

At the Bell

Fed gets subpoena on Merrill-BofA combo

A congressional committee issued a second subpoena Friday to the Federal Reserve Board for information concerning the government's role in the acquisition of Merrill Lynch & Co. Inc. of New York by Bank of America Corp. of Charlotte, N.C. The Fed this month turned over documents in response to the first subpoena.

Morningstar refigures U.S. equity indices

Morningstar Inc. announced changes Friday in the securities comprising its group of 16 U.S. indices.

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WEBCAST

After the storm

A market strategist, investment manager and fund adviser offer market and economic outlooks. Page 16

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PIABA pushes optional arbitration

Attorney group has asked the SEC to end mandatory use of industry arbitrators. Page 11

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New terms

Buying term and investing rest may no longer work. Page 16

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Plan on fiduciary standard wins praise

Obama's financial regulatory reform proposal leaves open possibility of Finra rule over advisers

By Sara Hansard

Investment advisers and consumer advocates have applauded Obama's proposal to establish a fiduciary duty for broker-dealers offering investment advice. "We think it's great," said Dianne Lassus, chairwoman of the National Association of Personal Financial Advisors in Arlington Heights, Ill. "There should be a fiduciary standard for all advisers."

Richard Salminen, president of the Denver-based Financial Planning Association, agrees. "I'm encouraged by the fact that the administration is proposing a fiduciary standard for all that provide advice to the public," he said. "That's a positive sign."

The proposal was part of a historic reform package unveiled by the White House last Wednesday that is intended to overhaul nearly every aspect of Wall Street in order to prevent another financial crisis.

Both the EPA and NAIPA have been ardent proponents of requiring brokers offering investment advice to be brought under a fiduciary standard, which would require that they put their clients' interests ahead of their own. Currently, brokers are required to meet a suitability standard, meaning the advice and products they offer have to be suitable for their clients.

The different regulatory scheme for brokers and advisory firms has long been a source of discord between the two segments of the retail-financial-services industry.

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NEWS ANALYSIS

White House leaves advisers up in the air

Planners and their regulatory concerns don't appear to be on the administration's radar

By Ted Horowitz and Sara Hansard

If you are a commercial banker, savings and loan operator, mortgage broker or hedge fund artist, there is a lot to concern you in the regulatory reform proposal outlined by the Obama administration last week.

If you are a securities broker, the plan might have you shivering in your product-and-customer suitability hoods.

But if you are a registered investment adviser or a financial planner you can be forgiven for simply scratching your head, or perhaps sighing with relief, after scouring the detailed analysis and reform suggestions that Treasury Secretary Timothy Geithner forwarded to Congress.

His 88-page prescription is replete with poisonous references to mortgage brokers, credit card bankers, regulator shoppers and investment bankers, and the abuses they promulgated on the financial system and consumers.

Search for "financial planner," however, and you will draw a blank. As for that most consuming of

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A new direction: The proposal is part of a historic reform package that the Obama administration unveiled last week.



Richard Salminen: Stance on fiduciary standard a positive sign.



Timothy Geithner: Gave Congress an 88-page analysis on reform.

Finra sank his job chances, attorney says

Kevin Carreno's hope of being Florida's top regulator is dashed by a Wells notice

By Dan Jamieson

A Florida attorney claims that the Financial Industry Regulatory Authority Inc. derailed his bid to become the state's top financial watchdog in retaliation for a previous legal dispute he had with the regulator.

Kevin Carreno maintains that he was well on his way to being appointed commissioner of Florida's

Office of Financial Regulation in March when Finra sent his former employer, Empire Financial Group Inc., a Wells notice alerting it that he faced potential enforcement actions.

The possible charges stemmed from Mr. Carreno's year-long stint as chief operating officer of Empire, which went out of business last year. Finra spokesman Herb Perone declined to comment, citing the

agency's policy against commenting on ongoing investigations.

Mr. Carreno filed a 30-page rebuttal to the Wells notice.

Finra offered to drop one of three proposed charges and settle the case for \$25,000, a deal that Mr. Carreno said he has refused.

Finra alluded in the notice that he didn't have the proper supervisory and financial-operations principal

licenses while at Empire. It also alleged that last October, as Empire was about to be shuttered, Mr. Carreno improperly sent negative-co-sent letters to the firm's clients, informing them that their accounts would be transferred to Empire's parent company, Jesup & Lamont Inc. of New York.

In addition, he this month wrote a

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Attorney blasts Finra on job loss

Continued from Page 1
 letter to Sen. Charles Grassley, R-Iowa, urging him to increase the federal government's oversight of Finra. Mr. Grassley, the ranking Republican on the Finance Committee, recently raised doubts about Finra's handling of allegations of improprieties made by a former employee of Lehman Brothers Holdings Inc. of New York.

According to Mr. Carreno, Finra instructed a lawyer at Empire to see that he updated his disciplinary record immediately to reflect the Wells notice. The lawyer was also instructed to inform the Florida governor's office that the notice had been issued, he said.

"I was absolutely staggered," said Mr. Carreno, who is now president of Experts Counsel Inc., a compliance consulting firm in Tampa, Fla.

His hope of being Florida's top watchdog was immediately dashed and the Florida Financial Services Commission, which is responsible for appointing a financial regulation

commissioner, continues to look for someone to fill that role. The position was formerly held by Don Saxon, who resigned last summer after local news reports blamed him for turning a blind eye to abusive mortgage lending.

Sterling Ivey, a spokesman for Florida Gov. Charlie Crist, confirmed that Mr. Carreno had applied for the position and been interviewed. Mr. Crist is one of four officials who make up the state cabinet that votes on the appointment.

In an e-mail, Mr. Ivey declined to comment on whether Mr. Carreno was the final candidate and the impact of the Wells Notice. "There has not been a final decision made for the vacancy, and we continue to review all applications and interview applicants," he wrote.

MASTY LEGAL TIF

Sources say the bad blood between Mr. Carreno and Finra stems from a case last year in which Finra challenged Empire's net cap-

and Washington told Empire's clearing firm to cease processing trades. And an unknown Finra lawyer contacted the American Stock Exchange, where Empire's parent company, Jeap Lamont, trades, and told the Amex that the agency had issued a cease-business letter for Empire, Mr. Carreno said. No letter had been sent, he said.

"KEVIN PUSHED BACK VERY HARD AGAINST FINRA" IN THE NET-CAPITAL CASE.

Don Wojnowski, President and chief executive of Jeap & Lamont

"That's the point where I said something is really rotten here in Denmark" about how Finra operates, Mr. Carreno said.

BILL OF DISCOVERY

He then filed an unusual legal action called a bill of discovery in state court in an attempt to get internal Finra documents relating to the case.

A federal judge later dismissed

the action, based in part on the governmental immunity Finra enjoys.

"Kevin pushed back very hard against Finra" in the net-capital case, said Don Wojnowski, the Melbourne, Fla.-based president and chief executive of Jeap & Lamont. "I won't say [Mr. Carreno is] not combative, but he's an attorney with an unblemished record [and] probably the highest-quality candidate I've ever hired."

Mr. Carreno said his reputation has been tarnished. "With the type of [compliance consulting] practice I have, having this open issue is hurting my business," he said.

Mr. Carreno's lawyers have taken the unusual position of challenging Finra to file formal charges. The Wells notice contains nothing but "flimsy" charges, said David Gehn, an attorney at Guerne Kaplan Bruno & Nusbbaum PLLC in New York who represents him.

"We're begging them to file a substantive complaint," Mr. Gehn said. "So far we've heard nothing."

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