

Client Advisory | October 1, 2008

Senate Rescue Bill

After Monday's defeat in the House of Representatives of the \$700 billion bailout package known as the "Emergency Economic Stabilization Act of 2008," the Senate is set to vote on its version of the bill this evening. The Senate's version of the bill could cost taxpayers more than the \$700 billion price tag set forth in the failed legislation.

The bill would place restrictions on executive compensation for certain financial institutions that sell assets to the Treasury Department, including limits on making a "golden parachute" exit payment during the period when the Treasury Department has an ownership stake in the financial institution.

The Legislation

The core of the Senate's bill remains the same as the legislation defeated in the House, but contains a number of additions in its 451 pages, designed to attract sufficient votes in both chambers of Congress. Like the House version, the new bill would give Treasury Secretary Henry Paulson the authority and funding to purchase up to \$700 billion of "troubled assets." Of this amount, \$250 billion would be available immediately and an additional \$100 billion could be accessed at the President's request. The remaining \$350 billion may also be accessed following a Presidential request to Congress, unless disapproved within 15 days.

Financial institutions that sell troubled assets to the Treasury Department must provide the Treasury Department with either warrants for non-voting common stock, preferred stock in the financial institution or a senior debt instrument to ensure that taxpayers will benefit from any future growth that financial institutions may experience as a result of their participation in this program. The bill would place restrictions on executive compensation for certain financial institutions that sell assets to the Treasury Department, including limits on making a "golden parachute" exit payment during the period when the Treasury Department has an ownership stake in the financial institution.

The bill also requires that the Treasury Secretary establish an insurance program - with risk-based premiums paid by the financial institutions whose assets have been

purchased by the Treasury Department - to guarantee the financial institutions' troubled assets, including mortgage-backed securities, purchased before March 14, 2008. The Treasury would be subject to the review of both a newly established Financial Stability Oversight Board and a congressional oversight panel. If after five years the government has a net loss resulting from this program, the President will be required to submit legislation to recoup such losses from the financial industry

Key Senate Additions

The Senate's rescue bill contains a number of potentially costly additions. Significantly, the bill would temporarily increase through the end of 2009 the amount of bank deposits insured by the Federal Deposit Insurance Corp (the "FDIC") from \$100,000 to \$250,000. The bill does not permit the FDIC to charge member banks more to cover the increase in coverage but instead allows the FDIC to borrow unlimited amounts of money from the Treasury to cover any losses that might occur as a result of the higher insurance limit.

Attempting to garner support for the new bailout package, the Senate's bill includes a number of provisions seemingly unrelated to the financial crisis. The bill extends several renewable energy tax breaks for individuals and businesses, including a deduction for the purchase of solar panels.

In addition, the Senate's bill includes relief from the Alternative Minimum Tax so that more than 20 million middle-class

Americans would not be inadvertently affected by the so-called “income tax for the wealthy.”

The revised bailout bill also includes a “Mental Health Parity” provision, which would require health insurance companies to cover mental illness at parity with physical illness.

Please refer to the following link for the full text of the bill as originally submitted to the Senate. [http://online.wsj.com/public/resources/documents/senatebillaYO08C32_xml.pdf]

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Stuart M. Brown	+1 302.425.7105	sbrown@eapdlaw.com
Alan J. Levin	+1 860.541.7747	alevin@eapdlaw.com
Walter G.D. Reed	+1 401.276.6647	wreed@eapdlaw.com
Walter J. St. Onge III	+1 617.239.0389	wstonge@eapdlaw.com
George Ticknor	+1 617.239.0357	gticknor@eapdlaw.com
Vivien Tyrell	+44 (0)20 7556 4451	vtyrell@eapdlaw.com
John L. Whitlock	+1 617.239.0284	jwhitlock@eapdlaw.com

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**EDWARDS
ANGELL
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DODGE**

111 Huntington Avenue
Boston, MA 02199
Tel 617.239.0100
Fax 617.227.4420
eapdlaw.com