

Quick note: I want to thank private markets network [Axial](#) for including my Private Fund Update in its list of "[16 Websites Deal Professionals Should Visit Daily](#)." Although I currently only send out a weekly email I expect to move more online in the next few weeks and hopefully add new features as well. In any event, thanks for the kind words!

Private Fund Update

October 7, 2013

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As the government shutdown enters its second week, it becomes increasingly likely that any solution will include raising the debt ceiling, which we reach on October 17. Both sides are digging in, so the stalemate could last at least another week.

This Update contains:

- A Treasury Department report on how the asset management industry contributes to systemic risk. [The SEC has requested public comment on the report](#). Comments are due November 1;
- The Treasury Department's report on the macroeconomic effects of breaching the debt ceiling;
- A slideshow from Private Equity Growth Capital Council's annual meeting;
- Comments by Association for Corporate Growth, Private Equity Growth Capital Council, Investment Adviser Association, and others on the SEC's Proposed Rule on general solicitations;
- House Ag Committee's hearing on CFTC reauthorization and a schedule of relevant hearings schedule this week; and
- The Davis Polk Dodd-Frank report for October.

The President

The President gave several remarks on the government shutdown ([here](#) and [here](#)), but has publicly stated that he will not negotiate regarding raising the debt limit or on the Affordable Care Act (Congressional Republicans had sought a one-year delay in implementation of the individual mandate). Also, October 1 marked the first day that [individuals are able to enroll for insurance](#) under the Affordable Care Act at www.healthcare.gov.

The Treasury Department's Office of Financial Research released its report on [Asset Management and Financial Stability](#), describing potential systemic risk arising from the asset management industry. As noted below, the Securities and Exchange Commission [has invited the public to comment on the report](#). A summary of the OFR's report is [here](#).

Treasury also released a [report on the potential macroeconomic effect of debt ceiling brinksmanship](#). The report finds that in the event of a default, the U.S. economy could be plunged into a recession worse than any seen since the Great Depression. A default could also lead to declines in household wealth, increases in the cost of financing for businesses and households, and a fall in private-sector confidence.

The 113th Congress

The Senate

Joint Economic Committee

The JEC canceled its hearing on "[The Economic Outlook](#)." The sole witness was to be Jason Furman, Chairman of the Council of Economic Advisers. It is not clear if this will be rescheduled.

Senate Banking Committee

[Impact of a Default on Financial Stability and Economic Growth](#) – On Thursday, October 10, the Committee is scheduled to hold a hearing on [Impact of a Default on Financial Stability and Economic Growth](#). Witnesses are:

- Frank Keating, CEO, American Bankers Association
- Kenneth E. Bentsen, Jr., President, SIFMA
- Gary Thomas, President, National Association of Realtors
- Paul Schott Stevens, CEO, Investment Company Institute

Witness testimony has not yet been released.

Last week's hearing on [Housing Finance Reform](#) took place while the scheduled hearing on [Rebuilding American Manufacturing](#) was postponed due to the government shutdown.

Senate Finance Committee

Last week, Ranking Member Senator Hatch (R-UT) [wrote to Treasury Secretary Jack Lew](#), calling on him to stop creating "needless panic" with financial institutions and the American people over raising the debt ceiling.

House of Representatives

House Judiciary Committee

HJC had been scheduled to hold a hearing on "[Dodd-Frank's Impact on Competition in the Financial Industry](#)," but this was postponed. Witnesses were scheduled to be:

- C. Boyden Gray, Founding Partner, Boyden Gray & Associates PLLC
- Paul Kupiec, Ph.D, Resident Scholar, American Enterprise Institute
- H. Watts Steger, III, Chairman, Bank of Botetourt
- Professor Simon Johnson, MIT

House Financial Services Committee

The Committee released its [October Hearing Schedule](#). Note that on Wednesday, October 9, the Committee will hold a hearing on legislation to further reduce impediments to capital formation.

Chairman Jeb Hensarling (R-TX) and Capital Market Subcommittee Chairman Scott Garrett (R-NJ) still have not received a response to their [letter to SEC Chairwoman Mary Jo White](#) asking her a series of questions regarding registration requirements for advisers to private equity funds.

House Small Business Committee

This week the HSBC holds two hearings, one on [the health law's definition of "full time employee"](#) and another on [contract bundling for small businesses](#).

[The Challenge of Retirement Savings](#) – Last week HSBC held a hearing on [The Challenge of Retirement Savings for Small Employers](#). Witnesses were:

- Catherine Collison, President, Transamerica Center for Retirement Studies
- Paula A. Calimafde, on behalf of the Small Business Council of America
- Roy Messick, III, CPA, QPA, TPP Retirement Plan Specialists, LLC
- Ray Rucksdashel, CFO, Quest-Tec Solutions, Inc.

House Agriculture Committee

[Hearing on CFTC: Perspectives on Customer Protections](#) – HAC held a hearing titled [CFTC: Perspectives on Consumer Protections](#). The purpose of this hearing was to explore ways to improve customer protections in light of the failures at MF Global and PFG Best. Witnesses were:

- Terrence A. Duffy, President, CME Group
[\[written testimony\]](#)
- Daniel J. Roth, CEO, National Futures Association
[\[written testimony\]](#)
- Christopher L. Culp, Senior Advisor, Compass Lexicon
[\[written testimony\]](#)
- Michael J. Anderson, The Andersons on behalf of the National Grain and Feed Association
[\[written testimony\]](#)
- James L. Koutoulas, Esq., Co-Founder, Commodity Customer Coalition, Inc.
[\[written testimony\]](#)
- Theodore L. Johnson, President, Frontier Futures, Inc.
[\[written testimony\]](#)

This is expected to be the final hearing in the series on CFTC reauthorization.

Securities and Exchange Commission

Request for Feedback on OFR Study on Asset Management Industry

The SEC has [opened a website for the public to provide feedback](#) on the Office of Financial Research's [report on the asset management industry](#). Members of the public may submit comments [here](#). Comments are due on November 1.

Mary Jo White Speech on Enforcement Issues – “Hard Look” at Charging Individuals

SEC Chairwoman Mary Jo White [gave a speech](#) at the Council of Institutional Investors fall conference where she laid out the Commission's recent activities and top issues (JOBS Act, money market funds, municipal advisors, etc.) and also discussed the SEC's key enforcement priorities. In the speech, she said that she had told SEC staff to seriously consider charging individuals where the evidence indicates it is warranted. A summary of Chairwoman White's speech is [here](#).

Re-Opening of Comment Period on Proposed Rule re: General Solicitations

The SEC [announced they would be re-opening the comment period](#) for the [proposed rule](#) imposing new restrictions on general solicitations by issuers, including private funds. Groups that have already submitted comments include the [Association for Corporate Growth](#), [Private Equity Growth Capital Council](#), [Investment Advisor Association](#), and the [Managed Funds Association](#).

Investor Advisory Committee Meeting

The SEC announced that there will be an [Investor Advisory Committee meeting](#) on Thursday, October 10th from 10:00 a.m. to 4:00 p.m. An agenda has not yet been released.

Annual Government-Business Forum on Small Business Capital Formation

The SEC will hold its annual [Government-Business Forum on Small Business Capital Formation](#) on November 21 in DC. The forum will include implementation of the JOBS Act and other issues. The forum is open to the public, and you can register for it [here](#).

Renewal of Advisory Committee on Small and Emerging Companies

The SEC [announced the renewal](#) of its Advisory Committee on Small and Emerging Companies. The Committee was originally established on Oct. 4, 2011, to operate for a term of two years. Since it was established, the committee has provided recommendations for regulation of emerging companies with less than \$250 million in public market capitalization in the areas of (i) capital raising through private placements and public securities offerings; (ii) trading in the securities of small and emerging and small publicly traded companies; and (iii) public reporting requirements of such companies.

Commodity Futures Trading Commission

Timing of Margin Rule

CFTC Chairman Gensler [delivered remarks](#) at the International Group of Treasury Associations and the U.S. Chamber of Commerce. After his remarks, during Q&A, Gensler said that he expected the agency to reopen the rule for comment before the end of the year, and hoped to finalize the rule by the summer of 2014.

Change in Enforcement Policy

CFTC Commissioner O'Malia [released a written statement](#) where he said the agency's Division of Enforcement has made a policy change that will provide Commissioners with greater input on

investigations. The policy change involves changing from an “absent objection” process to instead seeking Commission approval of extensions of omnibus orders.

Closing of Investigation Concerning the Silver Markets

The Division of Enforcement [has closed the investigation](#) that was publicly confirmed in September 2008 concerning silver markets, and is not recommending charges to the Commission in that investigation. The investigation was based on complaints that the silver futures contracts traded on the Commodity Exchange, Inc. (COMEX) were being manipulated. The Division of Enforcement’s investigation utilized more than seven thousand enforcement staff hours.

Private Equity Growth Capital Council (PEGCC)

Slideshow from Annual Meeting

In late September, the Private Equity Growth Capital Council held its annual meeting. PEGCC [released a slideshow from the annual meeting](#), showing some of the attendees.

Miscellaneous

Davis Polk Scorecard

The law firm Davis Polk released its [October 2013 Dodd-Frank scorecard](#). The report finds that as of October 1, 2013, a total of 280 Dodd-Frank rulemaking requirement deadlines have passed. This is 70.4% of the 398 total rulemaking requirements, and 100% of the 280 rulemaking requirements with specified deadlines. Of these 280 passed deadlines, 171 (61.1%) have been missed and 109 (38.9%) have been met with finalized rules. Regulators have not yet released proposals for 60 of the 171 missed rules.

2013 Long Term Budget Outlook

The Congressional Budget Office (CBO) released its [2013 Long Term Budget Outlook](#). The report finds that under current law, the federal debt would grow to 100 percent of GDP by 2038, and would be on an upward path relative to the size of the economy that is not sustainable. A summary of the report is [here](#). Doug Elmendorf’s slide deck is [here](#).

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