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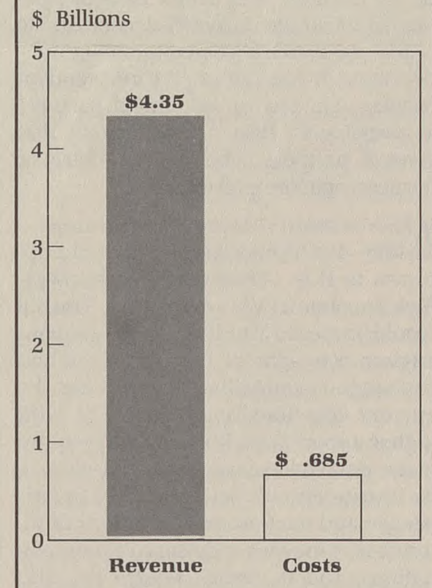
Banks Profit From Bounced Checks

The banking industry is making huge excess profits from bounced checks, according to a report released by CFA in December.

"The results of our analysis confirm outright price gouging of consumers by the banking industry," said CFA Banking Director Chris Lewis, co-author of the report with Janice C. Shields, Bloomsburg University Professor of Accounting.

The commercial banking industry collected $4.35 billion in bounced check fees from consumers in 1992, while industry costs associated with bounced checks were only $685 million, according to the study, which is based on industry data provided to the American Bankers Association. Thus, banks generated more than $3.67 billion in profits from bounced checks alone in 1992.

Revenue vs. Costs of Bounced Checks



Sources: ABA, *Retail Banking Report*, 1993; Bank Administration Institute, *Check Processing Survey*, 1992.

Small banks — those with assets of $300 million or less — had net income on average of $121,407 from bounced checks in 1992. Mid-sized banks had net income on average of $498,722, and the largest banks — those with assets of $1 billion or more — reaped $5,458,714 on average from bounced checks in 1992.

Large banks marked up the cost of bounced checks approximately 971 percent, compared to 469 percent by mid-sized banks, and 315 percent by small banks. In contrast, a California judge recently ruled that markups of 73.4 percent on fees charged for deposited checks that bounced was excessive.

Banks Encourage Bounced Check Income

"Bank customers are increasingly ensnared in bounced check fees as a consequence of how banks choose to process consumer checks," Lewis noted.

One common method banks use to up their bounced check fee income is to process a customer's largest check or checks first on any given day. By depleting the customer account quickest, this practice enables the bank to charge bounced check fees for all remaining checks processed that day.

Many banks charge higher fees — up to twice as much — for "free" or "no-frills" checking accounts, despite the fact that it costs them no more to process these bad checks.

Finally, many banks also assess a fee for each day an account remains overdrawn — even on weekends when the bank is closed and would not have recorded a deposit made by the customer.

Fee Increases Are Part Of Larger Trend

Exorbitant bounced check fees are symptomatic of a larger trend toward increasingly fee-based consumer banking, according to the study.

Federal Deposit Insurance Corporation data shows aggregate service charge income on consumer accounts at commercial banks has increased from $10.3 billion in 1989 to $14 billion in 1992. This 35 percent increase in three years vastly outstrips both inflation and increases in bank costs.

"The rise in fees and the increasing complexity of the fee system have created a burdensome and expensive banking system that places huge costs on middle class consumers and often prices lower income consumers right out of the federally supported banking market," Lewis said.

Furthermore, these increases come at a time when banks are making record profits — $32 billion in 1992 and an expected $40 billion or more in 1993, he said.

"Bounced check fees are a raw grab for profits — picking the pockets of millions of unsuspecting small depositors who overdraw their accounts, often as a result of traps set by banks themselves," Lewis concluded.

Banks Need New Powers, Comptroller Says

The banking industry is in decline and, "absent a significant change in course, the industry faces a dark future," Comptroller of the Currency Eugene A. Ludwig said in a keynote address at CFA's ninth annual financial services conference.

"Consumer advocates may well play an important part in shaping the industry's future — either to push the industry farther along in its slide toward marginality, or to arrest that slide and ensure that the industry remains a vital force in our economy," he said.

Despite recent record profits, banking has been in an uninterrupted decline relative to other financial services for two generations, a decline that has accelerated sharply since 1980, Ludwig said.

He attributed the decline to several causes, including "government restrictions that have prevented banks from providing some of the products and services that have attracted consumers to other financial services providers, and consumer protection laws that have imposed costs on banks that their competitors generally do not bear."

Although "not much remains by way of products and services that consumers can get from banks and banks alone," the decline of banking has significant implications for consumers, he said.

Consumers Will Lose If Banks' Decline

"If banks continue to decline, the deposit insurance safety net will cover less and less of consumer savings and investment, a shrinking proportion of financial transactions will be covered by bank consumer protection laws, and community reinvestment and other social responsibilities will be tied to a weaker and weaker industry," he said.

The answer, Ludwig said, is for banks to be allowed to provide new products and services whenever: 1) the product or service does not threaten the safety and soundness of the banking industry, and 2) the product or service benefits consumers, by expanding the range of products or services available, making it more convenient for consumers to obtain the product or service, or saving them money.

Ludwig said that, while he understands consumer advocates' concerns about the integrity of the deposit insurance system and their questions about the adequacy of consumer protection if banks offer new products and services, "we cannot afford to let these concerns paralyze us."

"Many products and services that banks might offer are virtually riskless," he said. "Consumer protection issues can be dealt with through sound, effective regulation and supervision."

Ludwig cited interstate branching and the sale of insurance and mutual funds by banks as examples of developments that consumer advocates should support.

"We must work together to find safe, responsible ways for banks to enter new lines of business, and to find cost-effective ways of regulating the banking industry," he said.

Fringe Banking On The Rise

If the banking industry is in decline, the "fringe" banking services that many outside the financial mainstream must rely on are mushrooming, CFA President Jean Ann Fox said in a luncheon address at the conference.

More and more Americans are forced to rely on check cashing stores, pawn shops, small loan companies, and rent-to-own stores for their financial services, she noted. As a result, these consumers "do not have the basic consumer protections that we all take for granted," she said.

"Rights and requirements should be consistent top to bottom, not different depending on whether you are dealing with a mainstream bank or fringe banking establishment," she said.

Also on the conference program was a presentation by Andrew Tobias on insurance reform. In particular, Tobias discussed the uninsured motorist initiative that has been submitted for inclusion on the November ballot in California.

Under the program, which is an adaptation of his pay-at-the-pump plan, all state drivers would pay for uninsured motorist coverage through a combination of a fee when they register their car and a charge of 25 cents for a gallon of gas.

In return, they will receive the equivalent of unlimited liability insurance, since they can't be sued unless convicted of drunk driving, $1 million in medical coverage, lost-wage protection, a modest death benefit, and auto repair coverage.

"It's not perfect. It's about an A minus. But the current system is an F," Tobias said.

1993 Legislative Update

Financial Services

RTC Funding — In late November, Congress passed legislation (S. 714) to provide $18.3 billion to complete the savings and loan salvage operation. The bill authorizes $8.5 billion for the Savings Association Insurance Fund, which will start handling thrift failures in 1995, but it does not provide a direct appropriation. Instead, it requires the thrift industry to make maximum contribution to the fund through deposit insurance premiums and to tap an existing line of credit at the Treasury before any taxpayer money is spent. The final bill included a provision from the House bill (H.R. 1340) that extends the statute of limitations from three to five years for RTC actions against officials of failed thrifts, but only for the most egregious offenses, such as fraud and gross negligence. The Senate provision, crafted by Sen. Howard Metzenbaum (D-OH), would have applied more broadly to negligent actions. The bill also includes provisions to reform RTC operations and a compromise proposal to improve the distribution of RTC contracts to businesses owned by minorities and women.

Community Development Banking Initiative — The House combined its version of community development banking legislation with regulatory relief proposals from H.R. 962 in one bill (H.R. 3474) and passed the measure on voice vote in November. Generally based on the president's proposal, the community development measure would create an independently managed fund to provide financial backing to community development banks and other alternative lenders that serve poor and under-developed areas. The measure was seriously diluted in committee, however, when an amendment pushed by Rep. Floyd H. Flake (D-NY) was adopted, requiring that one-third of any money appropriated be used to fund the Bank Enterprise Act, which provides rebates on deposit insurance premiums to banks and thrifts with good lending performance in under-served areas. The House bill also would roll back safety and soundness protections passed as part of the 1991 bank reform bill, liberalizing the examination period for small banks from 12 months to 18 months, rolling back auditing requirements for all but the largest institutions, and weakening insider lending restrictions. It would require regulatory burden studies of the Truth-in-Savings Act and the Real Estate Settlement Procedures Act, keeping the regulatory relief issue alive in future sessions. The Senate Banking Committee approved S. 1275 in September on an 18-1 vote. It is similar to the House bill, but without the provision to divert funds to the Bank Enterprise Act and with much narrower provisions on regulatory relief. The Senate bill is expected to reach the floor early in the new session.

Interstate Branching — Legislation pushed by Sen. Christopher Dodd (D-CT) to allow banks to open branch offices across state lines was kept off the community development banking initiative on the grounds that it was too controversial. In return, Banking Chairman Donald W. Riegle Jr. (D-MI) promised separate consideration of the branching measure later in the session. The measure was halted for the year, however, when Senate Republicans boycotted a November markup of the legislation because it was to include measures restricting bank sale of insurance. Interstate branching legislation (H.R. 2234) also was introduced in the House by Rep. Bruce F. Vento (D-MN), with backing from Reps. Stephen Neal (D-NC) and Bill McCollum (R-FL). It includes language allowing states to pass laws to prohibit interstate branching in their state. The administration has expressed its support for branching similar to that in the House bill, but it has urged a "go slow" approach.

Regulatory Consolidation — Bills have been introduced in both the House and Senate — H.R. 1214, introduced by House Banking Chairman Henry B. Gonzalez (D-TX), and S. 1633, introduced by Senate Banking Chairman Riegle and Ranking Member Alphonse D'Amato (R-NY) — to overhaul the nation's fragmented and duplicative system of regulating banks and thrifts. The administration unveiled its own proposal, which is similar to the two bills, in November. The plan would merge the supervisory functions of the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision into a single Federal Banking Commission. The FDIC would continue to provide deposit insurance, and the Federal Reserve would continue to conduct monetary policy, but the two agencies would largely lose their supervisory roles. No action has yet been taken on the measures.

Home Equity Reform — Legislation was included in the community development banking initiative passed by the Senate Banking Committee in September to clean up abuses in home equity loans (S. 924). Although it lacked the broader protections urged by consumer groups, the measure would make it illegal for the highest priced home equity loans to contain balloon payment, negative amortization, and prepayment penalty clauses, loan terms that have led many homeowners to lose their homes. The highest priced loans would also be subject to more rigorous disclosure requirements. Rep. Joseph P. Kennedy II (D-MA) introduced substantially similar legislation (H.R. 3153) in the House. In addition, the Kennedy bill would restore states' rights to impose usury ceilings on home equity loans.

Basic Banking and Check Cashing — Rep. Esteban Torres (D-CA) and Sen. Metzenbaum introduced legislation (H.R. 2350, S. 83) to require banks to offer consumers a lifeline account and to cash government checks for non-customers. Hearings are expected in the House. Reps. Cleo Fields (D-LA) and Albert Wynn (D-MD) introduced legislation (H.R. 1448) to place limits on the amount check cashing outlets can charge, to provide for uniform regulation of check cashing operations, and to require federally insured depository institutions to cash government checks when proper identification is presented. Hearings have been held in the Government Operations Committee and are expected in the Banking Committee.

Mortgage Escrow Reforms — House Banking Chairman Gonzalez introduced legislation (H.R. 27) to clean up mortgage escrow abuses, by requiring that escrow accounts bear interest, requiring standardized "aggregate" accounting of escrow balances, restoring homeowners' right to terminate their escrow account agreements and pay their own taxes and insurance, and improving enforcement tools. Hearings on the measure were held in May, and the Administration endorsed the bill in November. It is expected to be included in the 1994 housing bill.

Insurance Redlining — Two bills were introduced in the House (H.R. 1257, H.R. 1188) to combat insurance redlining by requiring insurance companies to disclose annually to the federal government and to the public information on where they market and sell policies. Although the bills were virtually identical when they were introduced, H.R. 1188, sponsored by Rep. Cardiss Collins (D-IL), was gutted during markup in the Energy and Commerce Subcommittee on Commerce, Consumer Protection, and Competitiveness. It was later passed by the full Energy and Commerce Committee. H.R. 1257, sponsored by Rep. Kennedy, survived markup relatively unscathed and was approved by the full Banking Committee in September. Supporters of the Kennedy bill are expected to try to strengthen the legislation when it comes to the floor during the next session.

Fair Credit Reporting Reform — Bills advanced in both houses to improve the accuracy of credit reports, better protect the privacy of credit files, improve enforcement, make it easier for consumers to recover damages, and give the Federal Trade Commission broader oversight authority. S. 783, introduced by Sens. Richard Bryan (D-NV), Christopher Bond (R-MO), and Riegle, and H.R. 1015, introduced by Reps. Torres, Gonzalez, and Kennedy, would both also require banks, retailers, and other creditors to clean up their files so that erroneous information is not repeatedly inserted into credit reports. Senate Banking Committee approved its bill by a 15-4 vote in October after adopting weakening amendments. Although it doesn't contain broad state preemption language of previous bills, the Senate bill does prevent states from requiring credit bureaus to provide information to consumers beyond what is required in S. 783. Also, the Senate bill weakens existing law on offers of credit based on pre-screened mailing lists derived from credit information, making it easier for firms to revoke the offers of credit and preempting stiffer state laws. Consumers could get a free copy of their report once every two years. The House bill is stronger than the Senate version. It contains no preemption language; it would give consumers the right to sue banks and other creditors who fail to correct erroneous information provided to credit bureaus; it would require credit bureaus to provide consumers with free reports on request; and it would retain current law on pre-screened credit solicitations. The bill was cleared on a party-line vote in November by the Consumer Credit Subcommittee with one significant change: a provision restricting use of credit information by marketers to cases in which consumers specifically agree to that use was changed to allow the information to be used unless consumers specifically "opt out." The House bill is expected to face substantial hurdles — particularly on issues of preemption, free reports on request, and the right to sue furnishers of credit information — when it is considered in full committee, which is anticipated early in the next session.

Limited Partnership Rollups — Just before the end of the session, Congress approved a weak compromise version of legislation to clean up abuses in limited partnership rollups. The measure was incorporated into government securities legislation which was signed by the President in December (P.L. 103-202). The rollups provisions limit compensation general partners can receive and require more meaningful and understandable disclosure to limited partners. However, the strong provisions on dissenter's rights and fairness opinions included in the House bill (H.R. 617), introduced by Rep. Edward J. Markey (D-MA), were dropped from the final version. Although the final measure requires that limited partners who oppose the transaction receive "dissenter's rights," it exempts deals approved by more than 75 percent of the partners and allows general partners to substitute unspecified "comparable rights" for financial compensation at their discretion. It does not require independent fairness opinions to aid limited partners in assessing the deal, mandating only that general partners who do not obtain a fairness opinion explain why.

Investment Adviser Regulation — In May, the House gave voice vote approval to H.R. 578, introduced by Reps. Rick Boucher (D-VA) and Markey. The bill would increase funding for investment adviser oversight at the Securities and Exchange Commission by replacing the current one-time registration fee with higher annual fees. It also would require more detailed compensation disclosure by investment advisers to clarify the existence and magnitude of conflicts of interest that may bias advisers' recommendations, and it would require the SEC to institute specific improvements in its oversight program. In November, the Senate gave voice vote approval to companion legislation (S. 423), introduced by Sen. Dodd. The Senate bill includes only the fee increase, without the much needed investor protections included in the House bill. The two bills must now go to conference to work out differences, if possible.

Securities Litigation "Reform" — Legislation has been introduced in the House (H.R. 417) by Rep. W. J. "Billy" Tauzin (D-LA) that would severely reduce the ability of defrauded investors to recover damages. The bill would limit joint and several liability, make it more difficult to recover damages, and force investors who lose in court to pay the attorneys fees and costs of the defendant in some cases. Sen. Dodd has held a hearing on the issue in the Securities Subcommittee and has announced his intention to introduce similar legislation early in the next session.

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Telecommunications

Infrastructure and Business Restrictions — Legislation was introduced in both houses of Congress (S. 1086, H.R. 3636) to speed development of the information superhighway and enhance competition. Both bills would allow the Bell telephone companies to offer cable television services if they comply with certain safeguards and restrictions, require telephone service providers to open their network to competitors, and promote competition to local telephone monopolies. S. 1086, which was introduced by Sens. Daniel K. Inouye (D-HI) and John C. Danforth (R-MO), would also set up consumer safeguards governing information services offered by the Bell Companies. In November, House Energy and Commerce Committee Chairman John D. Dingell (D-MI) and Judiciary Committee Chairman Jack Brooks (D-TX) worked out weak compromise legislation (H.R. 3626) governing the entry of local telephone companies into previously restricted areas of information services, manufacturing, and long distance service. Meanwhile, the Administration is at work on its own proposal, and Sen. Ernest F. Hollings (D-SC) is reportedly also writing legislation. So far, however, none of the bills provides adequate protections to ensure the development of local competition, to prevent monopoly abuses, or to preserve affordable local phone service. Hearings were held in the Communications Subcommittee of the Senate Commerce Committee in September on S. 1086. No action has yet been taken on either the Dingell-Brooks bill or the Markey bill in the House.

Privacy — Rep. Markey introduced legislation near the end of the session (H.R. 3432) to give telecommunications consumers greater control over the information the telephone companies gather about them. It would prevent local telephone companies from using that information to compete unfairly. The measure is expected to move on a parallel track with other telecommunications legislation in the 1994 session.

Telemarketing Fraud — Both houses passed legislation in 1993 (H.R. 868, S. 568) to crack down on fraudulent, deceptive, and abusive telemarketing practices. The measure, sponsored in the House by Rep. Al Swift (D-WA) and in the Senate by Sen. Richard H. Bryan (D-NV) increases the enforcement authority of the Federal Trade Commission and gives state prosecutors authority to track down deceptive telemarketers who attempt to evade them by crossing state lines. Although the bills contain relatively minor differences, those differences have not been worked out.

Indoor Air Quality

Indoor Air Quality Research and Response — In October, the Senate passed comprehensive indoor air quality legislation (S. 656). Similar to measures passed by the Senate in the two previous congresses, it would authorize total funding of $48.5 million each year from 1994 through 1998 for research, health advisories, state grants, development of a national response plan by EPA, coordinating federal agency response to the problem, conducting a building assessment program, and a report to Congress on chemical sensitivities. Companion legislation (H.R. 2919), introduced by Rep. Kennedy in August, was the subject of a hearing in the Energy and Commerce Subcommittee on Health and the Environment in November.

Radon — Shortly before the August recess, the Senate Committee on Environment and Public Works reported out its bill (S. 657) to improve protections against radon. The bill has broad bipartisan backing and is ready for a floor vote in the next session. H.R. 2448, which was introduced by Rep. Markey, has been reported out of two subcommittees and is ready for full committee markup at the beginning of the next session. Both bills reauthorize key components of EPA's existing radon program, mandate performance and proficiency standards for radon testing and mitigation products and services, require disclosure about radon hazards and benefits of mitigation during real estate transactions, and address construction standards to prevent radon contamination in new vulnerable premises in high radon areas. The Senate bill also includes provisions to require radon testing and provide assistance for mitigation in schools in high radon areas.

Environmental Tobacco Smoke — Bills to reduce exposure to environmental tobacco smoke progressed in both the House and Senate in 1993. The Senate included two measures in appropriations legislation: to require the institution and enforcement of indoor non-smoking policies where federally funded children's services are provided (S. 261), and to restrict smoking in federally owned and leased buildings to separately ventilated smoking rooms (S. 262). The measures, introduced by Sen. Frank Lautenberg (D-NJ), were dropped from the appropriations bill in conference committee. Just before the end of the session, however, the House gave voice vote approval to a free-standing bill (H.R. 881), introduced by Rep. James Traficant (D-OH), to restrict smoking in federal buildings. Sen. Wendell H. Ford (D-KY) prevented Senate consideration of bill at that time, but it is expected to be taken up in the next session. S. 261 and the House companion — H.R. 710, introduced by Rep. Dick Durbin (D-IL) — are also expected to be considered next session, perhaps as part of more comprehensive legislation to restrict smoking in public places. Introduced by Rep. Henry Waxman (D-CA), H.R. 3434 would require that all non-residential public buildings either ban smoking or restrict smoking to specially designated smoking areas which are separately ventilated to the outdoors and which nonsmoking individuals do not have to enter.

Product Safety

Toys, Bike Helmets, Buckets — In March, the House passed a bill (H.R. 965), sponsored by Rep. Collins, to require that toys that are intended for children ages three to five and that contain small parts bear a prominent warning of the choking hazard these small parts pose to young children. The bill would require balls intended for children under three to be large enough not to pose a choking hazard. In addition, the bill would require the Consumer Product Safety Commission to set uniform standards for bike helmets that, among other things, address the risk of roll-off during a fall and the need for special protection for children's heads. The Senate passed a similar but broader bill in November (S. 680), sponsored by Sens. Bryan, Slade Gorton (R-WA), Dennis DeConcini (D-AZ), and Jay Rockefeller (D-WV). In addition to the provisions in the House bill, the Senate bill incorporates provisions from S. 228, sponsored by Sens. Bryan and Danforth, to create a grants program under the National Highway Traffic Safety Administration to encourage helmet use by children, and from S. 799, sponsored by Sen. Metzenbaum, to require a label on five-gallon buckets warning of the drowning hazard to infants and toddlers and to require the CPSC to develop a standard to reduce the hazard. A conference on the two bills is expected early in 1994.

Product Liability — The Senate Commerce Committee reported out a bill (S. 687) in November that would limit the ability of individuals who are injured by dangerous products to recover damages. Strongly opposed by consumer groups, the measure would limit the award of punitive damages, reduce liability for product sellers, abolish joint liability for noneconomic losses, and establish time limitations for liability. No action has been taken on a House companion bill (H.R. 1910).

Health and Health Care

Health Care Reform — More than 20 bills to overhaul the health care system were introduced in 1993, including the president's managed competition plan to guarantee universal access to a comprehensive package of benefits. Introduced in November with 30 sponsors in the Senate and 100 sponsors in the House, the president's plan (H.R. 3600, S. 1757) is expected to be the focus of action in the 1994 session. Most consumer groups, including CFA, have endorsed legislation to create a single payer system (H.R. 1200, S. 491).

Dietary Supplements — The Senate passed a bill (S. 1762) by voice vote in November to delay for four more months the Food and Drug Administration's plans to impose new labeling rules on dietary supplements. The rules, which are supported by consumer groups, would require manufacturers of dietary supplements to limit health claims on labels to those supported by significant scientific agreement. In the House, Rep. Collins introduced legislation (H.R. 2923) that would codify the FDA's proposed rules on labeling and would give the Food and Drug Administration authority to regulate dietary supplements.

Alcohol Advertising — Legislation to require health and safety messages in print and broadcast alcohol advertisements was redrafted and introduced in both houses of Congress (H.R. 1823, S. 674). The new legislation — introduced by Sens. Strom Thurmond (R-SC) and Paul Simon (D-IL) in the Senate and by Reps. Kennedy and John Conyers (D-MI) in the House — expands the number of rotating messages from five to seven and applies the requirements to cable as well as broadcast ads. The Senate Commerce Committee held hearings on S. 674 in May, and the chairman has promised a vote on the measure early in 1994.

Antitrust

Baseball Antitrust — Bills were introduced in both houses of Congress to eliminate baseball's antitrust exemption and thus result in more games being broadcast at a lower cost. S. 500 was introduced by Sens. Metzenbaum, Connie Mack (R-FL), and Bob Graham (D-FL). H.R. 108 was introduced by Reps. Michael Bilirakis (R-FL) and Jim Bunning (R-KY). A vote on the legislation was delayed when the Senate Judiciary Committee decided in September to hold more hearings on the bill. House Judiciary Chairman Brooks has announced his intention of addressing the issue in 1994.

Transportation

Driver Privacy — Bills were introduced in the House, by Rep. James Moran (D-VA), and the Senate, by Sen. Barbara Boxer (D-CA), to prevent Departments of Motor Vehicles from disclosing personal information about a licensee, without authorization, to the general public. Information has been used by stalkers and others to get access to addresses and phone numbers of women, police officers, celebrities and others. The information is also used by direct marketers.

Safety Belt and Motorcycle Helmet Incentives — Bills were introduced in both houses of Congress (H.R. 799, S. 295, and S. 410) to repeal the provisions of the 1991 surface transportation bill designed to promote passage of safety belt and motorcycle helmet mandatory use laws. Sponsors of the measure have said they will attempt to attach it to bills moving through the Public Works committees next year. Meanwhile, the House passed a bill (H.R. 3276) containing technical corrections to the 1991 highway bill that included a measure giving states an additional year to enact mandatory use laws before having a portion of their highway funds diverted into safety programs. Although the deadline for enactment of the laws was moved back to September 30, 1994, the date when redirection of funds begins, October 1, was unchanged.

Safe Driving — The Senate gave voice vote approval in November to a bill (S. 738) — introduced by Sens. Danforth, Lautenberg, James Exon (D-NE), and Barbara Mikulski (D-MD) — establishing a new $100 million state grants program to encourage passage of tougher state laws against unsafe driving. To be eligible to receive the grants, states would have to require minors to drive for at least one year on a provisional license without receiving any tickets in order to obtain a full-fledged driver's license. In addition, states would have to adopt an increasing number of measures over the next five years, including setting limits on blood alcohol content for drivers under age 21 of .02 or less and requiring all passengers to wear safety belts. A similar bill (H.R. 1719), introduced by Rep. Frank R. Wolf (R-VA), is awaiting action in the House Public Works Committee.

Auto Title Fraud — The Senate gave voice vote approval in November to a bill (S. 431), introduced by Sen. Exon, to require automobiles' titles to indicate whether the car has been rebuilt after being extensively damaged. In addition, under a provision pushed by Sen. Gorton, any automobile deemed a "lemon" under the state's law would have that fact noted on the title.

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Consumer Assembly 1994

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Consumers Want Independent Product Info

Most consumers strongly desire independent information about products before they make a purchase, according to a joint study by CFA and the American Association of Retired Persons. Released in December, the study found that consumers are particularly interested in receiving information about "high-ticket" products — cars, housing, and insurance.

"Without this independent information, consumers make bad product choices that cost them billions of dollars a year," said CFA Executive Director Stephen Brobeck, author of the report. "Many purchasers waste hundreds of dollars a year on products ranging from cars to auto insurance to home repairs."

A nationwide study, conducted by Opinion Research Corporation, asked consumers about their desire for independent information before purchasing 27 specific products.

For all 27 products, 66 percent of respondents indicated great interest in receiving independent information. The largest number of consumers have a great desire for information about new cars (83 percent), health insurance (80 percent), home purchase (79 percent), investments (79 percent), and auto insurance (78 percent).

Targeted Education Needed

Based on these findings, CFA and AARP called on consumer educators to reassess their priorities and target information efforts more effectively.

"We must do a better job of communicating information about high-ticket items to those groups with the greatest desire for this information," said AARP Program Department Director James M. Thompson.

In addition, consumers can help themselves, Brobeck noted. "The first person that purchasers should seek assistance from is their local librarian," he said. "She or he can refer you to books, newsletters, magazines, and other useful sources of product-related information."

Women More Interested In Information Than Men

Women surveyed expressed more interest in information than men, by a nine percentage point difference (ppd).

The products for which there are the greatest gender differences include food purchase at markets (15 ppd), checking accounts (13 ppd), eyeglasses (13 ppd), air fares (13 ppd), long distance phone service (13 ppd), and non-prescription drugs (13 ppd).

The principle reason for this gender difference is that women are more likely than men to purchase most products, so have a greater need for product-related information, the study found.

Those age 18 to 24 and 55 to 64 have the greatest interest in independent information, while those 65 and older have the least interest, the survey found.

The young are especially interested in receiving information about cars, insurance, and banking — products that they often must purchase.

Percentage Expressing Great Interest In Information

New car	83%
Health insurance	80
Home purchase	79
Investments	79
Auto insurance	78
Homeowners insurance	76
Mortgage loan	75
Car repair	74
Mortgage refinancing	73
Life insurance	72
Home repairs	71
Used car	69
Car loan	68
Home equity loan	68
Prescription drugs	66
Nursing homes	65
Savings account	63
Checking account	62
Credit cards	60
Food at market	60
Eyeglasses	58
Air fares	56
Non-prescription drugs	55
Long distance phone	51
Funerals	50
Hearing aids	49
Local phone service	44

Consumers age 55 to 64, on the other hand, have a great desire for information about health-related products such as prescription and non-prescription drugs, nursing homes, eyeglasses, and hearing aids.

Consumers age 65 and older also want information about products that may be more important as they age, such as hearing aids (63 percent) and eyeglasses (75 percent).

"Older consumers are often more trusting and less likely to seek product information than younger people," Thompson said. "According to this study, however, older people do want independent information about specific purchases."

Ethnicity Differences Significant

African Americans have far greater interest in independent information (79 percent) than do whites (65 percent). The products for which the differences are greatest relate to housing and health. Seventy-two percent of Hispanics have great interest in product-related information.

In addition, income differences also play a role. The least affluent have the greatest interest in product-related information. Seventy-one percent of those with incomes under $25,000, compared to only 60 percent of those with incomes over $50,000, have a great desire for this information.

In large part, this difference reflects differences in need (the poor cannot afford to waste any money) and shopping experience (the affluent have more of this), Brobeck noted.

The report is available for $15 prepaid from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

Brobeck Speaks To Real Estate Regulators

The traditional agency system does not serve home buyers well, CFA Executive Director Stephen Brobeck told the nation's real estate regulators at their annual conference in October. He called on them to play a role in developing alternatives that better serve consumers.

Individuals who work with a subagent are usually not represented in negotiations between buyers and sellers, although, until recently, most thought they were, he noted. As a result, these buyers not only relied on subagents to work out a deal, they also communicated potentially compromising information that subagents were legally obligated to pass on to listing brokers. "The result was that buyers frequently overpaid for homes, and, if they later learned that this was the case, often sued the cooperating broker," Brobeck said.

"This litigation was the most important factor precipitating a re-evaluation of traditional agency," he said. Other factors included the emergence of alternative brokers, particularly single-agency buyer brokers, a critical study by the Federal Trade Commission in the early 1980s, and the negative publicity generated by criticism from consumer organizations.

"All this set in motion an evolution away from subagency," Brobeck said. Traditional brokers began offering a buyer broker option, and the industry began to look for alternatives to subagency and buyer brokerage. While CFA endorses the idea of consumer choice, "we want these choices to be real and equitable," he said.

One viable option is single agency buyer brokerage, and another is for buyers to deal directly with listing brokers, possibly with the assistance of an attorney, he said. But the latter will only work if buyers are given access to multiple listing services. On the other hand, buyer brokers working for traditional firms creates dual agency problems and, as a result, should eventually be prohibited, he said.

Regulators have an important role to play in this process, first, by promoting consumer understanding of agency, and, second, by taking leadership in seeking to resolve the dual agency problem, Brobeck said. One way for regulators to help is to "insist that the industry work with consumer groups in trying to resolve the issue," he said.

Finally, for regulators to adequately perform their functions of education and grievance resolution, they will in most cases need additional resources, Brobeck said. "CFA and other consumer groups are prepared to call on governors and state legislators to meet this need."

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