



## Congress Passes Pro-Consumer Banking Bill

In a major victory for consumers, Congress ended the 1991 session by passing a narrow banking bill, which includes funding needed to close currently insolvent banks, strong regulatory safeguards, and critical consumer protections. Most importantly, Congress refused to allow interstate branching, commercial purchase, or expanded securities powers.

"Congress walked to the brink of sweeping financial consolidation and high risk gambling with consumer deposits, but they stepped back, and for that CFA applauds them," said CFA Legislative Representative Peggy Miller.

CFA lobbied throughout the session for passage of just such a narrow bill on the grounds that the major restructuring proposed by the administration would lead to a dangerous increase in financial concentration, would create institutions of a size and complexity impossible to regulate effectively, and would subject consumers to higher costs and increased potential for deception.

Signed into law by the president on December 19, the bill also contains a number of pro-consumer provisions: truth-in-savings, small business lending disclosure, disclosure of Community Reinvestment Act exam data, 90-day advance notice of branch closings, expansion of the Home Mortgage Disclosure Act, and a provision overturning the Supreme Court's retroactive application of a restrictive statute of limitations period for private securities fraud lawsuits.

Ultimately, consumers benefited from a combination of irreconcilable conflicts between powerful industry groups and strong leadership by a handful of members operating in the public interest.

Reps. John D. Dingell (D-MI), Henry B. Gonzalez (D-TX), Edward J. Markey (D-MA), Bill Richardson (D-NM), and Jim Leach (R-IA), as well as Sens. Richard H. Bryan (D-NV), Dale Bumpers (D-AR), and Paul S. Sarbanes (D-MD) mounted strong and persistent campaigns to prevent interstate branching and expanded securities powers.

Rep. Dingell and Senate Banking Committee Chairman Donald W. Riegle, Jr. (D-MI) joined forces to stop commercial purchase of banks. And Sen. Christopher J. Dodd (D-CT) and Rep. Esteban E. Torres (D-CA) led the fight for inclusion of truth-in-savings in the final bill.

"These congressmen are the true champions of the consumer interest, since they ignored major, well-heeled forces to coordinate a final important victory for decentralized consumer banking," Miller said.

### Basic Banking Defeated

Once again, Sen. Howard M. Metzenbaum (D-OH), this time with Sen. Riegle's help, got basic banking and government check cashing mandates included in the Senate Banking Committee bill, only to see them stripped from the bill on the Senate floor following an eight-hour filibuster by Senate Republicans. In exchange, the Republicans agreed to accept

the rest of the bill's consumer title, including truth-in-savings, which was included in the final bill in conference committee.

The bill contains a number of improvements in regulatory oversight, including provisions: to allow regulators to intervene earlier when banks' capital reserves reach critically low levels; to require foreign banks to capitalize and set up their branches in this country as subsidiaries, allowing improved tracking by regulators; to roll back the Delaware decision that allowed insurance underwriting in any state chartered bank; and to base banks' capital requirements on the risk of making concentrated loans, thereby encouraging lending to small businesses.

CFA assisted in drafting the provision on risk-based standards to ensure that these standards reflect the risk posed by financial concentration. "By encouraging banks to diversify their loan portfolios by providing more loans to small

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## Bells Overcharge Consumers \$30 Billion

The seven Bell telephone companies have overcharged consumers by approximately \$30 billion in the eight years since the January 1984 breakup of AT&T, according to a report released in December by CFA. Those overcharges will grow and competition will be undermined if the Bell telephone companies continue to behave as they have since divestiture, the report concludes.

"Divestiture Plus Eight: The Record of Bell Company Abuses Since the Break-Up of AT&T" documents the dangers to ratepayers, consumers, and competitive markets if Congress does not prevent the Bell companies from expanding their local telephone monopolies into the electronic information business.

"The post-divestiture record speaks for itself," said CFA Legislative Director Gene Kimmelman. "The Bell companies have circumvented regulation to inflate local telephone rates and undercut competitors."

"This year's federal court decision allowing the Bell companies to expand into the electronic information business provides them greater opportunities to drive up phone rates and reduce competition," said CFA Research Director Mark Cooper, author of the report.

### Abuses Described

The report's conclusions are based on the following categories and examples of Bell abuses since 1984:

- The Bells can overcharge customers and inappropriately write off expenses. CFA estimates excessive profits of about \$1.5 billion per year and excess depreciation



CFA Legislative Director Gene Kimmelman (left) and Research Director Mark Cooper called on Congress to prevent Bell company monopoly abuses at a December news conference.

expenses of about \$3 billion per year since divestiture. These excesses in turn have been funneled into the acquisition of more than \$20 billion in unregulated assets—everything from real estate to foreign currency holdings—and about \$10 billion in excess dividends to stockholders.

- The Bells can use their monopoly-derived advantages to influence legislative or regulatory decisions. For example, Michigan Bell recently used information from customer billing records to mount a successful lobbying campaign for deregulation legislation.

- In the name of modernization or network improvement, the Bells can make ratepayers foot the bill for unnecessary equipment and services. In Florida, Southern

Bell tried this "gold plating" to justify a speculative \$100 million investment in fiber optic transmission lines.

- The Bells can load the costs of competitive services onto those of local phone service. NYNEX, for example, drained more than \$100 million of telephone revenues into an unregulated affiliate, and then sought a rate hike of about \$1 billion.

- The Bells can dictate whether, how, and when competitors can gain access to the local phone network to deliver services to consumers. In Georgia, Southern Bell used its monopoly position to make it difficult or more expensive for competitors to offer voice messaging services.

- The Bells can restrict the supply of services, exploit consumer confusion, and

engage in deceptive practices. Bell of Pennsylvania paid \$42 million to settle charges that it used deceptive practices to sell customers more "intelligent network" services than they needed or desired.

- The Bells can use their captive ratebase to target consumers for new services. When customers asked Pacific Bell about competitive services, they were referred to a Pacific Bell affiliate and steered away from independent providers.

- The Bells can charge costs to the wrong services and misallocate profits of regulated and unregulated services. Regulators in 19 states accused the Bells of allocating Yellow Page advertising profits to out-of-state subsidiaries rather than using them to keep phone rates down.

### Congressional Action Needed

In light of the extensive evidence that the Bells have been guilty of numerous abuses, the report urges Congress to pass legislation like H.R. 3515, the "Telecommunications Act of 1991," and S. 2112, the "Information Services Diversity Act of 1991." Both bills would prevent the Bells from using their local telephone monopolies to undercut competition in information services and would protect consumers from higher rates.

"Only Congress can stop the Bell companies from undermining competition in the information market and inflating consumers' local phone bills," Cooper concluded.

The report is available for \$10, paid in advance, from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

# 1991 Legislative Wrap-Up

## Telecommunications

**Information Services**—In late July, U.S. District Judge Harold H. Greene reluctantly lifted the ban against Bell telephone company entry into information services, which they had been barred from as a condition of the AT&T breakup agreement because of their ability to take competitive advantage of their monopoly control of local phone lines. In October, a bipartisan group of congressmen, led by Rep. Jim Cooper (D-TN), introduced CFA-endorsed legislation, H.R. 3515, that would put strong safeguards in place before allowing Bell companies into information services. Just before Congress adjourned for the year, Sen. Daniel K. Inouye (D-HI) introduced similar legislation, S. 2112. Led by Chairman Edward J. Markey (D-MA), the House Energy and Commerce Subcommittee on Telecommunications and Finance is drafting legislation. Increased action on these measures is expected in the 1992 session. (See related article, page 1.)

**Equipment Manufacturing**—In June, the Senate passed legislation, S. 173, to allow the nation's seven Bell telephone companies to design and manufacture telecommunications equipment, including equipment for their own networks. Opposed by consumer advocates because of its anti-competitive implications, S. 173 would provide only minimal ratepayer protections. Similar legislation, H.R. 1527, has been introduced in the House. This issue is expected to be addressed next year as part of an overall package including information services being formulated in the House Telecommunications and Finance Subcommittee. (See above.) Based on early draft versions, that package is expected to contain more extensive consumer protections than are currently contained in S. 173 and H.R. 1527.

**Cable Reregulation**—In May, the Senate Commerce Committee reported out legislation, S. 12, which would permit rate regulation where cable faces no true competition, prohibit unfair business practices, and improve consumer service.

More specifically, the bill would require reasonable charges for installation, rental equipment, and a basic tier, and calls for full regulatory protection over prices for the most popular package of cable services. Bill sponsors have been promised early Senate floor consideration when Congress reconvenes. Opponents have threatened a filibuster as well as amendments to weaken regulatory provisions. In the House, which has been awaiting Senate action before beginning serious consideration of the issue, two bills have been introduced: H.R. 1303, which is identical to legislation passed by the House last session; and H.R. 3380, which was introduced in October by Reps. Dennis Eckart (D-OH) and Jim Cooper (D-TN) and which contains the strongest consumer protections of any of the bills before Congress. The president has threatened to veto any cable legislation despite the strong bipartisan support.

**Junk Calls, 900-Numbers, and Caller ID**—On the last day of the session, Congress cleared legislation (P.L. 102-243) to ban automatically dialed pre-recorded phone calls to residences and emergency lines and to require the Federal Communications Commission to explore methods of protecting consumers from unsolicited sales pitches over telephones and fax machines. It was signed by the president in December. In October, the Senate passed legislation, S. 1570, to improve consumer protections related to 900-number telephone services, including provisions that would protect consumers from having their local phone service disconnected for failure to pay for 900 services. Similar legislation, H.R. 3490, was approved by the House Energy and Commerce Committee in October and is awaiting floor action. Legislation also is awaiting floor action in both houses, S. 652 and H.R. 1305, to require telephone companies that offer Caller ID services also to offer per-call blocking. Action on both issues is expected early in the next session.

## Financial Services

**Banking Regulatory Reform** (oversight, early intervention, capital standards, deposit regulation); **Banking Consolidation and Expansion of Powers** (branching, banking and commerce, securities sales, banks and insurance); **Basic Banking, Check Cashing, Truth in Savings**; and **Securities Fraud Statute of Limitations**—See banking article, page 1.

**Government Sponsored Enterprises**—In September, the House gave overwhelming approval to a weak bill, H.R. 2900, to improve oversight of the secondary market system, Government Sponsored Enterprises. GSEs buy mortgage loans from banks and package and sell them to investors in the form of stock options. This system has virtually eliminated loan originations by banks. Aimed in particular at oversight of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), which

together control 70 percent of the housing market and thus control the underwriting standards, the bill contains inadequate protections against the financial exposure of this giant and insufficient provisions to balance current housing inequities by promoting low and moderate income housing. A somewhat stronger Senate Banking Committee draft bill is expected to be at the top of that committee's agenda when the 1992 session begins. It has been strongly opposed by Fannie Mae and Freddie Mac, which were successful in stopping attempts to strengthen the House bill.

**RTC Funding**—Despite last year's promises that the 102nd Congress would find a less costly method of funding the bailout, Congress approved two Resolution Trust Corporation funding bills in 1991, for a combined total of \$55 billion, that continued to rely on exorbitantly costly deficit financing. The first bill, cleared by Congress and signed by the president in March (P.L. 102-18), provided \$30 billion to the RTC to shut down insolvent thrifts. Congress cleared the second bill, containing \$25 billion for funding through April 1, just before recessing in late November. Both bills contained minor reforms of agency structure and operating procedures. Before passing the second funding bill, the House rejected a cost cutting pay-as-you-go proposal crafted by Rep. Joseph P. Kennedy (D-MA) and approved by the House Banking Committee. The administration has said the RTC will need at least an additional \$55 billion, so the funding issue is expected to be back on the table early in the second half of the session.

**Limited Partnership Rollups**—In November, the House approved legislation, H.R. 1885, to prevent abuses of limited partners by general partners during "limited partnership rollups"—transactions in which several of the long-term, finite-life, non-traded partnerships are reorganized, or "rolled up," into an infinite-life, publicly traded investment. Analysts have stated that all rollups to date have lost money. General partners, however, have typically structured the deals to provide themselves with generous compensation. The House bill, introduced by Rep. Edward J. Markey (D-MA), would require that limited partners who oppose the rollup be allowed to opt out and receive alternative compensation, would improve the quality of information available to limited partners, and would make it easier for opponents to fight the rollups. Senate Securities Subcommittee Chairman Christopher J. Dodd (D-CT) has introduced a somewhat weaker bill, S. 1423, with strong bipartisan support. Subcommittee markup is anticipated early in the 1992 session.

**McCarran-Ferguson Reform**—In November, the House Judiciary Committee narrowly approved Chairman Jack Brooks's (D-TX) legislation, H.R. 9, to repeal some of the federal antitrust exemptions granted the insurance industry 46 years ago under the McCarran-Ferguson Act. The bill could go to the floor for a vote early in 1992. Sen. Howard M. Metzenbaum (D-OH) introduced companion legislation, S. 430, in February, but no action has been taken.

## Indoor Air Quality

**Comprehensive Indoor Air Quality Legislation**—This fall, the Senate passed comprehensive indoor air quality legislation, S. 455. The bill includes support for research, programs to deal with the most serious health threats, centralized authority in the EPA, grants for development of new technologies, and incentives for building improvements. It would establish health advisories for hazardous air pollutants and require a nationwide assessment of indoor air quality in buildings owned by local education agencies and day care facilities. It authorizes \$48.5 million each year to fund the program through 1996. A companion bill introduced by Rep. Joseph P. Kennedy II (D-MA), H.R. 1066, goes even further, providing for ventilation standards for public and commercial buildings, product labeling specifying contaminant emissions, and a requirement that the Occupational Safety and Health Administration set standards for indoor air pollutants in the workplace. The House bill authorizes \$53.5 million each year through 1996. As in past years, however, the House bill has been referred to three separate committees, and so far action on the bill has been restricted to hearings and one subcommittee markup.

**Radon**—Just before the August recess, the Senate Environment and Public Works Committee reported out S. 792, comprehensive radon legislation. The bill contains programs related to radon exposure in homes, schools, and work places. Among other things, it would require the Environmental Protection Agency to designate priority radon areas and publish model radon control construction standards for residences, require that all schools in priority areas test for radon, establish technical assistance and grant assistance programs, and, in certain cases, require disclosure of radon test results to home buyers. Rep. Edward J. Markey (D-MA) introduced a more modest bill, H.R. 3258, in August. It includes provisions to increase public awareness of the health effects of radon, enhance the accuracy of radon testing products and services, provide for testing of schools, improve education of the medical community on radon, and provide financial support for state-level efforts. It has been referred to the House Health and the Environment Subcommittee, where hearings have been held on radon and indoor air issues.

## Product Safety

**CPSC Budget**—A small budget increase for the Consumer Product Safety Commission was included in the independent agencies appropriations bill cleared by Congress this fall and signed by the president in October (P.L. 102-139). The final version of the bill adopted the higher House appropriation level of \$40.2 million, up from \$37.1 million in 1991.

**Product Liability**—In October, the Senate Commerce Committee reported out legislation, S. 640, that would restrict the ability of individuals injured by faulty

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## Legislative Update

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products to win compensation for their injuries. The bill is expected to be referred next to Judiciary Committee, which has traditionally opposed such measures but which will operate under a time limit for its consideration. A similar bill, H.R. 3030, was introduced in the House in July and has been jointly referred to the Energy and Commerce and Judiciary Committees. Although bill cosponsor Rep. John D. Dingell (D-MI) is expected to attempt to move the bill in the next session, Judiciary Committee Chairman Jack Brooks (D-TX) has said only that he will hold hearings on the measure.

**Lead**—In response to increasing evidence of the hazards posed by exposure to even relatively low levels of lead, a number of bills were introduced in both houses of Congress proposing a variety of strategies to reduce lead exposure. The bills viewed by lead abatement advocates as the most important are: the Lead Exposure Reduction Act (S. 391, H.R. 1750, H.R. 3554), the Lead Contamination Control Act (H.R. 2840), and the Lead-Based Paint Abatement Trust Fund Act (H.R. 2922). The Lead Exposure Reduction Act legislation is designed to restrict new and current uses of lead and to direct federal agencies to overcome various technical obstacles to lead-based paint abatement. The Senate Environment and Public Works Committee reported out S. 391 in October. It could go to the floor for a vote early in the next session. Hearings have been held on the House companion bills. H.R. 2840—which would require hazard disclosure, worker certification, lead screening, school and day care inspections, and regulations of lead levels in water and food—was marked up in the Health and Environment Subcommittee in late October. H.R. 2922—which would create a grants program to state and local authorities for lead-based paint abatement programs, particularly those targeted at low income housing—has been referred to both the Energy and Commerce and the Ways and Means committees, but no action was taken. One lead bill which did pass the Senate in 1991 was S. 507, the Lead Poisoning Prevention Act, which would expand the number and scope of Centers for Disease Control (CDC) grants to increase the number of children screened for lead poisoning and refer affected children for treatment. Lead legislation is expected to receive increased attention during the second half of the session.

**Small Parts Warning Labels**—In November, Rep. Cardiss Collins (D-IL) introduced legislation, H.R. 3809, to require warning labels on toys whose small parts pose a choking hazard to young children. The bill also would set a minimum size limit for balls intended for children under three.

### Food Safety and Nutrition

**Sustainable Agriculture**—The agriculture appropriations bill passed by Congress in July and signed by the president in October (P.L. 101-142) contained a few small steps toward funding an expanded system-wide sustainable agriculture program at the U.S. Department of

Agriculture, including organic certification and water quality initiatives. Although it failed to fund many of the programs created under the 1990 farm bill, the appropriations bill did include nearly \$10 million in sustainable agriculture funds for research and development on the state level.

**Circle of Poison**—Once again in 1991, legislation was introduced in both houses of Congress, S. 898 and H.R. 2083, to ban the export of pesticides that are banned for use in the United States because they pose a threat to human health. In September, the Senate Agriculture Committee held hearings on the "Circle of Poison" legislation. The House bill has been referred to three committees.

**Health Claims in Food Ads**—Rep. Joe Moakley (D-MA) introduced legislation, H.R. 1662, to restrict the health and nutrition claims made in food advertisements to those permitted for use on food labels by the Food and Drug Administration. A hearing was held on the bill in an Energy and Commerce subcommittee in November.

**FDA Enforcement**—In October, the House Health and Environment Subcommittee approved legislation, H.R. 2597, to enhance the enforcement authority of the Food and Drug Administration. Co-sponsored by Rep. Henry A. Waxman (D-CA) and Energy and Commerce Chairman John D. Dingell (D-MI), the bill would give the FDA authority, in all the product areas it regulates, to seize and embargo products, order recalls, issue subpoenas, and impose civil fines.

### Health and Health Care

**Tobacco Control and Education**—In June, the Senate Labor and Human Resources Committee gave voice vote approval to Chairman Edward M. Kennedy's (D-MA) legislation, S.1088, to increase federal education efforts on the hazards of tobacco use, provide assistance to states to improve enforcement of laws against sale to minors and to enhance health education in the schools, require more prominent warnings on tobacco product packages, require disclosure of additives, and give the government authority to restrict harmful additives. The bill was referred to the Commerce Committee under a time limit and, therefore, could be brought to the Senate floor early in the next session. Supporters have been attempting to line up enough cosponsors to ensure their ability to end a filibuster.

**Health Messages in Alcohol Ads**—Legislation was introduced in both houses of Congress, S. 644 and H.R. 1443, that would require the inclusion of rotating health and safety warnings in print and broadcast alcoholic beverage advertisements. Hearings have been held on the issue, but no action has been taken.

**Health Care Reform**—More than three dozen bills have been introduced to overhaul the nation's health care system, with the primary focus of most on controlling costs and covering the uninsured. No action has been taken on any of the proposals. However, the Senate Labor and Human Resources Committee has pledged to schedule a markup of S. 1227, the Democratic leadership's proposal, as soon as Congress returns in 1992. That bill would guarantee universal coverage and create an oversight board to keep costs under control. No decisive action is ex-

pected until the president presents his proposal, possibly in his State of the Union address.

### Transportation

**Airline Regulation**—A variety of bills were introduced to address problems of solvency and excess concentration in the airline industry. Hearings were held in the House Subcommittee on Aviation in May, but no additional action has been taken.

**Motor Vehicle Safety**—Just before recessing in late November, Congress cleared a surface transportation bill (P.L. 102-240) containing a number of important highway and auto safety provisions. The president signed the bill into law in December. Among the safety provisions included in the legislation are: phased in mandatory air bag installation in all passenger cars and vans and light trucks; required rulemakings on head protection, rollover protection, child booster seats, and improved braking systems; an incentive program to encourage states to adopt mandatory use laws for motorcycle helmets and safety belts; a freeze on truck weights and lengths; and reauthorization of the National Highway Traffic Safety Administration.

### Energy and Utilities

**PUHCA Reform**—Included in both the House and the Senate versions of broad energy legislation were provisions related to reform of the Public Utility Holding Company Act. The Senate version was strongly opposed by consumer advocates, who helped to defeat the Senate energy bill, S. 1220, over this and environmental issues. Opponents of the Senate bill have pledged to offer alternative legislation, and Senate Majority Leader George J. Mitchell (D-ME) has said energy

legislation will be a priority in 1992. In the House, the Energy and Power Subcommittee reported out a broad energy bill October 31, H.R. 776, which includes PUHCA reform proposals supported by consumer advocates as the first real chance in over a decade for significant pro-consumer reform of the electric utility industry. The bill is expected to go to the full Energy and Commerce Committee for consideration early in 1992.

**CAFE Standards**—Also at the center of the controversy over the Senate energy bill was its failure to increase Corporate Average Fuel Economy (CAFE) standards, which require automakers to achieve a certain fleet average for fuel economy. The House Energy and Power Subcommittee did not include the measure in its energy bill, although it did hold hearings on the issue. In March, the Senate Commerce Committee marked up free-standing CAFE legislation, S. 279, which would require automakers to increase fleet fuel economy by 40 percent by 2001. The issue is expected to continue to be hotly contested during the second half of the session.

### Miscellaneous

**Vertical Price Fixing**—Both the House and the Senate passed legislation, S. 429 and H.R. 1470, designed to make it easier for discount retailers to bring antitrust lawsuits against manufacturers who conspire with full-price retailers to deny goods to discounters. Threatened with a veto, the two houses have not held a conference to work out differences in the two bills since they did not have the two-thirds needed to override a veto. Though the House significantly weakened its bill during floor consideration, both bills would codify the principle that vertical price-fixing agreements are "per se" illegal and would make it easier for discounters to get their cases before a jury.

## Congress Passes Pro-Consumer Banking Bill

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businesses, these changes should help to stimulate local economies and ensure a safer banking system," Miller said.

### Pro-consumer Provisions

The truth-in-savings measure included in the bill prohibits use of deceptive methods of calculating interest on accounts and requires banks to provide clear disclosure of interest rates and the methods of calculating payments so that consumers can readily compare different institutions' accounts.

"This was a real step forward in achieving better controls over deceptive practices, such as the investable balance method of interest calculation, which have been on the increase," Miller said. "Much is owed to Richard Morse [Director of the Consumer Education and Protection Association of Kansas] for his unrelenting pursuit of this legislation."

The bill also includes a provision to require regulators to disclose the actual CRA exam data on which they base their ratings. "Ever since CRA disclosure was passed in 1989, there have been problems getting regulators to disclose the data properly," Miller said. "By allowing better evaluation of the examiners' decision-

making process, this provision will encourage regulators to conduct a more thorough evaluation. The end result should be more bank loans in low and moderate income areas and for small business."

"This provision, tied to the requirements for small business loan disclosure by banks, will send banks a strong message—it is time to help local economies by loaning to small business," she said.

Consumers won only a partial victory on the issue of securities fraud statute of limitations. Under threat of a filibuster by Senate Republicans, led by Sen. Pete V. Domenici (R-NM), supporters of an extended limitations period agreed to a compromise, stripping the language extending the filing deadline but overturning the Supreme Court's retroactive application of its ruling to cases already pending in federal court.

"It is a scandal that some senators were willing to spend so much time and energy to benefit the perpetrators of securities fraud," said CFA Legislative Representative Barbara Roper. "Investors are still reeling from the frauds of the 1980s. The new restrictive statute of limitations will deny them access to the courts and will ensure a continued bonanza of fraud."

# Financial Services Restructuring Debated

The banking industry is consolidating very rapidly, but, contrary to the consensus view, that consolidation is not primarily the result of market forces and it is "probably not a net good for the American consumer," John H. Boyd, Senior Research Officer for the Federal Reserve Bank of Minneapolis, told attendees at CFA's seventh annual financial services conference.

Research shows that economies of scale in banking are captured at a relatively modest size, roughly equivalent to "a good sized community bank," he said. Furthermore, an analysis of bank failure data indicates that large banks, those with over a billion dollars in assets, fail at almost exactly twice the rate of institutions with assets under a billion dollars, he said.

"Whereas claimed benefits may prove ephemeral," potential costs to consumers of consolidation, particularly as a result of reduced competition, are very real, Boyd said.

He proposed two "modest" policy changes to counteract the most negative effects of consolidation: if banks must merge, they should be encouraged to do so in different markets, so that they increase competition in local markets; and the "too big to fail" policy should be eliminated because it provides "an incentive for banks to get that big."

L. Thomas Block, Senior Vice President for Government Affairs of Chemical Bank, countered that consolidation is necessary because there is "significant over-capacity in the system. The bottom line is the health of the bank that emerges," he said. "Just

because a merged bank will be big is not necessarily bad for consumers."

Ken Guenther, Executive Vice President of the Independent Bankers Association of America, argued, however, that in most mergers "the main effort toward profitability is terminating people," which does not contribute to the longterm health of the institution.

## Consumer Advocates Oppose Mergers

Virginia Citizens Consumer Council President Jean Ann Fox told consumer advocates that they should be skeptical of proposed mergers and get involved in the Federal Reserve review process. Not only does decreased competition lead to higher prices and reduced services for consumers, she said, but, over the years, VCCC has found that larger banks tend to be "more bureaucratic and less sensitive to the needs of low income consumers and small businesses."

In a session on "The Changing Face of Consumer Banking," Ken McEldowney, Executive Director of Consumer Action-San Francisco, predicted a dramatic increase in consolidation over the next decade, with a number of ill consequences for consumers.

Banks will move from full-service to "self-service" institutions, with higher fees pricing many consumers out of the system, he predicted. Furthermore, less competition will lead to less pressure to bring down interest rates on loans and increase interest rates on savings, "as individual

consumers are called upon to subsidize the failure of banks in other parts of their operation," he said.

## Merits of Banking Bill Debated

Steve Harris, Staff Director and General Counsel of the Senate Banking Committee, criticized the administration's banking proposal for benefiting a few big banks at the expense of the overall health of the industry. He said that passage by Congress of a narrow banking bill represented a success "in resisting industry and administration pressure to further deregulate the banking industry."

Luncheon speaker Kenneth H. Bacon, Assistant News Editor of the *Wall Street Journal*, presented a very different view of the legislation, describing it as the result, not of Congress's resistance to special interest groups, but of a stalemate between powerful interest groups unable to reconcile their differences.

He predicted that the continued expansion of banks into securities and across state lines under Federal Reserve authority "will force a return to legislation," but said such legislation "is not likely to succeed until the banking system returns to health."

## Insurance Industry Also Consolidating

While many conference speakers expressed concern over banking consolidation, those speaking on insurance issues generally agreed that consolidation is needed in the insurance industry because

of serious over-capacity and will ultimately benefit consumers by increasing efficiency.

Robert Hunter, President of the National Insurance Consumer Organization, predicted that the 6,000 insurance companies now in existence will eventually be reduced to about 1,000. "We welcome a lean industry," he said. "Consumers will be better off with fewer insurers, but the transition is the thing we fear."

To ease that transition for consumers, state regulators need to do a better job of recognizing the signs of impending insolvency and either merging or taking down insolvent companies while there is still money in the company, he said. He added that there are signs that this is beginning to happen.

Consumers also need to be more aware of solvency in purchasing insurance, he said, calling for better disclosure of solvency information to consumers.

Tim Ryles, Commissioner of the Georgia Insurance Department, and Keven Cronin, Washington Counsel for the National Association of Insurance Commissioners, agreed that improved state regulation of solvency is needed and that current NAIC certification efforts will help to accomplish that goal.

"Regulation has functioned in the past to preserve questionable companies, but we're seeing a different attitude now," Ryles said. "Most of us now have a reasonable idea of what indicators to look at" to determine when companies are getting into financial trouble. Mechanisms are in place to cushion the blows to policyholders, he said.

## Some Insurance Depts Publish Auto Rates

More than half of all state insurance departments help consumers save money by publishing information on auto insurance rates, but only eleven meet or come close to meeting model standards, according to a study released in December by CFA and the National Insurance Consumer Organization (NICO).

"Effective dissemination of auto insurance rate information can save individual consumers hundreds of dollars a year in premiums," said CFA Executive Director Stephen Brobeck. "The state surveys themselves reveal that auto rates, charged to the same type of consumer for the same coverage, typically vary 200 to 400 percent among companies."

Included in the report is a description of a model program, an essential component of which is aggressive and effective dissemination of information in publications that are short and simple. In addition, the survey should differentiate rates for all major population centers, for typical coverages for drivers with different cars and driving records, and for all major insurers and any other low price companies. Finally, the survey information should be collected and released at least once a year.

The 11 states whose publications meet or come close to meeting these criteria are Arizona, Delaware, District of Columbia, Hawaii, Kentucky, Maryland, Nevada, Pennsylvania, South Carolina, Utah, and Washington. The 17 other states that provide rate information to consumers are Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Maine, Michigan, Minnesota, Ohio, Oregon, Virginia, Vermont, West Virginia, and Wisconsin.

The report found, however, that the quality of the publications is more impressive than distribution efforts. Only three states printed at least 25,000 copies—Florida, Washington, and Pennsylvania. "The information is of little use if it does not end up in the hands of consumers," said NICO President Bob Hunter. "States should release the price information at press conferences and through public service announcements, and through community and social service networks."

CFA and NICO are distributing copies of the report to each state insurance commissioner, to major insurance groups, and to consumer organizations. "Our most important goal is to persuade every high-rate state to release price information frequently in a publication that is short and simple," Brobeck said.

Copies of the report are available for \$10, paid in advance, from CFA, 1424 16th Street, N.W., Suite 604, Washington, D.C. 20036.

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