

# The **GSE** REPORT™

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## Major Events

As Congress waits for “other shoes to drop” in investigations of Fannie Mae, Fannie Mae awards \$8 million in restricted stock to CEO Mudd

- As investigations by OFHEO, the SEC and Department of Justice into the company’s accounting irregularities continue, Fannie Mae announced an unusual change to its long-term bonus plan, awarding four of its five highest paid executives \$5.2 million in restricted cash rather than stock as part of their 2005 compensation, according to the company’s 8K filing. [Similar to restricted stock, Fannie Mae’s deferred cash awards vest in increments of 25% a year over four years beginning in January 2006. Mudd elected to receive only restricted stock, while Fannie’s other four executives received 66% of their long-term pay in restricted stock and 33% in restricted cash.] Dan Mudd, who was officially installed as Fannie Mae’s CEO in June, received \$11.5 million in total compensation in 2005, which included a cash bonus of \$2.6 million, an annual salary of \$950,000, and \$8 million in restricted stock. Newly installed Chief Business Officer Rob Levin received \$8.9 million in total compensation, including a cash bonus of \$1.8 million, \$4.3 million in restricted stock and an additional \$2.1 million in restricted cash paid in lieu of Fannie’s usual stock reward. Chief Operating Officer Michael Williams received total compensation of \$7 million, which included a cash bonus of \$1.4 million, \$3.4 million in restricted stock and \$1.7 million in restricted cash. Peter Niculescu, who manages Fannie Mae’s portfolio, received \$4.1 million in compensation, which included a cash bonus of \$909,000, \$1.8 million in restricted stock, and \$886,000 in restricted cash. Chief Information Officers Julie St. John received approximately \$3 million in total compensation, which included a cash bonus of \$744,000, \$1.2 million in restricted stock, and \$583,000 in restricted cash. According to the company’s 8K filing, Fannie Mae’s executive pay decisions reflected performance against goals involving the GSE’s financing of housing for low-income people, progress on the restatement process and improved relations with regulators, among other factors. (*Dow Jones Newswires*, Dawn Kopecki, 02/08/06; *Wall Street Journal*, James R. Hagerty, 02/09/06)
- Senate Banking Committee Chairman Richard Shelby (R-AL) said that Fannie Mae may reveal more accounting errors that led the company to an estimated \$10.8 billion restatement of earnings. “There will be other shoes to drop,” said Shelby, noting that Fannie and Freddie “have had horrendous accounting problems, and we still don’t know what’s out there.” Shelby said his leading goal in 2006 is to push through GSE regulatory reform legislation which provides the GSE regulator with the power to alter capital standards, bar new lines of business, and shut down the GSEs in the event of default. “That would be my No. 1 priority this year, to pass this legislation,” said Shelby. In a January 31 interview with reporters, Shelby said “I think [the GSE bill] will have a lot of what we have in [the Senate bill] today. Will it be everything? We don’t know because that’s part of the legislative process. But this is a strong bill. It is needed and we’re going to stay with it right now. ...We believe that before the

year is out we have a good chance to pass meaningful legislation.” (*Bloomberg News*, James Tyson and Peter Cook, 02/08/06; *Bloomberg News*, James Tyson, 01/31/06)

- According to sources, Fannie Mae has tentatively scheduled the release of the Rudman Report for February 23. Fannie Mae’s board of directors has a draft of the Rudman Report and has scheduled a meeting for the week of February 13, according to a person familiar with the matter. Rudman has told reporters that he will give a 48 hour advance notice, before the release of the report, but declined to comment further on the timing of the release of the report. Rudman told *Dow Jones News* that Fannie Mae’s board of directors hasn’t seen any early drafts of the report. Rudman also said he will “fully comply” with the House Financial Services Committee’s request that he testify before the panel. Rudman said his investigators will continue to gather documents after the release of his report. While they do not anticipate that documents received after the release of the report would significantly alter their findings, Rudman said they are “just being cautious.” He added, “There might be something there that is absolutely important to something we have said and we just want to make sure that we get everything so we have done the job completely.” (*Market News International*, Margaret Chadbourn, 02/02/06; *Dow Jones Newswires*, Dawn Kopecki, 02/10/06; *Bloomberg News*, James Tyson, 02/07/06)

Senate Finance Committee investigates Fannie Mae and Freddie Mac Foundations
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- In a *Dow Jones Newswire* exclusive, Dawn Kopecki reported that the Senate Finance Committee is investigating whether Fannie Mae and Freddie Mac may have abused the special tax status of their charitable foundations to skirt lobbying and campaign finance laws. “I’m concerned that we’re seeing more and more charities used in the best interests of lobbyists, not of the public,” said Senate Finance Chairman Charles Grassley, R-Iowa. “Recent reports about Fannie Mae and Freddie Mac and their charitable foundations have raised serious questions.” The probe expands on the Committee’s wide-ranging review of the non-profit industry, which examines practices and governance issues “to determine whether charitable dollars are serving their intended purpose and whether non-profit groups fully warrant their tax-exempt status,” said the panel.
- The Finance Committee is examining how Fannie Mae and Freddie Mac executives may have used their charitable foundations and other nonprofit groups to skirt lobbying disclosure laws to expand their access to key lawmakers. The panel is also looking at whether GSEs’ executives have specifically supported the personal charities and pet projects of key lawmakers and their families, including the GSEs’ support of a charity run by former House Majority Leader Tom DeLay (R-TX), said a Committee aide. Top lobbyists for Fannie and Freddie once sat on the board of directors of the Delay Foundation for Kids, according to tax records. In fact, Duane Duncan, Fannie Mae’s senior vice president for government relations, continues to serve on the board of the DeLay Foundation. Fannie and Freddie (or their executives)

have contributed to the Delay Foundation, according to people with direct knowledge of GSEs' contributions. (*Dow Jones Newswires*, Dawn Kopecki, 02/06/06; *Dow Jones Newswires*, Dawn Kopecki, 02/08/06)

Judge refuses motion to dismiss a class-action lawsuit  
against Fannie Mae and three former executives

- Judge Richard Leon of the U.S. District Court in Washington refused to dismiss a class-action lawsuit against Fannie Mae and three former executives, ruling that there was enough evidence to suggest that the company and its senior management may have committed securities fraud. In Leon's ruling, he said that that shareholders presented "sufficient facts, if believed, to give rise to a 'strong inference'" that Fannie Mae, former CEO Franklin Raines, former CFO Timothy Howard and former Comptroller Leanne Spencer may have acted fraudulently with the intent of deceiving investors about Fannie's true financial condition. In December 2004, Fannie Mae's board ousted Raines and Howard after the SEC determined that the company had violated accounting rules and needed to restate several years of earnings. In January 2005, Fannie Mae stripped Spencer of her duties and she officially left the company in August.
- Ohio Attorney General Petro, who serves as lead plaintiff in the class action suit, said Leon's decision was a "great victory" for Ohio's pension and retirement funds and other Fannie Mae shareholders. "Now we will move through the discovery phase quickly to uncover the root of the fraud and bring Fannie Mae and its former officers to justice," said Petro. The attorney general's spokesman Mark Anthony said, "Part of the problem at Fannie Mae is they wanted to create the illusion that it was a safe, stable investment with steady earnings to disguise the volatility of the company's stock. The false financial reports by Fannie Mae artificially inflated the value of its stock from April 2001 through September 2004." Fannie's stock has fallen by more than 29.5% since the OFHEO released a scathing report on Fannie's accounting practices in September 2004, when the stock was trading at more than \$77 a share. Subsequently, Fannie has estimated that it will have to recognize at least \$10.8 billion in losses from 2001 through 2004 that weren't previously disclosed. (*Dow Jones Newswires*, Dawn Kopecki, 02/10/06)

In upset win, Representative John A. Boehner (R-OH) elected House Majority Leader

- In a surprise victory, Representative John A. Boehner (R-OH) was elected to succeed Tom Delay as House Majority Leader. Boehner's come from behind victory over Majority Whip Roy Blunt (R-MO) was sealed on the second ballot vote of 122 to 109 in a closed door vote on Capital Hill on February 1. In the first ballot, Blunt received 110 votes, with Boehner receiving 79 votes, Representative John Shadegg (R-AZ) receiving 40 votes, and write-in candidate Representative Jim Ryun (R-KS) receiving two votes. Blunt, who has been serving as Interim Majority Leader, was considered

as the front-runner going into the election, but in the end could not escape the perception that he was too closely tied to Tom Delay (R-TX). Republicans concluded that their party was in sore need of a new face in the aftermath of ethics and lobbying scandals. “We are trying to send a message that we want change,” said Representative Edward Whitfield (R-KY). “The world goes on,” said Blunt, who secured the number three position in leadership as whip in a special caucus vote. “We’re going to have a great leadership team.” In a second ballot, the conference also elected Representative Adam Putnam (R-FL) to replace Shadegg as chairman of the House Republican Policy Committee. (*Washington Post*, By Jim VandeHei and Shailagh Murray, 02/03/06; *CQ Today*, Alan K. Ota, 02/03/06; *Bureau of National Affairs*, 02/03/06)

- Boehner’s “kitchen cabinet” of political advisors include, Representatives Tom Latham (R-IA), a member of the Agriculture Appropriations Subcommittee; Howard P. “Buck” McKeon (R-CA), a long-time Boehner ally who is now in the prime position to succeed him as chairman of the Education and Workforce Committee; H. James Saxton (R-NJ), a moderate who chairs the Joint Economic Committee; Mike Simpson (R-ID), longtime Boehner friend and member of the Appropriations Committee; and Pat Tiberi (R-OH), a member of the Education and Workforce Committee. (*CQ Today*, 02/03/06)
- Boehner has hired Paula Nowakowski, as Chief of Staff, and David Schnittger, as Deputy Chief of Staff for the Office of the Majority Leader. Most recently, Schnittger was Boehner’s personal office Chief of Staff, and previously served as Communications Director for four years at the Education & the Workforce Committee. Schnittger also served as Press Secretary in Boehner’s congressional office from late 1996 to 2000 and worked as a Field Representative in Boehner’s Butler County (OH) district office from 1994-96. Jo-Marie St. Martin has been named General Counsel for the Majority Leader. Previously, St. Martin was General Counsel at the Education & the Workforce Committee under both Chairman Boehner and Chairman Bill Goodling. Anne Bradbury Thorsen will remain on staff in the Majority Leader office. Thorsen served as Deputy Director of Legislative Operations for former Majority Leader Tom DeLay (R-TX) and previously as Legislative Director for Rep. Charles Boustany (R-LA). Brett Loper, who served as Chief of Staff for former Majority Leader Tom DeLay (R-TX), will serve as an adviser during the Boehner’s transition. (*Office of the Majority Leader Press Release*, 02/03/06)
- Representative Spencer Bachus (R-AL) appears to have pulled ahead of Representative Richard Baker (R-LA) in the race to serve as the next chairman of the House Financial Services Committee. Bachus may benefit from having supported Representative John Boehner (R-OH), who defeated Baker’s choice, Representative Roy Blunt (R-MO), in the race for Majority Leader. (*American Banker*, Damian Paletta, 02/10/06)

## U.S. Senate confirms Ben S. Bernanke as chairman of the Federal Reserve

- On January 31, the Senate confirmed Ben S. Bernanke as chairman of the Federal Reserve on a voice vote. In a low-key debate, Senators praised Bernanke, 52, while others suggested that he will be grappling with an economy that faces many challenges. Senator Paul S. Sarbanes (D-MD), ranking member of the Senate Banking, Housing and Urban Affairs Committee, said “dangerous” budget and trade deficits, as well as the rising wage gap between middle-class and wealthy Americans pose challenges to the U.S. economy. Senator Bryon L. Dorgan (D-ND) attributed part of the blame for these problems to the Federal Reserve’s policies, which have “provid[ed] the green lights to fiscal policies that have driven us into debt.” Bernanke’s credentials were widely praised, with Senator Chuck Schumer (D-NY) commenting, “He’s erudite, he is smart.” (*CQ Today*, Michale R. Crittenden, 01/31/06)
- Paul Muolo writes in *National Mortgage News*, “[Former chairman of the Federal Reserve] Alan Greenspan has been named honorary advisor to U.K. Chancellor of the Exchequer, Gordon Brown. The Chancellor is the title held by the British cabinet minister responsible for all financial matters.” (*National Mortgage News Online*, Paul Muolo, February 4-5, 2006)

## Postal reform legislation passes on by unanimous consent in the Senate

- Over the objections of the USPS, the Senate passed a postal reform bill (S. 662) which would effectively revamp the setting of mail rates and procedures. “It is crucial for the future of the U.S. Postal Service, postal customers, and the economy that postal reform be enacted,” said the bill’s co-authors Senators Susan Collins (R-ME) and Tom Carper (D-DE) Delaware Democrat. “Under its current business model, the Postal Service’s financial future is not viable.” The Postal Service has argued that S. 662 would hinder its efforts to modernize its operations. “The legislation doesn’t grant us any of the authority we need, or power and control to deal with our cost structure,” said Thomas Day, USPS senior vice president for governmental affairs.
- The legislation now goes to conference with the House to work out differences in H.R. 22 and S. 662. The differences between the House and Senate bills, the Postal Service’s opposition, and the concerns of mailers will make the House-Senate conference complicated, said Bob McLean, executive director of the Mailer’s Council. “The conference committee will be very important to solve these differences,” he added.
- In a January 27 letter to Majority Leader Bill Frist (R-TN), Thomas G. Day, USPS Senior VP of Government Relations stated, “The Postal Service has worked continuously, in good faith, to aid the Committee on Homeland Security and

Governmental Affairs in crafting a bill...At each stage, we have supported the legislative process in exchange for assurances that our concerns would be addressed. They were not. In fact, during the process there was marked deterioration in both S. 662 and H.R. 22, the companion bill in the House of Representatives. We have reached the end of our rope.”

- While the Senate bill would eliminate a requirement that the Postal Service pay military retirement benefits for its employees, it also would require the USPS to put money in a Treasury Department fund to prepay retiree health benefits. These prepayments may lead to rate increases of about 18% to 20%, said USPS Chief Financial Officer Richard Strasser. “We would have to generate billions of dollars of prefund to put in the Treasury account,” Strasser said. S. 662 also creates a new Postal Regulatory Commission that Day said would create a “bureaucratic quagmire” which would obscure the roles of the Postal Service board of governors and the regulator.
- Collins and Carper said that postal officials were “misleading” senators and that the public and the bill would force the Postal Service “to be more financially responsible.” Collins and Carper said, “There is nothing in this bill that would lead to rate increases. Without the reforms in our bill, postal rates will skyrocket as the Postal Service is forced to make higher pension payments.”
- According to the Bush administration’s FY 2007 budget, “Postal reform must be accomplished in a responsible manner that is fair to taxpayers, ratepayers, and Postal Service employees. It must be consistent with the principles of best governance practices, transparency, flexibility, accountability, and self-finance...**and not have an adverse impact on the Federal budget.** The Administration supports reforms that: allow the Postal Service pricing flexibility, but within a firm annual Consumer Price Index rate cap and with a strict limit on the circumstances when rates can exceed the cap; [and] require compliance with all Securities and Exchange Commission financial reporting standards...In addition, the 2007 Budget proposes to use the pension savings provided to the Postal Service by the Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108-18) that would otherwise be held in escrow in 2006 and beyond, to put the Postal Service on a path that fully funds its substantial retiree health benefits liabilities.” Industry observers are concerned that the White House will pressure the conference committee to ensure that the bill is “budget neutral,” which will result in dropping provisions involving an escrow account and retirement benefits.” (*DMNews.com*, Melissa Campanelli, 02/10/06; *Bloomberg News*, 02/09/06; [www.budget.gov/budget](http://www.budget.gov/budget), *Correspondence to Majority Leader Bill Frist*, Thomas G. Day, 01/27/06; *CQ Today*, Martin Kady, II, 02/09/06)
- In an open letter to all parties involved in postal reform, Former Deputy PMG John Nolan wrote, “The Postal Service needs reform. Stakeholders [individuals, corporations, associations, unions, suppliers, competitors, etc.] don’t all have the same agenda or definition of reform. Some want a tightly constrained Postal Service. Others are certain this will block the changes necessary to succeed in a fast-changing

business and communications environment. Some will support almost any legislation if it deals with the escrow and military retirement obligation issues. Many publicly support the bills but privately express grave concern. What we need is a 30 to 60 day “time out” to read and analyze the bills so that we are all hearing the same thing at the same time and can work to resolve some of our differences.” (*Postcom.org*, 02/01/06)

## ***Fannie Mae and Freddie Mac***

Bush administration calls on Congress to restrict the size of the GSEs’ portfolios

- The Bush administration called again on Congress to create a new GSE regulator and direct the new agency to cut the GSEs’ \$1.4 trillion investment portfolios. In an analysis accompanying Bush’s budget proposal, the White House said that the lack of financial market discipline facilitates the growth of GSEs’ portfolios, thereby increasing systemic risk to the broader financial system. “Based on the prices paid by ...investors, they act as if there is a legal requirement that the federal government guarantees GSE debt. In fact, there is no such guarantee or federal backing,” according to the “analytical perspectives” section of the budget. “Most of the GSEs either have failed to register their securities or have suspended filing statements, with the Securities and Exchange Commission,” said the budget. “Yet there has been no significant impact on the pricing of GSE debt securities. This lack of market discipline facilitates the growth of GSE asset portfolios, thereby increasing systemic risk. ...Systemic risk is exacerbated because the GSEs are not required to hold cushions of capital comparable to the capital requirements levied on other large financial institutions.”
- The budget countered the GSEs’ arguments that their asset portfolios are needed to maintain a liquid market for their securities and mortgage investments, by arguing that MBS market is robust and liquid with \$250 billion traded daily. The budget said that “although the GSEs could use their funding advantage to help limit a market decline by purchasing MBS, it is not necessary for the GSEs to hold an asset portfolio of such investments prior to the decline to provide this liquidity.” The GSEs also have argued that by issuing debt to purchase their own MBSs, they are attracting foreign investment in the U.S. mortgage market that couldn’t otherwise be gained. The budget argued that a healthy and growing appetite exists among foreign investors for MBSs, as well as a sophisticated marketplace able to transform MBS into the appealing features of debt securities. “In addition, the large amounts of GSE debt may compete to some degree with U.S. Treasury securities, which has the potential to raise the cost of federal borrowing,” said the budget

- The budget concludes that Congress “can ensure that the GSE asset portfolios do not place the U.S. financial system at risk by instructing a new GSE regulator that asset portfolios are a significant source of system risk, and should be limited by the GSE regulator accordingly. A new regulator with appropriate powers would reduce systemic risk by requiring the GSEs over time to dispose of certain assets, leaving only those that provide a specific public benefit, such as a pipeline for mortgage securitization and affordable housing mortgages not suitable for securitization.” [These public benefit assets] characterize only a small percentage of GSE assets, and thus would decrease the size of the asset portfolios and effectively mitigate the systemic risk posted by the GSEs to the U.S. economy.”
- The Bush administration has proposed a \$62 million budget for OFHEO in 2007, representing a 3.3% increase over it last year. (*Reuters*, 02/06/06; *Dow Jones Newswire*, John Connor, 02/06/06; *Market News International*, Denny Gulino, 02/06/06; *Bloomberg News*, James Tyson, 02/06/06)

Financial Services Roundtable says GSE reform is “must pass” legislation
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- GSE regulatory reform legislation is a top priority this year for the Financial Services Roundtable (FSR), a trade group for large financial services firms. “This is must-pass legislation, from our point of view,” John Dalton, president of the Roundtable’s Housing Policy Council. “What we need is a strong, independent regulator for the GSEs.” Differences between the Senate bill, which imposes limits on the GSEs’ portfolios, and the House bill, which contains no such limits, must be ironed out. If Congress can’t reach agreement, Fannie Mae and Freddie Mac would have no limit on the size of their portfolios “and that’s the wrong answer,” said FSR President and Chief Executive Steve Bartlett. GSE shareholders also should benefit from stricter oversight since the current uncertainty regarding GSE regulation may be depressing the GSEs’ stock price, said Bartlett. “We think it’s in everyone’s interest to end the uncertainty,” he added. Bartlett said his group would like Congress to act sooner, rather than later. “GSE reform ought to happen next Tuesday,” he declared, adding “Congress should act before the next thousand shoes tumble out of the closet.” (*Dow Jones Newswires*, Judith Burns, 02/02/06)

Former U.S. Treasurer Marin fears proposed GSE reforms go too far
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- Rosario Marin, the 41<sup>st</sup> treasurer of the U.S. [from August 2001 to June 2003], argues that while better regulatory oversight of the GSEs is long overdue, provisions in the S. 190 go too far and will ultimately make it more difficult, if not impossible, for low-income Americans to buy homes. On January 26, Marin attended a rally in Helena, MT to oppose the legislation. “Three years ago, Fannie Mae and Freddie Mac were less than honorable; I was the treasurer at that time and there were problems. -- It was embarrassing. The government wasn’t doing its job,” said Marin. “So we cleaned the house. The people in charge, the chairman of the corporation and

a number of people at the head of Freddie Mac and Fannie Mae are no longer there. The treasury put in procedures and now the oversight will be stronger. We set new ways, cleaner ways for more accountability.” (*Independent Record*, Helena, MT, Eve Byron, 01/27/06)

<p>Industry groups question Fannie Mae’s construction lending program</p>
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- In a February 10 letter to HUD Secretary Alphonso R. Jackson, FM Policy Focus chairman J.C. Watts, Jr. outlined the group’s concerns about Fannie Mae’s recently-announced \$10 billion construction finance initiative. FM Policy Focus believes that the Fannie Mae venture is not consistent with governing law and asks HUD to require the program’s immediate termination. Specifically, the group believes that the program is not in the public interest because it is unsafe and unsound; it may lead to denial of credit to meet local home-building and home-ownership needs; it could undermine the competitiveness of national commercial real estate markets; and it violates an express provision in the GSEs’ charter and is therefore unlawful. Based upon these reasons, FM Policy Focus requested that HUD quickly “to review Fannie Mae’s construction finance business, make clear its terms and conditions (if any), solicit public comment and quickly determine the degree to which the program is in the public interest and consistent with Fannie Mae’s charter. Watts concludes, “We are confident that, upon your review, you will concur that the program violates the law and is not in the public interest, and will then commence to order its termination.” (Correspondence to HUD Secretary Alphonso R. Jackson, J.C. Watts, Jr., 02/10/06)
- In a February 1 letter to HUD Secretary Alphonso R. Jackson, Regina M. Lowrie, chairman of the Mortgage Bankers Association, questioned whether acquisition, development and construction loans were permissible under Fannie Mae’s charter, and, if so, what restrictions HUD may impose on this activity. Lowrie wrote, “To fully understand the intention, restrictions and goals of this program, our lenders would appreciate the opportunity to learn more about how HUD analyzed, developed and approved this new program.” She concluded, “Importantly, MBA continues to believe that the interests of all parties would be served by a public rulemaking that clearly establishes permissible and impermissible activities for Fannie Mae and Freddie Mac. Such rulemaking would provide an important regulatory framework, and much needed transparency, to ensure that the GSEs use their public benefits for legitimate secondary market purposes. We respectfully request that HUD initiate such a rulemaking.” (Correspondence to HUD Secretary Alphonso R. Jackson, Regina M. Lowrie, Jr., 02/01/06)
- In a February 6 letter to Secretary Jackson, John Dalton, President of the Housing Policy Council of the Financial Services Roundtable, asked HUD to institute a rulemaking process to determine whether Fannie’s proposed expanded AD&C program is within the scope of their charter. Dalton noted that the “Housing Policy Council believes that [Fannie’s] announcement raises significant issues regarding the

process for reviewing new programs and program expenses by the GSEs.” Dalton also requested HUD’s views on “whether the current limitations on HUD’s authority to review the expansion of the ADC program demonstrate the need for the passage of legislation to create a new regulator with clear authority to review GSE program expansions to determine if they meet for soundness and mission-related criteria.” (Correspondence to HUD Secretary Alphonso R. Jackson, John H. Dalton, 02/06/06)

- Anne Canfield, Executive Director of the Consumer Mortgage Coalition (CMC) sent a letter on February 6 to HUD Secretary Jackson which requested that: “(1) HUD withdraw its approval of Fannie Mae’s construction lending activities, and (2) engage in a broad and public rulemaking that clearly establishes what activities in which Fannie Mae and Freddie Mac should or should not be engaged.” Canfield noted that Fannie Mae’s ‘broader entry into this new line of business will simply displace funding by private sector institutions that are not afforded the same government subsidies that allow the GSEs to borrow funds at lower rates than private companies. The result will be that private institutions will be driven from funding this market sector because of Fannie Mae’s government-subsidized entry into it.” Canfield further stated “there is little question that, as a result of their government subsidies, Fannie Mae could initially offer AD&C loans to builders at a slightly lower price than banks, thrifts, or other private lenders, in order to capture market share. Once the GSEs dominate the market, however, there will be little reason for the GSE to continue to flow through much, if any of their subsidies to builders. Furthermore, it is highly unlikely that Fannie Mae’s expanded entry into this line of business will result in *any* financial benefit to homebuyers.” (Correspondence to HUD Secretary Alphonso R. Jackson, Anne C. Canfield, 02/06/06)

Social Security Administration Deputy Commissioner Lockhart frontrunner for Director of OFHEO
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- *Dow Jones Newswires* reports that the White House has narrowed its search for a new Director of OFHEO and is trying to recruit Social Security Administration Deputy Commissioner James B. Lockhart, III for the position. Senate Banking Chairman Richard Shelby (R-AL) said that the White House is closing in on naming a new OFHEO director, which could affect the Congressional debate on GSE regulatory reform legislation, but declined to elaborate further.
- As the No. 2 at SSA, Lockhart serves as the agency’s chief operating officer, secretary on the Social Security Board of Trustees and as a member of the President’s Management Council. He also has extensive experience as a financial regulator as well as on Wall Street, where he served as a director of Smith Barney. If nominated, Lockhart would likely face a smooth transition to the OFHEO and an easy confirmation in the Senate, which approved his nomination for his SSA position in 2002 without controversy. He joined SSA in 2002 from NetRisk, a risk management software and consulting firm he co-founded that serves major financial institutions. From 1989 until 1993, Lockhart served under the previous Bush Administration as

executive director of the Pension Benefit Guaranty Corporation and as director of the Association of Private Pensions and Welfare Plans [now the American Benefits Council] from 1993 until 1995. On a personal level, Lockhart has an edge over other potential candidates, given his friendship with President Bush which dates back to their attendance of Phillips Academy Andover, where they lived in the same dormitory. Lockhart and Bush were also fraternity brothers at Yale before attending Harvard Business School, where Lockhart earned an MBA in 1974, a year ahead of Bush. (*Dow Jones Newswires*, Dawn Kopecki, 01/31/06)

Legislation to overhaul the regulation of credit rating agencies is on the front burner

- House Financial Services chairman Michael Oxley (R-OH) said that a bill to overhaul the regulation of credit rating agencies is slated for action soon. “We’ll be moving forward with that legislation,” said Oxley. Senate Banking Committee chairman Richard Shelby (R-AL) said that he plans to hold a hearing in mid-March on conflicts, competition and transparency among credit rating agencies. Shelby said his committee plans to draft legislation providing regulation of credit rating agencies later this year. (*Reuters*, 02/09/06; *The Bond Buyer*, Lynn Hume, 02/01/06)

The House’s plans for prompt passage of bold new lobbying reform and ethics reform appear to be on hold

- Although his rise to leadership was propelled by recent lobbying scandals, House Majority Leader John Boehner (R-OH) has thrown cold water on hopes that Congress would move quickly to adopt bold new lobbying reform and make changes to ethics rules. In television interviews, Boehner distanced himself from call from House Speaker Dennis Hastert (R-IL) to restrict privately-funded travel for lawmakers and their staff and to curb funding for earmarks for special projects. When asked on the NBC’s *Meet the Press* on February 5, Boehner said, “I’ve got my doubts about [bans on privately funded travel], but that doesn’t mean that [Hastert] and I don’t feel strongly that we’ve got to have a lobby reform bill passed [by] Congress here in the next several months.” He also expressed doubts about proposals to eliminate funding earmarks, but said that the number of earmarks should be reduced and be made more transparent.
- On February 1, the Republican House members held a tense three and a half hour session, in which many members challenged virtually every element of leadership’s lobbying reform proposal. Reform proposals include a blanket ban on privately funded travel, stricter limits on gifts, and an end on gym privileges for lawmakers-turned lobbyists. House Rules Committee Chairman David Dreier (R-CA), who had planned to unveil a draft of a full lobbying reform package on February 1, instead announced that the bill is not ready. Recent events suggest that House Republicans are badly divided over how to respond to the Abramoff scandal, with leaders seeking restrictions between lobbyists and lawmakers, while many members preferring more

disclosure concerning contacts with lobbyists. The House adopted a resolution on February 1 which revoked the floor and gymnasium privileges of former members who are lobbyists, and voted for a second resolution that bars from the gym those members' spouses who are lobbyists.

- A possible delay in the House on lobbying and ethics reform could mean that the Senate will act more quickly on the issue, which has already held hearings on the issue and is expected to mark up legislation the week of February 27. Details of the Senate bill have not been announced. (*Bureau of National Affairs*, Kenneth P. Doyle, 02/07/06; *Washington Post*, Jonathan Weisman, 02/02/06; *CQ Today*, Susan Ferrechio, 02/01/06)
- In the February 5 issue of the *Chicago Sun Times*, Robert Novak wrote, "Rep. Michael Oxley, outgoing chairman of the House Financial Services Committee, shouted in outrage at a closed-door conference of House Republicans last Tuesday [January 31] in protesting a reform barring from the House gymnasium former congressmen who become lobbyists. Oxley, who is not seeking election to a 13th term, is expected to become a lobbyist. He was more restrained on the House floor [on February 1] in speaking against the reform, which also bans lawmakers-turned-lobbyists from the House floor. But he voted against the measure. He resigned as chairman of the gymnasium committee, effective immediately, when the reform passed 379-50. A footnote: Former Majority Leader Tom DeLay surprised colleagues when he voted against the leadership-backed proposal." (*Chicago Sun Times*, Robert Novak, 02/05/06)

#### Hurricane Recovery Notes:

Louisiana Legislature convenes second special session to address hurricane recovery

A real opportunity to get serious about flood protection

Governor Blanco holds a weak hand in demanding a larger share of oil revenues

President Bush's State of the Union Address disappoints Gulf Coast lawmakers

New Orleans "risks extinction"

Hotel payments due to end for many hurricane evacuees

Life goes on at the Mardi Gras

For Governor Barbour, "being governor comes first"

## Louisiana Legislature convenes second special session to address hurricane recovery

- On February 6, Louisiana lawmakers convened its 12-day second special session to address the consolidation of levee boards, the creation of a multi-billion housing assistance program to distribute federal aid, and the consolidation of New Orleans city government in the aftermath of Hurricane Katrina. At the start of the 12-day session, Louisiana Governor Kathleen Blanco asked the federal government and state lawmakers to support her plans for hurricane recovery. Blanco told the joint session, “The harsh reality is that for many people in Washington, Katrina is yesterday’s problem and Rita never happened. ...Over the next 11 days, I am asking you to overhaul problems that have begged for reform for generations.”
- Blanco admonished President Bush for ignoring Louisiana’s requests for financial aid and demanded that the federal government give Louisiana a larger share of oil and gas royalties from offshore drilling or face a roadblock to exploration in the Gulf of Mexico. “If no effort is made to guarantee our fair share of royalties, I have warned the federal government that we will be forced to block the August sale of offshore oil and gas leases,” Blanco said. “It’s time to play hardball, as I believe that’s the only game Washington understands.” In point of fact, the governor has limited administrative ability to stop the leases. Because a governor has never attempted to block such a lease, it is unclear how much weight Blanco’s threat carries. Louisiana receives a small fraction of the annual \$5 billion in federal royalties from offshore leases.
- Subject to approval of the Louisiana Recovery Authority and a legislative budget committee, Blanco proposes to spend \$4.6 billion to help homeowners repair, rebuild, or relocated their homes; \$1 billion to develop affordable housing; \$1.75 billion to repair hospitals, schools, and utilities, and \$350 million toward job growth. Her proposal entails the creation of a Louisiana Housing and Trust Authority, modeled after the federal legislation proposed by Representative Richard Baker (R-LA), to aid with the buyout and redevelopment of properties ravaged by the hurricane.
- Blanco criticized the federally constructed levee system that failed to protect New Orleans and called for a consolidation of levee boards in the New Orleans region. “It is inexcusable that our people – hardworking and patriotic American taxpayers—were asked to entrust their lives and property to a worn and broken system,” said Blanco. “The people of southeast Louisiana want and deserve a single levee board run by professionals devoted exclusively to flood protection.”
- Blanco also called on the Legislature to “right size” New Orleans government, by reducing the number of assessors from seven to one and combining courts, property transfer offices, and civil and sheriffs’ offices. “This is painful for some,” said Blanco. “But life has changed dramatically.”
- Following a seven hour meeting that ended Friday [February 10] at 1:48 a.m., the Louisiana House transportation committee reduced the scope of the governor’s levee

board consolidation plan from an eight-parish region down to pieces of four parishes in the Lake Pontchartrain area. The committee passed its own version of an overhaul of the levee system, which would form separate levee authorities on the east and west banks of New Orleans, and added an enhanced role in levee oversight by the Louisiana Department of Transportation and Development.

- While the governor said she could see her way to a compromise that would create separate boards on the east and west banks, Blanco said she worried that the state would lose a \$12 million federal appropriation for a levee study if the state does not create a “single” levee board in the southeast Louisiana, pursuant to language in a federal defense budget appropriation bill. “I don’t know how to accept a compromise with that federal legislation in place.” Blanco said. “It’s a difficult decision.” (*Times Picayune*, Ed Anderson and Robert Travis Scott, 02/07/06; *Times Picayune*, 02/08/06; *Times Picayune*, Robert Travis Scott, 02/11/06; *Associated Press*, 02/06/06)

#### A real opportunity to get serious about flood protection

- In a February 8 editorial, the *Times Picayune* wrote, “During their first post-Katrina special session last year, Louisiana lawmakers had a chance to show that our devastated state is serious about flood protection. And they blew it. Big-time. In the current session, ...legislators will have a chance to fix their mistake. And the state’s prospects for recovery will brighten if they make the most of it. ...[L]ots of angry citizens made it clear after the [first] session that they don’t want their lawmakers to play politics with levees -- and that they want a flood-protection agency that cares more about keeping people dry than about handing out lucrative contracts to the politically connected. ... Playing one side of the river against the other -- or playing city, suburb and countryside against one another -- is a time-honored way of muddying issues in Southeast Louisiana. But the fate of each part of this metro region is tied to that of every other part of the region. Lawmakers need to remember that -- and take the opportunity to consolidate the area’s small, ineffective levee boards into a single agency that works.” (*Times Picayune*, 02/08/06)
- In a February 11 editorial, the *New York Times* wrote, “Natural disasters leave destruction in their wake, but they can also remove entrenched barriers to change. Hurricane Katrina’s devastation of New Orleans has provided a rare opportunity to dissolve the levee boards, which fragment and decentralize storm protection for southern Louisiana, and replace them with one unified board. Taking action on the levee boards would improve storm protection and send Washington a clear signal that the State Legislature is taking reform seriously. The federal government has been waiting for Louisiana to show that it is doing more than just asking for big sums of money. The more rational and organized the response, the more comfortable Congress will feel about spending more money on higher, stronger walls to protect the city.”

- “Levee boards should first and foremost prepare for hurricanes, not provide patronage jobs. The Orleans Parish levee board has been roundly criticized for its sprawling interests and holdings, which made it more of a real estate developer than a safety watchdog. Perhaps the most egregious example of that is the \$2.5 million the board spent to renovate a fountain before the storms hit.”
- “...Gov. Kathleen Blanco and the Legislature had a chance to reform the system at the special session in November, but the governor backed a weaker oversight measure that failed to pass. That cannot happen again. This time they must overcome rivalries for the greater good. Storms do not pay attention to parish lines, and neither should the system to defend against them. While much of the blame for the failures of the defense system falls at the feet of the Army Corps of Engineers, Louisiana should focus on what it can do to improve organization and accountability on its end.”
- “It is startling how little urgency remains in the nation’s capital to rebuild the Gulf Coast. President Bush barely found time in his State of the Union address to mention the devastation and, more important, put no additional reconstruction funds in his recently released budget for the next fiscal year. As Ms. Blanco told the Legislature on Monday, ‘We had all better put Louisiana politics aside and worry about Washington politics, or our people and our state will lose.’ Congress is more inclined to help those who show they can help themselves. Fixing the levee boards would send that message.” (*New York Times*, 02/11/06)
- In a February 10 editorial, *USA Today* wrote, “Katrina’s victims merit help to restore their lives, and New Orleans needs help in rebuilding. That requires substantial aid from the federal government, which contributed to the disaster when its levees failed. Even so, aid programs that lack accountability to taxpayers or a clear plan for rebuilding would make matters worse. Nor should the federal government usurp local responsibility and control. New Orleans needs a sound state and local rebuilding plan. Neither the City Council nor the state has adopted one. That, not an expensive federal bureaucracy, is the first building block toward putting the ‘devastation tour’ out of business. (*USA Today*, 02/10/06)

#### Governor Blanco holds a weak hand in demanding a larger share of oil revenues

- In *City Business*, Dan Juneau writes, “The problem [with Louisiana’s share of oil revenues] stems back to the Truman administration when offshore drilling was just beginning in earnest. Truman offered Louisiana control of the first three miles beyond the coast and a percentage of oil and gas royalties coming from beyond that. At the time, Leander Perez was the political boss of Plaquemines Parish, and he wielded considerable influence in state government. Allegedly, Perez got the state to hold out for all or nothing, Truman didn’t blink and we got what we now have. (Talk about overplaying a bad hand.) Decades have passed and the federal government has grown quite dependent on the \$6 billion it gets annually from offshore oil and gas activity. Even when Louisiana had more clout in its congressional delegation and

greater access to the president, we were unsuccessful in changing the offshore revenue allocation formula.”

- “Blanco has introduced the element of threat into the game and President Bush and Congress will respond to her gambit. Unfortunately, they probably aren’t trembling. It takes an act of Congress to change the offshore oil and gas royalty and severance allocations, which means Blanco and our congressional delegation will need to secure a majority vote in Congress and President Bush’s signature on any bill that passes. Could that happen? Yes. Is it likely to happen? About as likely as a 2-3 has of beating a pair of aces in an “all in” battle in Texas Hold’em.”
- “The ‘blame game,’ the partisan sniping, and the political posturing that surfaced in the post-Katrina/Rita aftermath have done little to improve Louisiana’s chances of changing the offshore formula, regardless of the merits of our case. One can understand the frustration of the governor in trying to deal with so many needs and so few resources. But frustration often clouds logic. If the governor takes the threat to its culmination and somehow succeeds in stopping future offshore lease sales, whom will she punish? It would only mean that the federal government would have slightly less money to do things, such as providing more disaster relief to areas that need it. At the same time, the loss of employment and economic activity that is driven by those lease sales here at home would come back to directly haunt Louisiana’s recovery efforts.”
- “This is a weak hand, governor. Play it weakly or, best yet, not at all.” (*Louisiana Association of Business and Industry’s City Business*, Dan Juneau, 02/04/06)

#### President Bush’s State of the Union Address disappoints Gulf Coast lawmakers

- To the dismay of Louisiana lawmakers, the President devoted only one paragraph of his January 31<sup>st</sup> State of the Union Address to the ongoing hurricane recovery efforts and provided no specifics on how he would move forward. Bush said, “A hopeful society comes to the aid of fellow citizens in times of suffering and emergency - and stays at it until they are back on their feet. So far the Federal government has committed 85 billion dollars to the people of the Gulf Coast and New Orleans. We are removing debris, repairing highways, and building stronger levees. We are providing business loans and housing assistance. Yet as we meet these immediate needs, we must also address deeper challenges that existed before the storm arrived. In New Orleans and in other places, many of our fellow citizens have felt excluded from the promise of our country. The answer is not only temporary relief, but schools that teach every child ... and job skills that bring upward mobility ... and more opportunities to own a home and start a business. As we recover from a disaster, let us also work for the day when all Americans are protected by justice, equal in hope, and rich in opportunity.” Bush’s remarks did little to allay the concerns and frustrations of lawmakers from the Gulf Coast region. “I was very disappointed at how small a part it was of his speech,” said Senator David Vitter (R-LA). Senator Mary L. Landrieu (D-LA) said that “bragging about throwing money into a tired and

broken agency [FEMA]” was not the answer to the recovery effort. Representative William J. Jefferson (D-LA) said that Bush’s remarks gave the recovery effort “the most cursory treatment you could imagine.” Jefferson added, “It was so lightly touched on for such a dramatic event. I think our people are more bewildered after the speech than before it.” (*State of the Union Address*, President George W. Bush, 01/31/06; *CQ Today*, Joseph J. Schatz, 01/31/06; *CQ Today*, Tim Starks, 02/01/06)

- On February 2, the Bush administration said it will ask Congress for \$18 billion of additional funding for hurricane relief. Donald Powell, the federal coordinator for rebuilding the Gulf Coast, confirmed the administration’s supplemental request, which in aggregate would push total federal commitments for rebuilding to more than \$100 billion. He added that a detailed request for the funds would be submitted to Congress within 10 to 30 days. (*Associated Press*, 02/02/06)

#### New Orleans “risks extinction”

- *According to BBC News*, “Modern day New Orleans was a city that defied the odds. Built on a mosquito-infested swamp squashed between two vast bodies of water in what is essentially a bowl, its very existence seemed proof of the triumph of engineering over nature. But on the 29 August 2005, New Orleans took a hit from Hurricane Katrina and overnight was turned into a Venice from hell.”
- “The delicate flood system in New Orleans, which so many relied on to protect them, was actually, year on year, adding to the risk of a catastrophe in the city, said coastal geologist Shea Penland, from the University of New Orleans, who knew that what had been thought of as wasteland for years was critical to the survival of the city. ‘The first line of defense isn’t the levee in your backyard, the first line of defense is that marsh in your backyard and we’re learning what that means,’ he said. ... ‘What we see, just played out there in the summer 2005 hurricane season, was the consequences of river control, living behind levees, living in a walled city where we have to pump water up hill to get it out. How long can you live in a bowl?’ [asked] Penland. The loss of sediment to build up the land has led to another problem. Much of the city is below sea level and continual pumping has caused the ground to subside. Since 1878 the city has sunk by ...[15ft], one of the highest rates of subsidence in the entire United States. Geologist Professor Harry Roberts has spent the past 20 years watching his city sink. ‘When you pump the water out of those kinds of soils they start to collapse and more importantly the organic material oxidizes and goes away; so you’ve taken out one component of the soil, and all that adds up to subsidence,’ he said.”
- “At the earliest opportunity after Katrina had passed, ...Penland chartered a seaplane to investigate the overnight loss to Louisiana’s precious wetlands. What he discovered sounded like the death knell for the city. In just one night, Louisiana had lost about ...[15 sq miles] of wetlands, three-quarters of its annual loss in 24 hours. ‘If you want New Orleans back you have to do some very fundamental things,’ said Professor Penland. ‘You’re going to have to bring the land back that protects the city

from the ravages of hurricanes. If we don't incorporate that then the city will be faced with extinction.' Local urban planners believe that the survival of the city is dependent on preserving its lowest lying areas, its devastated residential areas, as parkland. Areas like the Lower Ninth Ward built ...[8ft] below sea-level - and where hundreds of people died - may not be part of the city's future. Instead, they could be turned into green spaces, serving both as buffers against future flood waters and as a reminder that nature sometimes should be left alone."

- "Even if some residential areas are not rebuilt, the city will still need hugely increased defenses. According to [Louisiana State University] Professor Van Heerden: 'The [levee] system wasn't even capable of withstanding a Category One hurricane.' To make New Orleans safe to withstand a Category Five hurricane, his proposal is for a vast barrier system stretching from Mississippi all the way to Texas. It could take 20 years to build but Van Heerden believes this is the only way to guarantee the safety of the city's people. Without adequate protection, the future looks dismal for New Orleans." (*BBC News*, Helen Lambourne 02/03/06)

#### Hotel payments due to end for many hurricane evacuees

- Thousands of Hurricane Katrina evacuees how have been staying in hotels at the federal government expense will have to begin paying their own way, unless they are able to arrange with FEMA extensions through February 13 or March 1, depending on circumstances. To date, FEMA has spent \$529 million for evacuees to stay in hotels. (*Dow Jones Newswires*, 02/06/06)

#### Life goes on at the Mardi Gras

- Even Hurricane Katrina couldn't keep Mardi Gras "down," although its presence was felt in the floats and props in the French Quarter's Saturday evening parade, which included elaborately decorated carts with broken levees, cardboard travel trailers and effigies of Mayor Ray Nagin and Governor Kathleen Blanco. One display asked France to buy Louisiana back, suggesting that the state might get better treatment from its forbearers than it has from the U.S. government. (*Associated Press*, 02/12/06)

#### For Governor Barbour, "being governor comes first"

- In response to questions from reporters, Mississippi Governor Haley Barbour (R) said, "There's no way I could run for president [in 2008] and do what I have to do as governor. And, obviously, being governor comes first." When asked about running as vice president in 2008, Barbour responded, "Why would a Republican pick a running mate from Mississippi? If a Republican doesn't carry Mississippi, he won't carry five states." (*Associated Press*, 02/07/06)

President Bush nominates Edward P. Lazear as next chairman  
of the Council of Economic Advisors

- On January 31, President Bush nominated Edward P. Lazear, a Stanford University labor economist, to be the next chairman of the Council of Economic Advisors. Lazear would succeed Ben Bernanke, who now serves as chairman of the Federal Reserve. Lazear is a Jack Steel Parker Professor of Human Resources Management and Economics at Stanford's Graduate School of Business and a senior fellow with the Hoover Institution. He also served on the White House Advisory Panel on Federal Tax Reform. Lazear did his undergraduate work and earned his M.A. at UCLA and received his Ph.D. from Harvard University in 1974. (*Bureau of National Affairs*, Diana I. Gregg, 01/31/06)

Rumors of America's housing bubble are "hot air"

- John C. Weicher, former Assistant Secretary of HUD and Director of the Center for Housing and Financial Markets at Hudson Institute, wrote in *The Financial Times*, "Some economists are watching the transition from Alan Greenspan to Ben Bernanke at the ...Federal Reserve with concern about the impending end of the housing bubble and its impact on the US economy. This is rather odd, because two months ago the consensus seemed to be that the housing bubble had already been pricked. For that matter, since the turn of the millennium, analysts have been debating whether there is or is not a US 'housing bubble.'"
- "The worriers should take heart: reports of the death of the housing bubble are premature. Indeed, reports that there was a bubble at all were premature. Certainly there is evidence that the housing market is at a peak. The best source of information on US house prices is a quarterly index prepared by [OFHEO]... The office calculates that, as of September, US house prices rose at an annual 12 per cent over the past year. This is very rapid by any past experience, but still below the 13.2 per cent of the previous year."
- "...A longer view suggests that the US is seeing a blip in a long-term bull housing market, not a bubble about to be pricked. The OFHEO price index covers the past 30 years, periods of high inflation, low inflation, disinflation, boom and recession. In those 120 quarters, house prices have dropped only eight times, and never for more than one quarter. What seems to be happening is that home sellers are overshooting the market, incorporating a further expected increase in their asking price. Buyers are a little more cautious, quite reasonably. At the current rate, typical American homeowners will see the value of their homes double in six years. That would be nice for them, but the US is not likely to see continuing double-digit house price increases while the inflation rate remains low. Nonetheless, home prices are likely to keep rising." (*Financial Times*, John C. Weicher, 02/08/06)

## Commercial mortgage-backed securities books another solid year in 2005

- *National Real Estate Investor* reports, “Despite a string of powerful hurricanes and growing talk of sloppy underwriting, North American commercial mortgage-backed securities (CMBS) posted another solid year in 2005. Not only did issuance hit a record level at \$169.2 billion in 2005, but the credit of most CMBS pools both started and ended the year on stable ground. Standard & Poor’s ...upgraded 957 CMBS loan pools in 2005, a level of credit upgrades that represented an 88% increase over 2004. There were eight times as many credit upgrades as downgrades in 2005, which lowered downgrade volume by 28% from 2004. In other words, the number of CMBS pools that saw their credit ratings improve vastly outnumbered the volume of CMBS that actually experienced credit rating declines.” (*National Real Estate Investor*, 02/01/05)

## ***Fannie Mae***

### Fannie Mae portfolio grows at annual 21.4% rate in December

- In December, Fannie Mae’s investment portfolio grew at an annualized rate of 21.4%, reversing a 14-month reduction in its portfolio, as the company took advantage of wider spreads early in the month. The portfolio totaled \$727 billion on December 31, 2005, a decrease of 19.6% for the year. “[December] marks an important milestone for Fannie, as portfolio growth as reemerged after the turmoil of the past 15 months,” said Moshe Orenbuch, a Credit Swiss Group analyst. Arthur Frank, the director of MBS research at Nomura Securities International, said, “I think they are in a position ... where, when spreads are wide and attractive, they can grow their portfolio -- and when mortgage spreads are tight and unattractive, they’ll be willing to shrink their portfolio. He added, “I don’t think they’re going to sustain a 21% growth rate. I think it’s just that it was a good month for them to add.”
- Fannie Mae’s duration gap averaged zero months in December, unchanged from November. The company’s conventional single-family delinquency rate (90 days or more delinquent) rose 13 basis points in November to 0.77%, largely due to a rise in delinquencies for loans secured by Gulf Coast properties.
- In the December Monthly Volume Summary, Fannie Mae also notified investors that it is “is revising its definition of net retained commitments and correcting an error in the company’s previously reported net retained commitments for 2005,” underscoring the hurdles the company continues to face in its restatement efforts. The revision resulted in an aggregate decrease of \$7.5 billion in previously reported net retained commitments for 2005, a measure which gives investors a sense of how much loan production Fannie Mae has in its pipeline. Although the revision will not impact the company’s financial statements, Banc of America Securities LLC analyst Robert

Lacoursiere said, the accounting “should have been such a simple item to get right.” He called the disclosure “yet another reminder that further negative surprises are likely and they could have meaningful financial statement impact.” (*Monthly Volume Summary*, Fannie Mae, December 2005; *Dow Jones Newswires*, Daniel Reed, 01/31/06; *Washington Post*, Annys Shin, 02/01/06; *American Banker*, Matthew Quinn, 01/31/06)

It's *good* to be the king [of the NYSE]

- On January 31, Rich Duprey wrote at *The Motley Fool*, “Despite being delinquent on filing its annual financial statement with the [SEC] for almost a year, ...Fannie Mae ...reported that it will not be delisted from the New York Stock Exchange -- at least, not yet. In the immortal words of Mel Brooks, ‘It’s good to be the king.’ Fannie Mae is the undisputed ruler of all mortgage finance companies. Fannie and its smaller contender Freddie Mac ...either own or guarantee repayment for virtually half of the \$7.6 trillion mortgages issued in the country. Fannie and Freddie are too big to fail; the repercussions on the housing market would be severe, perhaps taking down a number of financial institutions as well. That might very well create a spiral effect on the rest of the economy. ...If Fannie or Freddie go under, they might plunge the overall economy into a recession, or worse.”
- “Would that lead to a massive taxpayer-financed bailout of Fannie and Freddie, like the savings and loan industry received in the 1980s? Perhaps not; the mortgages are not backed by the federal government, but Fannie and Freddie’s congressional charters would suggest they are entitled to at least some protection. And the regulators will do all that’s in their power to prevent such a collapse, including extending extraordinary leeway in submitting Fannie Mae’s financial statements. [On January 27,] the SEC approved a rule change submitted by the NYSE -- over the objections of the Nasdaq exchange -- that gives late filers like Fannie Mae a reprieve from being delisted. Previously, companies went on watch if they were more than nine months late from their filing due date. Now the exchange has flexibility in deciding whether companies more than a year late will be delisted. Whether they use those extraordinary powers with anyone other than Fannie Mae remains to be seen.
- “...While being too big to fail or file is something of a reprieve for Fannie Mae shareholders like me, it does not relieve the sensation that perhaps some of us got in still too early on this troubled giant. Getting its financial house in order forthwith will ensure that the embattled king is not overthrown.” (*The Motley Fool*, Rich Duprey, 01/31/06)

Fannie Mae’s multifamily financing up 20% in 2005

- In 2005, Fannie Mae’s multifamily financing increased 20% to \$25.6 billion, the second-highest level ever, while the company’s multifamily assets increased 3.4% to

more than \$124 billion. The amount of multifamily financing delivered by lenders in Fannie Mae's Delegated Underwriting and Servicing (DUS) program increased 17% to \$19 billion, while the amount of loans made under the DUS program rose 22% to \$15.8 billion. More than 90% of the units financed by Fannie Mae in 2005 were affordable to families at or below the median income of their communities. Approximately 59% of the financed units were reserved for families with low or very low income, up from 54% in 2004. Nearly 62% of all the multifamily loans Fannie financed were in underserved areas, versus 54% in 2004. (*American Banker*, Matthew Quinn, 02/07/06)

Prudential Financial initiates coverage of FNM with "neutral weighting"

- Prudential Financial analyst Matthew Park initiated coverage of Fannie Mae with a "neutral weight" rating with a target price of \$65. In a research note, Park said that he expects the housing GSE industry fundamentals to improve in 2006 and projects Fannie Mae's retained portfolio to increase by 7% and 10% in 2006 and 2007, respectively. Prudential Financial expects Fannie Mae's core diluted EPS to grow 1% and 15% in 2006 and 2007, respectively, reflecting a substantial decline in operating expenses associated with the company's financial restatement.

## ***Freddie Mac***

Freddie Mac COO sees continued growth in private label mortgage market in 2006

- In a February 1 speech at Citigroup Financial Services Conference, Freddie Mac president and COO said, "...We continue to see attractive growth opportunities in non-agency mortgage securities. The private-label security market has grown quite a bit, with a high percentage of sub-prime mortgage securities, and we generated most of our retained portfolio growth last year in this sector. The securities we hold are composed of single-family mortgages, and are triple-A rated. Because these securities typically have a floating rate of interest, we can fund them using shorter-term debt at relatively favorable spreads, without having to incur the same hedging costs as are needed for fixed-rate securities. Given the richening we've experienced in our funding levels, and the continued, low credit risk environment, we believe we can continue to invest at attractive OAS levels, and achieve solid fair value returns in this asset class. This investment should contribute to continued growth throughout 2006." McQuade credited the bulk of Freddie Mac's growth in its investment portfolio in 2005, which grew 8.7% to \$710 billion on December 31, to private label mortgage-backed securities.

- Freddie Mac will maintain its opportunistic business strategy of purchasing mortgages when spreads widen, which will result in “lumpy” growth in the future, said McQuade. “While this isn’t ideal in terms of predictability, I think you will all agree that lumpy asset growth at attractive ROEs is far superior to smooth asset growth at value-destructive ROEs.” The company plans to broaden its’ capability to securitize any kind of loan which it’s lenders originate, including non-traditional [non-conforming] mortgage products, said McQuade, labeling this strategy as “touch[ing] more loans.” He added, “This is a far-reaching goal, but one that should help us to purchase more goal-rich products, diversify our list of top customers, and increase volumes with customers of all sizes. By taking these steps, we feel that we will be able to sustain and grow our total market share over the long term regardless of the underlying origination mix, all while maintaining our traditional focus on disciplined guarantee pricing and credit risk management.”
- On the GSE regulatory reform front, McQuade said his company continues to support legislation that would strengthen regulatory reform such as that passed by the House in October. He added, “As our CEO Dick Syron has emphasized on a number of occasions ...sacrificing our ability to purchase mortgages and issue debt will not reduce systemic risk. But it will reduce our ability to act as a source of stability for housing and the broader economy. And as for that, I think our work in the aftermath of the hurricanes demonstrates our value very clearly.” (*Prepared Remarks of Gene McQuade, President and COO of Freddie Mac, 01/01/06; Dow Jones Newswires, Dawn Kopecki, 02/02/06*)

Freddie Mac names Robert Bostrom as general counsel
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- Freddie Mac has named Robert Bostrom executive vice president and general counsel, effective February 1. As principal legal counsel to the GSE, Bostrom will report directly to Freddie Mac chairman and CEO Richard F. Syron and be a member of the executive leadership team. Bostrom, whose legal career spans more than 25 years, was formerly a managing partner of the New York office of Winston & Strawn LLP, who headed its financial institutions practice and served as a member of the firm’s executive committee. From 1992 to 1996, he served as executive vice president of legal, regulatory and compliance and general counsel of National Westminster Bancorp. (*PR Newswire, 01/02/06*)

Freddie Mac is more upbeat on its ROA
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- Patricia Cook, Freddie Mac’s executive vice president of investments and capital markets, said the company’s guidance on its “long-term expectation” for returns in the “low- to mid-teens” on the average fair value of net assets attributable to common shareholders, before capital transactions, was too low. The August forecast had incorporated the tight mortgage-to-debt spreads, which have since widened, as well as the company’s excess capital, said Cook. She did not give a new range for return on

assets, in her comments during a question-and-answer session at a conference sponsored by Credit Suisse Group. (*American Banker*, Jody Shenn, 02/09/06)

- Cook also told investors that there is nothing “in our charter” that says Freddie Mac cannot purchase and securitize subprime loans, according to *National Mortgage News Online*. Freddie Mac could securitize subprime mortgages without “necessarily” increasing the company’s credit risk, she said. “The key is to be able to buy the mortgages and decide how much of that credit risk we want to retain and how much we want to sell.” According to a company spokeswoman, Freddie Mac has “no immediate plans” to roll out a subprime program. (*National Mortgage News Online*, February 11-12, 2006)

Freddie Mac has become more dependent on Asian investors as funding source

- Freddie Mac has become increasing more dependent on financing from Asian investors, which purchased up to 60% of the company’s new securities sold last year, as they diversified their portfolios in favor of agency debt. “Asia is a key component of Freddie Mac’s funding strategy,” said senior vice president and treasurer Timothy Bitsberger, who noted that 40% of his firm’s global debt issuance was placed in the region. (*Bloomberg News*, Chris Cooper, Al Yoon, 02/08/06; *Dow Jones Chinese Financial Wire*, Miyako Takebe, 02/08/06)

Freddie Mac’s multifamily business increases 10% in 2005

- In 2005, Freddie Mac closed a record \$26.2 billion in new multifamily business transactions, a 10% percent increase over its volume in 2004. This volume includes approximately \$2 billion in targeted affordable housing products, which finance apartments that receive some form of government subsidy. In aggregate, Freddie Mac’s multifamily transactions financed approximately 436,000 apartment homes affordable to families earning low or moderate incomes. (*Freddie Mac Press Release*, 02/06/06)

Freddie Mac’s Barkley re-elected to chair MISMO

- David Barkley, Director of eCommerce Relations in Freddie Mac’s Mortgage Services Division, has been re-elected to chair the Governance Committee of the Mortgage Industry Standards Maintenance Organization (MISMO). Adam Hall of IndyMac Bank and Lisa Bolelli of First American Real Estate Information Services have been re-elected vice-chairs of MISMO. (*National Mortgage News Online*, 02/03/06)

Freddie Mac asks, “What’s out there that we can buy right now?”

- In his keynote address at the 9<sup>th</sup> Annual Mortgage Technology Conference, Ed Albrigo, vice president in charge of Freddie Mac’s enterprise planning office, said his company is prepared to purchase out-of-the box technology solutions that minimize the needed customization. Like lenders, Freddie needs to come quickly to market with new products in a market governed by fierce competition, consolidation and regulatory compliance pressures. Which lead Albrigo to ask his audience, “What’s out there that we can buy right now???” (*National Mortgage News Online*, 02/06/06)

Freddie Mac renews its alliance agreement with America’s Community Bankers

- Freddie Mac and America’s Community Bankers have agreed to renew their alliance agreement through 2009, which helps ACB members to compete for borrowers in an increasingly competitive mortgage market. The alliance provides member institutions with a suite of benefits including secondary marketing programs, customized training, preferential access to third-party vendors and Freddie Mac’s proprietary mortgage technology and mortgage products such as Home Possible™ mortgage suite for low- and moderate-income borrowers. (*Freddie Mac Press Release*, 02/06/06)

Freddie Mac extends disaster relief policies to fire-damaged homes  
in Oklahoma and Texas

- Freddie Mac has extended its standard disaster relief politics to borrowers with fire-damaged homes in parts of Oklahoma and Texas, which have been designated a disaster area due to recent wildfires. (*Freddie Mac Press Release*, 02/08/06)

Freddie Mac Foundation awards \$14 million in grants during second half of 2005

- During the second half of 2005, the Freddie Mac Foundation approved 142 grants totaling more than \$14 million, which included more than \$4 million to organizations helping victims of Hurricane Katrina. Aggregate awards for 2005 was nearly \$23 million, which were targeted to organizations that work to strengthen and stabilize families by preventing child abuse and neglect, finding adoptive homes for foster children, and helping youth reach their full potential. As one of the largest corporate funders in the metropolitan Washington DC area, Freddie Mac and the Freddie Mac Foundation have invested nearly \$250 million in organizations serving the community. (*Freddie Mac Foundation Press Release*, 01/30/06)

## ***Federal Home Loan Banks***

### **FHLB-Cincinnati completes its registration with the SEC**

- The FHLB-Cincinnati became effectively registered with the Securities and Exchange Commission on Friday, February 3. As a result, the FHLB will file quarterly and annual financial reports with the SEC, as well as periodic reports as business dictates. (FHLB-Cincinnati Press Release,

### **FHLB-Pittsburgh names Kristina K. Williams as CFO**

- The FHLB-Pittsburgh has named Kristina K. Williams as chief financial officer, effective February 1, 2006. Williams will succeed Eric J. Marx, who has announced his intent to resign from the Bank but will stay on through March 31. Most recently, Williams was the FHLB-Pittsburgh's chief of accounting officer. Previously, she was employed by PNC Bank for 12 years, where she served as CFO of the Bank's Corporate and Institutional Banking business segment. In addition, the Bank has also promoted Robert J. Snyder from financial controls manager to controller.

## ***Ginnie Mae***

### **Bush administration's budget proposes increase in Ginnie Mae's guarantee fees**

- In the 2007 budget proposal, the Bush administration recommended that Ginnie Mae guarantee fees be increased to cover \$43 million in administrative expenses, according to budget documents. Issuers of Ginnie mortgage-backed securities currently pay a 6-basis-point guarantee fee. If the administration's proposal is adopted, guarantee fees would have to effectively double to 12 bps to cover the agency's administration fees. (*National Mortgage News Online*, 02/06/06)

## ***International Mortgage Markets***

### **Lehman Brothers expands its mortgage securitization business in Europe and Asia**

- Lehman Brothers is expanding its mammoth asset-backed securities business into new markets in Europe and Asia, said Lehman Chief Administrative Officer David Goldfarb. "We see tremendous growth in our securitization business," he said, citing

increasing volumes of mortgages outside the United States “and other asset classes that can be put into our securitization machine.” In addition to company’s two residential mortgage-origination platforms in the U.K. and one in the Netherlands, Lehman will add mortgage ventures in Korea and Japan, he said. “We’re expanding our securitization machine to Europe and Asia,” said Goldfarb. From 2001 through 2005, the company’s fixed-income revenue more than tripled to \$7.33 billion, with 66%, or \$3.4 billion, coming from securitizations, real estate and structured finance he added. (*Reuters*, Joe Giannone, 01/31/06)

- With China poised to open its financial markets to foreign competition in 2006 pursuant to its WTO agreement, the potential for the creation of an asset-backed securities market is enormous with the financial assets owned by Chinese banks’ totaling \$3.8 trillion as of July 31, 2005. (*Euromoney Institutional Investor*, Jian Wang, 01/01/06)

## ***The Privatized GSE -- Sallie Mae***

Congress passes bill cutting \$12.7 billion from student loan financing

- The House of Representatives cut \$12.7 billion from student loan financing, as part of a broader deficit reduction package passed on February 1. Most of the cuts came from federally-guaranteed student loan programs. The bill also included provisions allowing students to borrow \$1,000 more than previously allowed and made first- and second-year undergraduates eligible for new grants. The bill was signed President Bush. (*Marketwatch*, Robert Schroeder, 01/01/06)

Sallie Mae names C.E. Andrews as CFO

- On February 2, Sallie Mae named C.E. Andrews as its CFO on a permanent basis, effective immediately. Andrews, who joined the company in 2003 as executive vice president, accounting and risk management, has had interim responsibility for the company’s corporate finance function since June 2005, when the company fired its CFO and demoted a manager in debt collection for inflating revenue to collect higher bonuses. (*PRNewswire-First Call*, 02/02/06; *Reuters*, 02/02/06)

## ***Postal Service***

### First Class Mail's downward spiral continues

- According to *Postalnews blog*, “First class mail volume was down by just under a billion pieces from the prior year in the quarter ending December 31, according to volume numbers released by the US Postal Service... The 3.8% decline in first class volume was only partially offset by a slight (0.5%) increase in standard volume. In terms of dollars, first class was down \$415 million, while the standard increase was just \$30 million. There was continued growth in both Express Mail (up 5.7%) and Priority (up 4.1%), but the additional revenue from the two classes combined came to just \$75 million more than the prior year. The decline in volume wasn't a total surprise- a year ago there was a sharp spike in mail volume attributed by USPS CFO Dick Strasser to ‘the quadrennial impact of election mailings, increased activity in marketing financial services and credit cards.’ An additional concern for the postal service was a 0.7% decline in Total Factor Productivity.” (*Postcom.org*, 02/10/06)
- America Online and Yahoo will soon start giving companies the option to pay for guaranteed delivery of e-mails to the inboxes of their subscribers. E-mails sent through the new service will bear a seal certifying that they are legitimate. Companies which use the service will pay a penny or less per piece to send. AOL plans to launch the service in the next two months, while Yahoo has not announced its launch date yet. (*Washington Post*, Mike Musgrove, 02/05/06)

### Local mail delivery slowly improving along the Gulf Coast

- The *Times Picayune* reports that five months after Hurricane Katrina struck the Gulf Coast, mail delivery is slowly improving in the region—but the Postal Service is still in “rehab.” The Biloxi Times reports that after the Postal Service lost nine post offices to the hurricane, it is closely monitoring the rebuilding and repopulation of the Gulf Coast to determine when and where to locate post offices to best serve the area. “We are trying to identify where recovery and growth are returning,” said Doug Kyle, the USPS manager of consumer affairs for the USPS’ Mississippi district office. “Some areas are coming back but in some, nothing is happening.” (*PostalWatch.com*, 02/01/06; *PostalWatch.com*, 02/05/06)

### The USPS goes “green”?

- According to *PRNewswire*: “Long committed to being an environmental leader, the U.S. Postal Service at a ceremony today in San Francisco celebrated the completion of two hybrid alternative power plants that are expected to cut in half -- along with other major energy efficiency measures -- power purchases and heating needs at two

of the Postal Service's largest facilities in California. The new power plants at the San Francisco Processing & Distribution Center combine two solar technologies and hydrogen-fuel-cell generation, and energy efficiency retrofits at both sites that will help achieve significant energy savings." (*Postcom.org*, 02/10/06)

#### Only at the USPS

- In the February 2 edition of the *Lake Worth Herald Press*, Leonard Saffir wrote, "The United States Postal Service likes to brag about its swift mail delivery performance but when it comes to legal and administrative matters, its record sometimes is as slow as a tortoise. A case in point is the postal service's handling of a Freedom of Information (FOI) request made in 2001 by *The Lake Worth Herald* and finally responded to last week after more than four years. The request was for post office records dealing with rules and regulations in the handling of bomb threats and terrorism for use in a series of investigative articles *The Herald* and its *Observer* newspapers were publishing at the time.
- Acting like it was business as usual, M.R. Baxter, of the United States Postal Inspection Service, wrote *Herald* editor Patrick Parrish on January 20, 2006, "This is in reference to your letter dated December 27, 2001, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service." Baxter never explained why it took over four years and why her better now than never decision to respond to *The Herald*. Baxter said in her letter she was enclosing 44 pages of information. Actually her letter contained only 25 pages. Much of it was redacted."
- "Over a lifetime editing daily and weekly newspapers, I have never experienced anything as ludicrous as this," Parrish said. "Has Ms Baxter been sleeping all these years, and, why now, did she come to the realization the post office was behind in its correspondence? Even then she couldn't get it right. In fact, why any of the post office's activities are kept private in the first place is beyond my imaginings." (*Lake Worth Herald Press*, Leonard Saffir, 02/02/06)

#### The Department of Defense moves forward with plan to privatize its mail service

- In what could be one of the government's biggest privatization projects in many years, the Defense Department is moving forward with a plan to outsource its billion-dollar-plus mail operation in an effort to save money, improve mail service and free up badly needed troops for war-fighting. In 2004, Secretary of Defense Donald Rumsfeld asked the Defense Business Board study the privatization of the Defense Department's mail service. In December, the Board's study found that outsourcing the mail service would free up the work performed by 352 civilian employees, 4,470 military personnel and 363 contractors who now handle the military's mail. By industry estimates, the Defense Department could save much as 25% of its \$1.8

billion mail service budget through privatization. The *Federal Times* reports that Pentagon officials have drafted an internal memo to move forward with the privatization plan which is under review, according to one industry source.

- Pitney Bowes and FedEx told *Federal Times* that they would be interested in competing for the Defense business. The Postal Service, which already handles portions of military mail delivery, declined to discuss how a privatized military mail operation would affect it or whether the USPS would be interested in bidding on the Defense Department's business. Neal Denton, the former executive director of the Alliance for Nonprofit Mailers in Washington, said the Postal Service would probably be capable of assuming military mail services. "If there is anything the Postal Service is especially good at, it is building a delivery network that is capable of delivering the mail anywhere, and I see no reason why they could not extend their network worldwide," said Denton.
- But Denton and other postal experts agreed the Postal Service likely could not compete with the private sector for the Defense Department's business even if it were interested. "This probably would not be an opportunity for [the USPS] because they wouldn't be able to compete with private-sector companies from a cost standpoint," said Robert McLean, executive director of the Mailers Council. "Private-sector companies that operate mail rooms usually do so at wage levels far less than what the Postal Service pays, and the Postal Service would not be able to match that," said McLean. Gene Del Polito, head of the Association for Postal Commerce, said, "There is no way in hell the Postal Service is going to get this business because they can't be competitive. There is no way it will cost less, even compared to using military personnel," said Del Polito. If there is any effect on the Postal Service from privatizing military mail delivery, it would likely be the "negative one" of establishing a privatizing precedent, he added. "If you open up military mail to competition, then it would be irrational to keep other parts of the mail system the exclusive preserve of the Postal Service. If cost is the major concern, then the Postal Service should be privatized," said Del Polito. (*Federal Times*, Karen Jowers, 01/30/06)

## TVA

### Senate Committee confirms six nominees to TVA board of directors

- The U.S. Senate Environment and Public Works Committee confirmed the nominations of Susan Richardson Williams of Tennessee, William B. Sansom of Tennessee, Dennis Bottorff of Tennessee, Howard A. Thrailkill of Alabama, Robert M. Duncan of Kentucky and Donald DePriest of Mississippi to TVA's board of directors. The nominations will now be sent to the full Senate for a vote. Senate Majority Leader Bill Frist (R-TN) said, "These highly qualified nominees possess the strong business skills and management expertise necessary to lead TVA into the 21st century. They have accomplished records of leadership in the business world and in their communities. Each understands the importance of TVA to the people of the Valley, and I am confident they will serve with distinction." (*News Channel 9*, Chattanooga, TN, Richard Simms, 02/08/06)
- Senate Majority Leader Bill Frist (R-TN) said he expects the revamped TVA board to be confirmed despite opposition from Senator Johnny Isakson (R-GA), who has threatened to block the board confirmation because none of the nominees are from Georgia. Frist is confident that Isakson has been reassured the board will have fair representation because its makeup will constantly change as terms expire and board members are replaced. (*Associated Press*, 02/12/06)

### TVA seeks new midyear rate hike to offset higher fuel costs

- For the first time in 25 years, TVA will seek a midyear rate increase to offset fuel costs, although no date or amount has been set yet, said TVA spokesman John Moulton. The agency's rate increase discussion comes less than four months after a 7.5% hike took effect on October 1, which raised residential customers' bills about \$3.5 to \$6.50 a month. TVA said the cost of gas, coal and purchased power is raising nearly twice as much as the additional \$403 million that the utility budgeted for fuel price increases last summer. (*Associated Press*, Bill Poovey, 01/31/06; *The Times-Journal* [Mobile, AL], Mark Harrison, 02/01/06)

### TVA proposes to reduce its debt by \$7.8 billion over the next decade

- According to the Bush administration's FY2007 budget proposal, TVA plans reduce its long-term debt by \$7.8 billion over the next decade, up from a \$5.6 billion debt reduction projection in last year's budget. TVA officials said the agency's proposed debt reduction would "position the TVA for a more competitive market and achieve a more sound business risk profile." According to TVA spokesman John Moulton, the plan assumes "that we would recover our fuel and purchase power costs through

revenues and we would hold our other operating and maintenance costs 0.5% below inflation.” (*Associated Press*, Duncan Mansfield, 02/07/06)

North Carolina sues to force TVA to reduce its emissions from 11 power plants

- On January 30, North Carolina Attorney General Roy Cooper filed a federal lawsuit against TVA to force the utility to reduce emissions from its coal-fired power plants. According to Cooper’s lawsuit filed in the U.S. District Court for the Western District of North Carolina in Asheville, N.C., the sulfur dioxide, nitrogen oxides and mercury emissions from TVA’s power plants pollute the air in North Carolina, causing more than 15,000 illnesses and hundreds of emergency room visits and deaths in the state. The complaint also alleges that TVA’s pollution hurts the state’s economy and its environment by damaging forests, lakes and streams. The suit asks the court to declare the emissions for 11 TVA plants in Tennessee, Alabama and Kentucky a public nuisance and seeks a court order for “reasonable and appropriate” steps to reduce the pollution.
- Attorneys not involved in the case say the action is very unusual and note that public nuisance claims are harder to win, when the defendant can argue that it complies with permits that allow the alleged harm. Predictably, industry groups, such as the Electric Reliability Coordinating Council, called the suit “essentially a waste of resources,” while environmental groups such as the Environmental Defense and Southern Environmental Law Center applauded Cooper’s action, noting that “cleaning up TVA smokestacks would not only be good for North Carolina, but for all people across the Southeast.” (*Waste News*, 01/31/06; *Charlotte Observer*, Bruce Henderson, 01/31/06)

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