



CONSUMER FEDERATION OF AMERICA

Congress Considers Steps To Halt Mortgage Abuses

Amid rapidly escalating delinquencies and defaults among subprime mortgage borrowers, Congress has begun to give serious attention to the issue of predatory mortgage lending with an eye toward both helping to protect current borrowers from foreclosure and preventing future abuses.

The need to act is clear, said CFA's Director of Housing and Credit Policy Allen Fishbein. "The abandonment in recent years by many mortgage originators of prudent underwriting based on the borrower's ability to repay is leading to rapidly escalating delinquencies and defaults."

Compounding the problem and contributing to higher early default rates on these mortgages is "the increasing reliance on an assortment of additional risk layering practices, such as using stated income rather than documented income to qualify borrowers," he said.

He singled out hybrid adjustable rate mortgages as particularly problematic. These loans, which have dominated the subprime market in recent years, typically begin with a two-year "teaser" rate and then switch to an adjustable rate mortgage (ARM) in year three.

Those who borrow using these types of loans, known as 2/28 loans, typically face payment increases of 30 percent or more during the third year of the loan, even if interest rates remain unchanged.

Until about a year ago, rising home prices and relatively low interest rates made it possible for borrowers to refinance or sell their homes after the initial period ended or if they ran into trouble making payments. However, when home price appreciation leveled off last year, "delinquencies and defaults for these loans took off," Fishbein said, rising to the highest levels in a decade.

Subprime foreclosures are forecast to continue to rise over the next two years, as 1.8 million hybrid ARMs reset, he said, and there are increasing signs that defaults are rising for other segments of the mortgage industry.

Congress Considers Legislative Solutions

Faced with these disturbing trends, the Senate Banking Committee and the House Financial Services Committee have held a series of hearings, and the Joint Economic Committee has issued a report. In addition:

- Sen. Charles Schumer (D-NY), Sen. Sherrod Brown (D-OH), and Sen. Robert Casey, Jr. (D-PA) introduced legislation (S. 1299) to help restore responsible mortgage lending and to provide mortgage relief to those currently experiencing difficulties;

- House Financial Services Chairman Barney Frank (D-MA) indicated that his committee will develop legislation this year, and Ranking Member Spencer Bachus (R-AL) has

said he supports a legislative solution; and

- Senate Banking Committee Chairman Christopher Dodd (D-CT) won agreements from a number of the nation's largest mortgage lenders to abide by a set of principles when working with families who are facing foreclosure on their homes.

Fishbein testified in March before the House Subcommittee on Financial Institutions and Consumer Credit, shortly after the federal banking regulators proposed guidance regarding subprime lending.

Fishbein said that guidance "should help to restore prudent underwriting for these loans." He urged that it be adopted as quickly as possible and that states adopt parallel guidance, "since the majority of the subprime loan market is under their watch."

In addition, he called on the Federal Reserve Board to utilize its authority to prohibit unfair and deceptive mortgage lending practices. And he argued that, given the poor performance of hybrid ARMs and the prospects for high foreclosure rates, the housing Government Sponsored Enterprises (GSEs) should not receive credit toward achieving their statutorily mandated affordable housing goals, as they currently do, for securities backed by these mortgages.

New Consumer Protections Urged

Fishbein also outlined additional recommendations to enhance consumer protections both by improving disclosures and by strengthening regulations.

Current disclosures should be made both more specific and more comprehensive, he said, and should include information about the maximum payment permitted under the contract.

Also needed, he said, is "a more wholesale and comprehensive approach to protecting consumers seeking mortgage credit." Toward that end, he said, Congress should adopt legislation to:

- impose a duty of good faith and fair dealing on loan originators that applies to all mortgage loans – including non-traditional, hybrid adjustable rate and subprime loans – as well as to the making of appraisals to support home loans and to the servicing of loans;
- make investors accountable for the irresponsible practices of brokers, lenders, and servicers of loans that form mortgage-backed securities; and

- establish a fund to help those who could maintain mortgage payments and avoid foreclosure if the amount of their arrears were paid.

With these principles in mind, CFA has endorsed the Schumer-Brown-Casey legislation. It would: establish a fiduciary duty to their customers for mortgage brokers and basic standards of care for all mortgage originators; require that mortgage lending be based on the borrowers' ability to repay the

loan and the use of appropriate income documentation; and allow borrowers already facing difficulties because of loans made without regard to their ability to repay to refinance their current mortgages into more affordable loans.

"Had this bill been in place, its provisions would in all likelihood have helped to prevent the foreclosure tsunami occurring today," Fishbein said.

Bankruptcy Laws Contribute to Problems

That foreclosure "tsunami" has also brought attention to the way in which mortgages are treated in bankruptcy.

In April, Fishbein participated in a news conference with the National Association of Consumer Bankruptcy Attorneys and the Center for Responsible Lending to highlight fixes that are needed to the bankruptcy laws to help keep families who have been "hit with payment shocks built into their mortgages" in their homes.

"For many families, bankruptcy may be the only viable option to save their home," Fishbein said. "Yet this lifeline will be available only if the bankruptcy code is revised to eliminate or limit the provisions that exclude

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On the Web

www.consumerfed.org/pdfs/Bankruptcy_Press_Release041207.pdf
www.consumerfed.org/pdfs/CFA_Statement_Bankruptcy041207.pdf

Weak Military Lending Restrictions Proposed

The Department of Defense proposed weak regulations in April to implement the Military Lending Act passed in the last Congress.

In a joint statement issued in response to the proposed rule, CFA, the Center for Responsible Lending, and the National Consumer Law Center noted that they support the Pentagon's commitment to protecting its military families from financial exploitation.

Unfortunately, they added, the proposed regulations contain loopholes that "would allow payday and other predatory lenders to tweak their products and continue trapping borrowers into high-cost loans."

The Military Lending Act, which was hailed as one of the key consumer victories in the last Congress, imposed a strict 36 percent cap on annual interest rates, including fees and credit insurance premiums.

If rigorously enforced, such a cap "would prevent predatory lenders from gouging military borrowers," said CFA Consumer

Protection Director Jean Ann Fox. "However, the proposed regulations are so narrowly defined that abusive lenders will still have the opportunity to market a number of high-cost loan products carrying well over 36 percent interest."

For example, the Military Lending Act prohibits high-cost installment loans, which payday lenders have marketed in states where their narrowly defined payday product is prohibited. The proposed regulations, however, would permit these loans.

The proposed regulations would also allow open-ended credit products charging over 36 percent interest, "making the cap meaningless for all but a very specific type of loan," Fox said. In addition to high-cost installment loans, credit cards and bounce loans would be permitted to exceed the cap.

And, despite Congress's clear intent to prevent crediting insurance "packing" by installment lenders – a well-known dodge to avoid interest rate caps – this would also be permitted under the proposed rules.

As a result, "the regulations as written will actually undermine the Pentagon's attempt to protect the quality of life of military families and the military readiness of the armed forces," Fox said.

The groups urged the Department of Defense to revise its rules in order to protect against high-cost lending, "irrespective of what creditor issues it, or what form the credit takes" and to redefine the rate cap to include all fees and costs of credit, as Congress clearly intended.

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On the Web

www.consumerfed.org/pdfs/Military_Lending_DOD_Proposed_Reg_Comments41107.pdf
www.consumerfed.org/pdfs/PDL_Kucinich_Hearing_Testimony032107.pdf

Bills To Modernize Food Safety System Introduced

Fulfilling promises to make food safety a priority in the new Congress, Sen. Richard Durbin (D-IL) and Rep. Laura DeLauro (D-CT) reintroduced legislation in February to modernize the nation's food safety system.

The bills (S. 654, H.R. 1148) would consolidate food safety responsibilities under a single administrator with responsibility for the safety of the entire food supply.

The bills would also update food safety laws by allocating resources according to risk and by providing the new agency with authority to test for dangerous pathogens, authorize mandatory recalls, and penalize companies that knowingly sell dangerous food.

"It's been 100 years since our first food safety laws were enacted," said Chris Waldrop, Director of CFA's Food Policy Institute. "It's time that we bring those laws up to speed."

Waldrop noted that the Government Accountability Office had recently placed food safety on its high-risk list and recognized the need to transform the federal food safety framework to protect the public and reduce risks to the economy.

Carol Tucker Foreman, Distinguished

Fellow at CFA's Food Policy Institute, addressed that report in February testimony before the House Agriculture Appropriations Subcommittee chaired by Rep. DeLauro.

"Progress on reducing foodborne illness has stagnated," she said. "Despite government pronouncements of large declines in the incidence of foodborne illness, little progress has actually been made since 2001."

Foreman cited a number of reasons for this lack of progress, including:

- insufficient commitment from the federal government;
- archaic food safety laws;
- deficient resources, particularly for the Food and Drug Administration (FDA);
- a lack of clear authority to set and enforce performance standards;
- a lack of sufficiently targeted research; and
- a lack of on-farm authority.

She urged passage of Sen. Durbin and Rep. DeLauro's Safe Food Act as a solution that addresses most of the problems in the current system.

In order to "jump start" the process, Foreman proposed creating a commission that includes representatives of all stakehold-

ers to develop specific recommendations for creating a food safety system that has "protecting human health as its primary objective."

"If Congress does not act now, the high-risk concerns identified in the GAO report will continue to grow, foodborne pathogens will continue to cause illness and death, and public confidence in government will continue to decline," she said.

Meanwhile, the U.S. Department of Agriculture (USDA) Food Safety Inspection Service (FSIS) rolled out its plans for "risk-based inspection," which CFA labeled a "fraud."

"The Department has no meaningful scientific data to rank product risk and no unbiased system for determining establishment

risk," Waldrop said.

In addition, new data from the Centers for Disease Control shows that progress on reducing foodborne illness has stalled. For example, *Campylobacter* illness rates have remained the same since 2001, and the rate of *Listeriosis* was 15 percent higher in 2005 than it was three years earlier.

Despite these disturbing trends, "the new risk-based inspection program has one motive, to lay the ground for cutting costs of meat inspection in slaughter," Waldrop charged. "In their zeal to save a few dollars in future years, the Bush Administration is subjecting Americans to an increased risk of illness and death from food poisoning."

On the Web

www.consumerfed.org/pdfs/CFA_supports_Safe_Food_Act_2.15.07.pdf
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www.consumerfed.org/pdfs/CTF_Testimony_Ag_Approps_2.08.07.pdf
www.consumerfed.org/pdfs/CFAstmtRBIroll-out2.22.07.pdf
www.consumerfed.org/pdfs/CFA_stmt_on_Food_Net_data4.12.07.pdf

Millions Reached Through America Saves Week

America Saves, the campaign developed by CFA to encourage low and moderate income Americans to save, held its first annual America Saves Week in February, reaching tens of millions of Americans with its wealth-building messages.

The purpose of the week was to focus greater attention on the need and opportunities for personal savings. In particular, the campaign sought to encourage more low- and moderate-income Americans to take financial action, including adding to or opening savings accounts.

The week kicked off with a national press conference at which the Federal Reserve Board, Department of Defense, Internal Revenue Service, USDA's Cooperative Extension Service, United Way, National Foundation for Credit Counseling, and Family, Career and Community Leaders of America joined CFA in releasing a survey on the emergency savings needs of and solutions for American families.

The survey reveals that only 40 percent of adult Americans have separate emergency savings funds, with young, poor, and minority Americans least likely to have such funds.

Among those that have such funds, however, a majority (51 percent) say they have more than \$2,000 in their emergency fund, and a large majority (81 percent) think their emergency fund will be adequate to cover emergency expenditures in the coming year.

"The ability of Americans to cover unexpected expenses, such as a car repair or emer-

gency dental visit, greatly depends on their having an emergency savings fund," said CFA Associate Director Nancy Register.

Register, who serves as national coordinator of America Saves, added: "Those with a fund are highly likely to be able to afford these expenditures. As a result, they will be less dependent on high-cost credit, such as payday loans or even credit cards, to bail themselves out."

The press event generated significant national media coverage for the campaign. Around the country, governors, state treasurers, mayors, and city councils issued proclamations in support of the week and sought to promote savings among government employees.

A number of financial institutions around the country made special efforts to persuade customers to open savings accounts, including offering financial incentives such as matching deposits or higher interest rates.

Top Pentagon officials actively supported the Military Saves Week. As a result of those efforts, thousands of military men and women enrolled as Savers.

Overall, more than 16,000 people enrolled as Savers during the first two months of the year, bringing the total number of American Savers to more than 75,000.

This year's America Saves Week was a pilot intended to test different types of institutional involvement. The most successful savings strategies will be incorporated into the 2008 American Saves Week, which is expected to be even more far-reaching.

Mortgage Abuses

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home loans from bankruptcy protection."

The problem is that the bankruptcy code favors home mortgage lenders over virtually all other secured and unsecured creditors and singles out the home mortgage loan as the major debt for which the bankruptcy court is powerless to provide relief.

This approach was adopted at a time when home mortgages were nearly all fixed-interest rate instruments with low loan-to-value ratios that were rarely the source of a family's financial distress.

As the groups noted in a joint statement, that has changed. "Subprime lending practices of the last six years ... have left many borrowers with mortgages larger than the value of their homes. If the borrowers cannot restructure these debts, then they cannot get back on their feet financially," the groups noted.

They made the following recommendations for reform:

- ending the bankruptcy code's special treatment of home mortgage loans;

Military Lending Restrictions

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"Improved Department of Defense regulations should stop payday and other high cost lenders from preying on Service members and their families," Fox stated.

Meanwhile, the Subcommittee on Domestic Policy of the House Committee on Oversight and Domestic Reform held a hearing in March on foreclosure, predatory lending, and payday lending in America's cities.

At that hearing, Fox testified on behalf of CFA, Consumers Union, and the National Consumer Law Center, outlining a number of federal and state reforms needed to protect consumers. She urged Congress to:

- adopt legislation prohibiting the practice of holding a check or electronic access to bank accounts as security for a loan;
- extend the Electronic Funds Transfer Act

- removing credit counseling requirements, which cost precious time that a borrower facing foreclosure cannot afford to lose;

• curbing excessive, and often hidden, fees imposed by mortgage companies on accounts of debtors who are in chapter 13 perhaps by requiring that any such fees be approved by the court;

• ending mandatory arbitration of consumer contracts, including mortgages, in bankruptcy;

• creating a minimum homestead exemption for the elderly; and

• amending chapter 7 of the bankruptcy code to allow debtors who are trapped in high-cost loans to refinance out of the loans.

"Modifying the bankruptcy laws to permit the write-down of certain toxic mortgages would provide a critical lifeline for at-risk families to hang on to their homes," Fishbein said. "We urge Congress to act."

Although the need to act is clear, Fishbein said, what is less clear is whether Congress will translate its talk about the issues into concrete action.

to single payment loans that require consumers to sign over electronic access to their bank accounts; and

- forbid federally insured institutions from serving as a front for payday lenders by partnering with them in rent-a-bank arrangements.

She called on states to revoke the special treatment of payday lending and impose an effective usury limit to protect borrowers rate gouging.

So far, no payday lending legislation has been introduced this session, although several members are said to be working on bills.

"We expect legislation in this Congress that would protect all American consumers from the worst aspects of payday and other debt trap loans," Fox said. "Until Congress acts, it is up to state legislatures to protect consumers from usurious debt."

On the Web

www.consumerfed.org/pdfs/America_Saves_Week_Press_Release_2.26.07.pdf
www.consumerfed.org/pdfs/America_Saves_Week_Press_Statements.pdf

Momentum Shifts On Insurance Reforms

Insurer mishandling of Hurricane Katrina-related claims has brought new support to consumer positions on a variety of insurance issues currently before Congress.

Issues that could potentially be affected by a new skepticism toward the insurance industry — particularly among key Gulf Coast lawmakers — include overhaul of the National Flood Insurance Program, repeal of the industry's antitrust exemption under the McCarran-Ferguson Act, and extension of the Terrorism Risk Insurance Act.

"The political environment for the insurance industry has shifted dramatically in the last six months and insurers have only themselves to blame. Members of Congress from both parties are exercising more oversight of insurance abuses and moving to revoke the federal authority of insurers to engage in anti-competitive practices," said CFA Legislative Director Travis Plunkett.

As the House Financial Services Committee began drafting legislation in March to overhaul the National Flood Insurance Program, CFA wrote to Chairman Barney Frank (D-MA) and Ranking Member Spencer Bachus (R-AL) urging them to include provisions in the legislation "to prevent insurance companies from shifting the cost of homeowners' claims for wind damage that they should be paying to the taxpayer-backed flood program."

Specifically, CFA urged them to forbid "write your own" insurance companies that offer flood coverage from using egregious "anti-concurrent causation" clauses in their homeowners' policies to refuse to pay legitimate wind claims in the first place.

Insurers are accused of having done just that to escape paying legitimate homeowners' claims after Hurricane Katrina.

"Write your own insurers are paid handsomely to provide taxpayer-backed flood insurance, but they have a conflict of interest when they also sell wind coverage," said CFA Director of Insurance J. Robert Hunter.

"The solution to this problem that is both fair to taxpayers and humane to homeowners

is to eliminate the conflict of interest that write your own insurers have," Plunkett added. "The federal government should declare that, in order to be a write your own company, an insurer must not place any requirements in private policies that would cause taxpayers to pay any part of a claim that should have been paid by the private policy."

Insurers should readily accept such an approach, he said, since "they make good income, with no risk, servicing the National Flood Insurance Program."

However, should these companies balk at such a requirement, the program has a direct servicing entity in place that could handle NFIP policies and could do so at a lower cost to administer, Hunter added.

Former Senate Majority Leader Trent Lott (R-MS) was directly affected by the concurrent causation issue when his Gulf Coast house was destroyed by Hurricane Katrina. That experience has caused him to question his past industry support and to champion reform legislation.

Bipartisan Bill Would Repeal Insurance Antitrust Exemption

Among other things, he has joined Judiciary Committee Chairman Patrick Leahy (D-VT) as an original co-sponsor on legislation to repeal insurers' antitrust exemption under the McCarran-Ferguson Act. Other original co-sponsors include current Senate Majority Leader Harry Reid (D-NV), Ranking Member of the Judiciary Committee Arlen Specter (R-PA), and Mary Landrieu (D-LA).

In March testimony before the committee, Hunter endorsed the legislation, saying the bill "is critically needed to overcome the anti-competitive practices of this giant and important industry. It is high time that insurers played by the same rules of competition as virtually all other commercial enterprises operating in America's economy," he added.

Hunter said this is a perfect time for repeal, with insurers enjoying record profits while consumers are finding it difficult to get their claims paid and are starting to lose access to homeowners insurance in some areas.

As examples of collusive activities by insurers, he cited: the simultaneous adoption by many insurers of anti-concurrent-causation clauses; signals to the market from "cartel-like" organizations, such as the Insurance Services Office, that it is time to cut back coverage in certain parts of the coast; and use of identical or very similar claims processing sys-

tems by many insurers that are designed to systematically underpay claims.

"Collusive insurer behavior has terrible consequences for all buyers, from low-income coastal residents seeking fair claim settlements up to the most sophisticated Fortune 500 corporations seeking reasonably priced insurance," he said.

"Congress should end the long history of insurance industry collusion and anti-competitive behavior" by passing S. 618, he said.

TRIA Reform Urged

The record profits of insurers also make this an ideal time to restructure the Terrorism Risk Insurance Act, Plunkett and Hunter said in joint testimony in February before the Senate Banking Committee.

"There is strong evidence that insurers no longer need TRIA subsidies to provide adequate terrorism capacity in most cases," they stated in their written testimony.

Because there is still little coverage available for chemical, nuclear, biological, and radiation attacks, or for large-scale attacks that result in more than \$100 billion in losses, they urged Congress to restructure TRIA to address these "real needs" and to leave it to the private market to cover terrorism losses of less than \$100 billion.

They also recommended against expanding the program to cover group life "or other new lines of insurance that have failed to offer any meaningful evidence to justify such an expansion" and urged instead that Congress consider reducing the lines of coverage that receive TRIA back-up.

Finally, they recommended that Congress end the provision of free reinsurance by requiring insurers to pay an actuarially based premium for whatever back-up they receive.

Should Congress reject this approach and move instead to reauthorize TRIA, they argued that "it should remain a program that is truly temporary."

"Extending TRIA permanently or for more than five years would freeze the program in time, inhibiting the further ability of the private market to expand and preventing

Congress from adjusting the program as market conditions change," they testified.

States Fail To Protect Insurance Consumers From Rate Increases

While Congress considers a full agenda of insurance reform measures, states have failed to act to protect consumers from excessive property insurance rates based on discredited hurricane projections, CFA and Center for Economic Justice charged in a March letter to the National Association of Insurance Commissioners (NAIC).

This is the second time in a year the groups have called on state insurance regulators and the NAIC to reject "severely flawed" hurricane projections used by insurers to sharply increase rates on property insurance policies in states along the Atlantic and Gulf coast.

The computer catastrophe models are developed for insurers by private organizations to estimate future damage caused by weather-related events and are then used to set homeowners' insurance rates.

The models have historically been based on over a hundred years of historical data. Last year, however, Risk Management Solutions announced that it would dramatically increase projected catastrophe losses in some coastal areas based on a "near-term" forecast of only five years.

This has led to rate increases of 25 percent in Maine to 50 percent or more along the Gulf Coast. Following the ad hoc adjustment to the models, CFA and CEJ called on state insurance regulators to protect consumers from arbitrary loss projections and excessive rates. Despite the warning, only Florida and Georgia took any action to protect consumers.

Said CEJ Executive Director Birny Birnbaum, "The NAIC claims the primary job of state insurance regulators is consumer protection, but it has done nothing to protect consumers from massive and unjustified rate hikes. It is a sad commentary on state insurance regulation that consumer groups have to repeatedly demand that regulators take action to stop these dramatic and unfair increases."

On the Web

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Court To Decide Fate of Retail Price Maintenance Ban

The U.S. Supreme Court heard oral arguments in March in a case seeking to overturn the ban on retail price maintenance agreements. If wrongly decided, the case "could dramatically raise consumer prices and undermine important innovations in retailing," said CFA Research Director Mark Cooper.

CFA filed an amicus brief in the case arguing to preserve the ban, which prevents manufacturers from setting minimum prices and allows discounters to offer products to the

public at whatever price they chose. Consumers have saved hundreds of billions of dollars over the years because of the ban, Cooper said.

"Now, manufacturers are asking the courts to overturn the clear will of Congress based on bogus economic theories that have been thoroughly discredited in both the academic literature and in real world markets," he said. "There is no constitutional, legal, or economic grounds for the Supreme Court to ignore the express will of Congress at the expense of the

American consumer."

The case poses a particular threat to "the most consumer-friendly aspects of the Internet," Cooper said. These include allowing consumers to gather information in a cost-effective and efficient manner and making it easy for discounters to offer products to the public.

"Retail price maintenance is a last-ditch effort by big business to short circuit this extremely consumer-friendly process," he said.

CFAnews

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Senate Rejects Effort To Weaken Corporate Reforms

On a decisive 62-35 vote, the Senate turned aside the first serious attempt in this Congress to weaken a key component of the Sarbanes-Oxley Act.

The April vote tabled an amendment by Sen. Jim DeMint (R-SC) that would have made compliance with the corporate reform law's internal controls requirements voluntary for virtually all public companies.

The internal control requirements were among the key reforms adopted in the wake of Enron and Worldcom to improve the accuracy and integrity of public company financial statements.

Although it has so far only been implemented among larger public companies, this requirement has already unearthed several thousand control weaknesses. In the majority of cases, these control weaknesses have been accompanied by material misstatements of the financial statements.

Despite their effectiveness in uncovering financial reporting weaknesses, the internal control requirements have been the focus of strong business community opposition and complaints about their costs.

In offering his amendment to S. 761, the America Competes Act, Sen. DeMint argued that the internal control requirements have hurt the competitiveness of U.S. markets, causing issuers to avoid listing on U.S. markets.

In a letter to the Senate prior to the vote, CFA, U.S. Public Interest Research Group, Consumers Union, and Consumer Action

countered this argument. "By every important measure of competitiveness – the ability to attract capital, to provide companies with access to low-cost capital, and to provide individuals and institutions with a safe and profitable place to invest – SOX has helped, not hurt, our markets," they wrote.

They noted, moreover, that it has also had an unquestionably beneficial effect on the health of the U.S. IPO market. Since the implementation of SOX, the number and value of U.S. IPOs has risen dramatically, as have the number of foreign companies listing on U.S. markets and the amount of money they have raised here.

"In the name of promoting our markets' competitiveness, this amendment would have undermined the investor protections on which our markets' competitive strength is based," said CFA Director of Investor Protection Barbara Roper. "We are relieved that a strong bi-partisan majority in the Senate saw through this phony argument and voted against this ill-advised, anti-investor amendment."

SEC, PCAOB Propose to Weaken Regulations

Unfortunately, the vote came as the Securities and Exchange Commission and the Public Company Accounting Oversight Board were nearing approval of proposed changes to the internal control requirements that, Roper said, "are likely to seriously

erode the law's effectiveness."

These changes came in the form of proposed new guidance from the SEC for managers of public companies on how to perform their control assessments and a new audit standard from the PCAOB.

The SEC touted the changes as providing a risk-based approach that would reduce costs without reducing their effectiveness.

CFA, Consumer Action, and U.S. Public Interest Research Group filed comments in late February with both the SEC and PCAOB criticizing the proposals for:

- failing to provide a clear articulation of investor protection principles to guide their implementation;
- adopting a top-down, risk-based approach "without in any way addressing the short-comings that have made that approach such an abysmal failure in the audits of financial statements;" and
- sending the "strong message" that reducing costs is more important than improving, or even maintaining, the effectiveness of the control assessment.

The groups outlined a number of concrete proposals for strengthening the proposals.

SEC Pushes for Further Anti-Investor Changes

Instead of strengthening the proposals, however, the SEC appeared intent on forcing additional changes to the PCAOB standard to further erode its investor protections.

At a public meeting in April, the SEC provided direction to its staff on its negotiations with PCAOB over revisions to its proposal that included suggestions designed to result in less independent testing of controls.

"The agenda of the meeting was devoted exclusively to issues raised in comment letters submitted by various business interests. Concerns raised by investors were barely acknowledged, let alone seriously addressed," Roper wrote in a highly critical letter to the Commission.

"It was unseemly ... to see the SEC, which promotes itself as the investor's advocate, so blatantly elevating business concerns over investor concerns and appearing to strong-arm the PCAOB into doing the same," she added.

The SEC and PCAOB were to vote on their proposals in May. Once it is approved by the PCAOB, the revised audit standard must also be approved by the SEC.

Congress Looks to Improve Fuel Efficiency

After years of inaction, Congress appears poised to adopt legislation this session to improve automobile fuel efficiency.

In March, Rep. Edward Markey (D-MA) and Rep. Todd Platts (R-PA) introduced a bill (H.R. 1506) that would require automakers to increase the fuel economy of their fleets by roughly 10 miles per gallon over the next ten years and by four percent every year thereafter. By the end of April, the bipartisan bill had garnered more than 100 co-sponsors.

In the Senate, meanwhile, a companion measure (S. 357) was nearing mark-up in the Senate Commerce Committee. Introduced by Sen. Dianne Feinstein (D-CA) with support from members of both parties, that bill also would require automakers to increase the fuel economy of their fleets by 10 mpg over ten years, but it does not include the provision mandating additional improvements thereafter. CFA has endorsed both bills.

CFA Executive Director Stephen Brobeck noted that vehicles are no more fuel efficient today than they were a decade ago. As a result, rising gasoline prices hit many people hard. This is particularly true, he said, of the poor and those in rural areas, "who typically must spend nearly 10 percent of their income on gas and oil."

Both bills would lower consumers' gas costs by reducing their gas consumption as they replace existing vehicles with more efficient ones. While fuel efficiency increases could be expected to increase car prices somewhat, with gas averaging just \$2.50 a gallon over the next 10 years, "these increases would more than pay for themselves," Brobeck said.

CFA Research Director Mark Cooper has estimated that, under this approach, U.S. oil imports would be reduced by 2.2 million barrels per day, or over 15 percent, by 2022. In addition, the emission of global warming pollutants would be reduced by hundreds of millions of tons. "While additional policies should be pursued to lower oil imports, consumer costs, and greenhouse gas emissions, increasing fuel efficiency is the single most important step this nation can take to address our dangerous energy situation," Cooper said.

Despite the renewed attention the issue is receiving, roadblocks remain. Among them: House Commerce Committee Chairman John Dingell (D-MI) has indicated he may not support a new round of fuel efficiency mandates

On the **Web**
www.consumerfed.org/pdfs/CAFE_Markey-Platts_03-13.pdf
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