OCTOBER 2013

October did not show the federal government at its best. A partial government shutdown lasted for 16 days when House Republicans refused to pass spending legislation that included funding for implementation of the health care reform law. They relented when the October 17 deadline neared for raising the nation's borrowing limit, amid warnings that, without an increase, the U.S. could default on its debts. On October 16, Congress passed and President Obama signed legislation that funds the government through January 15 and raises the debt ceiling until February 7. Despite the shutdown, open enrollment began in the new health insurance exchanges on October 1. Major problems with the exchanges' online portal, however, have hampered the launch and resulted in what the secretary of health and human services described as "miserably frustrating" experiences for many Americans looking to buy coverage.

ISSUES AND EVENTS

Sebelius Apologizes for 'Miserably Frustrating Experience' on Website

The head of the Department of Health and Human Services (HHS) on October 30 apologized for the poor performance of the online portal for the new health insurance exchanges.

The www.healthcare.gov site has been hampered by technical problems since open enrollment for the exchanges began on October 1. The glitches have prevented many people from enrolling for insurance or even finding information about available plans and have resulted in heavy criticism of the Obama administration.

HHS Secretary Kathleen Sebelius acknowledged at a hearing held by the House Energy and Commerce Committee that the site has resulted in "a miserably frustrating experience for way too many Americans."

"I am as frustrated and angry as anyone with the flawed launch of healthcare.gov," Sebelius said. "So let me say directly to these Americans: You deserve better. I apologize."

Sebelius said that testing of the full site did not begin until two weeks before the start of open enrollment.

"We should have anticipated, we should have planned better, we should have tested better," she said, also stating, "No one anticipated this level of problems. ... No one indicated that this could possibly go this wrong."

Several Republicans have said that Sebelius should resign or be fired, with Senate Health, Education, Labor and Pensions Committee Ranking Republican Lamar Alexander of Tennessee saying on October 29 that, "No private sector chief executive officer would escape accountability after such a poor performance."

Sebelius's comments came a day after Centers for Medicare and Medicaid Services (CMS) Administrator Marilyn Tavenner issued a similar apology at a House Ways and Means Committee hearing.

"To the millions of Americans who have attempted to use healthcare.gov to shop and enroll in health care coverage, I want to apologize to you that the website has not worked as well as it should," Tavenner said. "We know how desperately you need affordable coverage."

On October 24, the House Energy and Commerce Committee held a hearing in which contractors who worked on the website placed blame for the site's failings on the government and each other.

Cheryl Campbell, senior vice president of CGI Federal, told lawmakers, "It was not our decision to go live," but was, rather, a choice made by CMS. She also said, though, that "no amount of testing within reasonable time limits can adequately replicate a live environment of this nature."

Campbell said that many of the problems with the site have been related to its enterprise identity management system (EIDM), which is what visitors use to fill out their registration information. She noted that that function was "provided by another contractor."

"The EIDM serves as the 'front door' to the federal exchange that a user must pass through before entering the [federally-facilitated marketplace (FFM)]," Cambell said. "Unfortunately, the EIDM created a bottleneck that prevented the vast majority of users from accessing the FFM."

But a representative of the contractor that worked on the EIDM, Optum Group Executive Vice President Andrew Slavitt, said that, "It is relevant to note that the EIDM tool is only one piece of the federal marketplace's registration and access management system, which involves multiple vendors and pieces of technology."

“While the EIDM plays an important role in the registration system, tools developed by other vendors handle critical functions such as the user interface, the e-mail that is sent to the user to confirm registration, the link that the user clicks on to activate the account, and the web page the user lands on,” Slavitt said. “All these tools must work together seamlessly to ensure smooth registration.”

Slavitt also noted that, while his company conducted testing of the site, it “reported the results back to CMS and the relevant contractor, who, in turn, was responsible for fixing coding errors or making any necessary changes.”

In addition, Slavitt referenced one of the common criticisms that has surfaced in recent weeks – that the site was revised just a few weeks before its launch to prevent the browsing of policies and prices without first setting up an account that would allow the determination of eligibility for tax credits – Slavitt said, “It appears that one of the reasons for the high concurrent volume at the registration system was a late decision requiring consumers to register for an account before they could browse for insurance products. This may have driven higher simultaneous usage of the registration system that wouldn’t have occurred if consumers could ‘window shop’ anonymously.”

On October 21, House Oversight and Government Reform Committee Chairman Darrell Issa, R-Calif., and the panel’s subcommittee leaders wrote in a letter to U.S. Chief Information Officer Steve Van Roekel and U.S. Chief Technology Officer Todd Park that they are “concerned that the Administration required contractors to change course late in the implementation process to conceal ObamaCare’s effect on increasing health insurance premiums.”

On the same day as Sebelius’s committee appearance, Issa announced that he had subpoenaed Sebelius for information and documents related to the exchanges and the website.

On October 24, Issa and Alexander wrote to Sebelius to demand information that they had originally asked for in an October 10 letter but that, the lawmakers said, HHS staff had denied them. The October 24 letter set an October 28 deadline for the information to be provided, and when that passed, Issa issued the subpoena.

“The administration’s failure to provide answers about what led to the disastrous launch of healthcare.gov and what is being done to fix it is completely unacceptable,” Issa said. “The evidence is mounting that the website did not go through proper testing, including critical security testing, and that the administration ignored repeated warnings from contractors about ongoing problems.”

On October 29, Issa subpoenaed website contractor Quality Software Services, Inc. (QSSI) for information that he and other Oversight and Government Reform Committee members requested on October 23, but had not received. HHS recently named QSSI the lead contractor for the website fix.

On October 31, Issa released notes from an October 2 administration meeting on the website that indicated that only six people were able to sign up for coverage on the first day of open enrollment.

The White House has not announced enrollment numbers, saying the data will be made available this month. An HHS spokeswoman, though, said that 700,000 applications have been submitted, about half of them on federally operated exchanges.

The administration is now conducting a “tech surge” to fix the website, an effort being led by Jeffrey Zients, a federal government veteran who is to become director of the National Economic Council in January. Zients and others have set a goal of having the site fully functional by November 30.

Bipartisan SGR Reform Proposal Released

The Senate Finance Committee and the House Ways and Means Committee on October 31 released a bipartisan proposal to reform Medicare’s sustainable growth rate (SGR) formula.

The SGR, which was intended by Congress to automatically set Medicare’s physician payment rates, annually threatens to slash the federal government’s payments to doctors for services provided to Medicare patients. This year, were it not for a provision included in the “fiscal cliff” deal that passed in January, payments would have been cut by 26.5 percent. The cuts are blocked for only a year, though, and the SGR calls for the rates to be reduced by 25 percent in January 2014. Congress has overridden the SGR calculations every year since 2003 in order to avoid payment cuts that, it has been feared, would drive doctors out of the Medicare program. Frustration has grown with the annual nature of the “doc fix,” though, and there is widespread support for enacting a permanent solution.

The latest proposal is intended to replace the SGR with an approach that focuses on the value rather than the volume of services while encouraging participation in alternative payment models, such as accountable care organizations and patient-centered medical homes. Payment levels would be frozen for the next 10 years, but doctors and other health care providers would have to the opportunity to earn performance-based incentive payments.

“For years, Medicare payments to doctors have been at risk of being slashed, limiting seniors’ access to high quality care,” Finance Committee Chairman Max Baucus said. “Enough with the quick fixes. Our proposal is for a new physician payment system that rewards value over volume. It will go a long way in improving the efficiency and quality of care for America’s seniors.”

The measure builds on the "Medicare Patient Access and Quality Improvement Act of 2013," (H.R. 2810), which was approved by the House Energy and Commerce Committee in July. That legislation would replace the SGR with "an improved fee for service system in which providers report quality measures that will lead to better care in a more efficient manner." It would provide for annual payment increases of 0.5 percent for five years as Medicare and providers transition to a quality incentive program.

The Energy and Commerce chairman and ranking member, Fred Upton of Michigan and Henry Waxman of California, released a joint statement that called the announcement of the new proposal "good news."

"We look forward to working with our colleagues to enact a permanent solution that protects beneficiaries, moves Medicare to paying for value not volume, and incentivizes new models of care in Medicare this year," they said.

The American Medical Association called the proposal "an encouraging development [that] represents a pivotal step toward stabilizing and improving the Medicare program on behalf of America's seniors and physicians."

Experts from a diverse group of 11 organizations, including one in which CalPERS is a member, also applauded the plan.

"The framework satisfies the key principle that unites us: any repeal of the SGR must be linked with reforms to the payment and delivery system that help lower the rate of growth in health care costs while improving the quality of care," the experts from conservative think tank American Enterprise Institute (AEI), liberal think tank Brookings Institution and moderate think tank Third Way, along with the National Coalition on Health Care, an advocacy group that includes CalPERS as a member, and seven other groups stated. "The framework establishes a clear path to new payment models that support value and accountability for quality and costs. We strongly support this bipartisan effort and look forward to working with the Senate and House to draft the framework into legislation."

The 11 people who released that statement wrote in an October 9 letter to leaders of the Finance and Ways and Means committees that focusing on value would "improve the health care system, [and] it would also help hold down Medicare expenditures."

Neither the Finance/Ways and Means proposal nor the Energy and Commerce bill includes a plan for covering the cost of an SGR replacement. The Congressional Budget Office projected that the Energy and Commerce proposal would cost $175 billion over the first 10 years. CBO hasn't scored the Finance/Ways and Means plan yet. The "pay-for" issue is likely to be the most challenging area in which to reach consensus.

Politico reported on October 25 that Capitol Hill aides from both parties predict that the SGR will be replaced before the end of the year.

Exchange Consumers Have Until March 31 to Enroll without Penalty: Administration

The Obama administration either extended or clarified the deadline for health care exchange consumers to buy insurance without incurring a penalty – either way, they now have until the end of March.

Administration officials said on October 23 that exchange consumers will avoid penalties under the 2010 Patient Protection and Affordable Care Act's individual mandate as long as they sign up for insurance before the end of the exchanges' open enrollment period on March 31, even if coverage doesn't begin until after that point.

Previously, it had been widely thought that people would have to enroll by February 15, or they would be assessed penalties. The rule implementing the individual mandate imposes penalties on individuals who lack coverage for more than three months during a given year, and enrolling after February 15 would mean that coverage wouldn't begin until at least April 1.

While the administration's statement was initially reported as being an extension of the deadline, the White House insisted that it was merely clarifying what had always been the case.

"Some have asked whether consumers could face a tax penalty if they don't enroll in coverage by February 15th of next year," the White House said in a statement. "This is not the case. If you sign up for insurance by the end of March, you will not face a penalty."

Republicans, who have opposed the health care reform law from the start, have pushed to delay implementation of the individual mandate, citing as a reason the problems encountered by many people trying to enroll for coverage on the exchanges' online portal at www.healthcare.gov since open enrollment began on October 1. Administration officials, though, said that the deadline clarification is unrelated to the site's technical glitches.

Some Democrats have also expressed concerns about penalties possibly being assessed on people who have made good-faith efforts to acquire insurance through the exchanges but failed. Ten Democratic senators, all of them supporters of the reform law – including Dianne Feinstein of California – on October 25 wrote to Health and Human Services (HHS) Secretary Kathleen Sebelius to ask that she consider extending the enrollment deadline past March 31.

"As long as these substantial technology glitches persist, we are losing valuable time to educate and enroll people in insurance plans," the senators wrote. "Our constituents are frustrated, and we fear that the longer the website is not functional, opportunities for people to log on, learn about their insurance choices, and enroll will be lost. ... Extending [the enrollment] period will give consumers critical time in which to become familiar with the website and choose a plan that is best for them. Individuals should not be penalized for lack of coverage if they are unable to purchase health insurance due to technical problems."

The effort was led by Sen. Jeanne Shaheen, D-N.H., who on October 22 wrote to President Obama to make a similar request. In the Obama letter, Shaheen also stated that the website's problems should be considered when planning enforcement of the individual mandate.

"In light of the difficulties individuals may be having with enrolling through healthcare.gov, I ask that you clarify how the individual responsibility penalty will be administered and enforced," Shaheen said. "If an individual is unable to purchase health insurance due to technical problems with enrollment, they should not be penalized because of lack of coverage."

Sen. Kay Hagan, D-N.C., a signatory to the Shaheen letter, on October 24 sent a letter of her own asking that the administration "extend the open enrollment period by two months, and waive the penalty for the individual mandate for the same period of time, to make up for time that is being lost while the website for the federal exchange is not functioning."

Sen. Joe Manchin of West Virginia, who did not sign the Shaheen letter, has gone the furthest of any Democrat, though, saying on October 23 that he wants to delay the individual mandate for a year because "we need time for that transition period."

The administration, which in July announced that it was delaying the employer mandate for a year, has so far rejected suggestions that the individual mandate be pushed back. White House spokesman Jay Carney has said that, notwithstanding the website's problems, people can still sign up for coverage in person or by phone or mail.

"From day one," Carney said, "people have been able to enroll."

House Considering Oil Pact Legislation – Without Disclosure Exemption for Industry

The Senate has passed legislation that would implement an oil agreement between the United States and Mexico without an industry-preferred exemption from certain disclosure rules, but it is unclear if the House will go along with it.

In 2012, the U.S. and Mexico signed the Transboundary Hydrocarbons Agreement, which concerns oil and gas exploration in the Gulf of Mexico. The House passed a bill in June that would implement the pact and would also exempt energy companies from a law requiring firms to report payments to foreign governments related to the development of oil and gas fields. The Senate passed a version of the bill on October 12 without the exemption.

The head of a key House panel on October 23 expressed uncertainty about the fate of the Senate legislation.

"I am not quite sure that we're – that I'm – going to accept that position at this point," House Natural Resources Committee Chairman Doc Hastings, R-Wash., said.

Hastings was generally optimistic, though, noting that there will be talks with the Senate and saying, "I think we can get the [final] bill passed."

The oil industry supports the bill – which, among other things, would open up 1.5 million acres for development and clarify certain legal uncertainties – so much so that it is backing off its advocacy of the exemption. An American Petroleum Institute (API) spokesman said, "We are urging the transboundary agreement to get passed by both sides. I think the cleanest way you would see that occur is through a bill that doesn't have the ... [exemption] attached to it."

The Securities and Exchange Commission (SEC) approved a rule in August 2012 that implements the disclosure requirement, but in July, a federal judge struck down the rule in a case brought by API, the U.S. Chamber of Commerce, the National Foreign Trade Council and the Independent Petroleum Association of America. The commission's analysis of the rule's potential impact, the judge concluded, "was arbitrary and capricious and independently invalidates the Rule." The SEC is working on a new version of the rule.

The disclosure requirement was included in the 2010 Dodd-Frank Act to increase the transparency of money flowing to regimes that may be more likely to pocket it than use it for the good of their nations.

CalPERS, in February 2011, wrote to the SEC to support the rule, which was then under consideration by the agency, stating that it "is especially vital for companies operating in countries where governance is weak resulting in corruption, bribery and conflict that could negatively impact the sustainability of a company's operations and our ability to more effectively make investment decisions."

Yellen Nominated to Be Federal Reserve Chairman

President Obama on October 10 nominated Janet Yellen to be the next chairman of the Federal Reserve.

Current Fed Chairman Ben Bernanke's term ends on January 31, 2014. Yellen, if confirmed, would become the first woman to chair the Federal Reserve.

Yellen, now the Fed's vice chair, is regarded as a supporter of "loose" monetary policies aimed at lowering unemployment, and she has broad support among liberals.

"Ms. Yellen has demonstrated a unique understanding of the impact of the Federal Reserve's policies on the middle class, particularly the crucial balance between stable prices and low unemployment," House Financial Services Committee Ranking Democrat Maxine Waters of California said. "During the [financial] crisis, she advocated for the urgent need to implement financial reform quickly in order to avoid another meltdown. As chair, I am hopeful that Ms. Yellen will continue to push for policies that address the still unacceptably high rate of unemployment."

Many conservatives, though, fear that a Yellen-led Federal Reserve would drive up inflation.

"Janet Yellen is an enormously well-credentialed economist who also happens to be an inflationist who should not be allowed to run the Federal Reserve," said Sean Fieler, chairman of American Principles in Action, a conservative advocacy organization that has launched a website opposing Yellen's nomination at noonyellen.com.

Waters and 37 Democratic colleagues, all of them women, including 14 from California, wrote to President Obama on July 31 to ask him to consider Yellen, a professor emeritus at the University of California at Berkeley, as Bernanke's replacement.

"In her tenure on the board, Vice Chairman Yellen has served excellently in both her duties as a regulator of America's financial institutions and as a steward of our nation's monetary policy," Waters and the others wrote in the letter. "Her institutional knowledge and working relationships with current Board members would provide for a smooth transition at a time when financial markets and middle class Americans are counting on the Federal Open Markets [sic] Committee to demonstrate thoughtful and deliberate leadership to steer our economy on the road to a full economic recovery."

The representatives also credited Yellen with foresight leading up to the financial crisis of the late-2000s, stating, "During the subprime bubble, at a time when many economists were optimistic about unprecedented growth in the economy, she saw the bubble for what it was and predicted disaster in the banking system."

SEC Chairman Questions Some Disclosure Requirements

The head of the Securities and Exchange Commission on October 3 challenged the wisdom of Congress issuing directives to the SEC that "have been quite prescriptive, essentially leaving no room for the SEC to exercise its independent expertise and judgment in deciding whether or not to make the specified mandated disclosures."

SEC Chairman Mary Jo White noted in a speech at Fordham Law School that the 2010 Dodd-Frank Act required the SEC to issue more than 90 rules and studies, most of which, she said, relate to the agency's core mission.

White added, though, that some of Dodd-Frank's disclosure requirements "seem more directed at exerting societal pressure on companies to change behavior, rather than to disclose financial information that primarily informs investment decisions."

"That is not to say that the goals of such mandates are not laudable," White said. "Indeed, most are. Seeking to improve safety in mines for workers or to end horrible human rights atrocities in the Democratic Republic of the Congo are compelling objectives, which, as a citizen, I wholeheartedly share. But, as the chair of the SEC, I must question, as a policy matter, using the federal securities laws and the SEC's powers of mandatory disclosure to accomplish these goals."

White also discussed the SEC's "new protocol requiring, in certain cases, admissions [of wrongdoing] from defendants if a settlement is to be reached."

Settlements with companies facing SEC charges have typically included no admission of wrongdoing, but White has sought to change that since becoming chairman in April. In September, the commission settled with JPMorgan Chase in a case related to the firm's $6.2 billion "London Whale" trading loss in 2012, and that filing included language that stated that the company "acknowledges that its conduct violated the federal securities laws" related to record-keeping.

"I decided that in some cases involving particularly egregious conduct or widespread harm to investors, for example, that a heightened level of public accountability, in the form of admissions, may be called for if we are to send a sufficiently strong message of deterrence," White said.

CFTC Chair Hopes for December Vote on Volcker Rule

The head of the Commodity Futures Trading Commission (CFTC) said on October 30 that he hopes to have his agency vote on the Volcker rule in December.

The Volcker rule, which was included in the 2010 Dodd-Frank Act, would generally prohibit banks from engaging in proprietary trading. Five regulatory agencies are writing the final draft of the rule, which was to have been implemented by July 21, 2012. One of the challenges that has contributed to the delay has been carving out an exception to the regulation that allows for hedging activities but is tightly written enough not to allow all proprietary trading to be labeled hedging.

CFTC Chairman Gary Gensler said "lots of very constructive discussions" are continuing among the regulators, and he indicated that they may be getting close to completing their work.

"I am hopeful to try to schedule a public commission meeting in the second week of December or third week of December" to consider the rule, Gensler said.

Treasury Secretary Jacob Lew in September met with regulators from the agencies that are working on the rule – the Federal Deposit Insurance Corporation, the Federal Reserve, the Office of the Comptroller of the Currency, the Securities and Exchange Commission and the CFTC – and gave them a series of deadlines aimed at ensuring completion of the rule by the end of 2013.

President Obama met with Lew and other financial regulators in August to "convey to them the sense of urgency that he feels" about getting Dodd-Frank fully implemented, an administration spokesman said at the time.

Supporters of the Volcker rule – mostly Democrats – say it is needed to prevent the type of excessive risk-taking that contributed to the 2008-09 financial crisis, while opponents – mostly Republicans – argue that it will drive capital out of the United States and have a negative impact on the U.S. economy.

RELATED NATIONAL AND INDUSTRY NEWS

NCPERS Survey Finds 8% Investment Return for Public Pensions over 20 Years

Public pension fund investment returns in recent decades have about matched the often-maligned annual projection of 8 percent, according to the results of a survey conducted by the National Conference on Public Employee Retirement Systems (NCPERS).

The survey of 241 state and local funds, with combined assets of more than $1.4 trillion, found an overall return of 8 percent during the 20 years before 2012, 7 percent during the preceding 10 years and 10 percent during the preceding three years. The three-year return was up from 4 percent in 2011, since 2012 was a much better year for the market than 2009.

Many public pensions use investment return assumptions of around 8 percent, a figure that critics of pension funds say is overly optimistic and obscures a fund's long-term financial liabilities. Representatives of the public pension community insist that this number is consistent with historical returns.

The average funded level among survey respondents was 70.5 percent. The survey found that, "Public pension plans continued to adopt systemic and operational reforms to ensure plan sustainability – including lowering the actuarial assumed rate of return, raising benefit age and service requirements, tightening retiree return to work rules, shortening amortization periods and lowering the number of employees receiving health care benefits."

"The data we collected – the most current data available – shows public pension funds are continuing their strong recovery from the historic market downturn of 2008-2009," NCPERS Executive Director and Counsel Hank Kim said. "The survey shows public pensions are managing their assets efficiently and effectively, making plan design changes to ensure sustainability, continuing to implement sound operational controls and are expressing strong and growing confidence about their readiness to address the challenges ahead."

U.S. Retirement System Ranks 11th out of 20 Studied: Mercer

America's retirement system "has fallen outside of the top ten in the world," according to Mercer.

The Australia-based Melbourne Mercer Global Pension Index, which scores 20 national pension systems on a 100-point scale, rated Denmark first at 80.2, stating that the country's "well-funded pension system with its high level of assets and contributions, the provision of adequate benefits and a private pension system with developed regulations are the primary reasons for its top spot."

The United States placed 11th at 58.2, a dip from its 2012 score of 59.0 that resulted mainly from a reduction in its net replacement rate score. The overall score earned the U.S. a "C" grade, putting it in the same category as Germany, Poland, France, Brazil and Mexico.

Denmark was the only country to earn an "A." The Netherlands and Australia received a B+, while Switzerland, Sweden, Canada, Singapore, Chile and the United Kingdom received a B. The 20th-ranked country, Indonesia, scored 42.0, earning it a "D."
The report suggested that the United States could improve its retirement system by:

- Raising the minimum pension for low-income pensioners
- Adjusting the level of mandatory contributions to increase the net replacement rate for median income earners
- Improving the vesting of benefits for all plan members and maintaining the real value of retained benefits through to retirement
- Reducing pre-retirement leakage by further limiting the access to funds before retirement
- Introducing a requirement that part of the retirement benefit must be taken as an income stream

"As more countries are included in our analysis, it better highlights the fact that the U.S. retirement system does not rank in the top 10 in the world," Scott Pollack, a consultant in Mercer's retirement business, said. "Americans continue to struggle to achieve adequate income in retirement. That, coupled with proactivity on the part of other nations to address similar retirement challenges, has resulted in other nations overtaking the U.S. in our latest index."

CII Members Back Use of Universal Proxy Ballots

Council of Institutional Investors (CII) members have revised the organization's corporate governance policies to endorse the use of universal proxy ballots.

Shareholders who attend shareholder meetings are able to vote from among all director nominees, whether put on the ballot by management or a "dissident" group. Shareholders who do not attend the meetings, however, are typically able to vote for nominees that appear on either management's ballot or a dissident's ballot; they cannot "split the ticket" and choose from both ballots. Split tickets would be an option for all shareholders if universal ballots were used.

"In embracing a universal proxy card, CII supports regulatory reform that would facilitate a proxy card naming *all* candidates, ensuring a less confusing, less cumbersome voting process," the organization stated on its website.

The Securities and Exchange Commission's (SEC) Investor Advisory Committee recommended in July that the SEC "explore" rule changes that would allow for the use of a universal proxy ballot.

The use of such ballots would be problematic because of the SEC's "bona fide nominee" rule, which "provides that no proxy shall confer authority upon the solicitor to vote for any person who is not a bona fide nominee," with a bona fide nominee being defined as "one who consents to being named in a particular proxy statement and agrees to serve if elected."

A revision that was made to the regulation in 1992 and is known as the "short slate rule" allows shareholders to vote for a minority number of dissident nominees in combination with management nominees, but this can only be exercised by attendees at shareholder meetings.

The committee recommended that the SEC consider "relaxing" the bona fide nominee rule "to provide proxy contestants with the option (but not the obligation) to use Universal Ballots in connection with short slate director nominations (in other words, where the candidates nominated by shareholders would, if elected, constitute a minority of the board of directors)."

The Investor Advisory Committee is chaired by CalPERS Chief Investment Officer Joseph Dear.

CII members also backed a policy related to board tenure that is "intended to prompt boards to consider carefully whether a seasoned director should no longer be considered independent." The policy does not endorse a tenure limit, however, because, CII stated, "Requiring all directors to step down after a certain number of years could rob the board of critical expertise."

CALIFORNIA CONGRESSIONAL DELEGATION NEWS

California Rep. Wants Hearing on IPCC Report

A California lawmaker who is one of the leading congressional advocates for action on climate change is pushing for a hearing to be held on the latest Intergovernmental Panel on Climate Change (IPCC) report.

The IPCC released a report in September that concluded that, "It is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century."

House Energy and Commerce Committee Ranking Democrat Henry Waxman of California and Energy and Power Subcommittee Ranking Democrat Bobby Rush of Illinois on October 21 wrote to full committee Chairman Fred Upton, R-Mich., and subcommittee Chairman Ed Whitfield, R-Ky., to ask that a hearing be held on the report.

The Energy and Power Subcommittee held a hearing on September 18 to examine the Climate Action Plan that President Obama unveiled in June. Before that, Waxman and Rush had written to Upton and Whitfield 26 times in a little more than two years to request that the panel schedule a hearing on climate change, but no hearings were held. In the latest letter, Waxman and Rush wrote that the September 18 hearing "should be the start – not the end – of Committee efforts to address the most serious energy challenge facing our nation."

"Good legislation needs to start with an understanding of the problem," they wrote. "That is why we said at the September 18 hearing that the Committee should hear from the world's best scientists so we can be informed about the risks of climate change. The best place to start is with consideration of the most recent report from the Intergovernmental Panel on Climate Change. ... We are the Committee charged with crafting a responsible energy policy for the nation. As we carry out this responsibility, it would be reckless and irresponsible for the Committee to continue to deny the climate science or to ignore the warnings of the world's best climate scientists."