Congressional Closeup by Carl Osgood

Regulation called threat to derivatives markets

On July 17, the House Banking Committee held the first of two hearings on the Commodities Futures Trading Commission's May 7 call for a review of its regulatory approach to over-the-counter derivatives trading. The atmosphere of the hearing treated this issue as a "turf war," since the Treasury, the Federal Reserve, and the Securities and Exchange Commission have all come out opposed to the CFTC's proposal. But, the real fear of deregulation advocates was expressed by committee chairman Jim Leach (R-Iowa), who warned that if the CFTC reclassifies certain derivatives products, which, he said, is implied in the proposal, this will bring "into question their legal status and regulatory treatment." An effort to steer the market "to fit regulation could, in the judgment of Chairman Greenspan, create systemic shock in the marketplace and precipitate the very types of financial crises that the CFTC is established to avoid." (Unlike futures contracts, swaps are not traded on exchanges and therefore are not regulated by the CFTC.)

An opposite view was expressed by Maurice Hinchey (D-N.Y.), who said, "We should have as much information about these markets" as possible. "There's a lot we don't know about these markets," especially in view of their rapid growth of the last few years. He said that some call the CFTC's proposal a "grab for power," but, because the market has changed so much over the last five years, we should instead be concerned if the CFTC were *not* calling for a review of its regulatory approach.

Leach got support from bankers who were there to testify. Mark Griffin of J.P. Morgan complained that statements by the CFTC "have undermined the legal certainty that has been the foundation for swap activity." He said, "If swaps are defined as futures, then many swaps would be subject to the Exchange Trading requirement." But, because they are not listed on any exchange, "if the CFTC successfully asserts jurisdiction, these swaps may no longer be valid, binding contracts."

Senate GOP unveils its health care plan

On July 15, a Senate Republican task force, led by Don Nickles (R-Okla.), released its answer to Democratic demands for a patients' bill of rights. The Senate GOP proposal is similar to that of their House counterparts, and includes a "patients' bill of rights" that focusses on patient "choice," health care research, and establishes an appeals process for cases in which an insurance provider denies care. Like the House GOP proposal, it does not allow lawsuits against health maintenance organizations, a key component of the Democrats' proposals.

Nickles castigated the Democratic alternative in ideological terms, saying that "it would greatly increase costs, reduce access," thus leading more people to join the ranks of the uninsured, and "would increase the bureaucracy and regulation by unbelievable leaps and bounds."

The Senate plan also includes medical savings accounts because, as Phil Gramm (R-Tex.) said, "there's only one approach that enables us to control cost, and that approach is the health maintenance organization." Gramm said that medical savings accounts give people an incentive to be "cost conscious," as well as giving them the "right to choose."

The next day, Senate Minority Leader Tom Daschle (D-S.D.) jokingly told reporters, "I think you can safely say that a patients' bill of rights will pass," now that the Republicans have adopted the title of the Democratic bill for their bill. "The question is," he said, "what falls below the title." Daschle said that the important issues are why the Republican bill only covers 48 million people, and holding health insurers "as accountable as doctors and nurses and hospitals." He said that there's a "sea change in the attitude" of Republicans. Six months ago they were declaring war on patients' rights legislation. "Now," he said, "they're partners in peace in moving this legislation forward. The problem is, we want more than just a shell. We want a real bill."

Appropriations bills in procedural wrangling

Work on the 13 annual spending bills continued amid increased tensions. The House passed the Treasury-Postal Service bill on July 16, and the Appropriations Committee reported out the Labor-Health and Human Services bill and the Commerce, Justice, State Department and the Judiciary bill. The Senate passed the Agriculture Appropriations bill on July 16 and the Veterans Administration-Housing and Urban Development-Independent Agencies bill on July 17. The Senate also began work on the Legislative Branch and the Commerce-Justice-State-Judiciary bills on July 20.

Of all of these, the Treasury-Postal Service bill was the most difficult. The House GOP leadership had originally tried to bring the bill up on June 25, but a procedural vote failed in a dispute over legislating policy in an appropriations bill. The bill was brought back to the floor under a new rule of debate on July 15, which didn't solve the dispute. Finally, the contested language that led to the failed vote on June 25 was not protected by the rule, and large chunks of the bill fell under points of order that they were in violation of House rules, including the $2.25 billion earmarked for dealing with the year 2000 computer problem within the Federal government.

The VA-HUD bill faces a similar problem, in that the House GOP leadership has attached to its version a 300-page public housing reform bill, which, even if it survives, faces a veto threat from President Clinton.

Also facing a veto threat is the Labor-HHS bill. President Clinton has complained that the bill contains $2 billion less for education than the administration had requested. "On balance," Clinton said, "this bill fails to provide young Americans with the schooling and training that will be essential to their success as working adults."

IMF to get partial funding, says Armey

On July 20, House Majority Leader Dick Armey (R-Tex.) told a press conference that the International Monetary Fund (IMF) is so hated that the full $18 billion requested by the Clinton administration would be impossible to pass, and that only the $3.4 billion currently in the Foreign Operations appropriations bill will go through.

Only a few days earlier, Armey had predicted that the IMF would "pretty much get as much money as they [the IMF] are looking for with as little accountability as they desire." Asked what had changed his mind, he said, "What has happened, is I have reassessed the strength of the coalition of people who are insisting that there be an honest debate based on open disclosure of what the IMF actually does, and I've realized that that population of people has increased. And it is a significant part of the electorate and, frankly, is more strong in the Senate than what I had thought it was."

Joining Armey at the press conference was Joint Economic Committee Chairman Jim Saxton (R-N.J.), who reported on his recent trip to South Korea on behalf of the Armed Services Committee, where he had a chance to talk to the Finance Minister and others about the economic crisis. One of the things he found, he said, is that the IMF is hated there, because small businesses can no longer operate because of the IMF's conditionalities. "So, in that country, at least, which is where I had some first-hand experience, the American image as the leader—they perceive us as the leader of the IMF—has been somewhat diminished by the fact that things have not gone well, in the South Korean average worker's opinion, because of the IMF policy.

"So, when American members of Congress and other decision-makers here on Capitol Hill get to understand some of these facts . . . there's been a real shift in sentiment."

New CBO forecast heats up budget wars

A new forecast released by the Congressional Budget Office on July 15, which projects Federal budget surpluses of as much as $520 billion over the next five years, and possibly $1 trillion more in the five years after that, has re-ignited the battle over what to do with the alleged surplus. On July 16, House Speaker Newt Gingrich (R-Ga.) and House Budget Committee Chairman John Kasich (R-Ohio) seized on the CBO forecast as an opportunity to push for new tax cuts. Gingrich proposed, in a speech at the libertarian Cato Institute, that $650 billion ought to be used for strengthening Social Security, and the remainder for cuts in the capital gains tax, phasing out the estate tax, and eliminating the so-called marriage penalty.

Democrats are cautious on tax cuts, however. Senate Minority Leader Tom Daschle (D-S.D.) told the press that "as long as Social Security trust funds are on the table, we have no business talking about deep tax cuts that aren't paid for in any other way." House Minority Leader Richard Gephardt (D-Mo.) accused the GOP of "raiding" the surplus so that they can give tax cuts to their wealthy supporters.

The issue is not a simple one for Republicans, however. The House and Senate have been in negotiations over the budget resolution, and the House version includes $100 billion in tax cuts, whereas the Senate has only approved $30 billion. The day before the CBO projections were released, Sens. John Chafee (R-R.I.) and James Jeffords (R-Vt.) released a letter to Senate Budget Committee Chairman Pete Domenici (R-N.M.), calling for caution on tax and budget cuts. However, indications were that the new CBO figures might be weakening Senate resistance to more tax cuts.

Little noticed amid all of this were the figures inserted into the *Congressional Record* on July 15 by Sen. Jesse Helms (R-N.C.), showing that the public debt of the United States has increased since July 15, 1997 by more than $150 billion.