



CONSUMER FEDERATION OF AMERICA

## Credit Card Reform Bill Signed Into Law

In a rush of activity before the Memorial Day recess, Congress passed and the president signed landmark legislation to strengthen consumer credit card protections.

"This historic legislation should put an end to the traps and tricks that many card companies have used to increase what borrowers owe," said CFA Legislative Director Travis Plunkett. "The goal of this legislation is to make credit cards fairer and more sustainable for all consumers."

After years in which industry opposition managed to stymie reform efforts, the new law was adopted with overwhelming bipartisan support first in the House and then by a 90-5 margin in the Senate.

Plunkett credited the leadership of Rep. Carolyn Maloney and Senate sponsor Christopher Dodd, as well as Senators Carl Levin, Roberto Menendez and Charles Schumer.

The law curbs some of the most arbitrary and abusive credit card lending practices that trap consumers in a vicious cycle of debt.

The bill targets unjustified and retroactive interest rate charges, prohibiting card companies from raising interest rates in the first year after a card account is opened and from increasing a cardholder's interest rate on existing balances based on adverse information not related to the account.

With minor exceptions, it also prohibits card companies from hiking interest rates retroactively on balances accrued before a rate increase takes effect unless the cardholder is more than 60 days late in paying a bill. Where such rate increases do occur, card issuers must lower the rate after six months of on-time payments.

The bill also targets excessive and growing penalty fees, requiring that they be reasonable and proportional to the late or over-limit violation. Moreover, card issuers can not charge over-limit fees unless the cardholder has affirmatively agreed to allow over-limit transactions.

### Unfair Practices Targeted

In an effort to reform deceptive and unfair payment and billing practices, the new law requires card companies to apply payments in excess of the minimum amount to the balance with the highest rate of interest, and it prohibits card companies both from imposing interest charges on any portion of a balance that is paid by the due date and from charging a fee for any payment method that is allowed, except for expedited services provided by a service representative.

Finally, in an effort to reduce irresponsible lending and aggressive marketing to young consumers who do not have the ability to repay debt, the new law prohibits credit card issuers from extending credit to consumers

under the age of 21 unless the person has an independent means to repay the loan or there is a cosigner who has that ability.

"Enactment of this legislation is particularly timely," Plunkett said, "as large credit card companies have unjustly raised their rates recently, affecting tens of millions of Americans."

Plunkett noted that public outrage had helped to propel the measure to passage over industry opposition. "Many consumers are very angry that the banks they have been supporting with their tax dollars have rewarded that assistance by continuing to use a variety of abusive practices to overcharge them," he said.

At a Rose Garden signing ceremony with consumer advocates in attendance, President Barack Obama celebrated the bill's passage. "With this bill we're putting in place some common sense reforms," he said. "Just as we demand credit card users to act responsibly, we demand that credit card companies act responsibly, too."

### Foreclosure Prevention Legislation Also Cleared

In the days before Congress adjourned, President Obama also signed into law legislation designed to help prevent foreclosures, but not before a key provision to give bankruptcy judges authority to renegotiate the terms of certain mortgages in bankruptcy was once again defeated.

The provision was included in the bill that passed the House earlier this year, but was

not included in the Senate measure. An amendment offered by Sen. Richard Durbin (D-IL) to add the provision fell 15 votes short of the 60 needed to overcome a threatened filibuster.

"The Senate's failure to adopt this amendment is a real setback for consumers," said Barry Zigas, CFA Director of Housing and Credit Policy. Sen. Durbin went to great lengths to accommodate the banking industry's concerns in his amendment, but only Citigroup supported him, Zigas noted.

With the bankruptcy amendment out of the way, the foreclosure prevention bill (S. 896) passed on a 91-5 vote. Within weeks, the bill had cleared both the House and Senate and was signed into law by the president.

The bill expands eligibility for the Hope for Homeowners program, which was enacted last summer to encourage homeowners struggling to make mortgage payments to refinance into traditional 30-year loans backed by the Federal Housing Administration, and provides a safe harbor protecting lenders who participate in the mortgage modification program from investor lawsuits.

When it was first adopted, supporters predicted that the Hope program would help as many as 400,000 homeowners, but as of January it had finalized only 22 loans.

"The changes do give us more hope for strapped consumers," Zigas said. "But foreclosures have resumed their climb in the last two months. This measure will help, but the crisis is far from resolved."

### House Bill Targets Mortgage Abuses

Meanwhile, the House adopted legislation (H.R. 1728) on a 300-114 vote designed to rein in abusive practices associated with mortgage lending.

CFA was among several groups that praised the bill for including a number of protections that are "critical to restoring responsible lending."

Among the bill's most beneficial provisions are its: coverage of all loans, not just subprime loans; exclusion of unsafe mortgages, such as "no-doc" loans and loans with balloon payments, from the qualified mortgage definition; two percent cap on points and fees; prohibition on prepayment penalties for non-qualified loans and for all adjustable rate mortgages; ban on yield-spread premiums that encourage the sale of higher cost loans; and underwriting requirements that include consideration of both a homebuyer's debt-to-income ratio and residual income as well as a requirement that adjustable-rate mortgages be underwritten based on the maximum rate.

Although housing advocates have urged that key provisions be strengthened, Zigas said the bill offers changes that are "important and long overdue."

"If Congress and the Bush Administration had acted sooner when they were first proposed several years ago, millions of foreclosures could have been avoided," he said.

## Congress Urged To Address Food Safety 'Emergency'

The lack of adequate food safety systems has become an emergency that Congress must address through new laws, modernization of existing laws, and a more science-based approach, said Carol Tucker-Foreman, Distinguished Fellow with CFA's Food Policy Institute, in April testimony before the House Agriculture Committee.

"The continuing string of foodborne illnesses is bad for consumers, food processors and farmers," she said.

These outbreaks – including recent incidents of Salmonella contamination in peppers, peanut products, and bean sprouts – "have seriously shaken consumer confidence in the safety of our food supply," she added.

She called on Congress to change the Food and Drug Act to direct the Food and Drug Administration to focus on "preventing foodborne illness rather than simply reacting to it," and then to give the agency the power and funding it needs to do so.

In her testimony, Tucker-Foreman also

supported legislation introduced by Rep. Rosa DeLauro (D-CT) to create a separate food safety agency within the Department of Health and Human Services and pointed to the U.S. Department of Agriculture's Food Safety and Inspection Service as an example of "how important that separate organizational structure and institutional leadership can be."

"Since 1994, the FSIS has come out of the dark ages," she said. "Unlike FDA, the FSIS system is focused on preventing foodborne illness."

"For imported products, FSIS has established a system for determining whether imported meat and poultry products are as safe as domestic products, unlike FDA, which has no authority to restrict imported food," she added.

She noted, however, that FSIS is still burdened by operating under a "seriously outmoded statute," which does not give it authority to set and enforce pathogen reduction performance standards, and

"lacks a trained staff of scientists and statisticians who can develop a risk-based inspection program."

"Adequate funding for inspectors is also critical so that the agency can meet its statutory obligation to maintain a federal presence in every plant every day," she added.

That call to action got renewed support a week later, when the Centers for Disease Control and Prevention released its report on the incidence of foodborne illness in the United States during 2008.

That report showed that, for the fifth year in a row, government and industry have failed to make any real progress toward reducing illnesses caused by eight major foodborne pathogens.

The 2008 data reflects the approach to food safety of the past administration, Tucker-Foreman said. "President Obama has said he will seek to improve food safety. Whether he will follow through with requests to Congress and urge them to act remains to be seen."

## In Need of Repair, Agencies Face Ambitious Agenda

Federal consumer protection agencies are poised to move on an ambitious agenda of pent-up consumer priorities, but the agencies are themselves in need of repair, according to several Consumer Assembly '09 speakers and panelists.

On issues from digital television to media ownership to broadband, consumer interests are in the driver's seat again at the Federal Communications Commission, Commissioner Jonathan Adelstein said in a keynote speech.

"It is unlikely that the commission, on an interim basis, is going to guide some of these actions to completion," he said. But while the agency is waiting for a new chairman to be confirmed, "We can begin to collect the data. We can begin doing the studies. We can begin getting some of the options in the record," he said.

On the digital TV transition, the Commission has received what it needed most, he added, which is more time to prepare the public for the change and resources to help educate the public about what they need to do to prepare.

A personal priority, he said, is strengthening the program to increase the diversity of media ownership. "After all, it's the public's airwaves, it ought to look like the public," he said.

To accomplish that, the commission needs to develop a new "constitutionally sustainable" definition of eligible entities for the purpose of complying with its diversity standards based on race, gender, and socio-economic background, he said.

The commission is also busy trying to develop a broadband plan "that really reaches every corner of this country," he said. "We're

going to make this as ubiquitous and as fair as we possibly can," with a renewed attention to the appropriate process for developing such a plan, he said.

"I think we can handle all of these issues with a lot more transparency, less chaos than in the past, and a lot more attention to the impact on consumers," he concluded.

### Agencies Need Strong Leadership

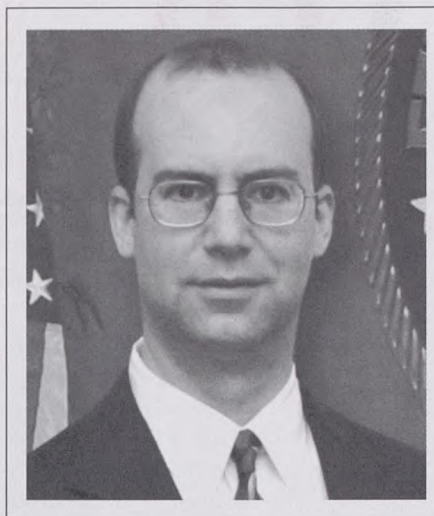
Consumer advocates who work on auto, food, drug, and product safety agreed that the top priority for the coming year in all these areas is installing strong new leadership at the regulatory agencies and giving them the resources they need to do their jobs.

"We need a tough regulator to take charge of these agencies, because they have essentially been dormant for the last eight years," said Jackie Gillan, Vice President of Advocates for Highway and Auto Safety.

The National Highway Traffic Safety Administration, in particular, has been starved for resources, she said. Despite regulating "a product that every consumer uses almost every day," the agency receives only one percent of the Department of Transportation budget.

Only with those changes at the agency level will it be possible to advance strong safety rules on a variety of issues, including roll-over safety, rear blind zone standards, and improvements to auto safety testing and disclosure, she said.

On food safety, Caroline Smith DeWaal, Food Safety Director for the Center for Science in the Public Interest, said a series of foodborne illness outbreaks in recent years had highlighted the many weaknesses in our food safety system, including lack of enforcement authority at the Food and Drug



FCC Commissioner Jonathan Adelstein

Administration, lack of traceability for contaminated foods and problems associated with food imports, and lack of on-farm controls.

"The challenges we are facing are really based on the fact that we are operating under statutes that were written in about 1906," she said. "It's not a modern system."

One way that food safety advocates are tackling that problem is through a gradual approach that seeks first to separate food from drug safety within the Department of Health and Human Services and then will turn to modernizing USDA regulations with an eye toward eventually centralizing food safety efforts within a separate agency, she said.

### Funding Poses Challenges

Consumers Union Health Policy Analyst William Vaughn agreed that, "The FDA needs a tremendous amount of work."

Within a year, Congress will begin the process of reauthorizing the Prescription Drug User Fee Act, he noted. While consumer advocates have traditionally resisted user fees because of the influence they give industry over the agency, it may be time to accept that, "We need user fees ... we need that money," he said.

"What we really need to do is break the ties that come with it," he said.

Other priorities include improving effectiveness of drug testing, developing a pathway for the FDA to approve biogenerics, reducing hospital acquired infections, and, of course, reforming the national health care system.

With Congress having just passed CPSC reform legislation in the last session, CFA General Counsel Rachel Weintraub said the priority for the coming year is to get leadership in place at the agency that will implement it in a way that is consistent with congressional intent and to give the agency the resources it needs to carry out its mandate.

Progress is being made on the resource front, with the administration proposing a dramatic increase in agency funding. But only a change in leadership at the agency will ensure that the money is spent appropriately, she said.

At the same time, advocates and supporters on the Hill have had to spend an inordinate amount of time fighting industry efforts to "reopen and gut the bill," an effort in which they've gotten little support from the agency chair.

As a result, "in terms of the most important issue right now ... it is clearly, unequivocally to ensure that there is new, strong leadership at the helm of the CPSC," Weintraub said.

## Advocates Must Adapt to Media Changes

The Internet is changing media, and that will affect the strategies consumer advocates use as they try to change public policy, panelists agreed during a Consumer Assembly '09 general session discussion of "The Blogosphere and Consumers."

Though some newspapers have closed and stock values are down dramatically, the major newspapers and chains "are still generating cash," said *Washington Post* Business Editor and Reporter Frank Ahrens.

But the Internet has cut into their profits, he added. "It's about trading analog dollars for digital dimes."

This poses a challenge for consumer advocates, since "consumer advocates have always worked with newspapers, because we had the unrivaled platform," he said.

On the positive side, loss of their monopoly power is forcing the big news organizations to "pay attention to our consumers." On the negative side, they are "just not getting the money to support the big on-going news gathering enterprises," he said.

Bill Nichols, Managing Editor of *Politico.com*, said their organization has tried to bridge this divide by offering both a print newspaper that circulates free on the Hill and

at federal agencies and an Internet site.

Unlike most Internet sites, which are largely aggregators of news stories, *Politico.com* distinguishes itself by breaking stories. "We have largely made our name from original journalism," Nichols said.

The other secret to its success, he said, is that it is specialized, focused narrowly on politics. "We want to be able to tell you at any given moment what you need to know about the Obama administration, what is the important idea of the moment."

"We can go into a depth and quantity that other people can't match," he added. In contrast, he said, "It's very hard for a general interest news organization to distinguish itself."

Nichols predicted that consumer advocates "probably are not going to see the kind of sustained reporting on consumer issues that you have seen in the past from traditional sources." He added, however, that there "could be non-traditional sources."

"We take the future of consumer affairs reporting and consumer journalism very seriously," said Marc Perton, *Consumer Reports* Executive Editor for Online Media, "not just because it is what we do, but also because we

see it as important that there be traditional consumer journalists.

"Can the blogosphere replace that? Absolutely not," he added. "Can the blogosphere supplement that? Absolutely."

Most blogs "have no audience at all" or "don't have the market impact that consumer advocates want," he said. "The blogs that are the most influential and most read are a tiny minority."

On the other hand, he said, a significant number of consumers have started using blogs to help them make buying decisions. The problem is that the blog reader often has no idea "where that information is coming from, who's behind the information, whether it involved any testing of products," he said.

He told consumer advocates that, "We need to be in that marketplace where consumers are finding that information to make sure they hear our voice as well."

Toward that end, Consumers Union bought the Consumerist blog last year as one aspect of its efforts to "reach a younger audience where they are. We thought it was very important as an organization to reach those people in the medium they were using."

## CFAnews

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## Consumer Protection Back on Congress' Agenda

In keynote speeches at Consumer Assembly '09, congressional leaders pledged to reassert the importance of consumer protection on issues from financial regulation to health care to food and product safety.

"The need for stronger protections for ordinary Americans is not negotiable," said Sen. Christopher Dodd (D-CT). "It is the key to restoring confidence in our financial system and, as such, must be the bedrock foundation upon which we build our new regulatory architecture."

Sen. Dodd, who chairs the Senate Banking Committee, said the more than 80 hearings that committee has held to identify the causes and consequences of the financial crisis had found "a single, fundamental breakdown" at the heart of the problem and that was "a catastrophic failure to protect consumers and investors."

"By no means is this problem exclusive to financial services," he added. "But nowhere was that failure starker or more catastrophic for our economy than in our housing market — where lenders, brokers and banks offered or financed an array of unsuitable mortgage products without regard of the borrower's ability to repay."

Pledging to "rebuild the nation's financial architecture from the bottom up," Sen. Dodd said that effort would put "the needs of regular consumers and investors not at the margins of our financial services system, but at its very center."

He highlighted a number of specific initiatives that would be included as part of that effort:

- reform of abusive credit card practices;
- improving the quality, and not just the quantity, of disclosures for a variety of financial products;
- ending the culture of "securitization gone wild," by making sure that "creators of financial products have as much 'skin in the game' when they package these products as customers do when they buy them;" and
- improving systemic risk regulation in order to make sure "that we appropriately weigh the overarching hazards to our financial system."

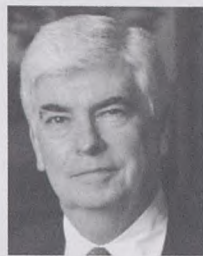
"We didn't get into this crisis overnight, and it will take time to get out of it," he cautioned. "But we can begin laying the groundwork for this new era of responsibility in financial services today."

### Health Care Reform Within Reach

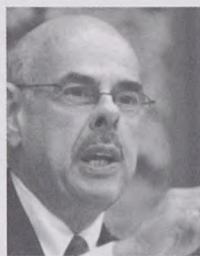
In addition to addressing the financial crisis and transforming the economy for long-term sustainability, reforming the health care system is at the top of the agenda for Congress and the administration, said Rep. Henry Waxman (D-CA).

"There are a lot of different ways to get national health coverage, and I've supported many of them," he said, including single-payer and "pay to play." "What is important in this debate is to figure out something that will pass."

Rep. Waxman said he believes the administration plan offers the best hope in that regard. Under that plan, people who are happy with their private insurance will be able to keep it, while people who either lack



Sen. Christopher Dodd



Rep. Henry Waxman



Rep. Jan Schakowsky

insurance or are unsatisfied with their insurance will be able to choose either a public program or a "highly regulated" private plan.

Private plans offered through the program will have to cover basic benefits and will be precluded from discriminating based on such factors as pre-existing conditions.

"Only through bringing everyone into a system, even one that is made up of many parts, can we even contemplate holding down the costs," he said.

"The challenge is a great one," he said, "but I think the American people are ready for it" and that "Congress is going to be up to the task."

Rep. Jan Schakowsky (D-IL) echoed that sentiment in a wide-ranging speech that also covered such issues as food and product safety and global warming.

### Need for Health Care Reform is Urgent

Emphasizing the need for reform, Rep. Schakowsky argued that the United States has a sub-standard health care system.

"We rank way down when it comes to longevity. We rank fairly far down when it comes to infant mortality ... We spend nearly 50 percent more per capita than any other nation in the world," she added. "And yet

we have not only 47 million people without health insurance, but more than half of Americans have gone without some health care because they couldn't afford it.

"It's the number one cause of personal bankruptcies in this country. There's very little access to rural health care." In short, she concluded, "we don't have a real system of health care in this country."

Rep. Schakowsky, who has also endorsed the administration plan, emphasized the importance of providing a public option as part of that plan and dismissed insurance industry complaints that they may not be able to compete with such a plan.

"The goal here is to make sure that every American has access to affordable health care," she said, not to bolster the private insurance industry.

### Hill Staffers Detail Focused Agenda

Key Hill staffers offered an expanded view of the congressional consumer agenda during

a general session panel discussion.

All three panelists highlighted the importance of ensuring that the Consumer Product Safety Improvement Act is "implemented as Congress intended," as David Strickland put it.

Strickland, who is Democratic Senior Counsel for the Senate Commerce Committee, said that is not happening under the current chairwoman. He pledged that, when the president nominates a replacement, the committee would move "as quickly as possible" to get the nomination approved.

Strickland said additional priorities include strengthening the Federal Trade Commission and working through the new highway bill to raise fuel economy standards and "improve the safety of the passenger fleet."

Brian Ronholm, Legislative Assistant to Rep. Rosa DeLauro, said the congresswoman's legislative focus is on food safety, in particular creating a separate food safety agency within the Department of Health and Human Services, and a drug and medical device modernization law.

She will also be looking at food prices, he said, with an eye toward why prices haven't fallen even as the cost of both oil and corn has dropped dramatically.

Brad McConnell, Legislative Assistant to Sen. Richard Durbin, said the senator is working on a number of issues related to the current economic crisis, including a usury cap and creation of a financial product safety commission.

## Changing Public Mood Poses Challenge

The country is in the midst of a significant shift in public opinion, but it is very much "a work in progress," according to Scott Keeter, Director of Survey Research for The Pew Research Center.

Keeter, who made his comments during a general session panel on "Consumer Attitudes and Concerns," said polls are showing "a bit of a tick back in the liberal direction."

"We're not talking about a new liberal era in American public opinion," he clarified, just a "resetting" to where it was in the early 1990s before the Republican takeover.

Furthermore, except among the young who are distinctly more liberal than older Americans, the change has a lot to do with "performance, not necessarily with ideas," he said. "The public made a judgment about the Republicans' performance and not necessarily about conservative ideology."

Among the most obvious changes, attributable to the economic crisis, is a "tremendous gloom about the financial situation," with pessimism about the economy growing even among the more affluent, he said.

That has had a dramatic effect on public priorities, where there has been a tremendous growth in numbers who identify improving the job situation and dealing

with the economy as a top priority.

On the other hand, many of the policies designed to do that — in particular, the auto and financial industry bailouts — are controversial among the public, with even the homeowner assistance getting mixed support, he said.

"Right now, despite all this potential opposition to the details, President Obama has a lot of running room because of the strong level of public support he enjoys and because of his skills as a communicator," Keeter said. "The question is: how long is this leash? How long does he have to get things done?"

Ed Farrell, Director of Consumer Reports National Research Center, agreed that the past year has seen a dramatic shift from a mood of economic optimism to "one of real pain and uncertainty."

Ironically, that change in attitude could undermine efforts to boost the economy, he added. With a growing proportion of the population expecting to see their incomes lowered in the coming year, "they will certainly cut back on most areas of consumer activity," he said, predicting that will have a chilling effect on the economy.

About 58 percent feel that the government needs to do more to help American citizens, he said. Policies that enjoy strong

support include:

- insuring the financial health of the Social Security retirement fund;
- reducing the national debt;
- protecting pensions and retirement accounts when the corporations that issue them fail;
- increasing spending on energy, particularly alternative energy;
- providing affordable health care coverage and ensuring that no American goes without healthcare coverage as a result of losing their job; and
- improving regulation of financial institutions.

"Consumers are trying to reduce financial risks," he said, "and one of the greatest risks any of us face is the cost of health care or, more specifically, the risk of being without health insurance," Farrell said.

With rising unemployment, "every American knows that they could lose their job and face the prospect of life without health care coverage," he added. That helps to build support for health care reform, he said.

"Though there may be a debate, the status quo regarding health care is unacceptable," he said. On the other hand, "costs have to be controlled for reform to be palatable."

# Effective Regulation Is Key To Financial Health

**A**s Congress held a series of hearings in March to identify solutions to the current economic crisis, CFA outlined its suggestions for financial regulatory reform in testimony on systemic risk regulation, insurance regulation, antitrust, and investor protection.

CFA staffers emphasized a common theme: that adopting and effectively enforcing strong consumer and investor protections is key to restoring the health of the financial system and, with it, the overall economy.

Contrary to conventional wisdom, the current crisis resulted, not from a lack of information or tools needed to identify and address systemic threats, but from regulators' and policymakers' "refusal to heed overwhelming evidence and repeated warnings about growing threats to the financial system," said CFA Legislative Director Travis Plunkett in a hearing on systemic risk before the House Financial Services Committee.

He cited warnings going back to the 1990s about systemic risks posed by unregulated over-the-counter derivatives and higher foreclosure rates associated with unsound mortgage lending as well as more recent warnings about weak risk management practices at major financial institutions.

Unless that basic reluctance to regulate changes, efforts to reduce systemic risks are unlikely to be effective, he warned.

## Closing Regulatory Gaps Is Top Priority

Furthermore, although he expressed support for creation of a systemic risk regulator, Plunkett emphasized that the most important step Congress could take to reduce systemic threats "is to shut down the shadow banking system completely and permanently."

"Meaningful financial regulatory reform must require that all financial activities be conducted in the light of regulatory oversight according to basic rules of transparency, fair dealing, and accountability," he said.

The goals of a new systemic risk regulator should be: to ensure that risks that could threaten the broader financial system are identified and addressed; to reduce the likelihood that a "systemically significant" institution will fail; to strengthen the ability of regulators to take corrective actions before a crisis to prevent imminent failure; and to provide for the orderly failure of non-bank financial institutions.

"The goal of systemic risk regulation is not to protect certain 'systemically significant' institutions from failure," Plunkett emphasized, "but rather to simultaneously reduce the likelihood of such a failure and ensure that, should it occur, there is a mechanism in place to allow that to happen with the minimum possible disruption to the broader financial markets."

## Institutions Are Too Big, Complex

CFA Research Director Mark Cooper

addressed this particular aspect of the issue in testimony on "Too Big to Fail?" before the House Judiciary Subcommittee on Courts and Competition Policy.

"The financial system should never have been allowed to become exposed to a plague of banks and other financial institutions that were deemed to be 'too big to fail,'" he said.

But he noted that size is not the only cause of systemic risk, which also comes from "complex and opaque interconnections among firms, most notably through credit default swaps," and from certain products, such as mortgage-backed securities, that "spread like a virus through the financial system" and are so complex that they are "nearly impossible to unwind when they fail."

"While we believe that vigorous antitrust enforcement is critically important to promoting a competitive industry that protects the public from a variety of abuses," Cooper said, "antitrust authorities do not have any special expertise in understanding systemic risk, and the principles of antitrust law do not reach systemic risk."

"The only way to prevent the public from being exposed to the moral hazard of 'too big or too complicated to fail' is to regulate financial institutions and products in a manner that imposes effective discipline directly on their behavior," he said.

## Comprehensive Reform Needed

In decrying 30 years of "market fundamentalism," marked by "irrational exuberance for unregulated markets," Cooper previewed findings of a report he wrote with CFA Investor Protection Director Barbara Roper. The report, released in March, analyzes the causes of the current crisis and makes the case for comprehensive regulatory reform.

Consistent with that approach, Roper outlined specific policy proposals to strengthen investor protections in testimony before the Senate Banking Committee. Like Plunkett, she urged Congress to close regulatory loopholes. In addition, she urged Congress to take added steps to reform regulation of credit rating agencies.

"Complex derivatives and mortgage-backed securities were the poison that contaminated the financial system, but it was their ability to attract high credit ratings that allowed them to penetrate every corner of the market," she said.

Roper advocated an approach that simultaneously reduces reliance on ratings, increases accountability of ratings agencies, and improves regulatory oversight.

Among other things, she said, "ratings agencies must lose the First Amendment protection that shields them from accountability." Their freedom from liability, based on the notion that ratings are simply opinions, is inconsistent with the ratings agencies' legally recognized status and their gatekeeper function in our markets, she said.

"Either their legal status or their protected status must go," she said.

## Federal Involvement Needed in Insurance Regulation

The financial crisis and policymakers' focus on systemic risk also has implications for how we regulate insurance, said CFA Director of Insurance J. Robert Hunter in testimony before the Senate Banking Committee.

CFA has concluded that an expanded role is needed for the federal government both in the regulation of insurance generally and specifically through inclusion of insurance in a federal systemic regulatory framework, he said.

While CFA is more concerned with the quality of regulation than the locus of regulation, its preliminary conclusion based on ongoing research is that a federal office is needed to deal with systemic risk, to be a

repository of insurance expertise, to engage in international insurance issues, and to monitor and enforce (if a state chooses not to regulate) high consumer protection and prudential minimum standards set by Congress, he said.

"While CFA supports a greater federal role, we vigorously oppose an optional federal charter, since such a system cannot control systemic risk, has failed miserably in protecting banking consumers, and sets up pressures that can only lead to reduced consumer protections through regulatory arbitrage," Hunter said.

Hunter also called on Congress to repeal the insurance industry's antitrust exemption and to restore the ability of the Federal Trade Commission to study insurance from a consumer protection perspective.

## On the Web

[www.consumerfed.org/pdfs/Financial\\_Services\\_Regulation\\_House\\_Systemic\\_Risk\\_Testimony\\_03-09.pdf](http://www.consumerfed.org/pdfs/Financial_Services_Regulation_House_Systemic_Risk_Testimony_03-09.pdf)

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[http://www.consumerfed.org/pdfs/Hunter\\_Testimony\\_Senate\\_Banking\\_3-17-09.pdf](http://www.consumerfed.org/pdfs/Hunter_Testimony_Senate_Banking_3-17-09.pdf)

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