

Last week and over the weekend, the Senate continued to debate the Patient Protection and Affordable Care Act. President Obama also visited Capitol Hill on Sunday to encourage lawmakers to pass health reform; however, he did not discuss policy specifics such as the public option or abortion. **Majority Leader Harry Reid (D-NV)** indicated that he is ready to begin the process to file for cloture and end debate on the bill.

On Friday, Senate Democrats rejected attempts by the Republicans to send the bill back to the Finance committee to eliminate cuts to Medicare Advantage.

On Thursday, the Senate passed an amendment to the bill that will expand women's access to preventive services, such as mammograms. The amendment, proposed by **Sen. Barbara Mikulski (D-MD)**, allows the federal government to require such care to be covered, without copayments, by insurance companies. Also on Thursday, **Sen. Ben Nelson (D-NE)** stated that he will not vote for health care reform unless there are tighter restrictions for abortion. Without Nelson, Democrats will need one Republican to reach 60 votes and bring the bill to a vote.

Sen. Thomas Carper (D-DE) presented an alternative to public option, only to be offered if Majority Leader Reid cannot get 60 votes in favor of the public option he included in the reform bill. Carper's option would apply to states where availability and affordability standards are not met. A group of moderate Democrats continued to meet over the weekend to negotiate other alternative deals on the public option.

Tax

On Thursday, **Senate Minority Whip John Kyl (R-AZ)** said that Democrats are unlikely to pass an estate tax extension before the end of the year. Democrats are determined maintain the levy and are reserving the right to attach a one-year extension to an omnibus appropriations bill. The House voted on Thursday, 225-200, to continue the 2009 estate tax indefinitely. The estate tax means a 45 percent rate and an exemption for the first \$3.5 million in inherited assets per spouse.

Telecommunications

Draft legislation led by **Rick Boucher (D-VA)**, **Chairman of the House Energy and Commerce Communications Subcommittee**, that seeks to strengthen online privacy is said to be released within the coming weeks. Critics are already complaining either that it falls short of protecting web surfers or it clamps down too hard on advertisers. Boucher says his draft is attempting to provide Internet users with a set of privacy rights governing any information collected about them.

Transportation and Infrastructure

A coalition of state and local officials, retirees, consumer groups, environmentalists and others, is seeking to limit any short-term jobs package for transportation to no more than one year, to boost the economy in 2010, and ensure Congress finishes its work on a longer-term transportation authorization bill. The coalition, which includes the AARP, the National Association of Realtors, the Environmental Defense Fund, **Rep. Diane Watson (D-CA)**, and more than two dozen state legislators and mayors, recommends prioritizing front-loaded dollars for rehabilitation and operating existing roads, bridges, rail and transit systems to create the most jobs quickly.

Offices

Atlanta
 Austin
 Chicago
 Dallas
 Houston
 London
 Los Angeles
 New Orleans
 New York
 Sacramento
 San Francisco
 Washington, DC

Insurance

On Wednesday, the **House Financial Services Committee** approved by a unanimous voice vote HR 2609, the Federal Insurance Office Act. The bill as approved by the Committee includes provisions requiring the Director of the Federal Insurance Office to submit a report on the global reinsurance market and to conduct a study on modernization and improvement of insurance regulation. During markup of the bill, **Rep. Ed Royce (R-CA)** offered and withdrew an amendment establishing a federal office of supervision for regulating bond insurers. Chairman Frank (D-MA) noted that creating a federal charter for insurers is a major topic that the committee will deal with next year.

The draft legislation recently proposed by **Senate Banking Chairman Chris Dodd (D-CT)**, the Restoring American Financial Stability Act, would create an Office of National Insurance ("ONI"). The ONI would primarily be advisory, but its information-gathering and coordinating role would include the power to issue subpoenas. As a result of criticism by **Ranking Member Richard Shelby (R-AL)**, Chairman Dodd suspended work on the draft bill and reopened talks for a bipartisan bill. Chairman Dodd indicated he would lift his deadline to have work on the bill completed by the end of this year.

The Wall Street Reform and Consumer Protection Act (**HR 4173**), which is scheduled

to be considered on the House floor this week, incorporates nine major pieces of legislation approved by the House Financial Services Committee. In addition to HR 2609's creation of the Federal Insurance Office, other provisions in HR 4173 that would affect the insurance industry are the creation of an inter-agency Financial Services Oversight Council, which could potentially identify insurance companies as in need of greater prudential regulation and the creation of a Consumer Financial Protection Agency to regulate the provision of consumer financial products or services. The Consumer Financial Protection Agency provisions include an exception for the business of insurance.

Sen. Patrick Leahy (D-VT) has proposed an amendment to the Senate health reform bill, the **Patient Protection and Affordable Care Act**, that would repeal the antitrust exemption for health and medical malpractice insurers. It is not clear when the amendment will come up for debate. The antitrust provisions in the House health reform bill, **HR 3962, the Affordable Health Care for America Act**, appear to be more extensive than the proposed Senate antitrust provisions. The House antitrust provisions state that "Nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance or the business of medical malpractice insurance."

Trade

On Thursday, the Aerospace Industry Association submitted a list of recommendations to the President and leaders of the Commerce, Defense, and State departments that would facilitate export of U.S. high technology while protecting national security. Aerospace and other high-tech firms have long complained about the difficult process for getting export licenses which makes it difficult for them to compete in an expanding market.

The House could take up a one-year extension of trade preferences programs for South America's Andean region and other developing nations very soon according to **House Ways and Means Trade Subcommittee**

Chairman Sander Levin (D-MI). Current trade preference laws are set to expire on December 31, and Levin stressed the need to get an omnibus on the suspension calendar early this week if they hoped to pass an extension in both the House and Senate before the end of the year. **Senate Finance Ranking Member Charles Grassley (R-IA)** has yet to approve such a deal, though there will be tough report language on Ecuador and exclusion of Bolivia, both countries with Grassley has stated are not friend enough to the US to warrant duty-free benefits.