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**LUST FUNDING UPDATE**

Last week, the Senate approved \$114.1 million for the Leaking Underground Storage Tank (LUST) program in the FY 2010 Interior and Environment (H.R. 2996) appropriations bill. This is one million dollars above the President's request and the amount appropriated in the House bill. Passage of the spending bill will now go to conference with the House's version which passed June 26. Petroleum marketers have now paid over three billion dollars into the LUST fund and continue to pay \$140 million each year. To a great extent, the LUST tax has just become another federal tax used to support the overall EPA budget.

**HOUSE COMMITTEE HOLDS INTERCHANGE FEE HEARING**

Yesterday the House Financial Services Committee held a hearing to address legislation aimed at bringing fairness and transparency to the unfair and burdensome credit card interchange fees which are becoming the biggest operating expense after labor, utilities and rent for petroleum and convenience retailers. The legislation, known as the "Credit Card Interchange Fees Act of 2009," sponsored by Congressman Peter Welch (D-VT) and Bill Shuster (R-PA) would address a number of retailers' concerns with interchange fees. Testifying before the committee were the H.R. 2382 sponsors – Reps. Welch and Shuster; along with Kathy Miller, National Grocers Association; David Evans, University of Chicago Law School (on behalf of Visa); Mark Caverly, Electronic Payments Coalition (EPC); Ed Mierzwinski, U.S. PIRG; Ann Duplessis, the Independent Community Bankers of America; and Mallory Duncan, Merchants Payments Coalition.

In his opening remarks, House Financial Services Committee Chairman Barney Frank (D-MA) said he remembered when the credit card companies fought to have interchange fees shielded from free market forces in the 1980s. Visa and MasterCard won that fight in the 1980s which has resulted in today's unfair, uncompetitive and excessive interchange fee based system, even as the actual cost of processing fees have greatly diminished.

In Congressman Shuster's opening statement, he urged Congress to act quickly on passing H.R. 2382 stating, "I believe action is needed to help level the playing field between consumers, small businesses, and credit card companies by requiring greater transparency and prohibiting unfair and abusive practices when it comes to interchange fees." Mallory Duncan who testified on behalf of the Merchants Payments Coalition said that "no one believes more in the free market than retailers because they work in such a highly competitive marketplace." Duncan said that the interchange fee system is broken which provides little to no oversight and leaves retailers with a "take it or leave it" approach. The most compelling witness of the day was Kathy Miller who testified on behalf of the Food Marketing Institute and National Grocers Association. She and her husband own a small grocery store in Elmore, Vermont, which, like gasoline retailers nationwide, have paid excessively high interchange fees to Visa and MasterCard. Congressman Luis Gutierrez (D-IL) agreed with Miller's testimony that Congress must act to address small business retailers' concerns with interchange fees.

During the hearing, Mark Caverly with the EPC asserted that interchange fee reform legislation would limit access to credit for small businesses because interchange fees allow credit card companies to extend credit to millions of Americans. House Financial Services Ranking Member Spencer Bachus (R-AL) echoed this concern when questioning Duncan and Miller, however, both witnesses refuted this claim. Duncan said that allowing retailers to negotiate interchange fees would greatly reduce costs of doing business and that it is an empty threat because the interchange fees retailers pay to Visa and MasterCard banks goes toward marketing efforts such as the more than 6 billion credit card solicitations sent to consumers in 2005.

PMAA will continue to urge lawmakers to pass comprehensive interchange fee reform legislation this year. PMAA would like to thank Reps. Welch and Shuster for their dedicated efforts to reform the interchange fees process that continues to hurt small businesses and consumers across the country.

**FRANK INTRODUCES DERIVATIVES LEGISLATION**

House Financial Services Committee Chairman Barney Frank (D-MA) introduced his Committee's much anticipated draft financial reform legislation aimed at giving the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) new authorities to regulate the \$600 trillion derivatives market. Upon introduction, government regulators question the regulatory strength of Frank's proposal. On Wednesday, the Committee summoned CFTC Chairman Gary Gensler and SEC official Henry Hu to offer insight into the draft legislation. Both federal regulators suggested that the draft proposal takes a weak approach toward centralized clearing and exchange trading of derivatives and would not close

loopholes which allowed the downfall of the economy last year. Given Gensler's and Hu's regulatory concerns with the draft bill, Chairman Frank said that the proposal will likely see substantial revision. House Agriculture Chairman Collin Peterson (D-MN) also intends to introduce a modified version of his own futures and swaps derivatives bill (H.R. 977) which will be significantly stronger than Frank's proposal.

Last Friday, 170 trade associations and individual companies sent a letter to House Speaker Nancy Pelosi (D-CA) urging lawmakers to "preserve the ability of companies to manage their individual risk exposures by ensuring access to reasonably priced and customized over-the-counter (OTC) derivative products." Essentially, end users of the OTC derivatives market are concerned that strong legislation will harm their ability to hedge these business risks by requiring them to post additional margin or collateral which forces them to cut new investments and jobs. Chairman Frank's draft bill provides an exemption for all end-user transactions. CFTC Chairman Gensler and PMAA and NEFI disagree. Gensler has suggested that Congress must craft legislation which would bring end-users' use of OTC derivatives onto a regulated clearinghouse which would reduce risk and bring stability to the marketplace.

PMAA Futures Market Reform Task Force is currently reviewing Frank's draft bill and is working with the Commodity Markets Oversight Coalition (CMOC) to strengthen Chairman Frank's proposal and to continue to support Chairman Peterson's dedicated efforts to pass strong commodity futures reform legislation.

### **CFTC TO RECEIVE ADDITIONAL FUNDING**

Yesterday, the Senate approved the conference report for the Fiscal 2010 Agriculture spending bill which includes much needed funding for the Commodity Futures Trading Commission (CFTC). President Obama is expected to sign the spending measure. The CFTC would receive \$168.8 million, a 14 percent increase from last year's spending bill, to hire additional staff and improve technology in order to monitor the expanding futures and swaps marketplace.

### **REGISTER FOR NACS BY GOING TO THE LINK ON THE WPMA WEB SITE**

The NACS Show 2009 is scheduled for October 20-23 at the Las Vegas Convention Center in Las Vegas, Nevada. PMAA will hold its fall meeting in conjunction with the NACS Show on October 19-20 at the Las Vegas Hilton.

If you are planning on attending the NACS show in October and will be registering online, please go to the WPMA web site. We have set up a link on the home page that will take you to the online registration for NACS. Your state association will be given \$5 for each person who registers through this special link. Register today by going to [www.wpma.com](http://www.wpma.com) and click on the link for the NACS Show and help benefit your state association.

### **2010 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA**

Start planning now to attend the 2010 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 16-18, 2010.

### **REGISTER NOW FOR THESE UPCOMING EVENTS IN 2009**

October 22, 2009 - Nevada Petro Cup Kart Race - Fast Lap Indoor Kart Track - Las Vegas, Nevada

**Petro Pete: "Experience is what you get when you didn't get what you wanted."**

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If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: [janr@wpma.com](mailto:janr@wpma.com). Thanks.

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