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FINANCIAL SERVICES UPDATE - SEPTEMBER 23, 2011

Sep 23, 2011

HOUSE PASSES GOVERNMENT FUNDING BILL, SHUTDOWN LOOMS AGAIN

The fiscal year Continuing Resolution (CR) that funds the government in lieu of Appropriations bills expires on September 30th. Therefore, Congress is required to pass another funding resolution by October 1st in order to prevent a government shutdown. The House passed its CR late Thursday night after cutting an additional \$100M from the Department of Energy program that backed the Solyndra loan. The House bill contains \$3.65B in disaster relief, which is partially offset by a \$1.5B cut to a Department of Energy loan program for manufacturers of fuel-efficient cars. On Friday, the Senate voted to reject the House's bill by a vote of 59 to 36 because Senate Democrat leaders are seeking greater disaster relief funding. The most likely outcome is for the House and Senate to pass a "clean" CR that funds the government until November 18 and postpones the debate over increasing disaster funding. While Congress is scheduled to be in recess next week, the House and Senate must reach an agreement on a funding resolution before recessing.

FORMER SEC GENERAL COUNSEL TESTIFIES ABOUT MADOFF TIES

On Thursday, David Becker, the former general counsel of the Securities and Exchange Commission (SEC), testified before two Congressional panels regarding a report released this week by the SEC's inspector general that referred Becker's actions to the Justice Department for an investigation of possible violations of conflict-of-interest laws. Prior to Becker's appearance before the committees, SEC Chairman Mary Schapiro and SEC Inspector General David Kotz also testified about their knowledge of the Becker matter. While Becker testified that he told numerous SEC officials about his financial connection to Madoff accounts, Schapiro told the Committee that she did not inform the other four SEC commissioners because Becker was cleared by the SEC's ethics office. It is unclear if the Justice Department's investigation will lead to any charges against Becker, but the SEC is already adopting several changes based on the inspector general's report, including redirecting the top ethics officer to report directly to the chairman of the commission, rather than the general counsel.

HOUSE SUBCOMMITTEE PASSES FIRST POSTAL REFORM BILL

On Wednesday, the House Government Reform Oversight Subcommittee passed legislation to overhaul the U.S. Postal Service (USPS). The bill, sponsored by Rep. Darrell Issa, R-Calif., Chairman

of the House Oversight and Government Reform Committee, would allow USPS to drop a delivery day and adjust labor costs. However, Rep. Dennis Ross, R-Fla., who chairs the House Oversight Subcommittee responsible for postal issues, introduced and passed a substitute amendment to the bill that also would cut back door-to-door delivery and reduce the postal workforce starting with retirement-eligible employees before laying off other staff. The bill now heads to the full Committee for consideration.

SEC BRINGS FIRST ETF INSIDER TRADING CHARGES AGAINST GOLDMAN EMPLOYEE

On Wednesday, the SEC's Division of Enforcement brought formal insider charges against Spencer Mindlin, a Goldman Sachs employee, and his father Alfred Mindlin. The SEC's Division of Enforcement alleges that by virtue of his position on Goldman's ETF desk, Spencer Mindlin knew Goldman's current nonpublic position in the ETF "XRT," and the Mindlins profited from this knowledge. These allegations mark the first SEC charges of insider trading involving ETFs.

SEC PROPOSES BAN ON CONFLICTS IN CERTAIN ASSET-BACKED SECURITIES TRANSACTIONS

On Monday, the SEC voted unanimously to propose a rule intended to prohibit conflicts of interest between those who package and sell asset-backed securities (ABS) and those who invest in them. The proposed rule was mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act and would prohibit securitization participants of an ABS for a designated time period from engaging in transactions that would cause a conflict of interest. The rule will now undergo a ninety day comment period followed by final rulemaking by the SEC.

BRIGAGLIANO LEAVING SEC

On Monday, the SEC announced that career staff lawyer James "Jamie" Brigagliano, a Deputy Director of the Division of Trading and Markets, will leave the agency at the end of September after 25 years of public service. Brigagliano has worked in the Division of Trading and Markets for the past 13 years where he managed oversight of trading practices, market structure reforms, and recent Dodd-Frank Act rulemakings. Brigagliano previously worked in the SEC's Office of the General Counsel for twelve years representing the Commission in a wide range of litigation in federal district and appellate courts.

More Information

If you have any questions regarding any of these issues, please contact:

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