

NYBA

1st Look

A PUBLICATION FOR SERVICE MEMBERS OF THE NEW YORK BANKERS ASSOCIATION

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MAJOR MEETINGS

NYBA MEETINGS OFFER GREAT OPPORTUNITIES FOR SERVICE MEMBERS

NYBA offers a wide range of quality networking opportunities for firms wishing to connect with the leaders and decision-makers of New York's banking industry.

[Retail & Small Business Banking Conference](#)

(September 22-24 - Crowne Plaza , Albany)

NYBA's Retail & Small Business Banking Conference is the in-state forum for retail and small business bankers. At a time of significant change in the industry, innovative retail organizations can lead the way in connecting with customers, capturing new business and enhancing the bank's bottom line. This in-state conference is your chance to network with decision makers from more than 40 New York financial institutions...and gain new insights on engaging customers, bringing in new accounts, increasing revenue and leading the bank to retail excellence. Sponsorship and exhibit opportunities are available. (Tabletop displays are preferred.) Sponsors will be recognized from the podium, in program materials, on event signage and on NYBA's website. The on-site program book will also include exhibitor descriptions, company logos, and contact information. All receptions, breakfasts, refreshment breaks and lunch – and, Wednesday's Dinner – will be held in the exhibit area. For hotel reservations, call the Crowne Plaza Albany at 877-462-4441. Mention NYBA Group Code BZU to obtain the preferred room rate of \$134. The room block will be held until September 7, 2010, after which rooms are subject to availability. Contact Elisa Legg (elegg@nyba.com) or Mary K. Robb (mrobb@nyba.com) for additional details.

[64th Annual Trust & Investment Conference](#)

(October 5-7, DoubleTree Hotel, Tarrytown)

Save the dates, and watch future issues of First Look and your e-mail soon for registration and program information.

[Financial Services Forum](#)

(Monday-Wednesday, November 8-10, Waldorf=Astoria, New York City)

Three days of general and concurrent breakout sessions. Make your Hotel Reservations today by calling 1-877-GROUP-WA. Be sure to mention code NYB, or go to: Waldorf Reservations. Don't miss: co-authors of the best-seller Game Change, John Heilemann and Mark Halperin, on the critical November 2010 elections...and, former Florida Governor Jeb Bush! Watch your email and future issues of First Look for program and sponsorship information. For further information on these programs, contact Elisa Legg (elegg@nyba.com) or Mary K.Robb (mrobb@nyba.com). Visit www.nyba.com and click on major meetings & conferences.

PROFIT SOLUTIONS

[CSSI HELPS LEVERAGE TAX FLOW TO KEEP CAPITAL WORKING FOR YOU](#)

NYBA's New York Bankers Service Corporation (NYBSCO) has endorsed Cost Segregation Services, Incorporated (CSSI) for Engineered Cost Segregation that helps owners of commercial property leverage tax cash-flow, keeping your working capital "working" for you! As an independent, qualified, fully compliant engineering firm that solely concentrates on engineered cost segregation studies CSSI is able to work with you and your accounting firm in applying their methodology and economic results. CSSI will provide a no cost analysis that will prove the economic feasibility of an engineered cost segregation study. **Engineered Cost segregation is an IRS approved method that enables commercial property owners to re-classify approximately 30% - 40% of their buildings from real property to personal property.** Real property is typically depreciated over a 39 year schedule; whereas personal property can be depreciated in 5, 7 or 15 years, thus generating tremendous cash flow. Please contact Joe DeSanzo at 908.684.3244 or jdesanzo@cssi-associate.com to discuss CSSI's no cost no obligation analysis on your branch network.

[NYBA's 401\(k\) PROGRAM - AN ATTRACTIVE OPTION FOR SERVICE MEMBERS](#)

NYBSCO and Milliman, Inc., a leading provider of retirement plan services, have teamed up to offer an attractive, affordable and reliable 401k program for NYBA Member Banks and Service Members. **The plan includes access to a state-of-the-art, web-enabled system and best-in-class investment options.** Each participating organization can choose its own plan provisions and investment options that include mutual funds, institutional share class funds, company stock and model portfolios. Participants can select from a menu of investment options developed by Milliman investment consultants, who continually monitor and analyze investments. For more information on this exciting program, please contact Paul Bonsee of Milliman at (973) 569-5541, or email him at: Paul.Bonsee@milliman.com .

[BUSINESS AS USUAL WHEN THE UNUSUAL STRIKES](#)

The New York Bankers Service Corporation (NYBSCO) recently announced its endorsement of Continuity Centers and their disaster recovery solutions. NYBSCO has made special arrangements for NYBA Members, and believes that Continuity Centers' unique services will make recovery testing easier, help firms become more resilient, and save money in the process! Continuity Centers has more than 10 years' experience specializing in disaster recovery, and they look forward to putting that expertise to work for NYBA members. To learn about special Members-only offers, including money-saving discounts, and to register for one of the upcoming webinars, please visit www.ContinuityCenters.com/NYBA . For more information, please contact Amy Whissen at 516.704.0017, Amy@ContinuityCenters.com.

[E-MAIL ENCRYPTION IS CRITICAL](#)

New York Bankers Service Corporation-endorsed ZixCorp addresses email security with a comprehensive suite of services that include an email assessment program, a manual desktop encryption function for individual users and a corporate-wide solution for automatic content scanning and encryption. **The enterprise-wide ZixVPM (Virtual Private Messenger) monitors all company outbound email and automatically determines whether**

information should be encrypted based on policies set by the organization and a built-in, pre-configured lexicon. The lexicon detects and encrypts email that contains nonpublic information, including Social Security numbers, credit card numbers, personal financial details and other confidential information. NYBSCO has negotiated special terms for NYBA Members and Service Members. To learn how ZixCorp can help secure your organization's confidential email, contact ZixCorp's Steve Irons at (781) 993-6023; email sirons@zixcorp.com - be sure to identify yourself as a NYBA Service Member to qualify for your discount.

XEROX OFFICE EQUIPMENT PROGRAM

Negotiate Your Best Deal – Then Take Off Even More

NYBA's office equipment program provides NYBA members with additional discounts on purchased Xerox equipment. If you buy Xerox equipment, negotiate your best deal with the merchant, then receive a discount above and beyond what the dealer provides. The discount applies to equipment, supplies, training and systems management. **Call (800) 275-9376, ext. 2265, and reference contract number 0706438 to qualify for the NYBA discount.** For further information on this NYBSCO product, please contact NYBA's Field Marketing Manager Gus Kananis at (518) 434-3556: e-mail gkananis@nyba.com .

NYBA'S WORKERS COMP GROUP INVITES SERVICE MEMBERS TO COMPARE COVERAGE

Arthur J. Gallagher Risk Management Services, administrators of the NYBA Workers Compensation Safety Group, now has an additional Safety Group Available to NYBA Service Members! In addition to attractive cost benefits, the Safety Group makes it much easier for the HR professionals at participating clients to keep track of claims and the status of injured employees. The NYBA plans provide all participants with state-of-the-art on-line claims tracking and monthly reports. **The Workers Compensation coverage available to NYBA Service Members offers significant up-front discounts off state mandated rates and the potential for dividends, depending on group experience.** For more information on this valuable program, and to receive a non-binding quote to compare your current coverage, please call Lynn Cagnetta of Arthur J. Gallagher Risk Management Services at (203) 642-0502 [e-mail lynn-cagnetta@ajg.com]. Be sure to identify yourself as a NYBA Service Member.

PROFESSIONAL DEVELOPMENT

ONLINE COURSES PROVIDE HIGH QUALITY EDUCATION WITH ONLINE CONVENIENCE

Help your employees build their banking knowledge

How well do your employees understand the business of banking? AIB courses, offered in both instructor-led and self-paced online formats, offer a cost-effective, time-efficient way to provide training for employees new to the banking industry. AIB Online courses provide in depth industry knowledge in such areas as Consumer Lending, Mortgage Lending, Analyzing Bank Performance, Analyzing Financial Statements, Principles of Banking, and more. **The AIB Online Course Schedule is now available for courses through December 2010.** NYBA webinars, telebriefings and the GSB Online Classroom help to keep a lid on travel costs. Use them to bring essential updates and nationally known instructors right to your office. Take advantage of these Webinars, Telebriefings and GSB Online Seminars. **For information on all NYBA educational programs, visit nyba.com or contact Elisa Legg (elegg@nyba.com , 212-297-1679).**

And remember: You can sign up for automatic updates on all of NYBA's educational programs via e-mail at: www.nyba.com/education .

GOVERNMENT RELATIONS

ALBANY

The Legislature adjourned without completing action on the State budget, as the Senate was unable to muster the required votes to pass the revenue bill (A. 9710-D/ S. 6610-C) agreed on between the two Houses. Although Assembly Speaker Sheldon Silver stated that he had no intention of bringing his House back into session this summer, Senate leader John Sampson held out hope of a three-way agreement with the Governor on the revenue bill. NYBA opposes the provisions of the bill that would single out banking by conforming the bad debt deduction to the federal bad debt reserve, defer tax credits needed to support several important state functions such as servicing SONYMA mortgages and repeal the private label credit card sales bad debt deduction. The Association also believes that an amendment is necessary to correct an inadvertent provision in the bad debt deduction conformity language that could result in recapture of previous years' bad debt deductions. It is unclear when the Senate may return to session.

Governor Paterson subsequently submitted a **new revenue plan** to the State Legislature the week of July 12. The plan, which legislative leaders refused to accept, restored many of the tax increases already rejected in the revenue bill (A. 9710-D/ S. 6610-C) agreed on between the two Houses. Among these provisions was the revision of the **taxation of resident trusts** and the imposition of the **mortgage recording tax** on cooperative financing statements, which NYBA strongly opposes. Both the Governor's proposal and the agreed-on revenue bill contain the objectionable provisions repealing the **bad debt deduction** with potentially required recapture, deferring virtually all tax credits until 2013 and repealing the **bad debt deduction** for private label credit card unpaid sales tax. NYBA is seeking an amendment to the bad debt deduction eliminating possible recapture, although the Tax Department asserts that **recapture** was not intended.

The Legislature has sent a number of banking-related bills to Governor Paterson for his consideration. Among them are:

- S. 6150-A (Espada)/A. 9149-A (V. Lopez), extending the authority of the State of New York **Mortgage Agency**;
- S. 6699 (Foley)/A. 10941 (Townes), extending for three years the expiration date of the geographic restrictions on **bank check cashing offices**. NYBA has filed a [letter](#) with Governor Paterson urging that he veto the bill as a restriction on competition. The Governor has already vetoed a bill making permanent the check cashing restrictions.
- S. 7444 (Foley)/A. 10930 (Benjamin), a Banking Department bill to which NYBA did not object, clarifying and modernizing the **treatment of bank shares**, including the preemptive rights of shareholders.
- S. 7446 (Foley)/A. 11120 (Townes), **streamlining applications** for bank holding company formation and activities. The bill was advanced by the Banking Department without NYBA's opposition.
- S. 7582 (Perkins)/A. 11239 (V. Lopez), extending additional **SONYMA** provisions.

WASHINGTON

The Senate passed the Conference Report on H.R. 4173, the **Dodd-Frank Wall Street Reform and Consumer Protection Act**, by a vote of 60-39 last week. The bill passed generally along party lines with three Republicans in favor and one Democrat against. NYBA will now begin the process to identify legislative amendments and responses to regulatory initiatives mandated by the new law. This effort will include the development of an effective strategy to harmonize the

national and state banking trade groups with a focus on the most important issues to our members. The bill, which passed the House in June, now goes to President Obama's desk. He is expected to sign it, perhaps as soon as this week.

A [summary of the bill](#), prepared by the law firm WilmerHale, is available. A more concise summary prepared by NYBA will be available shortly. The Conference Committee adopted the following positions on NYBA priority issues:

- **Capital Standards** – Holding companies of \$15 billion or less as of December 31, 2009 are grandfathered, but may not raise capital using instruments not included within bank capital standards going forward. Larger institutions have no grandfather, but the provision is effective beginning 1/1/13 with a three-year phase-in after that. The Fed will determine the rapidity of the phase-in.

- **Debit Card Interchange Fees** – The \$10 billion exemption is strengthened through anti-discrimination language prohibiting merchants from declining cards issued by smaller institutions, while giving merchants the right to set minimum purchase levels for all cards. The Fed's fee-setting authority is broadened to include coverage for fraud losses. An exemption for government benefit cards was adopted.

- **Preemption** – While much of the superior Senate language on preemption was included (rejecting, for example, a House proposal to allow preemption only where a comparable federal consumer protection standard exists), the substantive preemption standard was weakened and State attorneys general law enforcement authority was strengthened.

- **Deposit Insurance Premiums** – The minimum reserve ratio for the deposit insurance fund is increased from 1.15 to 1.35% to be phased in over ten years (up from eight years under current law). Banks and thrifts with assets under \$10 billion are exempt from having to pay premiums to fund the increased reserve balance and the basis for the deposit insurance assessment is changed from domestic deposits to average total assets less tangible equity. The \$250,000 deposit insurance limit is made permanent and the Transaction Account Guarantee Program is extended until 2013.

- **Fed Governance** – Conferees agreed to maintain the current system of electing Federal Reserve Bank Presidents, including the New York Fed's President, but withdrew voting rights from Class A (bank) directors. Banking experience will no longer disqualify directors from serving on Fed Bank Boards.

- **Derivatives** – Exceptions from the ban on bank derivatives activities were adopted for hedging banks' own risks and engaging in loan-level hedging for customers. Interest rate and foreign exchange swaps may be kept in banks, while other swap activities must be pushed out.

- **Proprietary Trading** – The Volcker Rule was maintained in slightly modified form. An exemption was adopted for U.S. government, agency, FHLB and municipal securities.

- **Oversight of FASB** – Conferees agreed to confer on the new Systemic Risk Council a mandate to review and comment on, as appropriate, FASB and other standards and de minimis trading is permitted.

- **FHLB Lending** – The conferees agreed to accept the House language that does not subject the Home Loan Banks to new and restrictive single borrower limits.

- **Consumer Financial Protection Bureau** – The Senate version of the CFPB, housed in the Fed, but completely independent of it, was adopted. The CFPB has plenary rule-making authority on all financial products offered to consumers by non-exempt financial institutions and may examine banks and thrifts over \$10 billion, mortgage bankers and brokers and certain other non-bank financial providers. In addition to authority under all existing consumer protection laws, CFPB will be able to prohibit or regulate "unfair, deceptive or abusive acts or practices." Increased reporting and mandated tax compliance were retained.

- **Thrift Charter** – New thrift charters will be allowed, but the OTS was merged into the OCC.

- **State Lending Limits** – The section imposing national bank lending limits on State institutions was removed.

- **SOX Exemption** – Public filers with less than \$75 million in capital were permanently exempted from the SOX 404 (b) auditor attestation requirement.
- **Risk Retention** – The 5% risk retention requirement for assets securitized and sold into the secondary market was retained, but certain traditional mortgages were exempted from it and regulators were given additional flexibility.
- **Interest on Business Checking** – was approved with a one-year delayed effective date.
- **De Novo Interstate Branching** – was approved, eliminating reciprocity, and effective one day after enactment.

The Senate was unable to continue debate on the Small Business lending bill, H.R. 5297, a House-passed bill that establishes a new \$30 billion capital fund to encourage **bank lending to small businesses**. The fund would use currently uncommitted TARP funds and would provide a lower interest rate on capital instruments of banks using the fund that expand their small business lending. Among the amendments that Senate leadership could not agree on whether to allow to be offered was one that would expand authorized **credit union business lending** from 12.5% of capital to 27.5%, and another that would restore the estate tax. NYBA has written both Senators Schumer and Gillibrand, urging them to vote against the credit union business lending amendment. The Association also joined in a [letter](#) with the ABA and the other state associations opposing the amendment.

The Senate has passed two bills on which the House had already completed action:

- H.R. 5569, extending the National **Flood Insurance** Program until September 30. The bill was signed by the President as Public Law 111-196 on July 2 and was retroactive to May 31, when the last extension expired.

- H.R. 5623, the **Homebuyer Assistance and Improvement Act**, which was also signed by President Obama on July 2, as Public Law 111-198. It extends until October 1 the deadline for homebuyers to close on homes for which contracts were in place by April 30 in order to take advantage of the homebuyers credit.

Federal Regulatory Developments

The FDIC revised its [Memorandum of Understanding](#) with the primary federal banking regulators to enhance the **FDIC's existing backup authorities** over insured depository institutions that the FDIC does not directly supervise. The revised MOU gives the FDIC backup supervision authority under an expanded list of circumstances, including when the insurance pricing system suggests an insured depository institution might be at higher risk, when institutions are defined as "large" under international regulatory guidelines, or when large, interconnected bank holding companies are defined as "systemic" by the financial reform legislation pending in Congress. At large, complex insured depository institutions, the FDIC will establish an expanded continuous, full-time staff presence on-site.

The Fed announced that it will implement changes to its **Payment System Risk (PSR) policy** in early 2011. The revised PSR policy explicitly recognizes the role of the central bank in providing intraday credit to healthy depository institutions predominantly through collateralized daylight overdrafts. The policy encourages institutions to pledge collateral to cover daylight overdrafts by providing collateralized daylight overdrafts at a zero fee and by raising the fee for uncollateralized daylight overdrafts to 50 basis points (annual rate). In anticipation of depository institutions' changing needs for collateral management under the revised policy, the Federal Reserve, in collaboration with the industry, assessed and identified opportunities to improve System operational systems. The Reserve Banks have been implementing enhancements to improve the efficiency and effectiveness of pledging, withdrawing, and monitoring collateral.

The Federal Housing Administration (FHA) announced plans to implement a series of changes to the **multifamily insurance programs** that will update underwriting policies, increase lender and underwriter quality, and align loan application, submission and approval standards. The policy changes announced today by Mortgage Letter 2010-21 will affect all multifamily rental programs and include: 1) revised underwriting standards to raise debt service coverage ratios, lower loan to value and loan to cost ratios, increase project reserves and sponsor equity investment, and limit sponsor cash out; 2) enhanced verification of property financial performance; 3) expanded borrower mortgage credit analysis; and 4) pre-screening of proposals for early identification of transactions that are not likely to proceed to a commitment.

Comptroller of the Currency John Dugan announced that he plans to leave office on August 14. Sworn in as the 29th Comptroller of the Currency in August 2005, Mr. Dugan served through some of the most turbulent times in financial history. Having also served as Assistant Secretary of the Treasury during the savings and loan crisis in the early 1990s, he has helped guide the financial services industry through its rockiest periods.

NEWS & TRENDS

The latest Siena poll found 47% of New Yorkers statewide (and 55% upstate) gave the Legislature a grade of "F" for its work on the state budget. Another 24% graded lawmakers with a "D", while less than 1% gave them an "A". Gov. Paterson received an "F" from 27% of voters. 71% believe the state is headed in the wrong direction. The poll also found consumers in the state are more confident in the short term, but expect bad economic times to continue over the next five years.

A new ABC News poll shows that more than 60% of Americans will not vote for their Congressman in November. More than half say they hope Republicans re-take control of Congress next year. President Obama's chief spokesperson admitted that there "is no doubt" the Democrats could lose their majority in the House in this fall's elections, although the White House has pulled back from that assessment.

Bank of Smithtown will be merged into People's United Bank, a Connecticut-based firm.

The chief policy makers at the Federal Reserve are divided over whether deflation will be the next serious threat to the economic recovery. On July 14, the central bank lowered its forecast for economic growth this year.

"First Look" is published by the New York Bankers Association. Please send questions, comments or submissions to Stephen W. Rice, srice@nyba.com, Fax 518-434-1576, or call 518-434-3557. We are sending you this e-mail for your information. If you prefer not to receive any further messages from us, you may unsubscribe to "First Look" by contacting Steve Rice at 518-434-3557 or srice@nyba.com.