

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
Subcommittee on Railroads

“Investment in the Rail Industry”

March 3, 2008 - 11:00 a.m.
Room 2167, Rayburn House Office Building

Opening Statement of Congressman Elijah E. Cummings

Madam Chairwoman:

Thank you for calling today’s hearing to consider the increasing investments being made by hedge funds in U.S. railroads.

Our nation’s railroads have recently been enjoying stronger financial health than they have experienced in decades. The growing interest in

the railroads shown by major Wall Street investors is, in fact, a testament to that success.

However, because railroads are such a critical part of our nation's transportation infrastructure, and because they carry a wide variety of cargoes – including hazardous cargoes – through our nation's communities, it is imperative that investments in railroads be closely scrutinized to ensure that they are in the best interests of the railroads, the safety of our communities, and the transportation needs of our nation.

Such scrutiny is exceedingly important when the investments are being made by entities like hedge funds that are not subject to the same strict regulatory oversight that other types of investors face from the federal government.

Of particular concern to me – and I know to Chairwoman Brown – is the apparent effort by the Children’s Investment Fund, a hedge fund registered in the Cayman Islands, to gain substantial management control over the CSX railroad corporation for the purpose of making quick returns on stock transactions.

While I certainly have questions about some of CSX's business practices, I am, like many of my colleagues, deeply troubled by the possibility of foreign entities owning – or owning significant stakes in – major pieces of U.S. transportation infrastructure passing through the heart of our nation's communities.

In this case, the Children's Investment Fund is known for employing aggressive tactics to maximize shareholder value – even to the detriment of the growth and success of the underlying business concern.

The fund appears now to be attempting to employ these tactics with CSX. For example, the fund has suggested that in order to yield short-term stock gains, CSX should freeze capital investments, or should conduct stock-related transactions that could leave the company with a credit rating at the “junk bond” status.

In 2001, my district lived through the terrible Howard Street Tunnel Fire, which was caused when a CSX train carrying a flammable hazardous material derailed in the tunnel and

ignited. The resulting fire burned for days and clean-up after the accident cost some \$12 million.

More recently, during this past fall, CSX experienced small but disturbingly frequent train derailments in Baltimore.

Like any railroad, CSX Corporation must have as its top priority ensuring the safety and security of the communities through which it carries cargo.

Decreased capital investments and declines in corporate creditworthiness will not enable CSX to fulfill this duty. And any entity – and particularly a foreign entity – that proposes to increase stockholder value at the potential risk of the safety and security of my constituents will face my opposition.

Similarly, I note that though the railroads have made significant economic gains in recent years, any return to the former habits of under-investing in the railroads will immediately threaten these hard-won gains.

Today's hearing will give us an opportunity to hear from parties involved in operating and regulating railroads – including CSX corporation, the Federal Railroad Administration, and the Surface Transportation Board – regarding the potential impact that hedge fund investments may have in our nation's railroads.

I look forward to hearing this testimony and to assessing under the leadership of our Chair, Congresswoman Brown, whether Congressional action is needed to protect our nation's railroads

from potentially unscrupulous investment
practices.

Thank you and I yield back.