



Oakland County Legal News

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SHORT TAKES

'Women in the Law' panel hosted by WSU Law School, Sept. 3

The Wayne Law Career Services Office and the Wayne Law Alumni Association are pleased to sponsor an upcoming panel discussion for women pursuing legal careers. "Women in the Law," which will offer a candid discussion about issues facing women lawyers, will be held from 12:15 to 1:15 p.m. on Thursday, Sept. 3, in the Law School's Spencer M. Partrich Auditorium.

Panelists will include professional women from various career backgrounds such as business, government and law. The panel will address finding a work/life balance, maternity leave, finding a mentor, being a leader, dealing with improper interview questions and more.

"I have a great support network now and I feel that this kind of support and insight would have been really helpful as a student," said Kim Yapchai, event organizer and corporate counsel with Retail/Wholesale Group. "Students, alumni and friends will benefit from hearing the different viewpoints of people who have been through it."

This panel is free and open to the public, and parking is available in Structure #1 across from the Law School, on Palmer Street (corner of Cass) for \$3.50. Contact Robin Johnson at (313) 577-3949 or send an e-mail to lawcareers@wayne.edu with any questions.

State regulators OK Blue Cross rate increase deal

LANSING (AP) — State regulators have approved an average 22 percent rate increase for Blue Cross Blue Shield of Michigan health insurance policies covering about 200,000 people.

The rate increases announced last Thursday are significantly lower than the company initially requested for the non-group and group conversation policies typically bought by people under 65 who aren't covered by employer-based or government health plans. Blue Cross had sought rate increases averaging 42 percent to 56 percent.

Attorney General Mike Cox challenged the initial rates and struck a deal with Blue Cross on the lower rates two weeks ago.

The new rates take effect Oct. 1. Regulators also approved interim rate increases of nearly 5 percent for some Blue Cross Medicare supplemental policies.

Officials bar mortgage company from Michigan

LANSING (AP) — State regulators have ordered a national mortgage lender to stop doing business in Michigan.

The Office of Financial and Insurance Regulation said in a release last Thursday that Taylor, Bean & Whitaker must cease operating as a lender or servicer in Michigan.

The office also ordered the Ocala, Fla.-based company to provide a list of loans being serviced and contact information for state residents that closed a residential mortgage with the company after it failed to be approved as a Freddie Mac or Ginnie Mae mortgage servicer.

Federal authorities Aug. 4 barred the company from making loans issued by the Federal Housing Administration. Company officials said in an e-mail to employees and others it had ceased all mortgage-origination operations the next day.

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Gift of the heart Donations of Wii to medical facilities have unique purpose

By CHRISTINE L. MOBLEY
Legal News

Never far from his heart and mind, attorney Mark Bello only thought of two things upon seeing a request to make a donation to a medical facility of his choosing: his nephew and St. Jude Hospital in Memphis, TN.

Bello's nephew, Justin Rockind, was diagnosed with Ewing's Sarcoma, a rare and aggressive bone cancer, at age 15.

After having surgery and undergoing chemotherapy, Justin was thought to have beat the cancer only to have it come back more aggressively the second time which led to his being treated at St. Jude's Hospital in Memphis, TN.

Unfortunately, Justin lost his battle with the disease at age 18 five years ago.

When efforts to reach out to injury victims by donating Nintendo Wii gaming systems to various medical facilities throughout the country appeared in his e-mail inbox, Bello, owner and founder of Lawsuit Financial Corp. in Southfield, thought of his nephew and the generosity and kindness St. Jude had shown

his family during Justin's treatment.

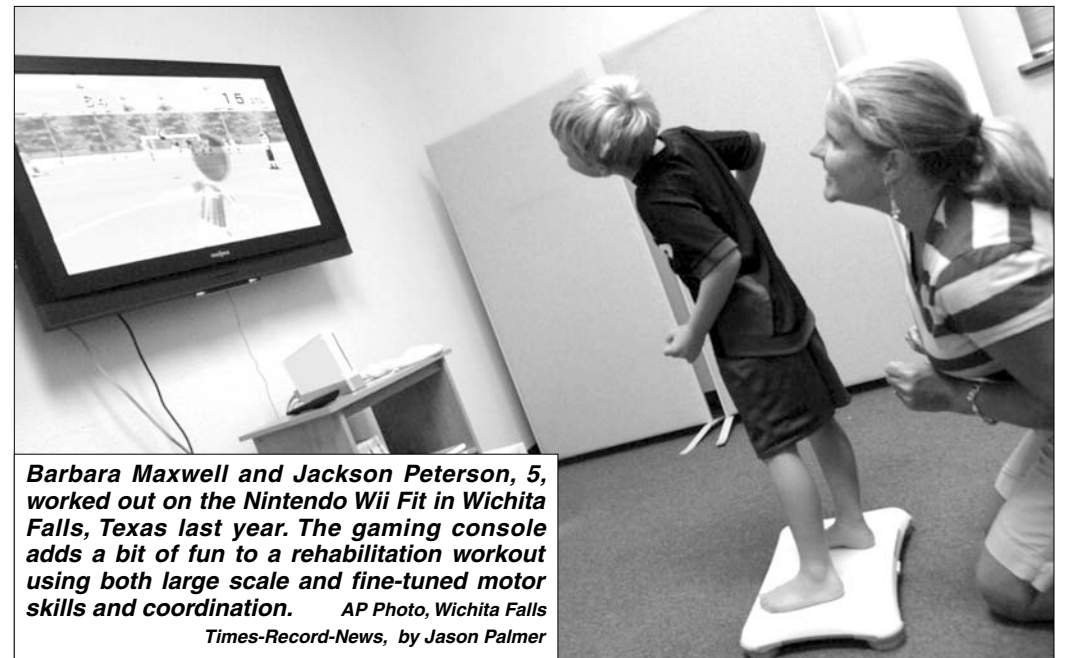
The Injury Board, which coordinated the Wii Give-Away Project, asked its members to donate Wii's to medical facilities to benefit their community leaving it up to the individual attorney or firm to decide which facility.

"I kind of missed the point," Bello says of the Wii Give-Away. "The point was to give back to the community you represent — injured and disabled people. I think that's a great point and a great program, but the minute I was told 'donate a Wii to a hospital' the first thing I thought of was Justin and St. Jude."



BELLO

The "point," as Bello put it, may have been misunderstood, but regardless of his mistake — if one chooses to call it that — the donation to St. Jude was truly from his heart and it still serves the greater good and those in need.



Barbara Maxwell and Jackson Peterson, 5, worked out on the Nintendo Wii Fit in Wichita Falls, Texas last year. The gaming console adds a bit of fun to a rehabilitation workout using both large scale and fine-tuned motor skills and coordination. AP Photo, Wichita Falls Times-Record-News, by Jason Palmer

Granted, the children who are at St. Jude are not necessarily victims of an accident, but they are battling a disease and striving for recovery.

The Injury Board — a growing community of attorneys, media professionals, safety industry experts, and local activists — coordinated the Wii Give-Away Project.

Through the Injury Board's efforts, 53 law firms and companies from 25 states will have donated more than 60 Nintendo Wii gaming systems to rehabilitation centers, nursing homes and hospitals nationwide with the culmination of this three-week project with final donations being made today.

St. Jude of Memphis is scheduled to receive its Wii system today.

"We're very thankful for the donation of the Wii," Vilma Carnahan, Donor Services Non-Monetary Gifts coordinator for St. Jude, said. "It's going to be used in the Ronald McDonald House of Memphis which houses patients of St. Jude and their families."

The Injury Board is committed to making a difference by helping families stay safe and avoid injury, and helping those who are injured get the assistance they need to move on with their lives after an accident.

The Injury Board chose the Wii to be (See **Wii DONATIONS**, Page 2)

Restored portrait unveiled



The U.S. District Court — Eastern District of Michigan hosted a portrait unveiling of the restored Judge Ross Wilkins portrait on Tuesday, Aug. 4, in U.S. District Court Judge Robert H. Cleland's (far right) courtroom. Also taking part in the ceremony were (left to right) Charles R. Rutherford of Dykema Gossett PLLC, vice president of the Michigan Supreme Court Historical Society; Judy Christie, executive director at U.S. District Court Eastern District of Michigan Historical Society; Mike Lavoie of

Butzel Long PC, president of the U.S. District Court Historical Society; and Georgette LeDuc, Cleland's former secretary and current member of the Michigan Questers, a group that helped organize informational and fundraising activities for the portrait's restoration. Wilkins was the first district judge in Michigan having been appointed in 1837 by President Andrew Jackson and serving until 1870.

Photo by John Meiu

Month-long pro bono celebration planned

The American Bar Association has designated the week of Oct. 25-31 as National Pro Bono Week, and all across the country lawyers will be taking part in events to educate the public and the legal profession about pro bono and to honor those in the legal profession who routinely provide free legal help to improve the lives of the needy.

In Michigan, the State Bar's Pro Bono Initiative is going further by designating the full month of October as Pro Bono Month and urging members of the legal community, legal service providers, and bar associations to coordinate their pro bono events with the State Bar and national celebrations.

"Pro Bono Month will be an opportunity to shine the light on the good works of attorneys who help in many different ways to deliver civil legal aid to those who need it



most," said Ed Pappas, president of the State Bar of Michigan. "Pro bono help does not just mean representing indigent clients free in court. Pro bono can also include an attorney making a financial contribution of \$300 annually to promote civil legal aid or providing 30 hours of legal services to low-income individuals or not-for-profit organizations providing direct services to the poor."

The Pro Bono Initiative encourages organizations to plan free events such as training sessions, legal aid clinics, or recognition of pro bono attorneys and to inform the State Bar of these activities so they can be listed and publicized on the State Bar's online calendar and Web site. More details about these listings are forthcoming.

To ensure that local pro bono efforts are recognized and publicized by the State Bar, contact Dionnie Wynter at dwynter@mail.michbar.org or (517) 346-6412. For more information on the national pro bono effort, visit www.celebrateprobono.org. To find out how to obtain a referral for a pro bono case, contact the State Bar or a local legal aid program. To make a financial donation through the Access to Justice Fund to support legal aid, visit www.atjfund.org.

'Reading Law' still available in six states

By ROBERTA M. GUBBINS
Legal News

What do Thomas M. Cooley, Abraham Lincoln, Daniel Webster, Patrick Henry, and Ingham County Circuit Court Judge Laura Baird's grandfather, Robert S. Baird, have in common? Yes, they were all lawyers. However, their path to become lawyers did not include sitting in a law school classroom. They, like most of their colleagues of their time, studied or read law for three or four years before taking an examination given by the territorial and later Supreme Court Justices. After passing the examination, they were sworn in and admitted to the bar.

"Reading Law," as it was called, was the method by which persons entered the legal profession before the introduction of law schools. In colonial America, law schools didn't exist at all until Litchfield Law School was founded in 1773. Following the American Revolution, some universities such as the College of William and Mary and the University of Pennsylvania established a "Chair in Law." The holder of this position was the sole teacher of legal education for the institution; he would often give lectures designed to supplement, rather than replace, the apprenticeship programs common at the time.

Lawyers have long had a reputation for being independent. That trait started early in American lawyers, who sometimes read the law in isolation, and were spread around a vast wilderness without access to bar associations or many colleagues. Abraham Lincoln, in his words of advice to a young man in 1855, said of the study of law:

"If you are absolutely determined to make a lawyer of yourself, the thing is more than half done already. It is a small matter whether you read with anyone or not. I did not read with anyone. Get the books and read and study them in their every feature, and that is the main thing. It is no consequence to be in a large town while you are reading. I read at New Salem, which never had more than three hundred people in it. The books and your capacity for understanding them are just the same in all places. Always bear in mind that your own resolution to succeed is more important than any other one thing."

Reading law was the norm until the 1890's, when the American Bar Association, founded in 1878, began pressing the states to limit admission to the bar to law school graduates only. James F. Byrnes was the last justice appointed to the Supreme Court of the United States who had been admitted to practice law by reading law. That was in 1941.

Michigan officially stopped the practice by statute in 1949. California, Maine, Vermont, (See **'READING LAW'**, Page 2)

■ Frozen Assets

Court freezes Colonial assets in response to Bank of America suit.

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Boeing pays \$25 million to settle U.S. probe.

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■ Legal Employment

"Jobs & JDs" examined for Class of 2008 by the NALP.

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Wii DONATIONS: Local attorney donates in memory of young nephew

(Continued from page 1)
donated because doctors and medical facilities are discovering the therapeutic benefits of "Wiihab."

Physical and occupational therapists across the country have started using this technique as a type of "fun therapy" in rehabilitation centers, assisted living centers and in some VA medical centers.

"Wiihab" explores the use of the Nintendo Wii as a tool for rehabilitative therapy, including occupational therapy and physical therapy, as well as a way for seniors and elders to stay active and to stay connected," according to occupational therapist Mershon W. Hinkel's blog on the role of the game system as used in therapy. The blog can be found at <http://wiihabtherapy.blogspot.com>.

"The obvious purpose was to do as much good as possible," James Cool, a 3rd year law student at Arizona State University College of Law and Wii Give-Away Project coordinator, said.

"The basic idea was we all want to do good, we all want to help people who have been injured, we all want to help people who are in dire straights...How do we help people and at the same time get as much publicity for the facilities that we're helping as possible and also let everybody

also know that we're trying to help and trying to encourage others to help in the same way.

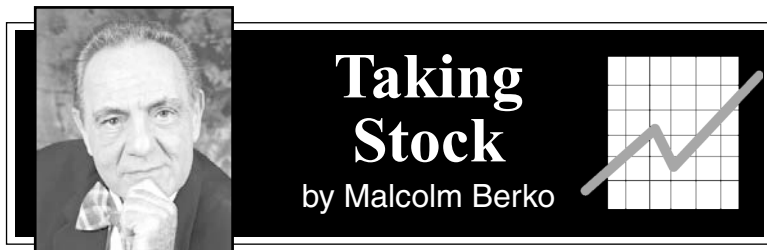
"Maybe through coordinating our efforts people will take notice, see the impact these give-aways on those who have been injured and maybe they're inspired to do some of this themselves."

Cool believes that Bello's donation hit the mark with by donating in his nephew's memory. "I know Mark stepped outside the box a little bit, but his business is national," Cool said. "I think the fact that he's honoring his nephew is just a fantastic, wonderful gesture."

Bello, who contributes to St. Jude and its cause regularly, is grateful for the Injury Board putting the Wii Give-Away together and giving him an opportunity to offer this unique gift.

"I did this primarily on behalf of Lawsuit Financial and my nephew, but I wouldn't have done it had Injury Board not provided me with the program," Bello said. "I think it's a great program and I think they do wonderful work in essentially creating a situation where they demonstrate that trial lawyers are people too."

"I'm glad I missed the point though," he says. "I can't think of anybody that I would have rather donated this to than them."



IRA handling of portfolio

Dear Mr. Berko:

I'm a 67 years young woman who recently retired from a good job in Miami and turned my 401(k) account to an IRA with a Miami broker I met at a seminar who solicited my business. I've never really been in the stock market before and I'm nervous because I don't know if I'm doing the right thing. Since this broker began handling my portfolio in the middle of March of this year (I've sent you my April, May and June statements), he made 192 trades in those three months. And as you can see, the value of my account has increased from \$360,000 to \$391,000. And while that's good, I've been having trouble sleeping and have really tried counting sheep. But I don't want to bite the hand that feeds me because he's doing well for me. Please give me some comforting advice.

C.N., Boca Raton, Fla.

Dear C.N.:

Keeping track of your portfolio is like playing "Whac-a-Mole." There are so many trades in your account that it's almost impossible to know what's going to pop up or out next. During the second quarter of 2009 (April through June), your broker made 192 trades — 86 buy trades and 86 sell trades in the 63 days that the market was open. But your account was plus 8.6 percent (35 percent annualized) even after all those commission costs, which could be in the neighborhood of \$36,000. Frankly, I doubt that the Vanguard funds or the Fidelity funds generate that many trades in 63 market days. Now when you have trouble sleeping at night you don't have to count sheep you can count trades. And basically, during the three months this guy has handled your portfolio, your gains have matched the movement of the Dow Jones Industrials. Good grief, Chief, you could have done just as well and would have slept much better if you had owned the Dow Jones Industrial Average Exchange Traded Fund (DIA-\$93.84). These shares are called "diamonds" and that "broker" could have bought DIA in April at \$75 with just a one-time commission cost.

Now I don't know how they do things in a foreign country like Miami, but this trading is shamelessly excessive and darned dangerous to your sleep patterns and financial health. Unfortunately, neither the New York Stock

Exchange nor the Securities and Exchange Commission nor the Financial Industry Regulatory Authority requires stockbrokers to have a fiduciary responsibility to their clients. Close that account immediately and say a couple "thank you" prayers in the amen corner of your church that you haven't lost any money. Then find a registered investment adviser. These professionals are required to act in a fiduciary manner. However, almost everybody did well in those three months so your broker's record isn't much to brag about.

When you've turned that account into cash, put the proceeds in a money market account for a while. Cash gives you time to think and you need to do some hard thinking, including a visit to your CPA or accountant for some conclusive "thinking advice."

The first question they and you must ask is: What are my objectives? And I hope your answers are safety, income, income growth and principal growth, in that order! Your next question should be: "How much safety (risk) can I handle?" And I hope your answer is that you want minimum risk. Now your next question will be: "How much income do I want my account to produce annually?" Hopefully, your IRA income can comfortably supplement your pension and Social Security. How much income growth do you need? You may not need any dividend growth or perhaps just minor income growth. Some folks might require a "little more than the inflation rate." That may be difficult without sacrificing the safety you need. However, if you can generate principal growth of 3 percent to 4 percent annually, that should help you keep current.

These are questions that will help determine how your account should be managed and help you find a broker who will work to meet your goals, not his. These objectives will also give you a benchmark to measure your broker's progress and guide him in making changes in your portfolio as circumstances suggest.

Please address your financial questions to Malcolm Berko, P.O. Box 8303, Largo, FL 33775 or e-mail him at mjberko@yahoo.com. Visit Creators Syndicate Web site at www.creators.com.

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'READING LAW': Six states still offer tests

(Continued from page 1)
Virginia, Wyoming, and Washington still permit law office or law clerk study but in a more organized form. They require applicants reading law to do so under the direction of an attorney or judge. Students usually work as law clerks for the instructing lawyer, devoting hours to study and to work. New York requires readers to have one year of formal education to sit for the bar.

California has a law student's examination a.k.a. the "baby bar" administered by the examining committee after completion of the first year of study. Students getting their education on-line or as readers must pass the exam in order to get credit for the work completed.

Washington State's Law Clerk program requires that the reader study for four calendar years. According to their rules, "the law clerk must spend a minimum of 30 hours each week studying and performing the duties of a law clerk. The tutor is required to give at least three hours each week of personal supervision to the law clerk, which includes exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments." The tutor must have been practicing law for ten years to qualify as a mentor. Unlike Virginia, which allows the tutor to

charge for his services, Washington strictly forbids it.

Maine, Vermont, and Wyoming also have programs allowing law clerks to work and study at the same time. Peter O'Neil, a lawyer practicing in Washington who read law before taking the Washington bar exam, noted that the program was a "structured four-year course of study that covered every subject on Washington's bar exam, from torts and contracts to criminal law and community property. It was grueling and a little relentless, but it worked."

The states allowing readers charge for overseeing the program. The fee is usually around \$1,500, far less costly than law school. Since the majority of them are clerking while studying, they are earning money and are often assured of a job when they are admitted to practice.

The downside of reading law is that the lawyers taking that route have limited career choices. Attorney positions with local, state, and federal governments require a J.D. from an accredited law school. Law clerks cannot sit for the bar in states that do not have legal apprenticeships and reciprocity with other states is not available for them. However, if the lawyers' plan is to practice solely in their home state, reading the law might be the perfect way to become an attorney and have a life in the law.

Court freezes Colonial assets in response to BofA lawsuit

By Ieva M. Augstums

AP Business Writer

CHARLOTTE, N.C. (AP) — A federal court froze \$1 billion of troubled Colonial Bancgroup Inc.'s assets last Thursday in response to a suit filed by Bank of America Corp.

Bank of America Corp. sued Colonial for more than \$1 billion in cash and loans, and asked the court to prevent Colonial from selling or otherwise disposing of the assets.

Bank of America said the U.S. District Court for the Southern District of Florida, in response to a complaint filed last Wednesday, granted a temporary restraining order freezing the \$1 billion held by Montgomery, Ala.-based Colonial.

Court officials could not immediately be reached to confirm the order was granted.

Bank of America had asked the court to prevent Colonial from selling proceeds it received from Freddie Mac in exchange for mortgage and other loans, and which were owned by Ocala Funding LLC, court documents show.

Charlotte, N.C.-based Bank of America, which was the collateral agent for the Ocala Funding loans, sought an emergency injunctive relief in the complaint.

According to court documents, Colonial held the proceeds as a custodian, agent and bailee through bailee letters. But when the bailee letters were terminated, Colonial refused to return them to Bank of America, the U.S. banking giant alleged.

"The emergency relief is necessary because Colonial appears to be on the verge of collapsing as a going concern and has reportedly been the subject of a criminal investigation for alleged

accounting irregularities," the complaint said.

Representatives from both Bank of America and Colonial declined to comment on the lawsuit.

Shares of Bank of America gained \$1.07 cents, or 6.7 percent, to \$17 in trading last Thursday, while Colonial shares fell 5 cents, or 9.6 percent, to 47 cents.

The lawsuit could push Colonial into further financial trouble.

Last Tuesday, Colonial said it has advised the Securities and Exchange Commission it will not be able to file a second-quarter financial report because of alleged accounting irregularities now being investigated.

The Alabama Banking Department also confirmed last Tuesday that its board held a private meeting with Colonial officials last Monday.

Colonial said last week it was under a criminal investigation by the Justice Department over the alleged accounting irregularities at its mortgage warehouse lending unit in Orlando, Fla. It was announced earlier that Colonial was the subject of a Securities and Exchange Commission investigation related to its bid for federal bailout funds and its accounting for loan loss reserves.

Colonial, which previously reported roughly \$26 billion in assets, has 335 branches in Florida, Alabama, Georgia, Texas and Nevada.

The battered bank has been hurt the credit crisis, as rising foreclosures in its Florida construction-loan portfolio continue to strain its balance sheet.

If Colonial fails, it would be the largest bank failure this year.

AP Business Writer Eileen AJ Connelly in New York contributed to this report.

White House seeks new reins on derivatives

By Marcy Gordon

AP Business Writer

WASHINGTON (AP) — The Obama administration last week sent Congress legislation seeking to impose broad new oversight on derivatives, the complex financial instruments blamed for hastening the global economic crisis.

The plan is designed to bring transparency to, and prevent manipulation in, a \$600 trillion unregulated worldwide market. Credit default swaps, a form of insurance against loan defaults, account for an estimated \$60 trillion of that market. The collapse of the swaps brought the downfall of Wall Street banking house Lehman Brothers Holdings Inc. and nearly toppled American International Group Inc. last fall, prompting the government to support the insurance conglomerate with about \$180 billion in aid.

The value of derivatives hinges on an underlying investment or commodity — such as currency rates, oil futures or interest rates. The derivative is designed to reduce the risk of loss from the underlying asset.

In a point long awaited by the financial industry, the plan defines types of derivatives broadly in a way it says will be "capable of evolving with the markets."

The plan sent to Capitol Hill was the final section of the administration's sweeping legislative proposal for overhauling the U.S. financial rule book to help

avert a repeat of the meltdown touched off last year. It capped a series of measures rolled out in recent weeks by the Treasury Department.

Under the proposal, the big investment banks that trade the derivatives would be subject to requirements for holding capital reserves against risk and other rules. A new network of clearinghouses would be established to provide transparency for trades in credit default swaps and other derivatives. All so-called "standardized" derivatives would be required to go through clearinghouses and to be traded on regulated exchanges or electronic trading systems.

Customized derivative products, by contrast, are designed for specific users in a transaction and would remain largely unregulated — a gap that some critics fear could allow abuses.

The plan defines standardized derivatives broadly. An over-the-counter derivative that is accepted by an official clearinghouse would be presumed to be standardized. In addition, the Securities and Exchange Commission and the Commodity Futures Trading Commission would get authority to prevent attempts by market players to falsely portray derivatives as customized to skirt the oversight of clearinghouses and exchanges.

Treasury officials said the goal wasn't to shut down the business of customized derivatives, which they noted an array of companies

rely on to hedge risks, but to encourage the growth of standard derivatives by imposing stricter capital requirements on firms dealing in the customized variety.

CFTC Chairman Gary Gensler recently estimated that about 80 percent of derivatives could be considered standardized under the plan.

Late last month, two influential House lawmakers announced an agreement on guidelines for legislation to regulate derivatives, a proposal that closely resembles the administration's plan. Democratic Reps. Barney Frank, chairman of the House Financial Services Committee, and Collin Peterson, who heads the House Agriculture Committee, said the House could vote on a bill in September.

Gensler on Tuesday called the administration proposal "a very important step toward much-needed reform to protect the American people."

SEC Chairman Mary Schapiro, in a statement, said "I believe Treasury's approach is a step forward in the process of bringing (over-the-counter) derivatives under a comprehensive regulatory framework. We all agree it is absolutely vital for Congress to bring rigorous standards, complete transparency and vigorous enforcement" to the derivatives market.

The Obama plan would split oversight authority for derivatives between the CFTC and the SEC, longtime turf rivals, while federal banking agencies would have power over the Wall Street banks that deal in the instruments.

Cory Strupp, managing director of government affairs at Wall Street's biggest trade group, the Securities Industry and Financial Markets Association, said the group supports "regulatory reform of these markets, including additional regulatory transparency, while ensuring that derivatives continue to play a vital role in risk management as well as expanding the availability and lowering the cost of credit for borrowers."

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