CFAnews

AUGUST – SEPTEMBER 2008, VOLUME 34, NO. 4, ISSN #0732-8281

CFA

CONSUMER FEDERATION OF AMERICA

Administration Fails To Meet Fuel Standards Mandate

A proposed rule issued by the National Highway Traffic Safety Administration (NHTSA) to implement the fuel economy standards of last year's Energy Independence and Security Act (EISA) fails to meet the law's mandate, according to a detailed analysis released by CFA in July.

"Congress set a floor not a ceiling on fuel economy standards and ordered the Administration to achieve maximum feasible fuel savings to achieve energy independence and security," said CFA Research Director Mark Cooper. "This rule achieves neither maximum feasible fuel savings, nor energy security."

In order to meet the mandate established by Congress, NHTSA needs to raise its proposed standard by 50 percent for 2011 and 2012, according to the CFA analysis.

CFA also called on the agency to rescind the standards for 2013-2015, finish gathering the critical information it needs to make an informed recommendation, and develop recommendations based on that information.

Because of all the attention drilling has gotten lately as a proposed solution to the current energy crisis, CFA compared the amount of gasoline a higher fuel economy standard would save to the amount of oil that the Energy Information Administration recently estimated would be produced by expanded drilling on the Outer Continental Shelf in the same time frame (2011-2030).

"It's no contest," Cooper said. Fuel economy would save about 13 times more than drilling on the Continental Shelf would produce, making "a much larger contribution to lowering imports and reducing the nation's addiction to oil."

"Never in the history of this country has it been more important, both domestically and globally, to reduce gasoline and oil consumption," said CFA Director of Public Affairs Jack Gillis. "Somehow, the Department of Transportation didn't get the message.

"With gas at $4 a gallon, they use $2.45 in their analysis. With our oil dollars filling the coffers of nations hostile to our interests, they assign no military costs to oil. With used SUVs lining dealer lots, they claim fuel economy has no impact on vehicle resale value. Each absurd assumption deprives consumers of the fuel economy they want and deprives the nation of the fuel savings it needs," he said.

Cooper estimated that correcting these errors would, at a minimum, increase gasoline savings by approximately 40 percent, or just over 21 billion gallons, in years 2011 through 2015.

The incremental consumer cost of those savings would be just over $53 billion, or less than $2.50 per gallon. "With gasoline currently at $4 per gallon, these additional savings would be a good deal for both consumers and the nation," he said.

If, on the other hand, the rule stands as written, "fuel economy standards will be hamstrung for years to come, providing neither the fuel economy consumers demand, nor the oil savings our nation needs," he said.

Environmental Impact Study Challenged

Cooper delivered a similar message when he testified on behalf of CFA and 26 other consumer organizations at a NHTSA hearing on its draft environmental impact statement for the proposed fuel economy standards.

"Erroneous assumptions about market fundamentals, like consumer behavior and attitudes toward fuel economy, automaker capabilities to incorporate fuel savings technologies, and the price and value of energy, have led NHTSA to center its analysis on a level of fuel economy that is so low that it sheds little light on what the environmental impact of a reasonable fuel economy standard would be," he added.

In conjunction with Cooper's testimony, CFA released an updated analysis of the impact of fuel economy on auto sales since 2002 and results of a new survey on consumer attitudes about gas prices, hardship, and vehicle purchase plans.

The auto sales analysis makes clear that consumers are highly sensitive to fuel economy in their purchase decisions, that this shift in consumer behavior has been evident for three years, and that it is not just a shift between trucks (SUVs) and cars, but is also evident within the car and truck categories.

Industry, NHTSA Fail to Keep Pace with Consumer Demand

"The auto industry acts as if plummeting SUV and pickup truck sales are a new phenomenon," Cooper said. "The fact is gas guzzling vehicle sales have been falling off a cliff for over three years.

"And yet, the Administration's proposed fuel economy standard presumes no fall and no cliff. As a result, they have proposed a mileage standard that is far below what consumers are demanding now," he said.

Together, evidence regarding auto purchase practices and survey results underscore "a significant market demand for fuel-efficient vehicles that remains unmet," Cooper said.

An overwhelming 84 percent of survey respondents said they are concerned about rising gasoline prices, with 70 percent saying they are very concerned. An equal number said this rise in price has placed a financial burden on their household budgets, with 63 percent indicating the burden is severe.

Among those who drive and intend to purchase a vehicle, the current average fuel economy of their car is reported at about 24.1 mpg, but they intend to get 32.7 mpg in their next vehicle.

The survey also reveals a huge mismatch between consumer demand and the models offered by automakers in 2008. While 59 percent of respondents said they want to get more than 35 mpg in their next vehicle, only one percent of the models offered by automakers achieve that mileage.

The survey reveals a similar mismatch between consumer demand and the proposed standard. The average goal for consumers in the market today is 32.7 mpg, well above NHTSA's proposed standard of 31.6 mpg for 2015.

"The reality is that consumers are trapped in gas guzzling vehicles, America is trapped in an oil stranglehold by nations hostile to our interests, and the world is trapped in a rapidly heating atmosphere," Cooper said.

"That is why the Congress passed the Energy Independence and Security Act," he added. "NHTSA has both an opportunity and a mandate to deliver the fuel savings that will make a real difference."

On the **Web**

www.consumerfed.org/pdfs/nhtsa_comments_press_release.pdf
www.consumerfed.org/pdfs/DEIS_comments.pdf
www.consumerfed.org/pdfs/Fuel_Economy_and_Auto_Sales_press_release_8-4-08.pdf
www.consumerfed.org/pdfs/CAFE_and_Auto_Sales.pdf
www.consumerfed.org/pdfs/DEIS_comments_press_release_8-18-08.pdf

House Passes Credit Card Reform Bill

In a major victory for consumers, the House of Representatives passed legislation (H.R. 5244) in September to protect consumers from abusive lending practices by credit card companies.

The bill passed on a 312-112 vote with strong bipartisan support.

"This is a truly historic vote, the first time ever a body of Congress has moved to rein in credit card lending abuses," said CFA Legislative Director Travis Plunkett.

"The bill would curb some of the most arbitrary, abusive, and unfair credit card lending practices that trap consumers in a vicious cycle of debt," he added.

Among the abusive practices targeted by the legislation are:

- applying unfair interest rate hikes retroactively to balances incurred under the old rate;
- assessing hidden and unjustified interest charges on balances already paid off;
- piling on the debt that consumers owe by requiring them to pay off balances with lower interest rates before those with higher rates;
- charging late fees even though consumers mail their payments seven days in advance of the due date; and
- charging excessive upfront fees to subprime cards targeted at consumers with blemished credit histories.

The bill would tackle these abuses by: requiring credit card lenders to provide 45-day advance notice of any rate increase; prohibiting banks from retroactively increasing interest rates on an existing credit card balance unless the cardholder is more than 30 days late; prohibiting credit card issuers from raising a cardholder's interest rate because of unrelated problems with other lenders when the cardholder's account is in good standing; and giving cardholders more time to pay, by requiring credit card companies to mail bills 25 days before the due date, rather than the 14 days that is now common.

Americans now carry about $850 billion in credit card debt, which represents an average debt of over $17,000 for the approximately 50 million households that do not pay their credit card balances in full every month.

Meanwhile, the number of families that are behind in paying their credit card bills – a sign of serious financial problems to come – is at its highest level since the recession of 2002.

"The traps and tricks that credit card companies use to increase their profits are causing credit card balances for many families to balloon out of control, pushing them toward financial catastrophe," Plunkett said.

He praised the bill's lead sponsor, Rep. Carolyn Maloney (D-NY), "for working so hard for its passage," and he called on the Senate to move credit card reform legislation "as soon as possible."

Although Senate Banking Committee Chairman Christopher Dodd (D-CT) introduced strong, comprehensive credit card reform legislation earlier this year, it has not been acted on in the Senate.

Meanwhile, the Federal Reserve and other federal banking regulators are considering significant new rules to curb abusive practices and have received overwhelming support from consumers for adoption of those rules.

"The public is clamoring for credit card reform," Plunkett said. "The regulatory agencies need to finalize these new rules as soon as possible without weakening them."

SEC's International Agenda Threatens Investor Protection

With the clock winding down on the Bush administration, the Securities and Exchange Commission approved several initiatives in August that threaten to undermine key investor protections by deferring to weaker or unproven foreign regulations.

Arguing that interconnected markets demand greater "cooperation" among regulators, the SEC announced first it had negotiated its first mutual recognition agreement, with Australia. Several more are reported to be in the works.

Days later, it released a proposed "roadmap" to move toward use of international accounting standards by U.S. public companies.

"The SEC appears to be using its international agenda to do an end-run around U.S. investor protections," said CFA Director of Investor Protection Barbara Roper. "The risk," she said, "is that, with policymakers understandably focused on pressing issues related to the current financial crisis, these anti-investor initiatives could slip through relatively unnoticed."

The mutual recognition agreement with Australia is based on a staff assessment that U.S. and Australian laws offer "comparable" investor protections. Initially, it would apply only to brokerage firms doing business with wealthy and institutional clients and to equity and debt securities traded on a national exchange.

Australian firms that apply for and receive exemptions would be permitted to do business in the United States without being separately regulated by the SEC, and vice versa. Both the SEC and the Australian Securities and Investment Commission would retain the ability to pursue violations of their respective fraud statutes against the foreign firms.

While initially the agreement is limited in scope, it is written to cover all major securities laws, and the language of the agreement specifically anticipates that it will later be expanded into other areas.

"Greater cooperation among regulators is both desirable and inevitable," Roper said, "but cooperation is one thing, and delegation is something else."

SEC Failed To Conduct Appropriate Review

She criticized the SEC for advancing "this radical regulatory departure without first setting clear standards for what constitutes 'comparable' investor protections and submitting those standards for public comment and without offering any evidence that this regulatory approach is in the public interest."

On the key question of what standards the SEC used to determine Australia offers "comparable" investor protections, the agreement is silent, she noted.

Instead, it states only that a comparability assessment was conducted by the staffs of the two agencies, "recogniz[ing] that securities regulations may appropriately be tailored to the types of markets that have developed in particular jurisdictions and may reflect different regulatory philosophies. These differences may justify differences in regulation."

"That's hardly reassuring," Roper said. "Did they look at the resources devoted to regulation, or enforcement history, or a host of other issues that are central to effective investor protection? It's impossible to tell due to the total lack of transparency in this process," she added.

Senate Securities Subcommittee Chairman Jack Reed (D-RI) raised many of these same questions in an April letter to the agency, with a particular focus on the criteria the SEC was using to determine regulatory comparability and the basis for its analysis.

In a letter of response sent at the end of May, SEC Chairman Christopher Cox indicated that no such criteria had been developed. Instead, he said the SEC was using the "pilot exercise" with Australia to help develop "a set of principles and outcomes that could be used in a future mutual recognition rule or policy statement, should the Commission decide to undertake such an approach."

Because the agreement was reached without a proper basis, Roper called on Congress to intervene to prevent the SEC from taking any further steps – either to approve exemptions under the mutual recognition agreement with Australia or to sign additional agreements – until it has conducted the analysis that should have preceded its actions.

"U.S. investors don't need the Commission using trial and error to learn what works and what doesn't with mutual recognition," she added. "With the markets already in turmoil, it is simply irresponsible for the agency to be engaging in such a radical regulatory experiment without first carefully laying the groundwork."

Move to IFRS Called Premature

Just two days after announcing the mutual recognition agreement, the Commission voted to submit for public comment a proposed "roadmap" to first permit and then require U.S. public companies to file financial statements using International Financial Reporting Standards (IFRS).

Under the plan, certain of the largest public companies would be given a choice beginning next year between filing using IFRS or U.S. Generally Accepted Accounting Principles (GAAP), with more companies being given that choice in succeeding years.

Meanwhile, assuming certain benchmarks are met, the SEC would vote as early as 2011 on whether to begin requiring companies to file using IFRS.

The proposed roadmap "promises a long detour through accounting chaos on its way to eventual uniformity," Roper said.

One of the biggest problems with the roadmap is the lengthy period it anticipates during which companies would be free to choose between two sets of standards that can provide very different results.

"This will seriously undermine uniformity and comparability of financial reporting," Roper said, with investors forced to "bear the burden of sorting out the differences between the two standards."

Even once the move to IFRS is complete, Roper noted, the lack of clarity in its principles-based approach and the lack of uniformity in how it is applied from nation-to-nation and from company-to-company means the promised uniformity may never materialize.

The Roadmap also promises to impose enormous costs as investors, regulators, accounting firms, public companies, and the colleges and universities that educate our accountants are all forced to quickly gain expertise in the international standards.

"Clearly, the proposed staged implementation of the roadmap is designed with those implementation costs and burdens in mind," Roper said. "But it offers an unacceptable trade-off, in which investors are being asked to accept a long period of accounting chaos in order to minimize the immediate burden on public companies.

"That's not cost saving, that's cost shifting," she said.

Finally, Roper noted, the plan does not appear to be legal under the Sarbanes-Oxley Act, which clearly specifies the standards that an accounting standard-setting body must meet to be recognized to set accounting standards for U.S. public companies.

"The IASB and its governing foundation do not meet those standards," she said, adding that the steps that are currently being taken to move toward more independent funding and better regulatory oversight, while they represent progress, do not resolve this issue.

"Every consideration argues in favor of focusing on closing the gaps between international and U.S. standards rather than on choosing one system prematurely," Roper said. "Unfortunately, the SEC seems to be deaf to that logic."

PCAOB Proposes to Delegate Foreign Inspections

Following the SEC's lead in deferring to international authorities, the PCAOB issued a proposal this spring to replace its current joint inspection program for foreign audit firms with an approach that relies fully on foreign auditor oversight bodies to conduct the inspections.

To qualify for full reliance, auditor oversight bodies would have to meet certain criteria, but these criteria are inadequate to ensure either the independence of the oversight boards or the rigor of the audits, Roper said.

Moreover, Roper, who participated in a PCAOB Roundtable on the issue in June, noted that the Board had previously concluded full reliance would never be in the public interest, since foreign oversight boards, no matter how independent and competent, simply do not share our mission of protecting U.S. investors and enforcing compliance with U.S. laws and standards.

Furthermore, this approach does not appear to comply with the Sarbanes-Oxley Act's requirement that foreign audit firms that play a significant role in the audits of U.S.-listed companies be regulated in the same manner and to the same extent as U.S. firms, she said.

The Board has not yet announced when it plans to make a decision on the proposal.

On the **Web**
www.consumerfed.org/pdfs/roper_statement_on_mutual_recognition_8_25_08.pdf
www.consumerfed.org/pdfs/Roper_Statement_on_IFRS_Roadmap_08_27_08.pdf
www.consumerfed.org/pdfs/PCAOB_full_reliance_comments_3_4_08.pdf

High Gas Costs Should Lower Auto Insurance Rates

As the price of gasoline topped four dollars a gallon this summer, CFA released an analysis showing that consumers who are driving less in response should save an average of 5 to 15 percent, or $47 to $142, on their automobile insurance rates.

"While skyrocketing fuel costs have created great hardship for many consumers, these increases could mean immediate savings on automobile insurance as drivers react to high gas prices by using mass transportation, car-pooling, taking fewer trips to the store, or curtailing their vacations," said CFA Director of Insurance J. Robert Hunter.

Auto insurance rates are partially based on how much you drive and how you use your car, Hunter explained. "If you drive less to save money on gas, these driving changes might mean that you qualify for immediate insurance rate relief."

For example, those who stop driving their car to work or school should be able to change their insurance classification from "Drive to Work" to "Pleasure." That can result in a savings of 10 to 15 percent.

Similarly, if you are driving only to a train or bus station, rather than all the way to work or school, or driving less for other reasons, you could also see a change in mileage category with savings of five to 10 percent.

"While these savings will vary based upon the specific auto coverage you have, it is certainly worth a call," Hunter said.

In addition to encouraging consumers to seek a rate reduction, CFA has written to the nation's governors, asking them to act immediately to require insurance companies to lower their rates as Americans drive less.

"As Americans drive less because of the price of gas, fewer claims will be filed with insurance companies," Hunter said. "Whether this will mean windfall profits for insurers or rate cuts for the consumers is up to governors and state regulators to determine."

Since the letter was sent, several states have responded, either by considering the impact of gas prices in rate hearings or by releasing information to consumers.

On the **Web**
www.consumerfed.org/pdfs/$4_gas_press_release_6_10_08.pdf

FTC Approves Limits on Pre-recorded Calls

Consumers won a major privacy victory when the Federal Trade Commission announced in August that it will prohibit telemarketers from making prerecorded sales calls to consumers unless they expressly agree to receive them.

CFA had joined other consumer and privacy groups in calling for this restriction.

The FTC received more than 13,000 comments on the rulemaking, which began in 2004. Many of those comments were from consumers who complained that unwanted recorded sales messages tied up their phone lines and filled up their answering machines.

"We applaud the Federal Trade Commission for listening to consumer groups and the thousands of individuals who commented," said CFA Director of Consumer Protection Susan Grant. "The telemarketers' argument that recorded sales pitches were not privacy-intrusive was clearly unpersuasive in the face of what the FTC heard directly from consumers."

Rule's Scope Is Expanded

In amending its telemarketing sales rule, the FTC decided not to make an exception to allow marketers to make prerecorded sales calls to consumers with whom they have established business relationships.

Consumer and privacy advocates supported this position, arguing that the definition of established business relationship, which includes merely inquiring about a company's goods or services, was too broad, and that all consumers deserved equal protection from prerecorded sales calls.

The FTC also agreed to broaden the amendments to apply them to recorded sales messages left on consumers' answering machines and voicemail systems.

Companies that have established business relationships with consumers can make prerecorded sales calls to them until September 1, 2009. But starting on December 1 of this year, all prerecorded sales calls covered by the telemarketing sales rule must provide an automated interactive opt-out mechanism.

"This should make it easy for consumers to stop getting those types of calls, even if they have business relationships with the companies or previously agreed to receive such calls," Grant said.

Exemptions Remain

There are some significant exceptions to the prerecorded call amendments, however. They do not apply to health care providers and others subject to telemarketing restrictions under the Health Insurance Portability and Accountability Act and Health and Human Services regulations.

Charities are not covered by the rule, but for-profit telemarketing firms that solicit on their behalf are. The FTC has decided to allow for-profit telemarketing firms to solicit for charities using prerecorded calls without express prior consent if the individuals called are members of or previous donors to the charities and if the recorded messages include an automated interactive opt-out mechanism.

Businesses outside of the FTC's jurisdiction, such as telephone companies, banks and insurance companies, are also not covered by the rule if they make their own calls, though third-party telemarketers that call for them are.

"Consumers should be careful when they fill out forms or tick off boxes online and offline to avoid unwittingly agreeing to receive prerecorded sales calls," Grant warned. "But the FTC has made clear that burying the agreement in lengthy contracts or on the back of forms will not pass muster."

On the **Web**
www.consumerfed.org/pdfs/Prerecorded_Calls_PR_8-20-08.pdf

Consumer Understanding of Credit Scores Remains Poor

Although consumer understanding of credit scores has improved over the past year, it remains poor, according to the latest credit score survey released in July by CFA and Washington Mutual Bank (WaMu).

In one of the survey's most startling findings, less than one-third of Americans (31 percent) understand the most basic fact about credit scores – that they indicate risk of not repaying a loan, rather than factors like knowledge of or attitude toward consumer credit.

"Lack of consumer knowledge about credit scores not only increases the costs of their credit and insurance, but also reduces the availability of these and other services," said CFA Executive Director Stephen Brobeck.

On the other hand, learning about credit scores and applying that knowledge can significantly raise scores.

Using data supplied by Argus Information and Advisory Services, WaMu estimated that U.S. consumers could reduce card finance charges by $105 annually if they raised their score by 30 points. If all consumers raised their scores by 30 points, total annual consumer savings would be an estimated $28 billion.

On the positive side, the CFA-WaMu survey found some improvement in understanding of several important facts about credit scores between 2007 and 2008 that could help consumers to improve their scores.

For example, more than two-thirds (67 percent) knew that credit scores would rise if one paid off a large credit card balance, up from 62 percent in 2007. Even more, 78 percent, knew that credit scores would fall if one made a monthly credit card payment more than 30 days late, up from 71 percent.

On the other hand, understanding of other key facts about credit scores remains poor. For example, many Americans fail to understand that their credit score reflects only how they use credit, not factors such as income and age.

And, while more than three-quarters correctly understand that late payments can lower one's score, less than three-fifths (59 percent) know that maxing out a credit card by using the entire credit line also lowers scores.

CFA and WaMu released the survey results, in English and Spanish, along with important facts about credit scores that every individual should know.

On the **Web**
www.consumerfed.org/pdfs/Credit_Score_PR_7-10-08.pdf
www.consumerfed.org/pdfs/Credit_Score_PR_Spanish_Version_7-1008.pdf

Contactless Payment Raises Consumer Protection Issues

In the rapidly growing area of contactless payments, policy is failing to keep pace with innovations in technology and business practices, CFA, Consumer Action, and Consumers Union warned in recent comments to the Federal Trade Commission.

Contactless payment enables consumers to make purchases using credit cards, mobile phones or other devices equipped with chips that, when held close to a reader, transmit information by radio signal about the account to be charged or debited. Key fobs that drivers can wave in front of gas pumps to pay for fill-ups are one common example.

While this technology offers potential benefits to consumers – from obviating the need to carry cash or have exact change to storing coupons and gift certificates in easy-to-use electronic form – it also raises consumer protection issues that must be addressed before it is widely implemented, the groups argued.

One problem is disparate payment dispute rights.

Contactless payments can be deducted from prepaid funds, charged to a credit card account, debited from a bank account, billed to a mobile service account, or made through a third-party payment service such as PayPal, each with its own level of dispute rights for unauthorized or unsatisfactory transactions.

For example, if a contactless payment card is stolen, the owner's liability for unauthorized transactions made on a credit card account is limited to $50, but the liability could be much higher if the transactions are debited from a bank account. There are no liability limits under federal law for transactions billed to a wireless account.

"The problem of disparate payment dispute rights isn't new," said CFA Director of Financial Services Jean Ann Fox said. "But with contactless technology poised to turn cell phones into virtual wallets capable of a variety of payment options, it is imperative to ensure that consumers have strong, uniform legal protections."

Another concern is privacy. Contactless payments are predicted to replace many cash transactions, making once-anonymous purchases easy to track.

As CFA Director of Consumer Protection Susan Grant observed, "Because there is no comprehensive legal framework in the U.S. for privacy, consumers have little control over the collection and use of their personal information, even as more details of their lives are being exposed."

Pointing to these and other concerns with contactless payment, the consumer groups urged the FTC to identify needed consumer protections and work with relevant agencies to implement them.

On the **Web**
www.consumerfed.org/pdfs/contactless_payment_comment.pdf

CFAnews
Consumer Federation of America
1620 I Street, N.W., Suite 200, Washington, D.C. 20006
(202) 387-6121 • www.consumerfed.org

CFAnews is published eight times a year. Annual subscription rate is $25 per year.

Fed Urged to Strengthen Overdraft Loan Rules

Proposed rules on bank overdraft "services" fail to protect cash-strapped families from high costs and unfair loans, CFA, U.S. PIRG, and state consumer organizations said in comments filed in August with the Federal Reserve and other financial regulators.

Overdraft loans occur when banks pay or authorize checks, debit card purchases, ATM withdrawals, and preauthorized payments despite insufficient money in the account to cover the transaction. Banks charge a fee per overdraft and collect payment directly out of the next deposit into the account.

Consumers pay at least $17.5 billion a year for unauthorized overdraft loans, many triggered by small debit card purchases that in the past were denied without resulting in a fee.

"Banks should have to get their customers' affirmative consent before signing them up for their most expensive loans," said CFA Director of Financial Services Jean Ann Fox.

"It is unfair for banks to make overdraft loans without consumer consent, a firm contract to cover overdrafts, notice that a transaction will trigger an overdraft fee, and cost information on borrowing by overdraft," she added.

Unfortunately, the agencies proposed rules that would require customers to opt out of bank overdraft loans to avoid future fees.

The consumer groups called on the regulators to strengthen the proposed rules by:

- requiring banks to get affirmative consent before enrolling their current and prospective customers in fee-based overdraft loans;
- requiring banks to comply with Truth in Lending; and
- prohibiting banks from manipulating the order of processing withdrawals to drive up the number of times an overdraft fee can be charged.

In filing the comments, CFA released the findings of a new survey of overdraft fees and practices at the ten largest banks.

Survey Finds Pervasive Abuses

All of the top ten banks surveyed unilaterally authorize payment of overdrafts at the bank's discretion and charge fees per overdraft without advance consent from their customers.

Half of the banks used a tiered overdraft fee structure, charging escalating fees for more than one overdraft over a rolling 13-month period.

Looking at the highest overdraft fee charged by each institution, the survey found that the average highest overdraft fee is $34.65, up 15 percent from $30.30 charged by the same ten banks in 2005.

Sixty percent of the banks add a sustained overdraft fee if an overdraft is not repaid within a few days. As a result, the total cost of a single overdraft at the bank's highest fee that is unpaid after seven days ranges from $30 to $70.

In addition, all of the banks either process largest withdrawals first or disclose that they pay withdrawals in any order the bank chooses, which can drive up the cost of overdrafts when smaller subsequent transactions, which would have cleared if processed first, trigger additional overdraft fees.

Only three of the ten banks set a maximum number of transactions that can trigger an overdraft fee in a single day, with total permissible fees in these cases of $170, $245, and $450.

"Bankers claim that paying the largest check first helps consumers make sure that the mortgage or rent gets paid, even if more transactions bounce or overdraw the account as a result," Fox said.

"Only 13 percent of consumers in a national poll agreed with bankers," she said. "Most consumers want their banks to pay transactions smallest first or in the order they arrive at the bank."

The goal of the rules should be to "make it safe for consumers to use bank accounts to handle their daily financial transactions," the groups wrote, and to treat all forms of small cash loans under the same set of rules.

Federal Benefit Recipients Need Protections

This is particularly true, they noted, at a time when the federal government requires federal benefit recipients to receive exempt funds through direct deposit to accounts at depository institutions and public policy strongly encourages consumers to be banked.

Fox delivered testimony in June before the House Ways and Means Subcommittee on Social Security on protecting Social Security beneficiaries from predatory lending and other harmful financial institution practices.

Testifying on behalf of CFA and the National Consumer Law Center, Fox told the committee that "Federal benefit recipients are being charged steep fees for direct deposit arrangements and exorbitant interest rates for loans based on future receipt of exempt federal funds."

Check cashers and loan companies partner with a few banks and intermediaries to provide "direct deposit" of Social Security, SSI, VA benefits, and federal pensions through accounts only accessible at the local check casher or loan company or through a high-fee debit card.

"Not only are these second-class bank accounts expensive, they deprive recipients of control over their exempt funds and divert protected funds to repay high-cost loans either to the bank handling the direct deposit or to a loan company partnering with the bank," she said.

Fox urged the committee to help address these abuses by:

- supporting a proposal from the Social Security Administration to discontinue delivery of exempt benefits through master/sub account arrangements at financial service companies;
- pressing the Treasury Department to enact regulations under EFT'99 governing third-party direct deposit of federal benefits in order to protect all federal benefit recipients from substandard and high-cost bank account arrangements; and
- supporting legislation to protect consumers from loans secured by unfunded personal checks held for future deposit or by required electronic debits to their bank accounts.

On the **Web**
www.consumerfed.org/pdfs/OD_FRB_comments.pdf

Survey Identifies Top Consumer Complaints

Foreclosure rescue scams and fake check frauds joined shoddy home improvement work and deceptive car sales among the top consumer complaints of 2007, according to a survey released in July by CFA, the National Association of Consumer Agency Administrators, and the North American Consumer Protection Investigators.

Top complaint categories for 2007 were: auto, home improvement/construction, credit/debt collection, retail sales, and utilities. Mortgage fraud and foreclosure scams were among the top five fastest-growing and top five worst complaints.

Another top category in both the fastest-growing and worst complaints was fake check scams. In response, CFA has created a Fake Check Working Group with representatives of consumer agencies, consumer organizations and industry to develop new strategies and tools to combat this fraud, which often targets consumers trying to make money working at home or selling items online.

The survey also revealed a clear consensus that the biggest challenge state and local consumer agencies face is budget cuts and inadequate staffing. "State and local agencies save and recover billions for consumers every year," CFA Consumer Protection Director Susan Grant said, "but budget cuts and staffing shortages make it difficult for them to keep up with the demand to stop marketplace abuses, resolve individual complaints, and educate people to avoid rip-offs."

Many agencies also cited the need for stronger laws and enforcement powers. Suggestions for legislation included: establishing home improvement guarantee funds; enacting used car lemon laws; requiring written contracts that clearly spell out all terms for cell phone service; limiting fees that credit card issuers can charge and eliminating federal preemption that blocks states from taking action against national banks on banking and credit issues; protecting consumers from losing their homes as a result of mortgage-related scams; prohibiting mandatory arbitration clauses in consumer contracts; and providing stronger protection from abusive collection practices. Agencies also called for greater enforcement powers at the state and local level and beefed-up federal consumer agencies.

PRSRT STD
U.S. POSTAGE
PAID
WASHINGTON, D.C.
PERMIT NO. 8772

CFAnews
CONSUMER FEDERATION OF AMERICA
1620 I Street, N.W., Suite 200 • Washington, D.C. 20006
(202) 387-6121 • www.consumerfed.org

Mark Your Calendar
CFA Financial Services Conference
December 4-5, 2008
Washington, D.C.