CFAnews
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CONSUMER FEDERATION OF AMERICA

# Limited TRIA Extension Appears Likely

In what would be a major victory for taxpayers, Congress appears set to deny insurers the quick renewal of the Terrorism Risk Insurance Act for which they have been lobbying aggressively since last year.

In July, both Senate Banking Committee Chairman Richard Shelby (R-SC) and House Financial Services Committee Chairman Michael Oxley (R-OH) said they favored extension of a scaled back version of the program designed to begin the transition away from taxpayer backing.

Adopted in the wake of September 11, TRIA makes federal reinsurance available at no charge to insurers writing commercial property/casualty insurance. The temporary program expires at the end of this year unless Congress acts to extend it.

CFA has advocated allowing the program to expire. However, the "next best short-term solution," according to CFA Director of Insurance J. Robert Hunter, would be to dramatically scale back the program along the lines the administration and key leaders in Congress are now advocating.

"It is time to wean insurers and large real estate interests from this lucrative government program," Hunter said in July testimony before a House subcommittee.

This view got a boost with the release in late June of the Treasury Department report on TRIA. That report makes clear that the insurance industry does not need the overly generous subsidy it is currently receiving from taxpayers.

### Administration Advocates TRIA Reforms

Based on the Treasury report, the administration has advocated a number of reforms to scale back the program and foster the growth of the private market for terrorism insurance. These include:

- increasing the trigger level at which federal backing would kick in from $5 million to $500 million;
- increasing deductibles and co-payments to be paid by insurance companies for the federal backing; and
- dropping coverage for certain lines of insurance with potentially small terrorism losses.

"The Department of Treasury's report on TRIA is an excellent starting point for Congress as it considers what to do when the current terrorism insurance program expires at the end of the year," Hunter said.

"The program must be sharply cut back in the coverage it affords to the insurance industry in order to reduce the burden on taxpayers for the reinsurance that is provided," he added. "Insurers must be required to pay higher deductibles and co-payments in the event of a terrorist attack."

The Treasury Department report is silent on whether insurers should be required to pay a premium for the reinsurance they receive in the future, an approach CFA strongly favors.

"Taxpayers should no longer be required to give away billions of dollars in free reinsurance to an industry that is financially flush," Hunter said. "We strongly urge lawmakers to emulate the Riot Insurance program of the 1970s and to require insurers to pay a temporary premium until TRIA permanently expires."

Had insurers been charged actuarially-based premiums for the insurance coverage that taxpayers have provided, the Treasury Department would have amassed about $3 billion by now, he noted.

### CFA Report Documents Financially Sound Industry

In conjunction with Hunter's July House testimony, CFA released a major study of the property/casualty insurance market that, like the Treasury Department study, concluded that the timing is "ideal" for Congress to end its subsidy to the insurance industry.

The CFA study found that:

- profits and financial soundness in the insurance industry are strong and growing;
- access to capital is at near record levels;
- property/casualty insurance rates are falling;
- terrorism insurance costs are low in much of the country, and
- insurers have a growing capacity to offer terrorism coverage without governmental back-up.

While insurers have predicted dire consequences if the program is not extended as-is, or even expanded, the CFA report found that these claims "do not appear justified."

The excess of capital in the industry has created a price war, which has caused commercial rates to drop in the second quarter of

(Continued on Page 2)

On the **Web**
www.consumerfed.org/pdfs/TRIA_Report_072605.pdf
www.consumerfed.org/pdfs/TRIA_Report_Release_072605.pdf
www.consumerfed.org/pdfs/TRIA_house_testimony_072705.pdf
www.consumerfed.org/pdfs/TRIA_Treasury_Study_Statement063005.pdf

# Court, FCC Deal Blow to Broadband Competition

The Supreme Court ruled 6-3 in June that cable companies do not have to allow rivals to offer high-speed Internet access over their networks.

Quick on the heels of that decision, the Federal Communications Commission (FCC) in August voted to eliminate a requirement that phone companies provide competitors nondiscriminatory access to their digital subscriber line (DSL) networks.

The result of these two decisions will be to force existing independent broadband providers out of the market and drive up the price of high-speed Internet for consumers, predicted CFA Research Director Mark Cooper.

"It is a fundamental principle that communications networks must be available to all on a nondiscriminatory basis if they are to serve the public interest," he said.

Evidence that removing the open access requirement is misguided can be found in the harm to consumers and the stifling of entrepreneurial innovation that has occurred since the FCC refused to require cable operators to provide nondiscriminatory access to their broadband Internet networks, Cooper said.

During that period, the U.S. has slipped from third in the world to sixteenth in high-speed Internet adoption. On a megabit basis, Americans pay 10 to 20 times as much for broadband as the Koreans and Japanese.

"Open access requirements for Bell-owned DSL lines have been responsible for some of the only true competition that exists in the residential high-speed Internet market today," Cooper said.

The FCC decision to eliminate those requirements, rather than extend them to cable, has "virtually guaranteed that those consumers lucky enough to have both cable and DSL options will have to buy a package of high-priced services they may not want just to get high-speed Internet," he said.

The one bright spot was the FCC's simultaneous adoption of principles providing guidance that cable and telephone companies should allow their subscribers to use the Internet as they wish.

"The policy may help to prevent cable and telephone companies from using their monopoly power to block consumer access to websites, prohibit their use of competing Internet telephone service, or prevent them from using computer applications," Cooper said. "This is an important clarification to ensure consumer choices and rights to diverse points of view."

Unfortunately, the policy did not include enforcement measures.

"If the Commission fails to make clear its intention to act promptly to enforce these principles and take action against any violations, it provides mere lip service to consumers' right to unfettered access to Internet content and services," Cooper said.

Several members of Congress have pledged to pursue inclusion of a provision guaranteeing Internet neutrality in a rewrite of telecommunications policy now getting underway in Congress.

What is needed is a policy of nondiscrimination "that both meets the needs of consumers, entrepreneurs, ISPs, and applications developers for access to the network and meets the needs of the network operators to have flexibility in advancing the functionality of their networks," Cooper said.

"Other nations have struck this balance," he said. "Congress, the FCC, and industry incumbents now must find a way to follow the nations that have leapt past us into the 21st century."

On the **Web**
www.consumersunion.org/pub/core_telecom_and_utilities/002441.html
www.consumersunion.org/pub//002564.html

**We Have Moved!**

After 21 years at the same location, CFA has moved. Our new address is: 1620 I Street, N.W., Suite 200, Washington, D.C. 20006. Our phone and fax numbers have not changed. Phone: (202) 387-6121. Fax: (202) 265-7989.

# GSE Oversight Bill Advances in Senate

The Senate Banking Committee approved a bill in July to overhaul regulatory oversight of the mortgage finance government sponsored enterprises (GSEs).

The bill (S. 190), which passed on a party-line vote, would create a new regulator for Fannie Mae, Freddie Mac and the Federal Home Loan Banks. That regulator would have authority to set minimum and risk-based capital requirements for the GSEs and to approve their entry into new lines of business.

Like its counterpart in the House (H.R. 1461), which passed the House Financial Services Committee in May, the Senate measure would afford the new agency broad powers to regulate the GSEs' mortgage portfolios. The Senate bill goes further than the House bill, however, by mandating that the regulator establish criteria to restrict the types of assets in those portfolios.

These restrictions were opposed by committee Democrats concerned that they would damage the housing markets and cause serious unintended consequences.

In a victory for consumers, language was removed from the bill that would have expressly prohibited the GSEs from operating either directly or indirectly in the primary market and that would have forbidden Fannie Mae and Freddie Mac from assuming any role before mortgages are closed and funded.

"We believe such prohibitions would likely interfere with a range of GSE activities that have proven useful for expanding Fannie Mae and Freddie Mac's role in serving important segments of the affordable housing market," said CFA's Director of Housing and Credit Policy Allen Fishbein.

However, the committee failed to include improvements that would further enhance the affordable housing and other public responsibilities for the three GSEs.

CFA and other low-income housing and community groups wrote to members of the Senate Banking Committee in July urging inclusion of provisions to: strengthen the affordable housing goals for Fannie Mae and Freddie Mac, establish an affordable housing fund to be capitalized on an annual basis by those two GSEs, and establish affordable housing and community lending goals for Federal Home Loan Bank system activities.

The groups endorsed a proposal put forward by Sen. Jack Reed (D-RI) to require Fannie Mae and Freddie Mac to donate money to a fund for production, preservation, and rehabilitation of housing targeted at households earning 30 percent or less of the area median income.

That language, which is similar to language in the House bill, was included in a substitute offered by Sen. Paul Sarbanes (D-MD) which was voted down 11-9.

Instead, the committee adopted an amendment offered by Sen. Rick Santorum (R-PA) "that addresses some of our affordable housing concerns but falls far short," Fishbein said.

Lawmakers vowed to work toward a compromise during the August recess. But with time running out in this congressional session, and the difficult issues on affordable housing and portfolio limits unresolved, a GSE reform package may fail to pass again this year.

"We continue to encourage lawmakers to pursue balanced GSE legislation that focuses on the ongoing safe and sound operation of these entities, while also preserving and enhancing their critical role in the nation's housing finance system and public purpose responsibilities," Fishbein said.

# Legislative Update

### Safety Provisions Included In Highway Bill

In a victory for consumers, Congress included a package of safety measures in the highway bill that cleared Congress in late July and was signed into law by the president in August.

"This is a giant step forward in auto safety that will save thousands of lives and prevent millions of injuries due to motor vehicle crashes," said CFA Public Affairs Director Jack Gillis.

The bill requires the National Highway Traffic Safety Administration (NHTSA) to issue rules requiring: rollover prevention technology; an upgrade of the roof strength standard; a new ejection prevention standard; an improved door lock standard; and an improved side impact standard.

The bill also requires: testing of 15-passenger vans for rollover safety; safer power window switch designs to protect children; vehicle window labels with government safety rating information; data collection of non-crash, non-traffic incidents; and studies of tire aging, how to improve effectiveness of seat belt use reminders, and technology to prevent back-over crashes.

The bill includes two state incentive grant programs to encourage adoption of primary enforcement seat belt laws and booster seat laws.

An amendment that would have undermined truck safety by extending the hours that truckers can work without a break was defeated, however the administration is once again pursuing that effort through the rulemaking process.

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### Consumer Banking, Credit Bills Endorsed

CFA, U.S. Public Interest Research Group, the Center for Responsible Lending, and Consumers Union wrote to members of the House Financial Services Committee in July urging them to co-sponsor bills to end credit card and bank overdraft loan abuses.

Rep. Bernie Sanders (I-VT) and Rep. Barney Frank (D-MA) have introduced credit card reform legislation that would:

- prohibit card companies from raising a consumer's interest rate or negatively changing terms of the card agreement based on a consumer's payment history with other creditors or a change in the consumer's credit score;
- prohibit card companies from applying interest rate increases to current balances; and
- require credit card companies to disclose how many months and years it would take to pay off the balance and the total amount of interest that would accrue making only minimum payments.

Rep. Carolyn Maloney (D-NY) and Rep. Frank introduced legislation clarifying that bank overdraft loans are covered by the basic consumer protections in the Truth in Lending Act.

By closing a loophole in the Federal Reserve Board's implementation of the Truth in Lending Act, the legislation would:

- require banks to get a consumer's written consent before permitting overdraft loans for a fee;
- clarify that overdraft fees are finance charges that must be disclosed as an Annual Percentage Rate that can be used to compare costs;
- prohibit banks from manipulating the order in which checks and other debits are posted in order to cause more overdrafts and maximize fees; and
- require banks to warn customers that an ATM withdrawal may trigger an overdraft loan fee and allow the customer to cancel the transaction after receiving this warning.

"American consumers need strong protections against abusive credit card and bank overdraft loan practices to safeguard their hard-earned money," said CFA's Director of Consumer Protection Jean Ann Fox.

In April, CFA and 25 other consumer groups wrote to members of Congress urging them to sponsor another bill introduced by Rep. Mahoney, which would shorten the length of time that a bank or other financial institution can hold a deposited check.

The bill would reduce the check hold times to no more than two business days for consumer deposits up to $7,500 and would count Saturday as a business day toward the check hold period if the bank takes money out of consumer accounts on Saturdays.

The bill would increase the "small check" amount for which there is faster funds availability from the current $100 to $500.

"When Congress passed a law to speed up withdrawals from consumer bank accounts, it failed to also speed up access to deposits," the groups wrote. "This important consumer protection legislation seeks to correct that fundamental unfairness."

* * *

### Gun Liability Bills Advance

Just before leaving for August recess, the Senate passed legislation (S. 397) to shield gun manufacturers and dealers from civil liability.

The bill – which also applies to distributors, importers, and trade groups – would prohibit most civil lawsuits from being brought in state or federal court and would dismiss pending lawsuits.

It includes exemptions from liability protections for anyone who sold a firearm knowing it was intended for use in a crime of violence or drug trafficking or who knowingly violated state or federal laws applicable to the marketing or sale of firearms, if the violation resulted in harm.

Liability protections also would not apply in cases in which proper use of a firearm resulted in physical injury, death, or property damage because of a defect in the firearm.

An amendment offered by Sen. Herb Kohl (D-WI) was adopted requiring all licensed manufacturers, importers, and dealers to include a separate child safety lock or storage device with each handgun sold.

A companion bill (H.R. 800) was reported out of the House Judiciary Committee in June.

"Guns are not regulated for heath and safety, making access to the civil justice system critical for consumers seeking to hold the gun industry accountable," said CFA Assistant General Counsel Rachel Weintraub.

"This legislation is yet another example of gun industry influence trumping consumer safety," she added.

### TRIA Extension

Continued from Page 1

2005 by five percent for small commercial accounts and by over 10 percent for medium and large accounts, according to the report.

Furthermore, as the Treasury Department documented in its report, the average percentage of overall premium paid out by commercial policyholders for their terrorism coverage was under two percent in 2004.

"This means that, if terrorism charges doubled as a result of TRIA's demise, overall insurance premiums paid by businesses of all sizes would still decline," Hunter said. "At the current time, for larger commercial accounts, terrorism prices could more than quintuple with no overall premium increase being felt.

"What a perfect time for Congress to end the program," he said.

### Regulatory Relief Bill

Continued from Page 4

tory lending patterns and thus assists with the enforcement of anti-discrimination, community reinvestment, and consumer protection statutes.

"To accomplish these purposes, a comprehensive database is required," Plunkett said.

Currently, depository institutions with assets under $34 million (indexed annually) are exempt from HMDA's reporting requirements. Industry representatives have suggested raising the threshold to $250 million.

This would newly exempt approximately 25 percent of depository institutions and 25 percent of current HMDA filers from submitting HMDA reports, Plunkett said.

In many states, lenders in this size category represent the vast majority of all banking institutions. For example, depository institutions with assets between $34 million and $250 million represent over 70 percent of all banks and thrifts chartered in Alabama, Iowa, Kentucky, Louisiana, and West Virginia, and over 60 percent of the banks in some 20 other states.

Finally, Plunkett noted, the argument that HMDA presents a regulatory burden for smaller institutions is, at best, outdated. "Today, software for HMDA reporting is readily available and relatively inexpensive," Plunkett said.

# Bills Address Abusive Marketing To Military

Responding to media reports and academic studies documenting the targeted sale of abusive financial services products to members of the military, Congress has taken up bills to protect military personnel and their families from these practices.

In June, the House gave near unanimous approval to a measure (H.R. 458) that would ban the sale of contract mutual funds, give state insurance regulators clear authority to oversee insurance sales on military bases, create a registry of barred insurance agents and securities salespersons to be shared among federal and state regulators and military bases, and place new restrictions on the marketing of high-cost loans to service members.

Contract mutual funds, which are marketed almost exclusively to members of the military, typically impose sales charges equal to 50 percent of first-year contributions.

"We strongly support this effort to close a loophole that has allowed sales charges on contract mutual funds that are many times those for regular mutual funds," said CFA Director of Investor Protection Barbara Roper.

Unfortunately, H.R. 458's provisions on high-cost loans are far weaker.

The bill would require lenders with 10 percent or more of their customers in the military to provide a list of disclosures to consumers of high-interest loans and would codify industry language addressing collection abuses.

### Loan Provisions Need Strengthening

"Military borrowers deserve real protections that prevent lenders from hawking high-risk loans that carry triple-digit interest rates around bases and over the Internet," said CFA Director of Consumer Protection Jean Ann Fox.

"We urge the Senate to go beyond the bill's current disclosure, advertising, and collection requirements by adding stronger safeguards to prevent predatory payday and car title lending to service members in the first place," she said.

H.R. 458 awaits action by the Senate Banking Committee, whose chairman, Sen. Richard Shelby (R-SC), has indicated he intends to take up the issue after the completion of a General Accounting Office study and a report by the SEC.

Meanwhile, Rep. Sam Graves (R-MO) has garnered significant support from the military community and consumer advocates for his bill (H.R. 97) to cap the annual percentage rate at 36 percent for loans obtained by military personnel and their spouses.

The bill sets a federal floor of protections to supplement state small loan and usury protections when military consumers are borrowers.

"Under H.R. 97, legitimate, reasonably priced small loans would continue to be offered, but the cap would stop lenders from targeting members of the military with payday loans and car title loans that trap borrowers in a cycle of unaffordable debt," Fox said.

### Vote on Defense Bill Amendment Postponed

Shortly before the August recess, Sen. Elizabeth Dole (R-NC) introduced an amendment to the defense authorization bill on the Senate floor that contained the same rate cap and protections as H.R. 97.

Before the measure could be voted on, however, the Senate leadership broke off debate on the defense appropriations measure amid unresolved disputes over base closures and the treatment of military detainees.

Further debate on the bill was postponed until after the August recess.

The measure would amend the Servicemembers Civil Relief Act, which does not contain a private right of action and is not enforced by a regulatory agency.

"We applaud Sen. Dole for her efforts to protect military consumers, and we encourage lawmakers to add a strong enforcement mechanism, which is critical to ensuring lender compliance with the rate cap she has proposed," Fox said.

# Increased Ethanol Use Could Cut Gas Costs

Consumers could save as much as eight cents a gallon on gasoline if oil companies would increase their use of ethanol, according to a CFA report released in May.

Yet, despite skyrocketing crude oil prices, dropping ethanol prices, and the capacity to handle additional ethanol supplies in markets across the country, oil companies continue to use only as much ethanol are they are required to by the Clean Air Act, the report found.

The reason, according to report author and CFA Research Director Mark Cooper, is that "the market is not competitive enough to force oil companies to worry about price increases." Since they don't own the ethanol, "they prefer to process more crude oil and make more money by keeping the price up."

While some of the recent gasoline price increase is the result of the higher cost of crude oil, some "is directly related to continuing efforts by the major oil companies to keep their inventories as tight as possible," Cooper said.

This practice has resulted not only in record high gasoline prices, but also in record high monopoly profits for the oil companies. The profits of ExxonMobil alone exceeded $25 billion in 2004, and its fourth-quarter profits of $8.4 billion are the largest ever for a publicly traded U.S. company.

The 13 oil companies that accounted for over 84 percent of U.S. refinery runs in 2004 increased their income on U.S. refining and marketing operations by more than 130 percent from 2003 to 2004.

Meanwhile, prices for ethanol dropped by 40 to 50 cents a gallon in different parts of the country in the early part of this year, and production has climbed steadily.

"The consumer implications of the refusal to use more ethanol are clear,"Cooper said. "Consumers in many parts of the country where ethanol can be delivered to existing storage and terminal facilities are not receiving lower cost supplies and are paying as much as eight cents a gallon more at the pump than they would if oil refiners purchased ethanol to blend."

One relative bright spot in the otherwise largely anti-consumer energy bill signed into law by the president in July is its requirement that at least 4 billion gallons of ethanol and biodiesel by used in 2006, with the amount increasing to 7.5 billion gallons in 2012.

"Congress stepped in because the market has failed," Cooper said. "But this is at best a small step in the right direction".

"This nation needs a much more vigorous policy to promote renewables, like biofuels, increase efficiency, and find other alternatives for oil."

On the Web
www.consumerfed.org/pdfs/cfaethanol050505.pdf

# Court Issues Mixed Decision on Peer-to-Peer Networks

The Supreme Court ruled unanimously in June that peer-to-peer file-sharing networks can be held liable if they actively encourage use of their software to infringe on copyrights.

On the other hand, the decision did not overturn the doctrine that allows the sale of technology that may be used illegally so long as there are also substantial legal uses for the technology.

What the decision did not make clear is exactly where to draw the line in determining what conduct would trigger liability.

"The record companies and Hollywood studios wanted companies to be guilty if their technology can be used to download copyright materials," said CFA Research Director Mark Cooper, "but the court instead said companies might be guilty if they actively induce people to infringe copyright."

Although the copyright holders did not get the total victory they sought, there is a concern that the lack of clear guidelines in the ruling and threat of further litigation could inhibit further expansion of the peer-to-peer networks.

These networks have become the dominant form of Internet communications, in large part because they are more efficient than centralized networks, Cooper said.

If the entertainment industry succeeds in its efforts to create "a surveillance society that requires technologies to fingerprint every file, tag every user, and monitor every transaction," they will "destroy the fundamental nature of peer-to-peer networks," he said.

"If the record companies sue everybody all the time, which has been their strategy to date, innovation could be undermined," Cooper added. "We will have to see if the lower courts set a rigorous standard and throw out frivolous lawsuits quickly."

In the wake of the Supreme Court decision, the Senate Commerce Committee held the first of what it said would be several hearings on the implications of the decision.

Although neither the entertainment companies nor the technology companies appear to be pushing for legislation at the moment, Committee Chairman Ted Stevens (R-AK) said the committee would be monitoring developments to see whether illicit uses were being inhibited as a result of the decision.

CFA has argued that public policy should embrace peer-to-peer technologies on the grounds that they promote technological innovation, new modes of economic growth, and fundamental social, political, and economic progress.

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# Regulatory Relief Proposals Threaten Consumers

The Senate Banking Committee is considering a number of changes to the laws governing financial services, including some that pose a serious threat to financial services consumers.

Sen. Michael Crapo (R-ID), who has been leading the effort, is expected to introduce a broad "regulatory relief" bill this fall. Although the actual content of that legislation is not yet known, Sen. Crapo has circulated a list of proposals to regulators for their review.

"Unfortunately, a lot of proposals being promoted by the financial services industry under the guise of 'regulatory relief' would actually roll back important consumer protections or put taxpayers at risk," said CFA Legislative Director Travis Plunkett. "Congress needs to turn the tables on these special interests and update the law in ways that would actually benefit consumers."

Plunkett testified on the issue in June before the Senate Banking Committee on behalf of ACORN, Center for Responsible Lending, Consumers Union, National Association of Consumer Advocates, National Community Reinvestment Coalition, and U.S. Public Interest Research Group as well as CFA.

He identified nine proposals that these groups believe "pose the greatest threat to the low- and moderate-income consumers that we represent."

Plunkett also identified five pro-consumer proposals that should be included in any legislation:

- clarifying that the Truth in Lending Act applies to bounce loans;
- prohibiting banks from providing payday loans in violation of state laws;
- updating the jurisdiction limits and statutory penalties in the Truth in Lending Act;
- expanding the services credit unions are allowed to provide to their members; and
- expanding the Electronic Fund Transfer Act to apply to all forms of electronically processed payments.

## Industrial Loan Company Expansion Opposed

Among the regulatory relief proposals that pose the most severe risks, Plunkett said, is the proposal to allow financial firms and some commercial entities to set up a new, nationwide commercial banking system through industrial loan companies that is subject to much less rigorous oversight than under the current structure. Another proposal pending in Congress would allow these companies to offer business checking services.

"This has enormous negative implications for the safety and soundness of these banks and, thus, for taxpayers who, of course, support the deposit insurance system," Plunkett said.

Far from expanding the industrial loan company loophole in the Bank Holding Company Act, Congress should recognize that the existing loophole is being abused and close it, he said.

"Industrial loan companies were never intended to be large, nationwide banks that offered services indistinguishable from commercial banks," he said.

The proposal is a violation of the long-standing principle that commerce and banking should not mix, and it would force 33 states that have not chosen to do so to allow entry of these under-regulated banks, Plunkett said.

Securities firms that own industrial loan companies have taken the lead in promoting the inclusion of industrial loan company expansions in the regulatory relief legislation.

In doing so, they have made clear that a primary motivation is to avoid the regulatory oversight they would face from the Federal Reserve if they purchased a bank.

Industrial loan companies are exempt from the Bank Holding Company Act, which allows the Federal Reserve to conduct examinations of the safety and soundness, not just of banks, but also of the parent or holding company of these banks. It also empowers the Federal Reserve to place capital requirements and impose sanctions on these holding companies.

"Oversight of the holding company is the key to protecting the safety and soundness of the banking system," Plunkett said.

"Holding company regulation is essential to ensuring that financial weaknesses, conflicts of interest, malfeasance, or incompetent leadership at the parent company will not endanger the taxpayer-insured deposits at the bank," he added.

The involvement of investment banks in recent corporate scandals has provided "plenty of evidence of the need for rigorous scrutiny of these companies" as they get more involved in commercial banking, he added.

Given the track record of the firms pushing the proposal, "it would be a serious dereliction of duty on the part of Congress to tie the hands of regulators in looking at bank holding companies," he said.

## HMDA Disclosures Under Attack

Plunkett also voiced strong opposition to a proposal being pushed by some members of the banking industry to reduce the number of banking institutions required to report lending data under the Home Mortgage Disclosure Act (HMDA).

"We believe that reductions in HMDA reporting would undermine the utility and effectiveness of this vital information source and therefore strongly oppose such changes to the HMDA statute," Plunkett said.

HMDA provides the public and banking regulators with data that helps to show whether lenders are serving the housing needs of the neighborhoods and communities in which they are located.

It also helps identify possible discrimina-

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# USDA Urged To Hold Mad Cow Disease Hearings

In the wake of the second confirmed U.S. case of Bovine Spongiform Encephalopathy (BSE), or "mad cow" disease, the Safe Food Coalition wrote to Secretary of Agriculture Michael Johanns in July urging him to convene and chair public hearings on the risk from the disease.

The coalition of food safety advocacy groups, coordinated by CFA, asked the Secretary, as part of the forum, to outline the steps the government has taken to control the disease and to assure that Americans are not subjected to an increased risk of Crueztfeld-Jacob Disease, the fatal brain-wasting disease that humans can contract as a result of eating BSE-infected meat.

"Beginning with the discovery of a BSE positive bovine in Canada in 2003, U.S. government actions have been notable for the lack of public participation and transparency," the groups wrote.

While members of the administration have met repeatedly with cattlemen, representatives of the meat industry, and officials of other governments, "there has been no opportunity for American consumers to meet with, offer suggestions to, or seek responses from our government about our food supply," they wrote. "We cannot think of any food safety issue of this importance where government action has been so subject to special pleading and so cloaked in secrecy."

Criticisms of the administration's response to the disease have grown since it was disclosed in June that a cow in Texas that had been declared disease-free by USDA had since tested positive for the disease. This cow became the first confirmed domestic case of mad cow disease in the United States. The confirmatory test was performed over the objections of the USDA and industry at the insistence of the USDA Office of Inspector General.

"The history of BSE in this country has been characterized by unsupportable assurances of no risk, inadequate regulatory remedies, and the adoption by government and industry of 'sympathetic science,'" said Carol Tucker Foreman, Director of CFA's Food Policy Institute. "This will result in further diminution of public confidence in USDA's capacity to put public health ahead of industry convenience and trade imperatives."

In their letter to Secretary Johanns, the groups wrote: "We urge you to conduct public hearings as a means both of improving BSE control policies and meeting your responsibility to represent the interests of all Americans."

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