

## GUIDANCE ON FINANCIAL MODERNIZATION

November 8, 1999

**Q: What is your reaction to the story in today's Wall Street Journal that says that the Administration "dropped the ball" on a provision that will cost billions to consumers that hold mutual insurance policies?**

**A:** We share the concerns of those cited that the "redomestication" provision in the bill is deeply troubling. During the negotiations, we supported the efforts of Representative LaFalce to have this provision stripped. But unfortunately, a vote in Conference on an amendment to strip the provision failed. A recent study that helped to make the case why the provision was harmful was released too late to shape the debate.

However, as Secretary Summers noted in his recent letter to House and Senate members: "The Administration intends to monitor any redomestications and state law changes closely, and return to the Congress if necessary."

[If asked if we are threatening to support separate legislation overturning the provision, you can say: "We will be monitoring closely how companies and state legislatures respond to this provision. If we think consumer interests cannot otherwise be adequately protected, we will not hesitate to return with separate legislation next year."]

**Background:** Mutual insurance companies are owned by the policyholders. Increasingly, to get new capital, they are changing their structure ("demutualizing") and doing IPOs. Many states have laws that are designed to protect the policyholders' value in their shares from capture by company executives and new investors. These "demutualizations" can result in large cash payments to the existing policyholders. Chairman Bliley added a provision on the House floor that would make it possible for mutual insurance companies to "redomesticate" – change their home state – and thus avoid these consumer protect laws and demutualize without sharing the value with the policy holders. Ranking Member LaFalce fought him on the House floor and lost. (Bliley paired the amendment with a provision that banned discriminating against women in providing financial planning advice.) LaFalce fought again in Conference, but his amendment failed on a party-line vote.

**Q: How do you respond to community groups and privacy advocates (and the NYT's editorial) that suggest that you sold short and accepted harmful compromises on Community Reinvestment and Privacy?**

**A: General**

We believe that the conference report will:

- bring lower costs, more choices, and better protections for consumers;
- promote continued investment in America's communities; and
- provide new opportunities for our financial institutions to compete in the global marketplace.

If we fail to enact this bill now, banks will merge with insurance and securities firms without any consideration of their CRA record and without any privacy protections for consumer financial information. We need to seize this historic moment.

But we will not rest. We will continue to press for even greater privacy protections -- especially effective choice about whether personal financial information can be shared with affiliated companies. There also are other, consumer protection issues that we may need to address quickly,

including whether mutual insurance companies are able to avoid state law protections for their policyholders.

### CRA

On the CRA issue, the President was prepared to veto the legislation if it failed to establish an important new prospective principle: banking organizations seeking to use new non-banking powers must meet their CRA obligations. The conferees met our demands. As a result, thousands of cases where banks want to get involved in securities and insurance activities, previously exempt from CRA review, will for the first time be covered.

We also fought to eliminate wholly unacceptable measures that would have weakened CRA and dramatically narrowed other objectionable provisions. Over the last week, we also reached agreement on legislative history that will help to ensure that the sunshine provisions are interpreted in a way that prevents undue burdens on the community groups.

*The President wants to be clear about one thing: We have enormous respect and gratitude for the community groups throughout this country that work to spur new investment in our underserved communities. These organizations have helped banks to meet their community reinvestment obligations by finding the profitable business opportunities that exist for them in their own communities.*

### Consumer Protections and Privacy

Regarding privacy, compare what's in this bill to the status quo. Today, much of Americans' personal financial data is freely shared and sold. Mergers between large banks and insurance and securities firms happen every day without ANY limitations on the sharing of information between those firms. If this bill is blocked, sharing will continue without the protections this bill provides.

The Senate bill had no privacy protections and the House bill did not go far enough. We accomplished much in getting additional protection beyond the House bill. This is a good first step, but we must not rest. We will continue to press for even greater privacy protections -- especially effective choice about whether personal financial information can be shared with affiliated companies

**Background:** On May 4<sup>th</sup>, the President proposed that Congress provide consumers both notice and choice before their information was shared with anyone. The bill provides notice before information can be shared with affiliates or third parties, but provides consumers a chance to opt-out only before information is shared with third parties. There is no choice about information sharing with affiliated firms. Banks told us that they would bring down the bill over that. Given where we started, this is an achievement; but clearly it leaves important gaps unfilled.

**Q:** How do you respond to those who argue that, by removing the barriers to bank integration with securities and insurance, we risk another savings and loan crisis or a run of bank failures like in the depression?

**A:** Much has changed since the Depression and the original passage of the Glass-Steagall law that this bill would revise, most notably, passage of the securities laws, creation of the SEC, active regulatory and enforcement activities by that agency, similar state legislation and regulation of insurance underwriting and sales, and stronger bank regulation. This "functional regulation" is preserved and strengthened by this bill.

Moreover, the legislation puts in place effective "firewalls" between banks and their securities and insurance affiliates and subsidiaries.