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The GSE REPORT ™

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Major Events

Freddie Mac pays a record $3.8 million FEC fine
to settle allegations of campaign violations

- Freddie Mac has agreed to pay a $3.8 million Federal Elections Commission fine to settle allegations that the company illegally used corporate resources between 2000 and 2003 for 85 fundraisers that raised approximately $1.7 million for federal candidates. In exchange for Freddie Mac paying this fine, the largest civil penalty ever levied by the FEC, and agreeing to cease and desist from violating the law, the Federal Elections Commission said it would not take further action against current and former corporate officials. According to the agreement, Freddie Mac voluntarily settled with the SEC to avoid litigation, but did not concede that it violated the Federal Election Campaign Act, claiming that the fundraisers were personal activities conducted by its former government affairs executives, rather than corporate initiatives. The FEC also found that Freddie Mac's chairman and CEO Leland Brendsel solicited campaign contributions from company employees on behalf of a former board member, who was a candidate for the House of Representatives. As part of the agreement, Freddie Mac acknowledged that it had violated campaign-finance rules by contributing $150,000 to the Republican Governors Association (RGA) in October 2002, which the RGA has subsequently returned. As part of the settlement, the FEC issued formal admonishment letters to Brendsel, former company lobbyists Robert Mitchell Delk and Clark Camper, and two consulting firms that assisted with 70 of the fundraisers, and cautioned the executives to "take steps to ensure that this activity does not occur in the future." The FEC decided not to take action against the Republican Governors Association, the Republican National Committee, the consulting firm Epiphany Productions, Inc., or Galileo, the restaurant in which many of the fundraisers were held. The FEC did not find that lawmakers for whom a fundraiser was hosted had violated campaign laws. By a vote of five to one, the Federal Election Commission accepted the agreement with Freddie Mac, with chairman Michael Toner dissenting.

- According to the FEC filing, the fundraisers were organized by Delk, who described the events to the company's board of directors as "Political Risk Management," which were needed to offset the GSE's lack of a "well funded PAC to buttress their lobbying activities." The fundraisers were held for members of the House Financial Services Committee with approximately 90% of the events benefiting Chairman Michael Oxley (R-OH), according to details in the settlement. In his 2002 company performance review, Delk, wrote, "We proposed to Chairman Oxley a political model that was bold and unprecedented. We offered to use our fundraising model to marry his interests as Chairman with our interest in assisting committee members supportive of the continued strengthen of America's housing finance system. During the past 20 months, we have hosted with Chairman Oxley over 75 events for Members on the Financial Services Committee, raising almost $3 million." The other fund raisers

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benefited both Democratic and Republican House members, as well as one fund raising dinner for Senate Banking Committee Chairman Richard Shelby (R-AL). To plan and organize the fundraisers, Freddie Mac illegally hired Epiphany Productions, which was paid (un-itemized) monthly stipends ranging from $5,000 to $25,000 per month for their services, according to the FEC. Freddie Mac said that the consultants were paid for services unrelated to the fund-raising events, including "political and legislative advice

- FEC spokesman Bob Biersback said, "This was a systematic process carried out with sophisticated actors who" were provided legal help in organizing the fundraisers. The commission and Freddie Mac settled on the large fine because it was "really an egregious" violation, said Biersback. The size of Freddie Mac's fine [$3.8 million], which is more than four times the largest previous fine levied by the FEC, "should really catch people's attention, said FEC Commissioner Ellen Weintraub. "It should make a lot of folks think hard about how they are conducting their campaign-finance business."

- Freddie Mac spokesman David Palombi, in a statement, said, "Freddie Mac takes these issues, which relate to prior management of both the company and its government relations operation, very seriously. The settlement announced today is part of the company's ongoing efforts to put behind us regulatory and legal issues dating back to 2003 and earlier." The status of Delk's severance pay of about $6 million was "still to be determined," said Doug Duvall, director of public relations at Freddie Mac. Previously, the company and Delk had agreed that decisions on "the status of Mr. Delk's departure and certain of his compensation and benefits" would be deferred until the FEC had concluded its investigation. (*Washington Post*, Kathleen Day and Annys Shin, 04/19/06; *Wall Street Journal*, Jeanne Cummings and James R. Hagerty, 04/19/06; *USA Today*, Jim Drinkard, 04/19/06; Roll Call, John Bresnahan, 04/18/06; *Reuters News*, Kristin Roberts, 04/18/06; *The Hill*, Jim Snyder, 04/19/06; *Dow Jones Newswires*, Damian Paletta, 04/18/06; *Associated Press*, Sharon Theimer, 04/18/06; *Bureau of National Affairs*, Derrick Cain and Richard Cowden, 04/19/06)

- In an interview on National Public Radio's *Marketplace Morning Report*, securities lawyer Lance Kimmell said, "[Freddie Mac's fine is] a message of you better make sure you set aside some funds to pay the penalty, but, rest easy, no one's going to jail and nothing more serious is going to come of it. This is one of the most egregious violations we've heard about and, while the fee is very large, it's just a fine." (*National Public Radio's Marketplace Morning Report*, 04/19/06)

- In an April 19th article appearing on *HuffingtonPost.com*, American Enterprise resident scholar Norman J. Ornstein wrote, "When the Bipartisan Campaign Reform Act, BCRA for short and McCain-Feingold more popularly, was being debated in Congress, and after it was enacted and was heading for oral arguments in a three-judge panel and the Supreme Court, its opponents regularly scoffed at the idea that there was any corruption in the campaign finance system. …The assault on BCRA continues to this day, including the attacks on the notion that the system is corrupt

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(assaults viewed as necessary because the Supreme Court's rationale for accepting any First Amendment restrictions has always been to block corruption or the appearance of corruption.)"

- "The Jack Abramoff case is providing more than enough evidence of thorough corruption in the system. But now we have another case to underscore the point. … Freddie Mac, the giant quasi-public mortgage company, [has] agreed to pay a record $3.8 million fine to the Federal Election Commission to settle charges that it had used its corporate resources to raise $1.7 million in campaign funds at political fundraisers for House Financial Services Chairman Michael Oxley (R-Ohio) and many of his committee Republican [and Democratic] colleagues, all while the committee and Congress were considering tough measures against Freddie Mac and its counterpart Fannie Mae. Freddie Mac also contributed an illicit $150,000 to the Republican Governors Association."

- "Much of the money went to Oxley, and much of the rest-- raised at fundraisers where Oxley was chairman or co-chairman-- went to other Republicans on his committee. In other words, money that was channeled as if it were from Oxley's Leadership PAC. The campaign to raise the money and distribute it-- all while federal law clearly prohibited corporate contributions or resources to be used for that purpose-- was clearly and explicitly designed not just to gain access, something Freddie Mac and its lobbyists and officers had in abundance, but to shape legislation, to deflect tough oversight, to alter public policy. And of course the lawmakers were delighted to go to the fundraisers, get the checks, cash them and spend the money without asking any inconvenient questions about who might be behind it."

- "The settlement sounds like a lot, but $3.8 million out of Freddie Mac's corporate coffers is chump change. In return, the officers of the company, including its then-chief and its chief lobbyist, get off scot-free, with no further investigation or action in the offiing. We will see one or two days of embarrassing news stories-- this one was on the front page, above the fold, of the *Washington Post*-- and then the story will fade. No one will go to the slammer or face more serious discomfort for the abuse of the system."

- "Most companies do not abuse the system in this way, so far as I can tell. But all understand the 'pay to play' mentality that has become all too pervasive in recent years, the price often required not just to get your issues on the agenda, but often to get committees to keep from holding tough hearings. Reform has actually helped to ameliorate the problem, but even it cannot stop lobbyists or others with larceny in their hearts from abusing the campaign/Congress/money nexus that has come to dominate the dynamic on Capitol Hill. It does reflect a culture of corruption, allowed to thrive because there is no ethics committee and no effective executive enforcement against violations that could deter malfeasance. And we have little reason to hope that such entities will emerge anytime soon." (*HuffingtonPost.com*, Norm Ornstein, 04/19/06)

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Freddie Mac settles its shareholders' class action lawsuit with $410 million payment

- Ohio Attorney General Jim Petro and Freddie Mac have reached a $410 million settlement agreement to resolve securities class-action and shareholder derivative lawsuits stemming from the company's financial restatement for the years 2000 through 2002. The settlement is expected to reduce Freddie Mac's first-quarter (after-tax) net income by $220 million, including the application of expected insurance proceeds. The proposed settlement is subject to the approval of the Retirement Boards of Ohio Public Employees Retirement System (OPERS) and State Teachers Retirement System of Ohio (STRSO), negotiation and execution of final documentation for the settlement, and preliminary and final court approvals. Freddie Mac indicated that the settlement does not, however, "resolve other legal proceedings related to the restatement." The agreement includes Freddie Mac, some former and current board members, and former CEO Leland C. Brendsel, former CEO Gregory J. Parseghian, former president and COO David Glenn and former CFO Vaughn Clark. In the settlement, Freddie Mac does not admit or deny any wrong-doing.

- "This is a significant recovery and a very positive outcome for the buyers of Freddie Mac stock during the class period, including two retirement systems in Ohio," said Petro, who represented the lead plaintiffs, OPERS and STRSO. "We have sent an important message to companies who receive money from investors: We will protect our citizens' savings with tenacity." [Petro is also represents the lead plaintiffs in a similar class action lawsuit pending against Fannie Mae.]

- Freddie chairman and CEO Richard Syron said, "Today's settlement, like the settlement announced earlier this week with the Federal Election Commission, enables this management team to resolve past issues so that we can focus squarely on meeting our important housing mission, running the business well and serving the needs of our customers." (*Freddie Mac Press Release*, 04/20/06; *Washington Post*, Kathleen Day and Annys Shin, 04/21/06; *Dow Jones Newswires*, Damian Paletta, 04/20/06; *Inman News*, 04/21/06)

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Fannie Mae and Freddie Mac

Senator Shelby waits "anxiously" for reports on Fannie Mae
from OFHEO, the Justice Department and the SEC

- Chairman of the Senate Banking Committee Senator Richard Shelby (R-AL) said he is waiting to schedule a Senate vote on GSE regulatory reform legislation until various regulatory reports are completed on Fannie Mae. "Our plan always was to bring the bill to the floor. We are waiting on some reports. We have an SEC investigation going, we have the Justice Department involved, and OFHEO is still coming. I don't know when they are coming, but I am waiting for them anxiously," he said.

- Shelby said compromise between the House and Senate bills will "depend on how the language is couched." He added, "What's in the Senate bill now is unambiguous language and it's straight and tough," but declined to say whether he would be willing to compromise with Democrats to move a bill this year. "Like any legislation, we'll listen to anything that will improve but not weaken where we are," said Shelby. A bill probably cannot come to a floor vote until at least the affordable housing fund and portfolio authority provisions are resolved, said Shelby. (*Market News International*, Margaret Chadbourn, 04/07/06)

Former OFHEO director says it is imperative that Congress create a new GSE regulator
empowered to reduce Fannie's and Freddie's systemic risk

- Armando Falcon, Jr., former director of OFHEO, said it is "imperative" that Congress pass GSE regulatory reform legislation this year because of the systemic risk that Fannie Mae and Freddie Mac pose for the U.S. economy. In a speech before the National Association of Hispanic Real Estate Professionals, Falcon also urged lawmakers to include a provision in the legislation limiting the size of Fannie's and Freddie's portfolios to address systemic risk concerns. "It's in the interest of safety and soundness," said Falcon. "It's in the interest of systemic risk concerns. And more importantly, it's in the interest of trying to make sure the companies are doing more and more for affordable housing and the minority lending areas in this country."

- Rob Zimmer, Freddie Mac's vice president of congressional relations who appeared on a panel with Falcon, also addressed the issue of systemic risk. Zimmer argued that limiting the GSEs' portfolios would only push risks off onto banks and other MBS investors. "We pose some degree of systemic risks," said Zimmer. "But so do large banks. So do large nonblank financial institutions, some of which –by the way— don't have a financial regulator at all." When asked the likelihood that Congress will pass GSE regulatory reform legislation this year, Zimmer estimated somewhere

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between 60% and 70%. "We're working really hard on it," he added. (*Dow Jones Newswires*, Damian Paletta, 04/19/06)

Rumblings on OFHEO's Fannie Mae report

- *Dow Jones Newswire* reports that OFHEO officials are working seven days a week on its report on Fannie Mae's accounting and management problems, "arguably the largest undertaking that the agency has ever conducted." Sources say that the agency's report will be tied to a settlement with Fannie Mae for its improper accounting practices, which is expected to be larger than the $125 million settlement with Freddie Mac. Many expect the OFHEO report to be tougher than the report submitted in March by Senator Warren Rudman, on behalf of the company's board of directors.

- Steven Blumenthal continues to serve as OFHEO's acting director, while the Bush administration searches for a new director. According to sources, James B. Lockhart III, the White House's top choice to replace Blumenthal, is no longer interested in the position. While a number of other names have been floated for the position, the Bush administration has found that prospective candidates are reluctant to accept the nomination because of the pending GSE regulatory reform legislation. "Here's a job that could easily disappear if the House and Senate decide to pass this act," said AEI resident fellow Alex Pollock. "It might not look like that good a deal. It's easy to understand give the situation with the legislation." Although the status is uncertain, lawmakers have not pressured the administration to name a new OFHEO director. "From Senator Shelby's prospective, it's up to the discretion of the administration" to appoint a new director, said a spokesman. "We still are trying to move forward with our Senate bill. Senator Shelby remains hopeful that we will be able to move the bill through the full Senate this year. "If Congress does not pass legislation this year, then the White House will probably begin to focus on that job slot again," said Camden Fine, president of Independent Community Bankers of America. (*Dow Jones Commodities Service*, Damian Paletta, 04/12/06)

OFHEO solicits comments for its 2006-2011 strategic plan

- OFHEO is soliciting comments from the public for its 2006-2011 Strategic Plan. The agency has posted its Strategic Plan for FY2003-FY2008, which outlines each year's performance goals, at http://www.ofheo.gov/media/pdf/0308stratplan93003.pdf, along with its annual reports to Congress [http://www.ofheo.gov/OFHEOReports.asp] to assist the public in developing their comments. The agency requests that comments be submitted by May 5, 2006. OFHEO will publish a draft plan on its website later this summer. (*OFHEO Press Release*, 04/10/06)

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President Bush nominates Rob Portman to be director of OMB

- President Bush has nominated U.S. Trade Representative Rob Portman to succeed Joshua B. Bolten as director of the White House Office of Management and Budget. In his speech announcing the nomination, Bush said that Portman's service as vice chairman of the Budget Committee and as an influential member of the Ways and Means Committee, demonstrates that he knows how to "work across the aisle" on budget issues. Portman will be a "powerful voice for pro-growth policies and spending restraint" said Bush, who urged the Senate to "swiftly" confirm him as OBM chief. Speaker J. Dennis Hastert (R-IL) and House Majority Leader John A. Boehner (R-OH) applauded Portman's nomination. Observers anticipate that Portman will face an easy confirmation process. (*CQ Today*, 04/18/06)

Louisiana's Road Home Housing Program takes a "wrong turn"

- According to the nonprofit research group, Bureau of Government Research (BGR), the Louisiana Recovery Authority's plan for distributing disaster relief resources has misplaced priorities which threaten the area's recovery. Unlike Mississippi's recovery plan which compensates homeowners for their losses, LRA's "Road Home Housing Plan" directs the majority of the funds to low-income housing and excludes the middle-class from participating in the program. In its baseline scenario that assumes that funding is limited to $6.2 billion Community Development Block Grant already authorized by Congress, only homeowners in the hardest hit parishes of St. Bernard, Plaquemines and Orleans making less than $36,610 or less (70% or less of area median income) would be eligible for compensation in the program. According to BGR, "Limiting the homeowner program to [low income] families… is a misguided policy that will hinder the redevelopment of healthy communities. We strongly recommend that the LRA revise its plan to include all homeowners with major damage or destroyed homes." If the state must implement a smaller plan, BGR recommends that LRA lower the maximum benefit instead of means-testing the grant awards. BGR concludes, "The Road Home has been converted from a disaster relief program to an affordable housing program. The LRA should go back to the drawing board to create a program that uses federal disaster relief funds for the intended purpose: providing those who have suffered major damage with the means to rebuild their property and lives. Leaving out the middle class, while transferring scarce funds to developers [through the Plan's $400 million provision for mixed income development and $492 million for a Small Rental Property Repair Program], is unfair and poor public policy." (*BGR Reports*, Bureau of Government Research, 04/13/06; *Times Picayune*, Laura Maggi, 04/14/06)

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Real estate market cools, as rates rise

- According to data recently released by the National Association of Realtors, investors, who fueled housing gains in 2005, will likely leave the market this year, triggering a decline in sales. In 2005, the sale of new and existing homes rose 4.6% to 8.36 million with investment purchases comprising 28% of the sales, up from 25% in 2004, according to NAR. "If home-price gains have peaked, as we expect, and financing is more expensive, investors are going to find someplace else to put their money," said Freddie Mac's chief economist David Berson. Freddie Mac projects that home sales will decline 8.9% to 7.61 million in 2006. (*Bloomberg News*, Kathleen M. Howley, 04/16/06)

Commercial and multi-family mortgage markets grew 14% in 2005

- Commercial and multi-family-back mortgage debt outstanding increased 14.2% to $2.64 trillion on December 31, 2005, according to the Mortgage Bankers Association. Commercial banks hold $1.1 trillion of the debt outstanding, or 43% of the total debt outstanding. Commercial mortgage-backed pools hold $553 billion of the debt, representing 21%, while Fannie Mae, Freddie Mac and Ginnie Mae together hold $195 billion in multi-family debt, accounting for 29% of the debt outstanding. Commercial banks hold $140 billion of the multi-family debt outstanding or 21% of the total. (*National Mortgage News*, 04/10/06)

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Fannie Mae

How Fannie Mae "confounded" the Feds

- In its April 17 issue, *Business Week* writes, "How could embattled housing finance giant Fannie Mae hide more than $11 billion in losses under the watch of federal regulators? At the peak of its power, Fannie used lobbyists to bludgeon critics and head off close scrutiny. When [OFHEO] ramped up its oversight of Fannie, the lobbyists persuaded lawmakers to request six separate investigations into the agency. In one, Senator Christopher Bond (R-MO) directed the inspector general of the [HUD] to see whether OFHEO's investigators unfairly targeted Fannie. No charges resulted. In a report due out in late April, OFHEO will blast Fannie's board, saying directors knew more about Fannie's bad books than previous investigations recognized, including the board-sponsored exam by former Senator Warren Rudman." (*Business Week*, 04/17/06)

- Was arrogance at the root of Fannie Mae's problems? The Warren Report makes the case that Fannie Mae's "perceived" arrogance soured its relationship with OFEHO and contributed to the company's downfall. Daniel Mudd, now president of the Fannie Mae, "stated that many members of senior management believed that OFHEO had no right to question Fannie Mae's policies in light of the company's years of sustained success," according to the Rudman Report. Fannie Mae board member Kenneth Duberstein observed that senior management—specifically former CEO Franklin Raines and CFO Timothy Howard—did not respect OFHEO's views and treated the regulator "dismissively." According to the Rudman Report, "…management's low regard for OFHEO was not lost on OFEHO's then-Director, Armando Falcon, Jr., who complained during a spring of 2004 meeting with [Director] Duberstein about the arrogance exhibited toward OFHEO by Raines and Howard, and about Fannie Mae's unwillingness to cooperate fully in [his agency's] Special Examination." The report continued, "Duberstein said he approached Raines about what he heard during the meeting, and that Raines dismissed it out of hand."

- Fannie Mae's arrogance also extended to their treatment of Congress, where the GSE had a reputation "for lecturing lawmakers and employing a massive lobbying network to impose its views on them." The Rudman Report said that Fannie's Law and Policy division included "a sophisticated lobbying organization that was known to be aggressive," whose tactics appear to have included vigorous use of grass roots and media campaigns against Congress and, on occasion, against OFHEO. [An FEC investigation of Fannie Mae's lobbying activities might prove to be very interesting.]

- The Rudman Report also notes that Fannie Mae exhibited the same combative, aggressive attitude toward the consultants hired to critique the company and help with reorganization of the enterprise. In a July 2000 speech at an officers' retreat, the Rudman Report quotes Mudd as saying: "If we're such a great employer, why aren't

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we facing the reality of the hard questions and the poor ratings that come in some of the employee surveys? We make a sport, it seems, of paying consultants a lot of money, bringing them in, baiting them, laughing at them and then kicking them out and bringing a new set in at some point later...[A] lot of those outside observing trying to present us with a mirror image of ourselves have said the same thing. And we keep saying that there's something wrong with the mirror and writing a check for that honor." (*Dow Jones Capital Market Report*, John Connor, 04/20/06)

FNM is classic example of a "striptease"

- According to Joe Feshbach, the principal of Joe Feshbach Partners, Fannie Mae is a classic example of the "striptease," defined by *Barron's* as distressed companies with massive fraud, industry risk and high leverage. Watch out, warns *Barron's*, for companies that restate their earnings "not all at once but bit by bit." Feshbach notes that while fraud "rarely occurs," investors should watch out for it. (*Theflyonthewall.com*, 04/15/06)

Fannie Mae encourages servicers and lenders to participate in Mississippi's housing assistance program

- To encourage servicers and lenders to participate in Mississippi's housing assistance program, Fannie Mae has said that "[participants] who opt-in have our consent to subordinate our lien to the required covenant and will have no liability to Fannie Mae for the consequences of such subordination." Under the program, homeowners can receive up to $150,000 in grants to rebuild storm-damaged homes and the lenders are assured that the loan will be made current and taxes will be paid. Since homeowners have complete control of the funds, there is no guarantee that the assistance will be used to repair the property or pay down the mortgage. (*National Mortgage News Online*, 04/20/06)

Fannie Mae "loosens" its standards to boost affordable housing lending

- Effective April 23, Fannie Mae's automated underwriting system will approve more single-family home purchases for borrowers with income of 100% or less of the area median income. While Fannie Mae will apply the same risk assessment for these loans, the company is "changing (improving) the underwriting recommendation when the loan is identified by DU as meeting criteria for our regulatory housing goals to serve low- and moderate-income borrowers," said the GSE. (*National Mortgage News Online*, 04/19/06)

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Fannie Mae provides clearer guidance on what subprime loans it will not purchase

- Effective June 1, Fannie Mae "will not purchase or securitize a mortgage if the total points and fees charged to the borrower exceeds the greater of 5% of the mortgage amount or a maximum dollar amount of $1,000," according to an April 14 announcement. The company's previous guidance stated that Fannie would not purchase high-cost loans as defined by the state predatory-lending laws. In addition, Fannie Mae has had a longstanding practice of not to purchasing high-cost loans as defined by the federal Home Owners and Equity Protection Act. (*National Mortgage News Online*, 04/20/06)

Fannie Mae collaborates with LoanCity in the development of AU 2.0

- LoanCity, a leading wholesale lender, and Fannie Mae collaborated over the past two years to develop a proprietary online underwriting system called AU 2.0. This next generation of automated decisioning integrates LoanCity's risk-based pricing engine with a custom-DU platform, which handles conforming, jumbo, expanded, Alta-A, Alt-B, and combos up to $3 million. (*PR Newswire*, 04/18/06)

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Freddie Mac

Freddie Mac directs its servicers to "opt-in" to Mississippi's housing assistance program

- In an April 18 email, Freddie Mac directed its Servicers to "opt-in" by April 19 to the Mississippi Development Authority's plan to distribute Community Development Grant funds. While the company supports the State's goal of encouraging homeowners to use grant fund for rebuilding their lives, Freddie Mac reiterated its concern about the lack of controls on the use of grant proceeds in MDA's plan. In the event the borrower uses the grant funds for something other than restoring their property or paying off their mortgage, lenders will be forced to either foreclose on an uninhabitable and damaged home or charge off the mortgage and leave an un-repaired property in the local community. Freddie Mac also reiterated its concern that the lack of oversight in the rebuilding process could give rise to increased incidences of predatory practices, which could further harm the storm-impacted homeowners and their communities.

- Freddie Mac wrote, "In light of these risks, we urge Servicers to encourage borrowers to voluntarily escrow their grant proceeds so the Servicer can help them use the grants to repair damaged properties or to address outstanding mortgage obligations. If a borrower pursues rebuilding efforts apart from voluntary escrow arrangements, Freddie Mac will not require recourse or repurchase based on a failure of the borrower to apply the grant proceeds to rebuild the property to code or the collateral requirements of the security instrument, or to pay down the mortgage balance."

- "However, Freddie Mac fully expects borrowers who do not choose to use the funds to restore their homes will use the grant proceeds to bring their loans current, as required by the MDA. In cases of subsequent delinquencies where the grant proceeds were not used to repair the property, Servicers should use all available remedies in accordance with our previously announced temporary servicing requirements for the affected areas. Freddie Mac will also urge the MDA to permit the funds used to bring loans current to be applied to all arrearages, including escrow advances and attorney fees. The MDA program may result in additional Servicer costs. Freddie Mac will continue to urge the MDA to allow Servicers to reimburse themselves from the grant proceeds for reasonable processing expenses associated with executing the plan as prescribed by the state." (*Freddie Mac Email to Servicers*, 04/18/06)

Freddie Mac hires Gareth Davies as SVP, enterprise operational risk

- Freddie Mac has hired Gareth Davies as senior vice president, enterprise operational risk effective April 24. Davies will manage the company's operational risk and report to Anurag Saksena, SVP and chief risk enterprise officer. Previously, Davies spent

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more than 19 years at General Electric, most recently as vice president and chief risk officer for GE Asset Management. (*PR Newswire U.S.*, 04/13/06)

Freddie Mac's former CFO joins Wells Fargo

- John Gibbons, Freddie Mac's executive vice president and chief financial officer from 1996 to 2000, has joined Wells Fargo as head of capital markets for its residential real estate-secured lending business in its Home and Consumer Finance Group. (*M2 EquityBites*, 04/12/06)

Freddie Mac grant funds the development of AH information tools

- The Enterprise Community Partners have introduced a comprehensive suite of information tools, created with a $750,000 grant from Freddie Mac, to increase access to social services for low income residents in affordable housing communities. These tools are available at www.enterprisecommunity.org/resources/toolspubsproducts.asp. (*National Mortgage News*, 04/17/06)

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Federal Home Loan Banks

The Federal Housing Finance Board proposes a rule to enhance the FHLBs' corporate governance

- On April 12, the Federal Housing Finance Board issued a proposed rule to enhance the FHLBs' corporate governance by improving the director election process. The proposed changes would enable the FHLBs to provide better information to their members during the director nomination and election process regarding the specific skills needed for board members and the qualifications of the nominees to satisfy those needs. According to the proposal, "One way the Finance Board can help ensure the safety and soundness of the Banks is to use its regulatory authority to enable the Banks to establish a process whereby capable and skilled persons may be nominated and elected to their boards of directors, so that each Bank's board of directors will possess the aggregate skills needed to provide strong oversight." The proposal requires that each FHLB board conduct self-assessments to determine the skills and experience needed by each board, which could be communicated to their members in a brief statement. If approved in its current form, the rulemaking "would allow, but not require" the FHLBs take a more active role in the nomination and election process of their board members, but specifically forbids the Banks' staff and management from endorsing a candidate. The proposal, if adopted as proposed, would be optional. It was published in the *Federal Register* on April 18 and is open for public comment for a 45 days.

- While industry officials welcomed the Finance Board's proposal for elected positions, some said that the FHLBs would be better assisted if the agency would make the required six appointments to each Bank's board. Finance Board chairman Rosenfeld has refused to make the Board's appointments while Congress debates GSE regulatory reform legislation, which would likely impact the structure and makeup of the FHLBs' board of directors. Roughly 70% of the Finance Board's 82 appointed positions on the FHLBs' boards of directors are vacant. "It is ironic," said Robert Davis, the executive vice president of America's Community Bankers. "There is a significant problem now that the banks are undermanned. The fewer and fewer people we have, more and more burden is put on remaining members." (*American Banker*, Patrick Rucker, 04/13/06; *Bureau of National Affairs*, Richard Cowden, 04/13/06; *Federal Housing Finance Board Press Release*, 04/12/06;)

- In an April 7 letter to Treasury Secretary John Snow, Representative Barney Frank, minority leader on the House Financial Services Committee, asked the agency to press the Federal Housing Finance Board to fill outstanding vacancies on the FHLBs' board of directors. According to Frank, "it is essential" that the FHLBs "not be hamstrung by lack of management resources." In his letter, Frank noted that he wrote Rosenfeld a year ago, urging him to quickly appoint directors to the FHLBs.

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"Unfortunately, nothing has changed," said Frank. (*American Banker*, Patrick Rucker, 04/11/06)

America's Community Bankers seek FOIA request
for the Finance Board's proposed rule to increase the FHLBs' retained earnings

- On April 3, America's Community Bankers submitted a Freedom of Information Act request to the Federal Housing Finance Board, seeking documents "containing and describing the data, methods, and analysis" that support Board's proposal last month to require the FHLBs to increase their retained earnings. "The proposal contains no analysis," said Patricia Milon, ACB's legal counsel. "Without knowing where the Finance Board got its numbers, it's not possible to submit meaningful comments." According to a Finance Board spokesman, the agency has received ACB's request and that the Board is expected to respond by early next month. (*American Banker*, Patrick Rucker, 04/18/06)

- As ACB examines how the Finance Board developed the proposed rule, the FHLBs are evaluating how the Finance Board's proposal will impact their Banks' capital management and their ability to pay future dividends. David Hehman, the president of the FHLB-Cincinnati, said that under the proposed rule, it could take 12 to 18 months for the Bank to reach the required retained earnings level. "We would need to repurchase at least $421 million of members' excess stock," said Hehman, adding that the Bank would need to increase retained earnings by "at least $109 million." Hehman expressed concern about the impact that the proposal would have the Bank's paying dividends in cash vs. stock. For 19 consecutive years, the FHLB-Cincinnati has paid stock dividends, "the value of which most members are generally permitted to hold on a tax-deferred basis." The favorable tax treatment would not apply to cash dividends, he added. "The effect of this change on tax-adjusted dividend return could be significant." Hehman also expressed concern that the Bank's dividend rates would fall below comparable market interest rates during the transition of the new capital stock rule, which would limit the Bank's ability to manage advances volatility and liquidity.

- The Finance Board's proposed restrictions on the timing and form of dividend payments is the main concern for Terry Smith, the president of the FHLB-Dallas. According to Smith's preliminary analysis, however, the rule will not "require substantive changes in the Bank's financial management or business operations." (*The Main Wire*, Margaret Chadbourn, 04/11/06)

- Several FHLBs have already recognized that the proposed rule may affect other aspects of their business, by hampering the banks' mortgage purchase program, curtailing the Banks' charitable activities, and removing the flexibility that stock dividends provide member institutions. On April 20, the FHLB-Cincinnati was the first bank to announce it would eliminate some of its charitable housing initiatives, including the Bank's $15 million "New Neighbors" grant program for Katrina victims

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and its $1 million American Dream Homeownership grant program for minorities and special needs individuals, because of the Finance Board's proposed rule. "Good corporate governance will not allow us to continue funding the multimillion-dollar voluntary housing programs until we are in a position to know the full extent of our retained-earnings shortfall and the negative impact this proposed regulation would have on our business model," said Charles "Bud" Koch, the chairman of the FHLB-Cincinnati.

- Some believe that the Finance Board's move to reduce the Banks' excess stock might permanently eliminate the FHLBs' mortgage purchase programs. Some the Banks, like the FHLB-Chicago, used excess stock as a way to fund mortgage purchases. The Chicago Bank, which originated the first MPP, now holds about $2.3 billion in excess stock.

- Alex Pollock, a fellow at American Enterprise Institute and former president of the FHLB-Chicago, is critical of the Finance Board's proposed rule restricting excess stock. "The only issue is this: Does the bank have enough capital?" said Pollock. "How the capital is comprised is irrelevant." (*American Banker*, Patrick Rucker, 04/21/06)

FHLB-Chicago plans to sell $1 billion of subordinated debt as sole obligation of the Bank

- By June 30, the FHLB-Chicago plans to issue $1 billion of 10-year subordinated bonds to be used exclusively to redeem an equal amount of excess stock held by members. The bonds will be the sole obligation of the Bank, as opposed to the FHLBS "consolidated obligations" which are the joint and several liability of the 12 FHLBs, according the FHLB-Chicago. The Federal Housing Finance Board approved this "one time deal" to help the FHLB-Chicago reduce its excess stock. Steve Cross, the Finance Board's director of supervision, said, "The question was: 'How do we help the Chicago Bank get rid of its excess stock in an orderly fashion while maintaining adequate capitalization?'" Without the debt issuance, Cross said, the FHLB-Chicago would have trouble buying back its stock without becoming undercapitalized. "This is a one-time approval," Cross emphasized. "There is nothing in the actions taken by the board that is precedential for other banks. The actions taken by the Finance Board were very specific to a set of circumstances at the Chicago Bank…"

- To continue its progress in building retained earnings, the FHLB-Chicago's board revised the Banks retained earnings and dividend policy, spelling out a minimum amount of net earnings to be retained and limits on dividend payouts for the years 2006 through 2009. The Finance Board has approved the Bank's revised earnings and dividend policy. Mike Thomas, President and CEO of the FHLB-Chicago, said "The adoption of the retained earnings and dividend policy should provide members with a dividend return over time consistent with the Banks basic value proposition as a source of liquidity and funding to members." (*FHLB-Chicago Press Release*,

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04/18/06; *Dow Jones Newswires*, John Connor, 04/18/06; *American Banker*, Patrick Rucker, 04/20/06; *Wall Street Journal*, Damian Paletta, 04/20/06)

The FHLB-Dallas's SEC registration becomes effective

- On April 17, the SEC declared that the FHLB-Dallas's registration statement became effective. In its updated registration statement, the Bank reported total assets of $64.9 billion on December 31, 2005, up slightly from $64.6 billion at yearend 2004. During 2005, the Bank's advances declined from $47.1 billion to $46.5 billion from year-end 2004 to 2005, respectively. At December 31, 2005, the Bank reported total capital of $2.5 billion, including retained earnings of $178.5 million. The Bank's net income for 2005 was $242.4 million. Terry Smith, the Bank's president and CEO, said "Completion of the registration statement represents an important milestone for the Bank. It marks not only the completion of a long and sometimes arduous process, but also the beginning of an important new era." (*PR Newswire*, 04/17/06)

The FHLBs of Indianapolis and New York announces first quarter dividends

- The board of directors for the FHLB-Indianapolis declared dividend rates of 5.0% and 4.0% on B-1 and B-2 stock, respectively, for the first quarter of 2006, payable in cash on April 21. In addition, the board announced that the Bank's registration statement with the SEC became effective on April 14. (*PR Newswire*, 04/17/06)

- The board of directors for the FHLB-New York declared a cash dividend at an annualized rate of 5.25% for the Bank's stock, payable on April 28. The dividend represents a payout of approximately 75% of the Bank's net income for the quarter. (*PR Newswire*, 04/20/06)

Representative English (R-PA) plans to introduce legislation permitting FHLBs to back tax-exempts

- Representative Phil English (R-PA), a member of the House Ways and Means Committee, plans to introduce legislation which will allow municipal bonds backed by the FHLB letters of credit to be treated as tax-exempt. The IRS currently classifies FHLB letters of credit as federal guarantees in the context of a 1984 ruling, barring federal guarantees of municipal bonds from tax-exempt treatment. English's proposed bill, which would exempt the FHLB letters of credit from this ban, has been endorsed by the National League of Cities, U.S. Conference of Mayors, America's Community Bankers, Independent Community Bankers of America, and the Pennsylvania Association of Community Bankers. (*Dow Jones Newswires*, John Connor, 04/14/06)

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Ginnie Mae

Ginnie Mae applauds HUD's efforts to reform FHA

- In an April 14 statement, Ginnie Mae applauded HUD's efforts to "improve, modernize and empower" FHA through the introduction of H.R. 5121, the Expanding American Homeownership Act of 2006. "We believe every American deserves an opportunity to realize the dream of homeownership," said Michael Frenz, EVP for Ginnie Mae. "This new legislation will greatly enhance Ginnie Mae's partnership with FHA and provide even more homeownership opportunities for American families. We stand ready, willing and able to work with FHA to implement these new reforms once they're authorized." The legislation, co-sponsored by Representatives Bob Ney (R-OH), Maxine Waters (D-CA), Gary Miller (R-CA) and Patrick Tiberi (R-OH), would increase and simplify FHA's current loan limits; eliminate the 3% down payment requirement; and create a new risk-based premium structure. The Mortgage Bankers Association has announced its support of H.R. 5121, calling the measure a "more comprehensive approach" to reform FHA.

- On April 10, Senator Hillary Rodham Clinton introduced legislation (S. 2597) to raise FHA loan limits, but stopped short providing broader reforms sought by the Bush Administration in H.R. 5121. The National Association of Realtors has announced its support of S. 2597 and the elimination of FHA down-payment requirements, but has not yet taken a position on the creation of a risk-based premium structure. (U.*S. Newswire*, 04/14/06; *American Banker*, Jody Shenn, 04/10/06; *American Banker*, Jody Shenn, 04/11/06; *National Mortgage News*, Brian Collins, 04/17/06)

Farm Credit System / Farmer Mac

FCA's economic outlook for agriculture

- At the April 6 meeting of FCA's board of directors, chief economist John Moore and analysts Bill Dunn and Steve Guebert presented an analysis of the economic outlook of the United State's agricultural sector. The economists determined that ag banks grew at a slower rate (4.93% growth in their agricultural loan portfolio) related to all banks and banks with ag loans (5.94%) and the Farm Credit System (8.71%). They concluded that farm income, including net cash income and government payments, declined from 2004 to 2005, and is projected to fall further in 2006. The study found that ag exports are projected to rise 3% in 2006 to a record $64.5 billion. According

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to 2004 USDA statistics, large farm operations receive the bulk of government payments with 40% of all farms receiving payments. In 2004, the average payment was $12,000 per farm, which represented about 22% of net cash income for the year. Geographically, most payments "show up" in the Heartland and Great Plains with most payments going for cotton and corn. The economists concluded that small farms have grown increasing more reliant on off-farm income, which provides on average 85% to 95% of farm household income over the 1999-2003 period, compared to 50% in 1960. (*Economic Overview Presentation to the FCA Board*, John Moore, Bill Dunn, Steve Guebert, 04/06/06)

Farmer Mac declares first quarter dividends

- Farmer Mac's board of directors declared first quarter dividends of $0.10 per share for the corporation's three classes of common stock, payable on June 30 for holders of record as of June 15. The board also declared a quarterly dividend of $0.80 per share for the corporation's 6.40% Cumulative Preferred Stock, Series A, payable on June 309 to holders of record as of June 20. (*Farmer Mac News Release*, 04/10/06)

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Postal Service

Postal reform in limbo?

- Reporting on the status of postal reform legislation, Gene Del Polito wrote, “As of [April 18], the House has still to name its conferees. Word has it that Speaker of the House has made clear to the bill’s sponsors that no conference will be held unless it can be assured that any measure returned to the House will meet with the Administration’s approval. (The Majority Leader of the Senate has issued similar instructions to his chamber’s conferees.) … [T]he White House has made [it] abundantly clear [that] it will not accept a postal reform bill that isn’t *budget neutral.* In other words, the President will not sign a bill that results in any loss to the Treasury. The Administration is insisting that the military obligation remain with the Postal Service and that any released escrow funds be applied toward paying down the Postal Service’s retiree health obligations.” (*Association for Postal Commerce*, Gene Del Polito, 04/18/06)

FASB’s proposed rule changes the dynamics of postal reform legislation

- *Congress Daily* reports, “A [FASB] proposal requiring all private and public entities to include pension costs in their annual financial reports ‘heightens the urgency to get postal reform done,’ according to a source close to the legislation lodged in a House-Senate conference. …Under the proposed FASB rule [slated to go into effect at the end of the year], the Postal Service would report a projected [$64] billion for retiree health benefits…” on its balance sheet. The Postal Service contends that it is an independent federal entity, separate and distinct from other branches of the federal government, with health retirement obligations stemming from a multi-employer plan. If designated a “multi-employer,” the USPS would *not* be subject to FASB’s proposed rule requiring booking of obligations of “incurred” retirement costs. Instead, the Postal Service would only have to reflect retirement benefit payments coming due on an annual basis in their financial statements. The Treasury Department argues that the Postal Service should be using the single-employer rule, since the agency is nothing more than a federal agency whose retirement plan is administered by the Office of Personnel Management.

- The resolution of this issue will have long-term ramifications on the operations of the Postal Service, says Gene Del Polito with the Association for Postal Commerce. “As a participant in a single-employer plan, the Postal Service would have to reflect fully on its balance sheet a $64 billion obligation for health-retirement benefits. Once this shows up on the USPS’ balance sheets, under current postal law, the Postal Rate Commission would become a party in determining how this obligation is reflected in future rate cases and increases. The long and the short of it is that postal rates, in all

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likelihood, would rise at a much greater rate than if the Postal Service continued to account under the multi-employer rule," said De Polito.

- He concludes, "The decision now facing mailers and the Postal Service boils down to this. Should H.R. 22 continu to be entreated to stick to their guns regarding the escrow and the military [provisions], and face the very high probability that compliance with FASB will send postal rates through the roof? Or, do we tell the sponsors it's okay to recede to the White House's position on the military and the escrow, pass reform, and minimize the impact FASB compliance might have on postal rates? These options are not very pretty. But, as Roseanne Roseannadanna once said: 'It just goes to show you. If it isn't one thing, it's another.'" (*Congress Daily*, Jessica Brady, 04/13/06; *Association for Postal Commerce*, Gene Del Polito, 04/18/06; *Association for Postal Commerce*, 04/13/06)

GAO asked to address lawmakers' concerns about USPS's consolidation plans

- In a March 27 letter to GAO, Senators Susan Collins (R-ME) and Joe Lieberman (D-CT), and Representatives Tom Davis (R-VA) and Henry Waxman (D-CA) expressed concerns about how the USPS is carrying out its network consolidation plan. The lawmakers wrote, "While we recognize the USPS may need to consolidate its facilities, we are not convinced that USPS is following the recommendations made in GAO's 2005 report [on consolidation]." The legislators continued, "The GAO report recommended that the Service establish criteria, inform stakeholders as decisions are made, and evaluate and measure the outcomes of realigning these plants, including the costs and savings that result. Although GAO recommended that USPS increase its efforts to keep stakeholders informed, members of the House and Senate have informed our Committees that they and the communities they represent have not been adequately informed about the Postal Service's plans, how the Postal Service proposed to analyze plant performance and make realignment decisions, and what are the potential effects on these communities."

- "Therefore, we are asking that GAO follow up on its report and determine: What criteria is USPS using to analyze and evaluate these plants? How does it plan to communicate these criteria to affected parties? How does USPS's overall communications strategy target the appropriate affected parties and does it provide sufficient information throughout the process? [A]nd, How does USPS plan to measure the effects of realignment including costs incurred and savings realized?" (*APWU.org, Web News Article #25-06,* 04/11/06; Correspondence to the Honorable David M. Walker, Senators Susan M. Collins and Joseph I. Lieberman and Representatives Tom Davis and Henry A. Waxman, 03/27/06)

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USPS Board of Governors expected to authorize the R2006 rate case in May

- The USPS Board of Governors are expected to authorize the filing of the R2006 rate case at its next meeting on May 2-3, 2006. Rumors are circulating that the next postal rate increase will be larger than the "mid-single digits," which postal officials previously suggested. Some say that the increase could be in the double digits, with the USPS basing the request upon projected costs for FY2008. "It is not surprising that the Postal Service would want to get its rates as high as it can, in case postal reform, with its CPI-based price cap, actually passes," said David Straus, counsel for American Business Media. "Clearly, the Postal Service will want the base as high as possible if it is to be limited to strict percentage increases thereafter." (*Association for Postal Commerce*, 04/20/06; Folio, 04/10/06)

- Jim Ostroff wrote in *KiplingerForecasts.com*, "Not one, but two, postal rate hikes are in the works. Business mailers and consumers have been figuring they would see just one more rate jump before an overhaul of the U.S. Postal Service (USPS) limits annual increases. But they'll be disappointed. On Jan. 1, 2007, average rates for business mailers will climb by about 10%, while first-class stamps will go up 3¢, to 42¢ each. One year later, there'll be another increase. Rates for business mailers will rise 4%-6%, and first-class stamps will cost 44¢ apiece. The USPS wants to maximize its revenues before Congress steps in with tight restraints on future increases. Those will come with a long-awaited reform package, likely to be sent to President Bush for his signature this fall. But most of the reforms won't kick in [until] mid-2008, giving the Postal Service another chance to pump up revenues before new rules limit it to once-a-year adjustments for inflation, starting in 2009." (*KiplingerForecasts.com,* Jim Ostroff, 04/17/06)

Erosion of first class mail volume continues

- The number of online banking customers grew to nearly 40 million during the fourth quarter of 2005, a 27% increase over the prior year, according to a study by conScore Networks. Moreover, the use of online bill payment grew 36% during the same period. (*PostalWatch.com*, 04/11/06)

- The number of taxpayers filing returns electronically from home computers continues to grow with more than 17 million taxpayers chose e-filing this year, an increase of 15% from 2004, according to the IRS. By filing electronically, IRS officials say those expecting refunds can cut the normal wait for their refund check from six to eight weeks down to three or four weeks. Refunds are even faster if the taxpayer chooses direct deposit. (*Norwich Bulletin*, Ray Hackett, 04/17/06)

- "For most shareholders, the arrival of the annual meeting and voting season is announced with a shrink-wrapped package in the mail," wrote Cindy Skrzycki in the *Washington Post*. "That may change if publicly traded corporations decide to ditch

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all that paper and go electronic, as a proposed rule from the [SEC] would allow." The final rule may be ready for the 2007 proxy season. (*Washington Post*, Cindy Skrzycki, 04/11/06)

- With rising postal rates, magazine publishers are increasingly turning to the Web to grow their circulation base and drive better ROI for their acquisition efforts. (*PR Newswire*, 04/18/06)

- In 2005, internet advertising revenues totaled $12.5 billion, an increase of 30% from revenues in 2004. Interactive advertising continues to experience tremendous growth as marketers experience superior results in building brands and delivering online and offline sales, relative to print media. Internet advertising now exceeds advertising in business magazines by 50% and nearly matches total consumer magazine advertising. (*PriceWaterhouseCoopers' IAB Internet Advertising Revenue Report*, April 2006)

- According to the EMA Foundation, a 20% drop in first class mail volume would result in a $4 billion loss in "contribution" to USPS' revenues, assuming static volumes for the rest of the mail classes and no elasticity pact with contribution ratios unchanged. (*First-Class Mail and the United States Postal Service: Future Strategies for This Time Honored Medium*, EMA Foundation, Maynard Benjamin)

The more things change, the more they stay the same at the USPS

- National Association of Letter Carriers President William Young wrote, "I will soon celebrate my 41st year in the USPS and I find the situation we face today sadly familiar. I have seen the cycle repeat over and over. First, the Postal Service runs into some financial difficulties (recessions in the mid-1970s or early 80s) or unexpected budget hits (in the early 1990s) and must transform itself through austerity. It has some initial success, but then goes too far, slashing staff too much and damaging service. Then comes the predictable backlash, with unhappy customers, a lot of bad media and some angry congressmen, which prompts the Postal Service to start hiring again." (*National Association of Letter Carriers' Postal Record*, William H. Young, April 2005)

The USPS backs off its demand for cluster mailboxes in Alabama

- According to the *Birmingham News*, "U.S. Postal Service officials in Alabama are backing off telling developers and builders they must begin using cluster mailboxes in all new subdivisions instead of putting a mailbox at each home. Resistance to the requirement has been building. The Greater Birmingham Association of Homebuilders and the Homebuilders Association of Alabama have expressed opposition. Officials in Alabaster, Shelby County's largest city, recently asked City Attorney Greg Morris to look into what the city could do to fight the requirement." (*Birmingham News*, Malcomb Daniels, 04/21/06)

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USPS in the hotel business?

- According to an April 18 advisory by the Institute for Research on the Economics of Taxation, "The Postal Service has a national conference and management training center on an 83 acre site in Potomac, MD. Several years ago, the Service opened the facility to the general public for a number of hospitality-industry related activities… Although the facility has a postal theme…, its hospitality industry services really have nothing to do with the government-owned enterprise's core purpose of delivering mail throughout the country. The William F. Bolger Center's double life raises the issue of whether a government agency should engage in commercial activities unconnected to its government-assigned mission. …There is little justification for the Postal Service to continue to receive preferential tax and regulatory treatment on its hospitality industry services. More generally, the Postal Service's government-based benefits should be reexamined on other activities that are outside its core, government-assigned mission." (*IRET Congressional Advisory*, Institute for Research on the Economics of Taxation, 04/18/06)

TVA

Memphis Light, Gas, and Water, TVA's biggest customer,
demands representation on TVA board

- Joseph Lee, III, president and CEO of Memphis Light, Gas, and Water, said he wants the White House to fill the last vacancy on TVA's board with a director from West Tennessee, preferably a minority. To date, TVA has never had a board member from Memphis, which accounts for roughly 12% of TVA's power sales, nor has the agency had a black or Hispanic board member or top executive. "We have sent a request to Tennessee's two senators for a representative from Memphis or Shelby County, and we know that there has been some discussion at the White House," said Lee. (*TMC.net*, 04/04/06)

Federal court holds TVA liable for overcharges to industrial customers

- On April 25, U.S. District Judge Virginia Emerson Hopkins granted a summary judgment in a class-action lawsuit claiming that the country's largest public utility overbilled more than 400 industrial customers for surplus power during the summer of 1998. The plaintiffs' attorney Michael Ermert has asserted that TVA overcharged the companies by $40 million. According to a 1999 TVA inspector general's report, TVA contended that the overbillings amounted to no more than $1.6 million and the agency planned to credit those amounts to the industries. Judge Emerson Hopkins

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ruled that TVA passed on the cost of power purchases "even for hours when TVA had sufficient power resources to supply the ESP load." A pretrial conference will be scheduled to prepare the case for trial on the issue of damages. (*Associated Press*, 04/20/06)

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