

July 26, 2007

Member of Congress
United States House of Representatives
Washington, D.C. 20515

Dear Representative:

The undersigned trade associations are writing to express their strong concern in regard to the deep reduction in funding for the Department of Justice's Executive Office for U.S. Trustees (EOUST) proposed in the House Commerce, Justice and Science appropriations bill, HR 3093. That bill would provide only \$189 million for EOUST operations in FY 2008, a reduction of \$34.2 million from FY 2007 funding levels and of \$42.9 million from the Administration's \$231.9 million request.

The EOUST is unique in that it has both law enforcement functions as well as significant responsibilities for the day-to-day administration of the bankruptcy court system. Created when the new Bankruptcy Code was enacted in 1978, EOUST is the component of the Department of Justice that seeks to promote the efficiency and protect the integrity of the Federal bankruptcy system. To further the public interest in the just, speedy and economical resolution of cases filed under the Bankruptcy Code, the EOUST monitors the conduct of bankruptcy parties and private estate trustees, oversees related administrative functions, and acts to ensure compliance with applicable laws and procedures. It also identifies and helps investigate bankruptcy fraud and abuse in coordination with United States Attorneys, the Federal Bureau of Investigation, and other law enforcement agencies. A cutback in funding for EOUST operations of the magnitude contemplated by the House will likely result in a significant slowdown in bankruptcy cases, resulting in delay and additional costs for all parties of interest, and an increase in undetected bankruptcy fraud.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) established additional duties for EOUST, including:

- implementing the new "means test" to determine whether a debtor is eligible for Chapter 7 (liquidation) or must file under Chapter 13 (wage-earner repayment plan);
- supervising random audits and targeted audits to determine whether a chapter 7 debtor's bankruptcy documents are accurate;
- certifying entities to provide the credit counseling that an individual must receive before filing bankruptcy;
- certifying entities to provide the financial education that an individual must receive before discharging debts; and

- conducting enhanced oversight in small business chapter 11 reorganization cases.

The cutback in funding contained in the House bill will make it extremely difficult for EOUST to fully comply with these new responsibilities, resulting in reduced protection for debtors and increased costs and delays in small business bankruptcies.

The only justification provided in the Report on H.R. 3093 (House Report 110-240) is that the EOUST is expending “excessive resources” in carrying out its expanded responsibilities. We know of no hearing record in the Judiciary or Appropriations Committee to justify that contention and, in any event, it can hardly be the basis of a funding cut of almost twenty percent. Ironically, one of the principal victims of this proposed cut will be those above median income individual debtors who are initially identified by the means test as committing abuse by filing bankruptcy under a Chapter 7 liquidation. The EOUST has just testified that, upon its subsequent investigation of these debtors’ full economic circumstances, it does not seek to have 22 percent of such cases dismissed or converted to a Chapter 13 repayment plan - but it is unlikely to have adequate resources to conduct such follow-up investigations if the House funding level is enacted.

We urge you to support the full funding for EOUST requested by the Administration in order to assure the continued efficient functioning of a bankruptcy court system in which fraud and abuse are kept to a minimum.

Thank you for considering our views in this matter.

Sincerely,

American Bankers Association
America’s Community Bankers
American Financial Services Association
The Financial Services Roundtable
Independent Community Bankers of America
Mortgage Bankers Association