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HOLDING BANKS ACCOUNTABLE: ARE TREASURY AND BANKS DOING ENOUGH TO HELP FAMILIES SAVE THEIR HOMES?

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

SPECIAL HEARING

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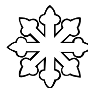

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HOLDING BANKS ACCOUNTABLE: ARE TREASURY AND BANKS DOING ENOUGH TO HELP FAMILIES SAVE THEIR HOMES?

THURSDAY, APRIL 29, 2010

U.S. SENATE,
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:30 p.m., in room SD–192, Dirksen Senate Office Building, Hon. Richard J. Durbin (chairman) presiding.

Present: Senators Durbin, Alexander, and Collins.

OPENING STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Good afternoon. I'm pleased to convene this hearing before the Senate Appropriations Subcommittee on Financial Services and General Government. Our focus today is on the Department of the Treasury and its programs designed to prevent mortgage foreclosure.

I welcome my distinguished ranking member, Senator Susan Collins, of Maine, and other colleagues who will join us during the course of this hearing.

I welcome our witnesses: first, the Secretary of the Treasury, Tim Geithner—thank you very much for being here; Kevin Puvalowski, from the Office of the Special Inspector General for the Troubled Asset Relief Program (TARP); Richard Neiman, from the Congressional Oversight Panel; and Katie Van Tiem, from the Neighborhood Housing Services of Chicago.

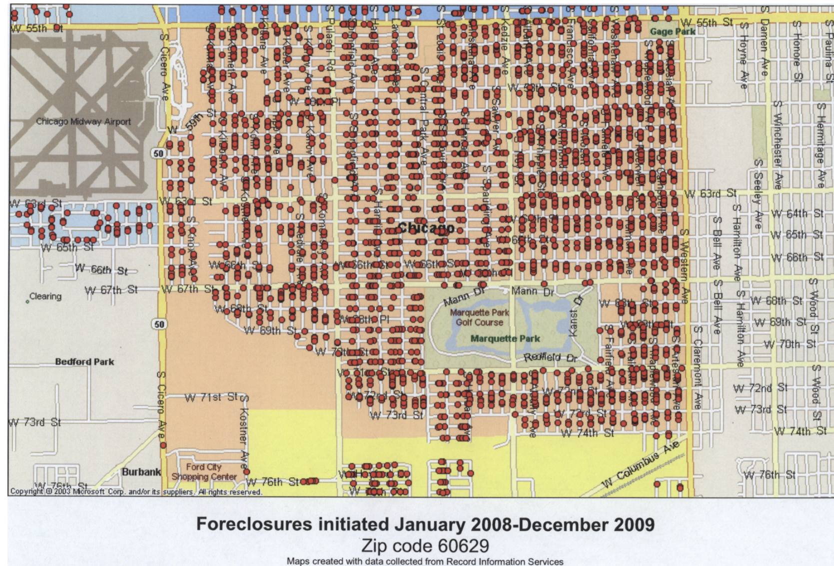
Almost 1 year ago, in 2009, the subcommittee met with Secretary Geithner in the midst of a full-blown foreclosure crisis. In the year before, in 2008, we discussed the growing problem of foreclosures, with your predecessor, Secretary Paulson.

The wave of mortgage foreclosures is not new or simply an unfortunate side effect of the global economic crisis. The systemic problems in the subprime mortgage market were the catalyst that led us to this crisis in the first place. In 2007, as foreclosures mounted in my home State of Illinois and across America, I started working on the Helping Families Save Their Homes Act, to help stem the tide of these foreclosures. To my regret, the Senate did not provide homeowners with a meaningful chance to save their homes through the bankruptcy process.

Foreclosures don't just leave homes empty, they ravage communities and make it hard for local governments to make investments in roads and schools.

These are just a few illustrations of the many, many thousands of homes that are in foreclosure. This photo illustrates what happens when a home goes into foreclosure. A house goes empty. It drags down home values, threatens safety, and destabilizes a neighborhood.

As an alternative to foreclosure, the administration developed the Home Affordable Modification Program, or HAMP. Despite the goal of helping 3 to 4 million homeowners, HAMP has only resulted in 230,000 permanent modifications in just over 1 year. Yet, in 2009, 2.8 million more homeowners received a foreclosure notice, and the rate continues to grow.



Foreclosures initiated January 2008-December 2009
Zip code 60629
Maps created with data collected from Record Information Services

The red dots on this chart show the foreclosures initiated in 2008 and 2009 for one single ZIP Code on the southwest side of Chicago. You can see that there is barely a block in the entire ZIP Code without a foreclosure in the last 2 years. This is an area not far from Midway Airport, which you'll notice up there in the left-hand corner, so you can get your bearings, if you know a little bit about Chicago.

In March, Treasury announced important changes to HAMP, and I'm pleased that HAMP will now require some relief for the unemployed and will provide incentives for services to voluntarily—voluntarily—help homeowners who owe more than their home is worth. But, I am concerned that these changes may not be enough to help unemployed and underwater homeowners. Under the current plan, servicers may still have more incentive to foreclose rather than to modify. And many borrowers will still find that default may be easier than staying under water. These changes won't be implemented until the fall, and may be too little, may be too late. I still think the changes to the bankruptcy code can make a significant impact on helping families stay in their homes. That's good for the families, for the banks, for the communities where these families live.

I want to discuss this Treasury foreclosure program, and other ideas to minimize foreclosures, with the Secretary today, and the other witnesses on our second panel. I also look forward to discussing the Wall Street reform efforts that the Senate began working on today, including plans to create the strongest consumer financial protection agency ever, to help police against the type of shady mortgage deals that lead to this—the worst recession since the Great Depression.

First a word about the budget, briefly. For fiscal year 2011, the budget request for the Department of the Treasury, excluding the IRS, is $1.4 billion. Total spending, compared to fiscal year 2010,

would increase by $93 million, about 7 percent. Treasury's budget funds executive management and financial analysis, intelligence efforts related to terrorist financing, and other criminal financial activity, as well as grants to financial institutions in distressed communities through the community development financial institutions fund, known as CDFI.

I'm also interested in Treasury's proposal to increase funding for the CDFI and to add new programs related to food financing, which the Secretary may be able to explain in a little more detail, and access to financial services for the unbanked. I'm also interested to hear about budget increases for your front-office staffing.

I turn to my ranking member, Senator Susan Collins, for her remarks and opening statement.

STATEMENT OF SENATOR SUSAN COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Chairman, as you were showing us that chart and describing the problems that homeowners are facing, it brought to mind a meeting that I had recently with community bankers in Maine. And I asked them about foreclosures in Maine, and the effectiveness of Federal programs. Now, fortunately, Maine's foreclosure rate is clearly far below Illinois' and several other States, but it still is growing as people have lost their jobs.

But, here's the startling fact. Of those bankers, not a single one thought that the Federal programs that we had were helpful to them. And indeed, many of them had refinanced the mortgages of homeowners who were under water, but not one of them had done so taking advantage of the Treasury program. And I think that's very telling. They were doing it, and they were providing assistance to homeowners, but not as a result of Federal programs or policies. And that suggests that we need to take a hard look at the effectiveness of these policies.

Mr. Secretary, welcome to our subcommittee. You certainly have many challenging responsibilities that include, not only the programs and problems that the chairman and I have just addressed, but also reinvigorating bank lending to small businesses. After all, it's the small businesses that are still creating the vast majority of jobs in this country, and yet, they're continuing to find it difficult to access capital.

In addition, you are overseeing the automobile industry, you need to stabilize the housing markets, and encourage sustainable economic growth. And, most important, you must promote the long-term financial security of our country at a time of unprecedented debt.

Congress has spent considerable time delving into the many dysfunctional facets of our financial markets, which produced turmoil so damaging that it nearly caused a second Great Depression.

Looking back, we now all realize that our regulatory system was outmoded and that we need a regulatory entity that can look across the breadth of the economy and spot risky asset bubbles in advance, and act to identify systemic risk to our economy, and to close regulatory gaps.

In order to address this problem, more than 1 year ago I introduced a financial reform bill. This bill created a Council of Existing

Regulators. A similar concept is in the bill that is now before us on the Senate floor. My vision was for this council to act as a systemic risk monitor for our financial markets. This concept remains valid today as we look for ways to prevent our economy from ever again reaching such a state of crisis triggered by risky practices and products in the housing industry and on Wall Street.

As I've said from the very beginning of this crisis, there's no question that Congress must pass financial reform legislation to strengthen oversight and accountability and taxpayer bailouts of huge financial firms, and prevent the excesses that have contributed to the deep recession that has cost millions of Americans their homes and their jobs.

Another issue that I'm extremely concerned about is the impact of our unprecedented level of debt on long-term economic growth and stability. The current problems of Greece offer a warning of the problems that a country faces when its debt goes out of control. If we fail to stop our own approaching tsunami of red ink, then the futures of our children and our grandchildren will be damaged by our negligence.

It's certainly not going to be easy. I hope very much that the President's appointment of a council, of a task force to look at this issue, will produce real results. It's clearly time to reassess our national priorities, to make the hard decisions, and to set a new course.

Mr. Secretary, the Department of the Treasury plays a critical role in managing the Federal Government's finances—the critical role—and in attempting to reinvigorate our economy. I look forward to working with you and with the chairman as we consider your budget request for fiscal year 2011.

Thank you.

Senator DURBIN. Thanks, Senator Collins.

Secretary Geithner, welcome. The floor is yours.

STATEMENT OF HON. TIMOTHY GEITHNER, SECRETARY, DEPARTMENT OF THE TREASURY

Secretary GEITHNER. Thank you, Mr. Chairman. And thank you, Ranking Member Collins. Thanks for having me up here today.

Mr. Chairman, I think you first showed me that chart in January of this year, and I think the tragedy of this crisis, this recession, this housing crisis, is that there are communities all across the country that look similar to that, and there is a lot of hardship and pain still ahead as we try to dig our way out of this mess and repair the damage caused by the recession.

Today, as you both said, the full Senate begins debate on landmark legislation that'll protect American families, limit risky activities on Wall Street, and end the perception that any firm is too big to fail.

Now, over the past weeks, opponents of reform, in the industry and elsewhere, have tried to convince the American people that these reforms will either hurt Main Street or help Wall Street, or both. Those arguments are not going to work, because they aren't true. These are tough reforms, they'll provide tough protections for consumers, for homeowners, for investors—rules with teeth—they will help create greater certainty for all businesses, and they will

restore the financial system to its proper role of providing financing for Main Street businesses across the United States.

Now, I've submitted written testimony that describes in detail the important proposals in Treasury's budget request for this year. And I'd welcome a chance to discuss those, but I wanted to just spend a few minutes, in my opening remarks, Mr. Chairman, responding to your suggestion that we talk a little bit about the housing programs and our financial programs, that are so important to recovery.

As, of course, you all know, the damage from the housing crisis has affected millions of Americans. It's affected those who were taken advantage of by predatory lenders. It's affected those who took out traditional mortgages, but still saw their houses plummet in value. It's affected those who, as a result of the broader recession, have lost their jobs and, because of that, are facing foreclosure. And solving these problems is going to be critically important to providing a stronger recovery.

For most Americans, of course, their house is their most important financial asset. And as the crisis wreaked havoc on household wealth, the administration moved quickly to protect this critical component of financial security.

Beginning in February, the administration, working with the Federal Reserve, undertook a series of programs to help stabilize housing prices, bring down mortgage interest rates, and reduce foreclosures. Together, Treasury and the Fed purchased more than $1.4 trillion in agency mortgage-backed securities. We put substantial additional financial support in place to stabilize the GSEs. And these actions helped reduce mortgage interest rates to historic lows. And, through those efforts, we helped more than 4 million American homeowners refinance to take advantage of lower interest rates, to lower their monthly payments, saving an estimated $150 per month, more than $7 billion, cumulatively, in the past year.

Now, the administration's Home Affordable Modification Program has now offered trial modifications to more than 1.4 million Americans. This represents—and this is very important to highlight—this represents roughly three-quarters of Americans estimated to be eligible for this program today.

About 1.2 million homeowners have begun trial modifications and seen an immediate reduction in their monthly mortgage payments, by, on average, just more than $500 per month.

I want to underscore that this program, this modification program, is a program designed to help a portion of borrowers at risk of foreclosure. It is not designed for, or available to, borrowers who are speculated in real estate, who are at risk of losing a vacation home, who took out loans above the limits established by Fannie and Freddie, or have a monthly—mortgage payment already lower than 31 percent of their income.

We announced, as you said, Mr. Chairman, a series of enhancements to the program, in the last few months, that are designed to give us increased ability to reach the goal of reaching 3 to 4 million homeowners at risk of foreclosure over the next 3 years. These changes will expand the program's reach to assist unemployed homeowners, help more Americans who owe more than the mort-

gage to—their home is more than the current mortgage on their home, and provide greater protections for homeowners at risk of foreclosure.

The administration's hardest-hit fund also provides $2.1 billion to housing finance agencies in 10 States that experience—have experienced the highest—the worst combination of high unemployment and home-price declines.

I want to make it clear today that we do not believe that servicers are doing enough to help homeowners; they're not doing enough to help them navigate the difficult and often frightening process of avoiding foreclosure.

We're concerned by the wide variation in performance we see across servicers, by the countless frustrated phone calls we've received from borrowers, by reports that servicers have foreclosed on potentially eligible homeowners, or that they have steered those borrowers away from HAMP modifications into banks' own modification programs, that they have lost documentation, or claimed to lose documentation, and that they are not responding adequately to the needs of responsible and increasingly desperate homeowners. None of this is acceptable, and we are working very hard to make sure that servicers do a better job of holding up their end of the bargain.

We're conducting targeted index—indepth compliance reviews. We're compelling servicers to reexamine groups of mortgagers—mortgages, or their entire portfolio of mortgages, for eligibility. And in circumstances where services are not complying with their obligations, we will withhold incentives or demand their repayment.

And we will soon publish much more detailed data on the performance of services, to hold them accountable to the public, so that Members of Congress and homeowners in your communities can look, for themselves, at the performance—detailed measures of performance of these servicers.

Now, we're going to continue to work to refine these programs to reach as many borrowers as possible, and we welcome your input, of course, and that of the subcommittee.

Let me just conclude with a brief update on our efforts to repair the rest of the financial system.

The steps we've taken, including those authorized by Congress in the Recovery Act, alongside actions by the Federal Reserve and our policies to stabilize the financial system, have helped put the economy on a path to growth, and broke the back of the financial crisis.

Through these policies, we have substantially reduced the cost of borrowing, the cost of a loan to buy a house or a car, to build a business or a new school has fallen dramatically. We have placed—replaced taxpayers' funds with private capital, and banks have repaid the bulk of TARP funds, with interest. And we've been able to do this at a much lower cost than anyone anticipated.

A year ago, we estimated the costs of these efforts would be more than $500 billion. Our latest estimate conservatively puts the cost at a—roughly $117 billion, or less than 1 percent of gross domestic product (GDP). And if Congress adopts our proposed financial crisis responsibility fee that the President proposed in January, the cost to the American taxpayer, of the TARP program, will be zero.

Now, even with these improvements in the financial system, we have to recognize that, in many areas—in commercial real estate, for example, in parts of the housing market not supported by Fannie and Freddie or the Federal Housing Administration (FHA)—for small business in many parts of the country, credit is still very tough to get. That's why we hope Congress will be willing to work with us to enact legislation the President has proposed to establish a series of programs to help support small business lending, including a small business lending facility, which will—this is designed to provide support to small banks, in extending more credit to small businesses.

I'm very grateful for the support of this subcommittee and for the support you provide to make it possible for Treasury to have the resources we need to carry out what is an enormously complicated set of challenges.

And I just want to conclude by saying that I'm very fortunate to work with a remarkably—group of talented, dedicated people, career civil servants at the Treasury, who are working very hard every day, doing enormously complicated, difficult work under great stress in the service of goals we all share, to help repair the damage caused by this broader recession.

Thank you for having me here.

I wanted to say, Senator Collins, just quickly, in response to what you—the point you began with. This—these housing programs were not designed to help banks. Banks—all banks have a set of other types of modification schemes that they initiated a long time ago, and they're still pursuing. Generally, those modification schemes, in our experience, have not been nearly as favorable to the homeowner as the modification schemes that we put in place when we came into office. It's hard to measure that, because there's no very good data on it. But, the data available suggests that most of those modification programs are, as I said, substantially less favorable to the homeowner than the programs we've put out.

PREPARED STATEMENT

So, with that, Mr. Chairman, I'd be happy to take your questions.

[The statement follows:]

PREPARED STATEMENT OF TIMOTHY F. GEITHNER

INTRODUCTION

Chairman Durbin, Ranking Member Collins, members of the Subcommittee, thank you for the chance to testify about the President's fiscal year fiscal year 2011 budget for the Department of the Treasury.

Treasury plays a critical role in the day-to-day lives of Americans. We disburse Social Security checks, distribute tax credits to stimulate the economy and manage the finances of the United States Government. Under the leadership of President Obama, we have used authority provided by Congress to help responsible homeowners, promote investment in underserved communities, and stimulate lending for the small businesses that create jobs across the country. As we emerge from the worst financial crisis in generations, Treasury's role in both protecting the financial security of Americans and our efforts to stimulate the economy will continue to be essential to the nation's recovery.

Treasury's fiscal year 2011 budget seeks to invest in four areas: repairing and reforming the financial system to make it safer and help assure that its benefits are broadly shared; boosting voluntary compliance with our tax code to pay for vital government functions; advancing our global economic interests and national security; and rebuilding the Treasury's professional staff.

The focused investments in Treasury's budget request will support our key goals of furthering efforts to spur job creation and private investment, stabilizing the housing market and financial sector, and reinforcing strong, broad-based economic growth. I look forward to discussing some of the details of our budget request with you today.

ECONOMIC RECOVERY AND CRISIS RESPONSE

While substantial challenges remain for the economy and financial system, the broad strategy that this Administration has adopted to address a historic recession and contain the financial crisis has been effective.

A year ago, the American economy was shrinking at an annualized rate of more than 6 percent. The Administration responded with strong policy actions, including the American Recovery and Reinvestment Act ("Recovery Act"), the Financial Stability Plan, and programs aimed at supporting housing markets. The economy began growing in the second half of 2009 and grew nearly 6 percent at an annual rate in the fourth quarter. The Council of Economic Advisors has compiled a range of private estimates that indicate the Recovery Act has saved or created somewhere between 1.5 million to 1.9 million jobs through the first quarter of 2010.

Because roughly one-third of the overall package consists of tax cuts, Treasury has played a substantial role in the implementation of the Recovery Act. The tax cuts include the Making Work Pay tax credit, which cuts taxes for 95 percent of America's working families, as well as important tax cuts for small businesses. In addition, the tax credits for clean energy and infrastructure in the Recovery Act have led to billions of dollars in targeted investments for these crucial sectors. Finally, Treasury has worked to implement the Build America Bonds program, which has supported over $90 billion in new financing for state and local governments' capital projects. In a recent report, we note that Build America Bonds have saved state and local governments' more than $12 billion.

In February of last year, I announced a strategy to stabilize our financial system and encourage banks to raise private capital to replace the Troubled Asset Relief Program (TARP) investment in order to be able to absorb the losses they faced in a severe crisis. The stress tests of our largest financial institutions provided the transparency and confidence necessary for those institutions to raise substantial capital in private markets. Since the results of the stress tests were announced, these institutions have raised over $150 billion in high-quality capital and over $75 billion in non-guaranteed unsecured debt. Treasury has already recovered two-thirds of TARP investments in banks, earning more than $19 billion on those investments through dividends and warrants. Today, the American government has a dramatically smaller investment in banks than a year ago because of this Administration's policies.

The expected cost of our financial stabilization efforts has also fallen sharply since last year. In President Obama's fiscal year 2010 budget, as transmitted in May 2009, the projected impact of financial stabilization efforts on the deficit was over $550 billion, including TARP and a reserve in case of continued instability. Today, the Treasury expects that impact will be less than 1 percent of GDP. And, if Congress adopts the President's proposed Financial Crisis Responsibility Fee, American taxpayers will not have to pay one penny for the cost of TARP. Treasury will continue its efforts in these areas until recovery is firmly established and the financial system is repaired and reformed.

TREASURY'S BUDGET

As the steward of the nation's finances, Treasury is well aware of the fiscal constraints America is facing. As we put together this year's budget request, we placed a priority on identifying potential savings.

We made a series of tough choices. In some cases, we decided that it was necessary to terminate well-intentioned and sometimes popular programs because they aren't working or are duplicative. In others, we concluded that programs are worthwhile, but only if funding is accompanied by fundamental reform. In still others, we chose to seek your approval to shift the cost of programs from all taxpayers to those who benefit directly from the programs.

In the end, Treasury came up with nearly a half billion dollars in savings and revenues from bureaus and offices throughout the Department. Among the proposals:

—Fund the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the same way as most other regulatory agencies—through fees on the regulated industries—at a savings to taxpayers of $106 million;

—Save the Community Development Financial Institutions (CDFI) Fund $105 million by not funding its Capital Magnet Fund and Bank Enterprise Award in the coming year;
—Save the IRS nearly $23 million through increased e-filing and another $20 million by eliminating the automatic mailing of tax booklets to taxpayers;
—Save $10.6 million in the Department's Headquarters Offices budget through efficiencies such as improved technology contracting and space utilization; and
—Cancel $62 million in unobligated balances from the Treasury Forfeiture Fund.

The result of our efforts is the targeted, constrained budget that you have before you, a $13.9 billion request for the Department's 10 appropriated bureaus.

Our budget request includes a $474 million, or 3.5 percent, increase over fiscal year 2010 enacted levels. This budget includes targeted investments in the Internal Revenue Service (IRS), the CDFI Fund, global economic and national security efforts, and institutional capacity. These key areas of investment in the fiscal year 2011 budget will be crucial to addressing the challenges our nation faces, and I would like to turn to how each will help us meet our increased responsibilities, achieve our immediate goals, and perform our core missions.

IMPROVING THE IRS

The Internal Revenue Service is vital to the financial well-being of the nation. As the government's revenue collector, it raises the money that builds our roads, improves our health, and secures our nation.

Treasury's budget request for the IRS reflects our understanding that administering a tax code involves not only collecting payments and keeping records, but also increasing compliance with our tax laws.

To increase tax compliance we will bolster international enforcement, regulate tax preparers and improve the services that the IRS provides. To work effectively, all of these will depend on completing a long-running effort to modernize IRS technology.

Our budget request provides nearly $250 million for new enforcement initiatives aimed at reducing international tax evasion and noncompliance by businesses and high net worth filers. By the time these measures are fully in place, we estimate that they will produce additional tax revenues of nearly $2 billion a year. This will mean $9 in additional revenue for every additional enforcement dollar spent.

The budget request includes a number of legislative proposals including repeal of a requirement that indebted taxpayers make partial payments before starting negotiations with the IRS over how to handle their past due bills, and getting third parties to report more about payments to businesses. These adjustments would be relatively inexpensive to implement, impose little additional burden on taxpayers, and increase collections by an average of $2.6 billion a year.

We also are working to begin regulating tax return preparers. Given that the IRS estimates there are between 900,000 and 1.2 million preparers operating in the United States, with many handling hundreds of individual filers, rules limiting fraud and errors by preparers would have a multiplier effect of improving compliance by millions of taxpayers, and would do so at minimal additional cost.

To get taxpayers to voluntarily comply with our tax laws requires more than tougher enforcement; it requires improved service. The budget request includes a targeted investment of $46 million to improve taxpayer services. The IRS now receives more than 100 million service calls a year, so we propose $21 million to improve the answer rate for the IRS's 1–800 telephone lines.

Additionally, we propose $25 million to upgrade the agency's website, IRS.gov. This will improve the agency's telephone service levels by encouraging taxpayers to turn to the web for services. It will also work in tandem with a multi-year effort by the IRS to encourage taxpayers to file electronically. Treasury estimates that e-filings will save the agency almost $23 million in the coming fiscal year, effectively paying for the new investment in the website.

To improve enforcement and service, the IRS must complete a decade-long upgrade of its technology. That's why our budget request includes a $168 million investment to finish a new centralized database that we believe will double the speed of refunds to taxpayers, speed resolution of taxpayer issues, and allow for steadier mailing of tax notices to smooth out service-damaging spikes in telephone call volumes.

REFORM AND INVESTMENT

As we recover from the financial crisis, it is important that we put in place financial reforms that will protect consumers, investors, taxpayers and the entire economy from the risk-taking that produced the financial crisis. The House of Represent-

atives has already passed a strong financial reform package and the Senate is moving strong legislation to the floor, and we look forward to continue our work with Congress to produce a package for the President's signature. But as we work to repair the financial system, it is important that we address the economic needs of the hardest hit communities.

The fiscal year 2011 budget provides the CDFI Fund with $250 million for the coming fiscal year. This includes $140 million for its flagship financial assistance awards to CDFIs, an increase of $32 million, or 30 percent, from the current fiscal year. This funding level is expected to leverage private sector capital by CDFIs and result in loans, investments, financial services and technical assistance to underserved populations and low-income communities.

This translates into significantly more lending to support small businesses and microenterprises, first time homeowners, and the development and rehabilitation of low-income housing and community facilities, such as charter schools and child care centers.

The CDFI Fund reports that recent award recipients helped finance over 10,000 businesses and over 1,600 commercial real estate properties in 2008. CDFIs also reported that they helped create or maintain over 70,000 full-time jobs in that period. While we have made additional funding available for the CDFI Fund's financial and technical assistance awards to CDFIs, we have also refocused our priorities to support two critical new areas: (1) expanding access to financial products and services through the Bank on USA initiative; and (2) a program that is part of the First Lady's campaign against childhood obesity, the Healthy Food Financing Initiative (HFFI).

In order to make funding available for these initiatives and for the Fund's core financial and technical awards, we propose to save $105 million by not funding the Capital Magnet Fund or Bank Enterprise Awards programs in fiscal year 2011.

The Bank on USA initiative would help expand access to mainstream financial services to help families avoid predatory lending traps and high fees for check-cashing and other alternative financial services. The initiative will promote broader access to bank accounts, basic credit products, and other financial services to help these families build savings and solid credit histories.

HFFI is a partnership between Treasury, the Department of Agriculture, and the Department of Health and Human Services that will provide over $400 million in financial assistance to expand access to nutritious foods in urban and rural communities that have limited access to healthy foods. The budget includes an additional $25 million in grant funding through the CDFI Fund and $250 million of New Markets Tax Credit (NMTC) authority for HFFI. This initiative will help to promote a range of financing to expand access to nutritious foods, including developing grocery stores and other small businesses selling healthy options in communities where healthy foods are not readily available.

As noted, a key component of HFFI is the New Markets Tax Credit program. The NMTC is another critical tool administered by the CDFI Fund which helps extend the benefits of recovery to hard-hit communities. This tax credit helps attract investment to these communities by reducing the risks investors must take in putting their capital into them. It does so by letting investors claim a 39 percent credit against their Federal income taxes in return for making equity investments in Treasury-certified Community Development Entities (CDEs). CDEs, in turn, invest in small businesses and other projects that serve hard-hit communities.

To date, NMTC recipients have invested over $15.6 billion in distressed communities across the country. That financing has helped small businesses, manufacturers, grocery stores and retail centers, alternative energy projects, healthcare centers, charter schools and job-training sites. It has helped create, save or support hundreds of thousands of local jobs.

The budget requests $5 billion in NMTC authority in 2010, and another $5 billion of authority in 2011, of which $250 million will be used to expand financing for the development of healthy food retailers as part of HFFI.

We are proposing reforms to make the credit more effective, such as expanding the types of taxes against which the credit can be used. As is the case for many types of investments, investor capacity to use NMTCs has fallen since the recent crisis. To help attract a broader array of investors, our budget request would change the credit so that it can be used to offset not only investors' regular Federal income taxes, but also the taxes they owe under the Alternative Minimum Tax.

In addition, Treasury is working to simplify rules for the NMTC to improve the overall attractiveness and effectiveness of the credit as well as to make the credit work better for small businesses. Treasury and the IRS are actively pursuing reforms that would make it easier for CDEs to provide more working capital loans and other investments in small businesses in distressed communities. In all of these

efforts, our aim is to strengthen the NMTC's ability to attract investments and jobs to hard hit communities.

GLOBAL ECONOMIC INTEREST AND NATIONAL SECURITY

Treasury also advances U.S. economic interests abroad, advocates international policies that help create American jobs and domestic economic growth, and protects against foreign threats to our economic and financial well-being. The recent crisis elevated the importance of these tasks.

The budget provides $44.4 million to support the Office of International Affairs. This includes a $6.7 million increase to support our international coordination efforts in forums like the G–20. Although not directly under the jurisdiction of this Subcommittee, the Treasury's budget request includes approximately $3 billion to meet our obligations to the International Financial Institutions, which support the President's recent commitments in Copenhagen to help combat climate change, contribute to a multi-donor trust fund to combat global hunger, and meet our international obligations.

Treasury plays a critical role in protecting our national security through the Office of Terrorism and Financial Intelligence (TFI). The budget provides $203.1 million for TFI, which includes the Financial Crimes Enforcement Network (FinCEN). This includes $4.7 million in new investments to improve TFI's ability to target proliferation networks and expand Treasury's role in coordinating financial intelligence across the nation's overall intelligence community. TFI works to deprive proliferators, terrorists, narcotics traffickers, corrupt foreign officials and other illicit actors of the money and financial access they need to carry out or profit from their activities.

To do this, TFI uses financial information to map out the support networks of these dangerous actors, works to educate financial institutions worldwide about the risks of doing business with them, administers and enforces financial regulatory authorities that protect the integrity of our financial system, and collaborates with our foreign partners to set standards to help the international financial system avoid illicit activity.

For example, TFI's efforts to crack down on the financing of the proliferation of weapons of mass destruction have led to financial institutions worldwide cutting off the banks, companies, and individuals that are integral to Iranian, North Korean and Syrian nuclear ambitions. In the case of Iran, all U.S. banks, nearly every major European bank, as well as large banks in Asia and the Middle East, have cut or severely limited their ties to that country.

TFI's efforts have also helped to put Al-Qaida in its worst financial position in years. Its core leadership is struggling to raise and sustain funds.

In pursuing all of these efforts, protecting the integrity of our own financial system is key. That is why, even as we continue our international efforts, Treasury is marshaling state, Federal and private sector resources to crack down on mortgage fraud and loan modification scams, and is working to address emerging threats and vulnerabilities in new technologies and financial products.

REBUILDING TREASURY'S INSTITUTIONAL CAPACITY

Treasury entered the recent financial and economic crisis with the professional ranks of many of its key policy offices seriously depleted. Responding to the crisis has put a severe strain on these units and made clear the need to rebuild our professional ranks to assure that Treasury can deal effectively with the issues that it must tackle.

We entered the worst economic downturn in generations with only 25 economists working in the Office of Economic Policy, a third fewer than in 2000. To put this in some prospective, the comparable office in the Department of Housing and Urban Development has 140 economists, the Department of Agriculture has 330 economists, and the Federal Reserve System has over 500 economists.

We arrived on the doorstep of the worst financial crisis since the Great Depression with our Financial Markets and Financial Institutions units within Domestic Finance each staffed by about 20 people, and a Tax Policy office whose staff had dropped by one fourth since 2000.

Treasury has a tradition of operating with a lean staff. We are proud of this fact, and have no intention to change it, especially given the severe fiscal constraints that the nation faces. But we must reverse the erosion of the Treasury's basic intellectual capital or we will be unable to meet the nation's economic challenges. We began the process of making targeted investments in upgrading professional staff this fiscal year, and we need to continue it in the coming year.

Our budget request for fiscal year 2011 would provide the Office of Domestic Finance with an additional $16.7 million to expand its staff by 24, in order to build capacity to more effectively respond to the aftermath of the financial crisis; promote stronger, more equitable financial policies; and add expertise in securities market structure and housing finance.

The request also provides an enhancement of $2.4 million to the Office of Tax Policy to hire additional specialists to analyze emerging tax issues and provide timely analysis of key fiscal and financial issues.

Finally, we propose $2 million in funding to hire additional economists for the Office of Economic Policy for swifter, more effective analysis of economic trends and proposals. This sum would also fund the creation of a data analysis unit to maintain the large economic and financial databases used for Department-wide analyses.

These investments are very modest. We propose to add only six new economists to our Office of Economic Policy, which would still leave its professional staff below where it was in 2000. We propose to add just eight new specialists to the Office of Tax Policy, which would also leave its professional staff below 2000 levels.

Let me end where I did last year, with a word about the Treasury's staff.

I have had the honor over the past year of leading a team of smart, dedicated individuals who are working to make our government more effective and our society fairer. They debate policies on their merits; they do what is right and not simply what is expedient; and they draw from the best ideas and expertise available. They are performing an incalculable service to our country. In February, I joined IRS Commissioner Shulman in Austin, Texas, to talk to the IRS employees who were affected by the senseless attack on them and their co-workers, like Vernon Hunter, who tragically lost his life in the attack. They are a group of dedicated and committed public servants. This nation owes them a debt of gratitude, and we owe them our respect.

Treasury has accomplished great things in the past year, but we recognize that challenges still lie ahead. The targeted investments proposed in this budget will provide the tools needed to meet those demands.

Senator DURBIN. Thanks, Mr. Secretary.

There are so many issues. Let me just echo what you've said, that I think the financial stability act that we have on the floor now, the Wall Street Reform Act, really is a step forward. I'm hoping that we can, through the amendment process, find a strong bipartisan majority to support this. This is going to be an opportunity for the Senate to work together, and I hope that we utilize it. But, I think the starting points are right, and I'm glad that we're engaged now, on this bill, directly.

So, it's been a year since the HAMP program; 230,000 homeowners have received permanent 5-year mortgage modifications; an additional 1.4 million, that you mentioned, received trial modifications. But, we also know that the problem grows; 2.8 million homeowners, in this period of time, received a foreclosure notice; 10 to 12 million mortgages face foreclosure over the next 3 years; and 1 in 4 mortgages in America is currently under water. And just today, the Woodstock Institute reported that, in Chicago, the number of foreclosure auctions this past quarter increased by 56 percent, compared to the same period in 2009. I'm afraid that map might look a little worse if we updated it.

And so, let me ask you a couple of questions. First, if I can, we do have a problem, in that we don't require servicers to reduce principal when it makes sense to do so, for the servicer and the borrower. Can we expect to get the results that we want until we reach a point when there's reduction of principal? A followup question: Those who go into trial modification—at the end of the trial modification, are they deeper under water?

Secretary GEITHNER. Excellent questions. Let me just begin by saying that the program we began with, which was designed to make it more affordable to stay in your home, and reduce your

monthly payments to below 31 percent of your income, it does reduce, substantially, your obligations over the life of your mortgage. So, in—it is a form of reducing your obligations as a homeowner. And, on average, for a typical mortgage, that reduction in your full obligations is very substantial; it could be 30 percent.

Now, in the enhancements to this program, we put in place in March—we announced it in March, and we're in the process of implementing—we were going to substantially change the incentives so that—we're going to provide more of that relief in the form of reduced principal payments. We think that makes sense. We think it's a sensible evolution in the program. And, as you said, it's going to take us a little bit of time, now, to put this in place, because it's very complicated to do, but we think that's an important step forward.

Now, it is true that this program, by design, was only—is only able to reach a portion of people at risk of foreclosure. And, as you and I have talked before, it's important to look at the broad dimensions of the program, still.

Right now, across the country, there's roughly 5, 5½ million Americans who are more than 60 days past due on their mortgages. As I said in my opening remarks, we have trial mods in place for about 1.2 of those 5½ million. People ask, reasonably, "Why not more? Isn't that a measure of failure of this program?" But, it's important to know that that 5½ million homeowners includes a bunch of vacant properties, people who were—homes occupied by people who were speculating in real estate, second homes, homes above the Fannie and Freddie limits supported by jumbo mortgages, or homes owned by people who already have monthly payments they can afford to meet. That reduces the eligible stock of existing homeowners universe to about 1.8 million. So, we're now reaching, with offers or trial mods in place, a substantial fraction of people eligible now, and we expect to be able to reach more over time.

But, you're absolutely right, that only a fraction of those trial mods have, so far, been converted into permanent modifications. But, a trial modification is an immediate, substantial economic benefit. From onset, you get an average reduction in your monthly payments of over $500 a month. That's a very substantial benefit, even in relation to many of the things we did in the Recovery Act, for those homeowners. And we are working very hard to make sure that as many of those trial mods as possible will convert into permanent modifications, and we're going to continue to work to make sure that we can reach a larger fraction of homeowners at risk of foreclosure.

But, I started with those numbers, Mr. Chairman, as you know, just to point out that, because of the damage caused by this crisis, we are not going to be—and because of the judgments many people made coming into this crisis—financial judgments—we're not going to be able to reach all of those people affected by that, but we're going to work as hard as we can to reach as many as we can.

Senator DURBIN. I'd like to ask you, at the risk of going a minute or two over, here, about servicers, because it strikes me that, if a mortgage foreclosure costs the lender some $50,000, or more, the

servicers may not be the losers in a foreclosure; they may be the ones who are actually making money in a foreclosure. Number one.

Number two, we'll have testimony from Ms. Van Tiem, on the second panel, that, in her experience, in this part of Chicago, her clients wait on average, 6 to 9 months to get response from servicers and often submit paperwork four to five times. I've met people like this. And you think to yourself, "Well, maybe they didn't send everything they needed to, or maybe they didn't send it at all." But, what we're finding is, these servicers just keep telling people, "Do it all over again. Do it all over again," trying to wear 'em out.

You have a hotline that's supposed to be hearing about complaints. I'd like to know what your response is to this situation, and what your hotline is hearing from America, in terms of the problems people are running into when they face foreclosure.

Secretary GEITHNER. Mr. Chairman, we're hearing exactly the same things that you're hearing. And you're right about the extraordinary level of complaints we get about the responsiveness of servicers to people who are looking for help.

Now, the good news is—I'll just offer you two forms of good news—one is, the overall number of those complaints has come down very substantially, over the last several months, in response to the efforts we've put in place to substantially increase the quality of the service banks are providing. But, I think, more important, that, as I said in my opening remarks, we are going to put, in the public domain, bank by bank, starting, we hope, in June or July, a very detailed set—much more detailed set of data on performance—responsiveness to calls and complaints, the nature of complaints by institution, and measurable, verifiable metrics, numbers, data, on how good a job banks are doing.

Senator DURBIN. Are you going to name names in this?

Secretary GEITHNER. We are. And we're going to do it by—bank by bank.

Senator DURBIN. And when——

Secretary GEITHNER. And we're going to——

Senator DURBIN [continuing]. Will this be available?

Secretary GEITHNER. Well, we're going to—we do a monthly report, and I think our next one comes out in a few weeks. We'll provide the end of data—end-of-April data. In that report, we're going to lay out, in detail, what we're going to publish, bank by bank, and the data will be in the public domain—I think, sometime in June or July. That's what we're going to work toward.

Senator DURBIN. Thank you.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Secretary, either you missed my point in my opening comments or perhaps I did not explain my point clearly. My point was only that many more homeowners in Maine have benefited from the initiatives taken by our community banks than have benefited from the Treasury program. I want to leave that issue, because there are so many others what we need to cover today.

In January, the Director of the Congressional Budget Office (CBO) testified before the Budget Committee, as follows, "There is just one pool of Government money, and everything else is account-

ing treatments to keep track of various purposes. If more is spent through TARP, then that is just more money that is spent, more that is borrowed, more that goes onto the Federal debt."

Do you agree with that statement?

Secretary GEITHNER. Absolutely. Also, the inverse is true, of course. The less we spend in TARP, the less we borrow, the lower our future deficits, the lower our debt burden. But, of course I agree with that.

Senator COLLINS. General Motors (GM) is currently running a commercial concerning its debt repayment. And in that commercial, the CEO says, "I'm here to announce that we have repaid our Government loan in full, with interest, 5 years ahead of schedule." You put out a press release on that loan repayment, saying that you were encouraged that GM has repaid its debt well ahead of schedule. In fact, however, GM still owes the American taxpayers billions of dollars, is that not correct?

Secretary GEITHNER. You're—absolutely true. What GM did is to repay the loans outstanding, substantially ahead of when we expected. But, you are absolutely right, we still have substantial equity investments in both GM and Chrysler, and still face, of course, some risk of loss on those investments, although a small fraction of what we anticipated.

Senator COLLINS. Don't you think that the impression left by that television ad and by your statement is that the taxpayers' burden has been lifted and GM has repaid all the money it owes?

Secretary GEITHNER. Senator, I have not seen that ad, but I've heard exactly the same concerns expressed about that ad in my building. I do not believe we left that impression in our press release. In fact, again, I want to make it clear that we provide very detailed information, on a regular basis, about what we think our remaining risk of loss is, and return, on these programs; and we do it in very considerable detail—by autos, American International Group, Inc. (AIG), the banks, et cetera—for exactly the reason you said. We think it's very important that people can see for themselves—and we actually give people the information to judge for themselves what that scale of loss is. And you're absolutely right, we still have substantial equity investments left in those companies, and, of course, as a result, some risk of loss, although a fraction of what we feared.

Senator COLLINS. Did GM pay back the taxpayers from its earnings?

Secretary GEITHNER. I'm not quite sure how to answer that. I don't think I could answer it quite this way, because they haven't reported earnings for this period of time yet. But, perhaps, Senator Collins, I could say it this way. Because we forced those companies, as a condition for assistance when we came into office, to go through a very substantial, very difficult, and very demanding restructuring program, they are now emerging financially stronger, stronger underlying financial position, than any of us expected; and therefore, they are going to be in a position to repay the taxpayer much more quickly than we thought. And we find that very encouraging. But, of course, as always, in an abundance of caution, we try to emphasize the fact that, you know, we're all going through a

challenging period, across the economy still, it's early still, and we're—still have substantial exposure out there.

Senator COLLINS. Wasn't the payment, in fact, made from an escrow account that was drawn from the Treasury?

Secretary GEITHNER. Senator Collins, I think what it would be fair to say is, we—at—went through a very careful process of figuring out how best to stabilize the automobile industry, put these firms through the necessary restructuring, reduce our risk of loss, reduce the job loss. It was avoidable, in this case. And, in that process, we provided substantial additional assistance to what President Bush initiated. And we're getting a portion of that back sooner than we thought because these firms are doing better than we had feared and hoped. I think that's the best way to respond to it.

Senator COLLINS. I think we can all be happy that GM is beginning to repay the money. But, if, in fact, as the special inspector general for TARP has told me, GM has used one pot of Federal money to pay back another Federal loan, then I think it is very misleading.

Secretary GEITHNER. Well, Senator, as I said, I am always very careful to underscore that, even where we're making progress, we have a lot of challenges ahead, and we provide very careful, enormously detailed estimates of our remaining exposure in the financial system all the time, for exactly the reasons you've said, to make sure that we're being open and candid. People can make their own judgments about what, ultimately, we're going to face, in terms of potential losses in return.

Senator COLLINS. Well, let me end this round of questioning by going back and reading you the exact words in the GM commercial that is running now, "That is why I'm here to announce we have repaid our Government loan in full, with interest, 5 years ahead of the original schedule." Do you think that that's a misleading statement?

Secretary GEITHNER. Well, Senator, as I said, I've not seen that commercial, haven't read it, but, as I said to you initially, I've heard the same concerns expressed in my building. And, as I said, we're—always trying to be very careful to make it clear that we still have substantial equity investments out there in these companies. And, although we're much more optimistic today about what return we're going to get on that, we have substantial exposure still.

Senator COLLINS. Mr. Chairman, I was going to bring in the commercial and play it at this hearing, but I was positive that the Secretary would have seen the commercial. And I have a feeling that he is familiar with the issue and transcript, and I'll certainly share that with him, and perhaps we can get a fuller answer on the record.

Thank you.

Senator DURBIN. He just doesn't have enough time to watch television. That's one of the problems.

Senator Alexander.

Senator ALEXANDER. Thank you, Mr. Chairman.

Following—Mr. Secretary, thank you for coming, and thank you for your service—to follow up Senator Collins' question, How much

money does General Motors still owe the United States Government?

Secretary GEITHNER. Senator, I don't have those numbers with me here. I'd be happy to provide them in detail to you.

But, we have a substantial share of—we own a substantial share of the company today, unfortunately.

Senator ALEXANDER. Well, that was going to be my next——

Secretary GEITHNER. Yeah.

Senator ALEXANDER [continuing]. Next question. But, it's $60 or $70 billion. It's——

Secretary GEITHNER. I don't know—I don't think it's that high, but—you might be right, but, again, I don't have the numbers with me today. I'll be happy to provide them in writing.

[The information follows:]

As you know, this Administration and the prior Administration provided $49.5 billion in total to GM. On April 20, the company repaid the balance of the $6.7 billion of that investment that was in the form of a loan. In addition, GM has paid $615 million in interest and dividends to the Treasury. The remainder of our investment is represented by the Treasury's ownership of $2.1 billion of preferred stock and 304 million shares or 60.8 percent of GM's common equity. No market valuation exists for the Treasury's investment, given that GM's preferred and common stock are not publicly held or traded yet. However, Treasury's audited financial statements provided a value by program as of September 30, 2009. In this case, the GM investment was grouped with the GMAC and Chrysler investments. The estimated value of all these investments was $43.3 billion, which represents an expected loss as of that date of $30.5 billion. This was updated to an expected loss of $24.6 billion in a May 21 press release (publicly available on www.financialstability.gov).

Senator ALEXANDER. Do you know how many common equity shares of General Motors the United States taxpayer owns?

Secretary GEITHNER. Roughly 60 percent——

Senator ALEXANDER. Roughly.

Secretary GEITHNER [continuing]. Of the outstanding shares, I believe.

Senator ALEXANDER. What are those shares worth today?

Secretary GEITHNER. They are—again, I don't have the estimates with me today. I'd be happy to provide them to you. I will say—and you'll see it when we provide our latest estimates of the valuation of these investments—they are worth, of course, substantially more than they were, substantially more than we expected. And, Senator, there is a reasonable chance—now, you know, this is an uncertain world we live in, a lot of challenge to that—but, there is a reasonable chance, now, that we will recover all of the dollars we put into these companies after January 26.

Senator ALEXANDER. How long will it take—how long does the Government plan to hold these shares?

Secretary GEITHNER. Not a day longer than necessary. We are planning to unwind our investments in these companies as soon as we can. And we're going to be guided, Senator, across the financial system, by the same basic principle. We want to get out as quickly as we can, but, of course, reduce any risk of loss to the taxpayers that we can. And that's a—sometimes those objectives are in conflict. We'll have a different path to exit across the financial system.

Senator ALEXANDER. The——

Secretary GEITHNER. But, as quickly as we can.

Senator ALEXANDER. The former chief executive, Mr. Anderson, told a group, on a conference call, about 1 year ago, that it's such

a large block of shares that it might take a number of years to dispose of those shares properly over a period of time. Is—that sound reasonable?

Secretary GEITHNER. That is certainly possible, but, just on the basis of my latest—our latest conversations about this, again, I think that the time horizon for us to have a full exit is much shorter now, again, than we had expected or feared, because we've seen such a substantial improvement in the underlying financial conditions of the firms.

Senator ALEXANDER. Wouldn't the fastest and best way to get the Government out of the car business be to simply declare a stock dividend and give the shares to the 150 million people who paid Federal income taxes this month?

Secretary GEITHNER. Well, in effect, that's—you could say that's what we're doing, because the investments we have in these companies today, and across the financial system still, are investments, of course, of the American people. And where we are able to generate a positive return on those investments, they reduce, ultimately, the overall obligations the American people have. But, in effect, that's what we're doing.

Senator ALEXANDER. Well, it is and it isn't. I mean, I think there's a widespread feeling in the Congress—and I know many Democrats agree with Republicans on this—we'd like to get the Government out of the car business—you said, yourself—as soon as possible. To unload such a large number of shares takes a while. There's a—not a common, but a well-understood procedure in corporate finance called the "corporate spinoff" or the "stock dividend." Procter & Gamble did it with Clorox in 1969; Time Warner, with Time Warner Cable; PepsiCo with its restaurant business. It's whenever you have a holding company or a major company that acquires a subsidiary which has nothing to do with its main purpose, and they say to the shareholders, "Okay, it has nothing to do with what we're supposed to be doing, so we're going to give it to the shareholders."

Well, the United States Government has no business being in the car business, so why don't we give——

Secretary GEITHNER. Right.

Senator ALEXANDER [continuing]. It to the shareholders? Why don't we give it to the taxpayers? It seems to me that that would create a—you know, a fan base like the Green Bay Packers fan base, you know, of investor/owners who'd cheer on the next Chevrolet, 150 million of them. It would stop this incestuousness of Congressmen calling up people from General Motors and say, "Put a plant here," you know, "I'm your owner," and it would avoid the problem of having to deal with this over several years. You could just do it, and then each of us who paid taxes would have a share, too. We could put it away, use it for college. Why wouldn't—why don't we give the stock to the taxpayers who paid for it? It's their money. They ought to own it.

Secretary GEITHNER. Senator, again, we'll—happy to—we're open to any ideas that help us get out as quickly as we can, at least cost to the taxpayer, and I'd be happy to talk to you about it in more detail anytime. But, I want to just underscore what you said. We are not—do not want to be in the business of the automobiles, as—

we should never have been in it, do not want to be in it, came in there reluctantly, in the face of the worst financial crisis in generations, and we want to get out as quickly as we can. And we are being very careful, Senator, while we're in this reluctant position, not to make—to make sure we are not involved, in any way, in the bases of these businesses for how to run their companies. We've been very successful in doing that. You can ask any of the people involved. And we've been honoring that commitment.

Senator ALEXANDER. Well, thank you, Mr. Secretary. But, I believe the best way would be to declare a stock dividend and give the shares to the taxpayers who own it, and then you'd be out of the business, and you could attend to the other issues that Senator Durbin and Senator Collins want to ask about now.

Thank you, Mr. Chairman.

Senator DURBIN. Senator Alexander has raised this issue on the floor, and made several speeches on it. I know he feels very passionately about it. I'm glad he had a chance to ask the question today. I'm sure we're going to see some more speeches.

Senator ALEXANDER. Thank you, Senator Durbin.

Senator DURBIN. I'd like to ask the Secretary a little different question. And that is—we brought up, in last year's hearing, the fact that we now use credit cards more and more for people to pay things to the Federal Government. And there is a fee charged to the Federal Government as it is charged to businesses which use credit cards—an interchange fee. And I'd like to ask you, Mr. Secretary, in light of last year's question, if you've considered the interchange fee paid by the Federal Government to the major credit cards—for example, if a family in Springfield, Illinois, decided to pay its income tax liability through a credit card, the amount of money received by the Federal Government would be diminished by the fee we have to pay that credit card company for the use of their card. These fees change by businesses. They are—some are negotiated, and some are imposed, but there are different fees being paid.

But, I want to ask you specifically, What is the Treasury Department doing to make sure that our Government—Uncle Sam—isn't being taken advantage of when it comes to debit and credit card fees? For example, for payment by check, there is no added fee for the use of a check. For payment by debit card, which is directly removing funds from the checking account, there is a fee imposed. So, we're paying credit and debit card charges against the Government. How much in taxpayers' dollars could we save through interchange reform? How much are we paying?

Secretary GEITHNER. Mr. Chairman, I believe that you've required us—or you—the Congress has—to provide a report on just this question, I think, both to measure the cost and to examine ways to reduce those costs. We're in the process of completing that report, and we're going to meet the deadline established with it, which I believe is approaching soon. So, we have a team of people looking exactly at this question; understand the importance of it to you, and we're going to provide a full report on an estimate of costs and, I hope, try to be responsive to—not just trying to figure out how much it costs us, but what—if we can do anything to reduce those costs.

Senator DURBIN. And if you could, perhaps after the hearing, give me some indication of your schedule on that.

Second, totally unrelated question. Two months ago, I went to Africa, visited four countries; one was Ethiopia. I had a long conversation with President Meles, a very engaging and interesting man, a real leader in Africa. I make a point, when I visit a foreign country, to always ask one last question, "Tell me about China in your country."

It's a fascinating question, and a fascinating response, no matter where you go. And here's what we're learning. The Chinese are expanding their reach into the global economy in every corner of the world. Where they can find resources—energy resources, minerals, timber—they do business with that country. Where they see the potential of a developing middle class, a developing group of customers, they do business in that country. If they find a potential for cheaper labor than China, they do business in that country.

It is clear that they have a plan and a vision. The United States does not. I would say—it is safe to say that we do not engage Africa, for example, and developing nations, the way China does, with concessional loans and other efforts to ingratiate ourselves into the economies of these countries.

Ethiopia is now having stadiums and highways built by the Chinese, with low-interest loans, and, not surprisingly, decided that the telecommunications network for Ethiopia would be based out of China in the future.

How do you view this, from your position as Secretary of the Treasury, as we consider questions like the currency valuation in China and our role in the developing world?

Secretary GEITHNER. Senator, I am a very strong supporter, as is the President, in making sure the United States is providing well-targeted, but substantial amounts of, financial support to countries in—to developing countries, where you see concentrated poverty, where we have huge economic/strategic interests. And the scale of resources we provide, as a Nation, to those countries vastly exceeds, of course, what—and what we do now still exceeds, substantially, what China does.

But, you're raising an important question. And I think my view on this is, we have to approach these basic questions with the following two dimensions.

First, it is very important, and overwhelmingly more important than anything else that we do, that we are working—doing a better job, in this country, of supporting manufacturing investment in American workers. And this President has supported the largest amount, in terms of investments, in terms of his support for research and development, for innovation, for investments in new technologies in energy, for example. And those things are very important to the future of American manufacturing and helping make sure, alongside reforms in education and elsewhere, that we're emerging from this crisis stronger, as a country, more competitive, better able to meet those broader challenges. And those reforms, combined with what Senator Collins referred to, which is to making sure that we dig out of this fiscal hole, reduce our deficits sustainables over time, will be very important to make sure that

we're strong enough to sustain the role we traditionally played around the world.

Now, of course, that's necessary. And you could say it's not sufficient. So, I believe very strongly—and the President does, too—that we need to make sure that we are working very hard to make sure that American firms place a level playing field, not just in China, but in countries around the world where we compete with China, and many other emerging markets.

And that—as part of that effort, the—my colleagues in the Cabinet that are responsible for trade are pursuing a very aggressive strategy of trying to make sure that we are increasing opportunities for American firms in China, that American firms are subject to less discrimination or adverse preference. And as China moves to increase growth from domestic consumption sources, shifts to a strategy less dependent on exports to the United States—which is very important to us, we think it's very important that they renew the process of reform of their exchange rate so that we allow the market to play a greater role in determining the level of that exchange rate—that's the basic strategy that I think is important. And you're right to point out that China, like many countries, is playing a much more active role now, not just in Africa, but in countries around the world, that are not just resource-rich, but that provide future markets for their goods.

Senator DURBIN. Senator Collins.

Senator COLLINS. Thank you.

Mr. Secretary, Freddie Mac and Fannie Mae are major financial institutions that contributed to the economic crisis and had to be bailed out by the taxpayers. In fact, according to CBO, taxpayers have already paid $91 billion to cover losses at Freddie and Fannie, in 2009 alone, and CBO projects that the long-term costs of bailing out Fannie and Freddie could exceed $380 billion. The end of last year, you announced that Treasury had lifted the prior $400 billion cap on further financial support of Freddie and Fannie. Yet, the financial regulatory reform bill that is before us on the Senate floor does not deal at all with Freddie and Fannie, despite the prominent role that they played in the collapse of our economy.

Shouldn't we be tackling reform of Freddie and Fannie?

Secretary GEITHNER. Absolutely. We made a judgment, Senator, because of the scale of the challenges when we came into office facing, that because fixing what was broken in the housing market was going to be such an enormously complicated task, and is a much more complicated task than simply figuring out what to do with Fannie and Freddie—it involves the future of the FHA and, of course, a range of other actions we've traditionally taken in housing markets—and because housing markets were going to be under stress for such a long period of time, we thought it would better to do this in stages.

So, the first stage of reforms, which Congress is considering today—Senate's considering today—are—you know, they're very comprehensive and sweeping, but we thought it was best to leave the important difficult task of reforming the housing finance market to a second stage. And we are engaging in a process now, with your colleagues in the Senate and the House, through a process of

hearings and public comment, to explore a range of reforms to Fannie and Freddie.

You're right to emphasize how much they contribute to the crisis, and reforming them is important. And let me just say, as I've said in public before—testified—we are not—that's not a system we can live with, going forward, and we're going to have to fundamentally change the role they play in the housing markets, going forward. It's just that our judgment was we'd be better able to get it right, and get consensus behind it, if we were further along in stabilizing this housing crisis, things were less fragile. We thought we'd get better reforms.

Senator COLLINS. The problem is—you brought up the FHA—I just read that the losses for that agency are actually going in the wrong direction; they're going up. It really concerns me that we've yet to tackle these Government-sponsored enterprises. They played a critical role in the collapse of the economy. And I guess I don't know what we're waiting for. It seems to me that should be part of the Federal financial regulatory reform. They are large financial institutions, after all.

Secretary GEITHNER. Well, Senator, again, I—you're absolutely right to emphasize the importance in reforms, and it's something we're going to have to do. But, it is a enormously complicated, difficult thing to get right. And, frankly, our judgment is, we're more likely to get it right if we go through a careful process of testimony/ public comment. You know, we spent 1 year debating these broad reforms in the financial system. It's going to take months to figure out what to do on the broader future of the GSEs and the rest of the housing finance complex. And—but, we're committed to doing it, want to work with you on it.

But, I just want to underscore that, in the near term, we are working very hard to make sure we're limiting the risk of losses, going forward. And getting the reform right is going to be about the future, preventing this from happening in the future. In the meantime, we're working very carefully, very hard, to make sure we're limiting risk of future losses in these institutions, and that the market comes back and replaces the exceptional role they came to play in the crisis.

Senator COLLINS. Does the Treasury have a set of recommendations for reform?

Secretary GEITHNER. We've laid out some broad objectives and principles. I've testified on some alternative models we might take. But, we're going through a process of public comment and testimony, to examine the full range of alternative models. There's a lot of models to look at. Our system worked very well for many decades, but, as you said and as you've seen, we made some very damaging mistakes, as a country, in letting them take on a huge amount of risk, without capital to back up that risk and provide those returns to the shareholders, not to the homeowners, and that's not something we're prepared to tolerate in the future.

Senator COLLINS. It just seems to me that there's so much that we should be doing in that area that is not that complicated to figure out, such as capital requirements, such as underwriting standards, such as having the Securities and Exchange Commission

(SEC) have more jurisdiction. Those are all recommendations that have been around for a long time. And——

Secretary GEITHNER. But, we're—Senator, I agree with you, and we're not waiting for reform on those things. On capital and underwriting standards, and a range of other changes in how they design their programs, we are on that, and working on that, and not waiting for reform on those.

Senator COLLINS. And when do you expect that you will present a plan for reform?

Secretary GEITHNER. Oh, it's probably going to take us another 6 months, actually, I think, to do that. I'm not sure exactly when. We'll do it as soon as we can. And again, I think, if your colleagues on the committees, in Banking here in the Senate, and Financial Services in the House, want to move more quickly in examining the options, we're prepared to do that.

Senator COLLINS. Thank you.

Senator DURBIN. Senator Alexander.

Senator ALEXANDER. Thank you, Mr. Chairman.

Mr. Secretary, as I study the proposed—the various drafts of the proposed financial regulation bill, there is this Bureau of Consumer Financial Protection. I believe the Director—it's run by a Director and—who is appointed by the President and confirmed by the Senate. After that, to whom does the Director of the Bureau of Consumer Financial Protection report?

Secretary GEITHNER. Well, in the proposal we presented, the design is an independent agency with a head accountable to the Senate, confirmed—appointed by—confirmed by the Senate; of course, subject to oversight by the Senate——

Senator ALEXANDER. But, who——

Secretary GEITHNER [continuing]. Or the Congress.

Senator ALEXANDER. Once the head's in office, who—to whom does he or she report? Who's the boss? I mean, who——

Secretary GEITHNER. He or she——

Senator ALEXANDER [continuing]. Do you call up and say, "Do this," or, "Do that," or, "Don't do this"?

Secretary GEITHNER. He or she is the boss.

Senator ALEXANDER. He or she is the boss.

Secretary GEITHNER. Now, we've also proposed—but, I'm not sure exactly which provision you're referring to, because this is still in the process of evolution in the——

Senator ALEXANDER. Right.

Secretary GEITHNER [continuing]. House and the Senate—we also proposed, on the model of a proposal Senator Collins made, that there be a council established on which would sit the Secretary of the Treasury and the principal regulators, and the head of this agency would be a member of that council, would sit on that council; and the job of that council, in addition to the responsibility Senator Collins said, would be to look across the system, make sure that standards are sufficiently conservative, there's not big gaps in oversight, we don't have these huge gaps in regulation that helped—this crisis, but—I was trying to answer your question.

Senator ALEXANDER. Well, I'm wary of—not to use a pejorative word—a czar with no boss in an area of such unprecedented importance. I mean, let's say the new Director of the Bureau of Con-

sumer Financial Protection got it in his or her mind that it would be a good idea to allocate credit and encourage credit unions and banks to loan money to people who couldn't pay it back, which is exactly what happened with the big housing agencies, with the encouragement of the Congress, with the encouragement of the President, who can call down and say, "Don't do that anymore"? I mean, the way I understand the structure, this person wouldn't have to—we couldn't, very easily—congressional oversight is limited; the—he doesn't work for the Secretary of the Treasury—he or she—or for the President. Wouldn't it be better if this person reported to someone who was elected by the people, either Members of Congress or the President or his appointees?

Secretary GEITHNER. Well, let me offer two things in response to that concern, Senator.

First is, the statute that would govern the body, this agency for consumer protection, would not authorize—would not empower the head of the agency to do what you—the example you fear; would not have anything like that kind of authority. The authority would be to write rules and enforce rules to prevent abuse and fraud, unfair/deceptive practices, to make sure consumers have clear disclosure and can make better choices about which products are in their interests, as a whole.

Second, I would just say this again, we're trying to take a model which is familiar to you, not dramatically different in design of the model that we live with, with the Federal Trade Commission (FTC), the SEC, the Commodity Futures Trading Commission (CFTC). Each of those are independent agencies with a Chairman appointed by the President, confirmed by the Senate. And in those agencies, as in this one, you have a statute—a defining statute—what is the limits and the scope of their authority. And I think that protection, combined with congressional oversight, is the balance we would——

Senator ALEXANDER. We're hearing from—in the Congress, from a lot of auto dealers and dentists and credit unions and community banks and people on Main Street, who are afraid that this new credit bureau will make it harder for them to borrow money, limit their choices, make it take longer to borrow money. And—on Main Street, as well as on Wall Street—but, on Main Street, if you have fewer choices and it takes longer and you fill out forms and it's harder, sometimes that means you just don't get the credit. What would you say to those people? Why should they not be concerned about this new agency, which seems to me to have unprecedented authority and the real risk of a Washington takeover of Main Street lending?

Secretary GEITHNER. Senator, I do not believe it has any material risk in that direction, and I think we've designed a proposal that's very careful to limit that risk.

The system we've been living with for a long time now was a system in which there were rules, but they only extended, fundamentally, to a class of banks. They left vast swaths of the country without any rules or any enforcement of those rules to protect consumers. And that system helped produce the worst financial crisis in generations. And the system—we got in that mess, in part, by letting a whole range of institutions provide credit to consumers,

competing business away from banks without being subject to those basic rules.

So, we started with the basics——

Senator ALEXANDER. Such as credit unions?

Secretary GEITHNER. Well, there—I don't think there's any argument to say that credit unions were a contributing cause of this crisis. And, in fact, I would associate myself with many who have said that community banks largely distinguish themselves well in not following the market down and competing by lowering standards and underwriting elsewhere. But, there are a large number of different types of companies across the country involved in the finance business—consumer finance business—that took advantage of the current system and left people with financial obligations they did not understand, could not afford, were not appropriate for them. And the damage of that was catastrophic.

So, what we're trying to do is take responsibility that exists today, Senator, but is diffused across a whole range of different entities, and we're trying to take that and streamline it and put it in one place, where people have a dedicated responsibility to protect consumers.

Now, we want to make sure there's an agency that has authority to write rules across anybody that's in the business of providing credit—consumer finance companies, as well as banks—and can enforce those rules so there's a level playing field. That's the model we're trying to produce. And the provisions that came out of the House and that are being considered in the Senate provide a lot of protections and comfort to community banks and credit unions.

Senator ALEXANDER. Thank you, Mr. Chairman.

Senator DURBIN. Secretary Geithner, thank you for coming and giving us generously of your time. We're likely to call you back for informal and formal meetings, depending on your availability and the need. But, you've been very helpful, today, in answering a broad range of questions, and we look forward to working with you again in the future.

We'll send some written questions your way, and hope that you and your staff can take a look at them.

Thank you, again.

Now I'd like to invite the second panel to come before us. And as they're being placed, we'll wish the Secretary a fond adieu.

Is that appropriate? I think it is.

And Kevin Puvalowski, Richard Neiman, Katie Van Tiem, are going to come up. And we welcome them.

Mr. Puvalowski is with the Office of the Special Inspector General for Troubled Asset Relief Program, known as SIGTARP. We love these acronyms. And he was appointed there in December 2008 as deputy special inspector general. He's the principal advisor to the special inspector general, oversees and coordinates audits and investigations of the TARP program, and, prior to that, was a Federal prosecutor in the U.S. Attorneys Office for the Southern District of New York. His specialty was money laundering and asset forfeiture. He is a graduate of the Fordham University School of Law.

Richard Neiman is with us. He's a member of the Congressional Oversight Panel created to oversee the implementation of the

TARP program. Mr. Neiman is currently the superintendent of banks for the State of New York. He chairs the Governors Halt Abuse Lending Transactions, or HALT, a task force to address the foreclosure crisis. He represents New York in the Multistate Foreclosure Prevention Working Group, began his career at the Federal Office of the Controller of the Currency, worked for several financial service firms, holds a B.A. from American University and a law degree from Emory University School of Law.

Katie Van Tiem, currently the program manager of subprime lending intervention for the Chicago Lawn and Gage Park Office of the Neighborhood Housing Services of Chicago, previously worked as a mortgage counselor to prevent over 100 foreclosures and preserve $16 million mortgage principal on the southwest side of Chicago, which is represented partially by this illustration we have; she is currently working on the subprime mortgage crisis and foreclosure prevention. Incorporating experience from the front line of mortgage foreclosures, she's played a critical role in organizing the campaign to help keep families in their homes. She has helped community residents develop an understanding of foreclosure and Federal prevention programs. In October 2009, she was named a community hero—could have been "Shero"—by the Local Initiative Support Corporation New Communities Program, for her leadership. She holds a B.A. from Notre Dame University, and begins the DePaul University master of science in leadership and policy studies programs this year.

Mr. Puvalowski, the floor is yours.

STATEMENT OF KEVIN PUVALOWSKI, DEPUTY SPECIAL INSPECTOR GENERAL, OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM

Mr. PUVALOWSKI. Chairman Durbin, Ranking Member Collins, it's a pleasure and an honor to appear before you today to talk about the TARP program, and, in particular, the efforts within TARP to assist struggling homeowners.

There is some relatively good news to report. Some aspects of the financial system are on their way back to recovery, and many TARP recipients have been able to pay back TARP funds much faster than had been anticipated. As a result, estimates concerning taxpayers' expected losses on their TARP investments, while still very substantial, have been steadily coming down.

The Office of Management and Budget's (OMB) most recent estimate is a loss of $127 billion, with the losses concentrated in TARP's support of AIG, of the automotive industry, and of residential mortgages. However, even as TARP has helped Wall Street begin to regain its footing, it has, so far, not fulfilled its statutory goal of doing the same for Main Street. Long-term unemployment is the worst in recent history. Smaller banks are still failing at an alarming rate. And the goal of preserving housing has, so far, come up short; 2.8 million foreclosures—or filings—were made in 2009, and we're on a pace for even more—close to 4 million—in 2010.

The HAMP program, Treasury's TARP-supported mortgage modification initiative has, so far, only put a dent in the foreclosure problem, resulting in only approximately 230,000 permanent modifications in its first year of operations, a number that is less than the foreclosure notices that went out in the month of March alone,

and less than the amount of homes that actually were repossessed by banks in just the first quarter of 2010.

Last month, SIGTARP issued an audit, examining HAMP, that identified several significant failings that have contributed to results that Treasury itself has called "disappointing." The audit identified problems in HAMP concerning Treasury's goals for the program, its rollout, its outreach efforts, and in the program's design; in particular, with respect to the vulnerability of the program to redefault.

In apparent response, Treasury recently announced dramatic changes to the program, addressing, for the first time, one of the most significant indicators of redefault, negative equity or underwater mortgages. These new initiatives are important steps in the right direction, and Treasury should be applauded for its willingness to make changes to improve the program.

The new initiatives, however, are not without their own set of problems. In SIGTARP's most recent quarterly report, which was released just last week, we identified several areas of concern, and offered recommendations relating to transparency, to potential fraud vulnerabilities, and to several issues that could threaten the new initiative's effectiveness or result in arbitrary results for homeowners. Unless Treasury addresses the issues raised in the reports, and in the prior reports of the Government Accountability Office (GAO), of the Congressional Oversight Panel, HAMP will continue to result in only modest relief to the foreclosure crisis.

In my remaining time, let me discuss, very briefly, some recent developments in several of SIGTARP's investigations.

Over the past quarter, SIGTARP has added to its successes in bringing to justice those who would seek to take criminal advantage of TARP. For example, in Manhattan Federal Court, criminal charges were brought against Charles Antonucci, the CEO of Park Avenue Bank, who was charged, among other things, with trying to steal $11 million of TARP funds. That case was done in close coordination with several of our law enforcement partners, including the New York State Banking Authority, which operates under the strong leadership of my co-panelist Mr. Neiman.

SIGTARP worked with the New York State attorney general to secure civil fraud charges against Bank of America and its former CEO and CFO related to Bank of America's merger with Merrill Lynch and their successful effort to obtain tens of billions of additional TARP dollars. We also assisted the SEC in its investigation of Bank of America, which led to a $150 million civil settlement and important governance changes to the bank.

And in California, we recently secured criminal charges against two individuals who allegedly preyed on struggling homeowners by tricking them into paying thousands of dollars each, more than $1 million in total, for mortgage modifications that never materialized.

PREPARED STATEMENT

Thank you again for the opportunity to testify before you today, and I look forward to answering any questions you may have.

Senator DURBIN. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF KEVIN R. PUVALOWSKI

Chairman Durbin, Ranking Member Collins, and Members of the Committee: Thank you for the opportunity to testify today about the critically important oversight mission of the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP").

There are clear signs that some aspects of the financial system may well be on the path to recovery. Many of the large banks and Wall Street firms propped up by unprecedented taxpayer support in the fall of 2008—including massive infusions under the Troubled Asset Relief Program ("TARP")—have returned to profitability, attracted private-sector capital, and enjoyed substantially rebounded stock prices. Many of those firms have been able to repay TARP far sooner than anyone reasonably would have anticipated, resulting in a profit on those particular investments for the Treasury Department ("Treasury"), and thus the American taxpayer. Even Citigroup Inc. ("Citigroup") and Bank of America Corporation ("Bank of America"), firms that appear to have survived only with extraordinary TARP assistance, have rebounded, with Bank of America repaying its TARP bailouts in full and Citigroup on the verge of doing the same. All told, as of March 31, 2010, $205.9 billion has come back to the taxpayer through repayment of principal, interest, dividends, cancellation of guarantees, and warrant sales. Although TARP is still expected to result in a large loss ($127 billion according to the Office of Management and Budget, as of February 2010), the expected loss is far lower than previous estimates, and is concentrated in the programs designed to support American International Group, Inc. ("AIG") ($50 billion), the automotive industry ($31 billion), and housing ($49 billion).

Even as Wall Street regains its footing, however, signs of distress on Main Street remain disturbingly persistent. Although unemployment has eased slightly in recent months, it remains much higher than at any time since 1983. In addition, the long-term nature of unemployment is unprecedented in recent history—the March 2010 figure for the average duration of unemployment, 31.2 weeks, is the highest since such measurement began in 1948. Meanwhile, smaller and regional banks continue to struggle (with 57 closed so far in 2010), small-business lending remains substantially depressed from pre-recession levels, and the real estate markets, both residential and commercial, continue to suffer at crisis proportions in many areas of the country. In sum, notwithstanding that the financial system appears to be stabilizing and record profits are returning to Wall Street, the plain fact is that too many Americans on Main Street are still in imminent danger of losing their businesses, their jobs, and their homes.

In light of these circumstances, Treasury has shifted much of TARP's focus to initiatives intended to offer economic relief to the broader public. A year ago this March, Treasury introduced the Making Home Affordable ("MHA") initiative to address the growing wave of home foreclosures ravaging many areas of the country. The centerpiece of MHA is the Home Affordable Modification Program ("HAMP"), which was intended to result in millions of sustainable mortgage modifications that would allow homeowners to remain in their homes by reducing their monthly payments to affordable levels. The Administration has allocated $75 billion to HAMP, including $50 billion of TARP funds.

Despite Treasury's efforts on this front, however, the home foreclosure crisis has not abated; indeed, the situation has continued to deteriorate since HAMP's rollout. Nearly 2.8 million foreclosures were initiated in 2009. More ominously, 2010 is on pace to be even worse: there were more than 932,000 foreclosure filings during the first quarter—a 16 percent increase from the already staggering rate for the first quarter of 2009. Similarly, for the first quarter of 2010, actual bank repossessions rose 35 percent from 2009 levels to nearly 258,000. Unfortunately, HAMP has made very little progress in stemming this onslaught, resulting in only 230,000 permanent modifications initiated over the approximately 12 months of the program's existence. That figure represents only 8.2 percent of the foreclosures initiated in 2009 and fewer than just the most recent quarter's actual bank repossessions.

A SIGTARP audit report published on March 25, 2010, examined the design and operation of HAMP in detail. The audit first found that Treasury's publicly touted measure of success, the number of short-term trial modification offers that have been made to struggling homeowners, was largely meaningless, and that Treasury needs to identify clearly the total number of homeowners it actually intends to help stay in their homes through sustainable permanent mortgage modifications. The audit also found that the limited results to date stemmed from, among other things, flaws in HAMP's design, rollout, and marketing that diminished the program's effectiveness in providing sustainable relief to at-risk homeowners. In its original version, HAMP involved frequent and time-consuming revisions of guidelines that

created confusion and delay; permitted reliance on unverified verbal borrower data that slowed down conversions to permanent modifications; suffered from insufficient outreach to the American public about eligibility and benefits; and did not fully address risk factors for re-defaults among participating borrowers, including negative equity and high total debt levels even after modification. Without addressing the dangers of re-default, HAMP risks merely spreading out the foreclosure crisis at significant taxpayer expense. Although this may benefit financial institutions that would not have to recognize the losses from immediate foreclosures, it would do little to accomplish the Emergency Economic Stabilization Act's ("EESA") explicit purpose to "help families keep their homes."

Although Treasury was initially reluctant to address the issues raised in the audit report regarding re-default, including a suggestion that only modest changes would be made to the program to address negative equity, just days after the publication of SIGTARP's audit report and a subsequent Congressional hearing discussing the report's findings, Treasury changed course and introduced major revisions to HAMP, including new provisions designed to address the plight of unemployed homeowners and to require consideration of principal write-downs for borrowers with negative equity. To Treasury's credit, the program changes appear intended to expand HAMP participation and improve the rate of permanent modifications, as well as to address the significant re-default risk driven by homeowners' negative equity. On the whole, the revisions to HAMP constitute a potentially important step forward in addressing some of the flaws identified in SIGTARP's audit report.

However, the program changes, as announced, also raise several issues that could impede HAMP's effectiveness and efficiency. Treasury's urgency in rolling out the new initiatives, laudable as it is, risks significant costs in the form of ill-defined goals, incomplete program guidelines, increased vulnerability to fraud, incentives that may prove ineffective, and the potential for arbitrary treatment of participating borrowers. SIGTARP has made a series of recommendations designed to address these issues:

- —Treasury should identify its participation goals and anticipated costs for each HAMP program and subprogram and measure success against those expectations in its monthly reports.
- —Treasury should launch a broader based fraud awareness campaign for HAMP and include fraud warnings when it makes program announcements.
- —To protect against fraud, Treasury should abandon its differing valuation standards across HAMP and adopt the Federal Housing Authority's appraisal standard for all HAMP principal reduction and short sale programs.
- —Treasury should reevaluate the voluntary nature of its principal reduction program, considering changes to maximize effectiveness, to ensure to the greatest extent possible consistent treatment of similarly situated borrowers, and to address potential servicer conflicts of interest.
- —Treasury should reconsider the length of the 3-month minimum term of its unemployment forbearance program.

In sum, until Treasury fulfills its commitment to provide a thoughtfully designed, consistently administered, and fully transparent program, HAMP risks being remembered not for catalyzing a recovery from our current housing crisis, but rather for bold announcements, modest goals, and meager results.

PROGRAM UPDATES AND FINANCIAL OVERVIEW

TARP currently consists of 13 announced programs, all of which have been implemented. Six are closing or have already been wound down. As of March 31, 2010, Treasury had announced programs involving potential spending of $537.1 billion of the $698.8 billion maximum available for the purchase of troubled assets under TARP as authorized by Congress. Of this amount, Treasury had expended or committed to expend approximately $496.8 billion through the 13 implemented programs to provide support for U.S. financial institutions, the automobile industry, the markets in certain types of asset-backed securities ("ABS"), and homeowners. As of March 31, 2010, 77 TARP recipients had paid back all or a portion of their principal or repurchased shares for an aggregate total of $180.8 billion of repayments and a $5 billion reduction in exposure to possible further liabilities, leaving $387.8 billion, or 55.5 percent, of TARP's allocated $698.8 billion available. In addition to the principal repayments, Treasury has received interest and dividend payments on its investments, as well as revenue from the sale of its warrants. As of March 31, 2010, $14.5 billion in interest, dividends, and other income had been received by the Government, and $5.6 billion in sales proceeds had been received from the sale of warrants and preferred stock received as a result of exercised warrants. At the same time, some TARP participants have missed dividend payments: among participants

in the Capital Purchase Program ("CPP"), 104 have missed dividend payments to the Government, although some of them made the payments on a later date. As of March 31, 2010, there was $188.9 million in outstanding unpaid CPP dividends. In addition, three TARP recipients have failed and several others have restructured their agreements with Treasury, increasing the potential for further losses.

OVERSIGHT ACTIVITIES OF SIGTARP

As you know, SIGTARP was created by EESA to conduct, supervise and coordinate audits and investigations concerning TARP. Initially envisioned as a large but relatively straightforward toxic asset purchase program, TARP has morphed into multiple complex programs—the current count is 13—that touch on nearly every major aspect of our economy, from too-big-to-fail Wall Street giants, to regional and community banks, to the asset-backed securities markets, to small-business lending initiatives, to the automobile industry, and, perhaps most broadly, to the mortgages of millions of struggling homeowners around the country. In just 16 months of existence, SIGTARP has had a tremendous impact on the TARP program: it has made significant and demonstrable contributions to the transparency of the program; it has worked closely with Treasury and the other agencies administering TARP-related programs to make those programs more effective and less susceptible to waste, fraud and abuse; and it has successfully brought to justice those who have sought to benefit criminally from this national crisis.

Investigative Activities

SIGTARP's Investigations Division continues to develop into a sophisticated white-collar investigative agency. Through March 31, 2010, SIGTARP has 84 ongoing criminal and civil investigations. Recent highlights include:

The Park Avenue Bank.—On March 15, 2010, Charles Antonucci, the former President and Chief Executive Officer of The Park Avenue Bank, was charged by the United States Attorney's Office for the Southern District of New York with offenses including self-dealing, bank bribery, embezzlement of bank funds, and bank, mail and wire fraud, among others. In particular, Antonucci allegedly attempted to steal $11 million of TARP funds by, among other things, making fraudulent claims about the bank's capital position. These charges mark the first time an individual has been criminally charged with attempting to steal TARP funds. According to the allegations, Antonucci falsely represented that he had personally invested $6.5 million in The Park Avenue Bank to improve its capital position. As set forth in the charges, however, the funds were actually borrowed from the Park Avenue Bank itself and reinvested as part of an undisclosed "round-trip" transaction. The complaint further alleges that this fraudulent transaction was touted by The Park Avenue Bank in support of its application for TARP funds as evidence of its supposedly improving capital position.

Bank of America.—On February 4, 2010, the New York Attorney General charged Bank of America, its former Chief Executive Officer Kenneth D. Lewis, and its former Chief Financial Officer Joseph L. Price with civil securities fraud. According to the allegations, in order to complete a merger between Bank of America and Merrill Lynch & Co., Inc. ("Merrill Lynch"), the defendants failed to disclose to shareholders spiraling losses at Merrill Lynch. Additionally, after the merger was approved, it is alleged that Bank of America made misrepresentations to the Federal Government in order to obtain tens of billions of dollars in TARP funds. The investigation was conducted jointly by the New York Attorney General's Office and SIGTARP, and the case remains pending in New York state court. SIGTARP also assisted the Securities and Exchange Commission ("SEC") with its Bank of America investigation. On February 22, 2010, the Honorable Jed S. Rakoff, United States District Judge for the Southern District of New York, approved a $150 million civil settlement between the SEC and Bank of America to settle all outstanding SEC actions against the firm.

Nations Housing Modification Center.—On March 19, 2010, Glenn Steven Rosofsky was arrested by agents from SIGTARP and the Internal Revenue Service, Criminal Investigation Division, and charged by the U.S. Attorney's Office for the Southern District of California with one count of conspiracy to commit wire fraud and money laundering and one count of money laundering. A separate information the same day charged Michael Trap with conspiracy to commit fraud and money laundering. As set forth in the charges, Rosofsky, Trap, and others operated a telemarketing firm, ostensibly to assist delinquent homeowners with loan modification services. Rosofsky and Trap took advantage of the publicity surrounding the Administration's mortgage modification efforts under the TARP-supported MHA program and are alleged to have used fraudulent statements to induce customers to pay $2,500 to $3,000 each to purchase loan modification services that were not actually

provided. It is alleged in court documents that the fraud grossed more than $1 million. Trap pled guilty to the charges listed in his March 19 information the following day. The case against Rosofsky remains pending.

Colonial Bank.—On August 3, 2009, SIGTARP, with the Federal Bureau of Investigation ("FBI"), the Department of Housing and Urban Development Office of Inspector General ("HUD OIG"), and the Federal Deposit Insurance Corporation Office of Inspector General ("FDIC OIG"), executed search warrants at the offices of Taylor, Bean and Whitaker ("TBW"), formerly the nation's 12th-largest loan originator and servicer, and Colonial BancGroup ("Colonial"), which applied for assistance under the CPP. Prior to the execution of these warrants, SIGTARP had served subpoenas on Colonial after it had announced that it had met conditions imposed by Treasury to receive $553 million in TARP funding. Based upon, among other things, the actions of SIGTARP, the funding was never made. Both Colonial and TBW have been shut down, and this investigation, which is being conducted with the Department of Justice and the SEC as well as the FBI and HUD OIG, is ongoing.

Audit Activities

SIGTARP's Audit Division ("AD") conducts, supervises, and coordinates programmatic audits with respect to Treasury's operation of TARP and recipients' compliance with their obligations under relevant law and contracts; evaluates TARP policies and procedures; and provides technical assistance to Treasury. AD is designed to provide SIGTARP with maximum flexibility in the size, timing, and scope of audits so that, without sacrificing the rigor of the methodology, audit results, whenever possible, can be generated rapidly both for general transparency's sake and so that the resulting data can be used to improve the operations of the fast-evolving TARP. Our recommendations in our audits and quarterly reports have had an immeasurable impact by preventing and deterring fraud, waste and abuse of TARP funds.

To date, AD has initiated 20 audit projects and has issued 8 audit reports on such topics as TARP recipients' use of funds, the circumstances surrounding the first TARP investments in nine large banks, bonuses paid to employees of American International Group, Inc. ("AIG"), the circumstances that led to the Government's decision to pay effectively 100 cents on the dollar to AIG's counterparties for securities then worth about half of that amount, and, most recently, on the problems with the design and implementation of HAMP. SIGTARP has ongoing audits examining: Treasury's warrant valuation and disposition process; the automobile dealership closings processes used by General Motors and Chrysler; Government oversight of and interaction with those companies that the Government has or is approaching majority owner status; the Asset Guarantee Program protections of a pool of Citigroup assets; Capital Purchase Program ("CPP") applications that received conditional approval; the process used to select asset managers for the Public-Private Investment Program ("PPIP"); internal controls for PPIP; the process for making valuation determinations in the Term Asset-Backed Securities Loan Facility; the criteria used by the Office of the Special Master on Executive Compensation; Treasury's CPP exit strategy; the application of the HAMP net present value test; and a material loss review, with FDIC OIG, of United Commercial Bank, a CPP bank that failed after receiving $298.7 million of TARP funds.

SIGTARP RECOMMENDATIONS ON THE OPERATION OF TARP

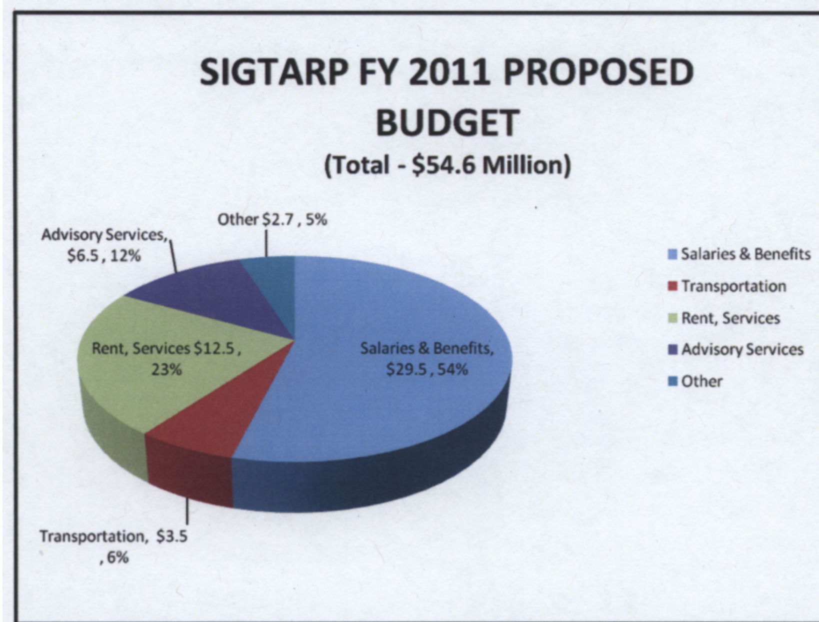
One of SIGTARP's oversight responsibilities is to provide recommendations to Treasury so that TARP programs can be designed or modified to facilitate effective oversight and transparency and to prevent fraud, waste, and abuse. SIGTARP has issued six quarterly reports to Congress, provided 58 formal recommendations to date, and have provided countless more informal guidance to Treasury and the Federal Reserve in their implementation of TARP and TARP related programs. In this quarter's report, we make the HAMP recommendations discussed above, and make recommendations designed to improve transparency and better safeguard against fraud or the failure of participating institutions in the Community Development Capital Initiative ("CDCI"), a new TARP initiative designed to provide up to $1 billion in additional capital to Community Development Financial Institutions to incentivize lending.

Over the past quarter, Treasury has also announced another new initiative designed to spur small-business lending, the Small Business Lending Fund ("SBLF"). As announced, although SBLF will be funded with $30 billion that will be rescinded from TARP, SBLF will not be part of TARP, but rather will be operated outside of TARP and thus will not be subject to the executive compensation restrictions and perceived stigma associated with TARP. However, many of the characteristics of SBLF are the same or very similar to the TARP's CPP and CDCI: the economic

structure is basically the same, with Treasury providing capital in the form of preferred equity, and, like CPP and CDCI, the maximum amount of capital available under SBLF will be a percentage of the institution's risk-weighted assets. It would also appear that the application and approval process for new participants will be similar and will involve the same primary regulators. Even many of the same banks will be participants—SBLF is expressly being designed so that many CPP participants will be able to convert their CPP capital into SBLF capital. SIGTARP has estimated that up to 95 percent of CPP participants could be eligible to convert to SBLF. In sum, the funds being utilized, the core mechanics, the economic terms of the program and even many of the participants all stem from TARP's CPP. Because SIGTARP has developed considerable experience and expertise in its oversight of the very similar (and similarly complex) CPP, particularly in reporting, monitoring, deterring, and investigating fraud, SIGTARP has strongly encouraged that SIGTARP be included in the oversight provisions of Treasury's legislative proposal concerning SBLF. SIGTARP has sent a letter to Treasury objecting to its stated intent not to include SIGTARP in the proposed legislation.

Budget

SIGTARP's budget as submitted in the fiscal year 2011 President's budget request is $49.6 million. SIGTARP plans to allocate that amount, along with $5 million in supplemental funds provided to SIGTARP under Pub. Law No. 111–22, as follows:



SIGTARP has secured temporary office space and equipment for staff; has contracted for permanent space; has contracted with public and private vendors for personnel services, procurement assistance, publication consulting, data processing and analysis, and office equipment and services. Through March 31, SIGTARP has hired 116 professionals with a wealth of experience in program auditing, law enforcement, securities enforcement, and other relevant expertise. Our budget is designed to enable SIGTARP to continue to fulfill its role as the agency that stands between hundreds of billions of taxpayer dollars and those who would seek to steal, waste or abuse those funds.

Chairman Durbin, Ranking Member Collins, and Members of the Committee: I want to thank you again for this opportunity to appear before you, and I would be pleased to respond to any questions that you may have.

Senator DURBIN. Mr. Neiman.

STATEMENT OF RICHARD NEIMAN, SUPERINTENDANT OF BANKS, STATE OF NEW YORK AND MEMBER, CONGRESSIONAL OVERSIGHT PANEL

Mr. NEIMAN. Chairman Durbin, Ranking Member Collins, it's a pleasure to be here, and I appreciate the opportunity to testify today.

I should also note that the views expressed are my own. I will, of course, do my best to convey the Oversight Panel's views, but my statements cannot always reflect the opinions of our five independent thinkers.

Assessing Treasury's response to the housing crisis, as a particular point of emphasis for the panel with the release, this month, of our third foreclosure report. It is also a personal priority for me, as a bank regulator and as the chair of New York's Foreclosure Mitigation Task Force.

Foreclosure prevention is not just the right way to alleviate suffering, but it is the lynchpin around which all other efforts to achieve financial stability revolve. We cannot solve the financial crisis without dealing with the root of the problem.

The reality is that, despite Treasury's efforts—and some of the Treasury's most recent announcements have been laudable—families are, tragically, being foreclosed on when foreclosure was preventable.

A homeowner recently called my office. In fact, I picked up the call, late one evening. The difficulty was that she was having difficulty obtaining a long-term modification under the HAMP program, and it really exemplifies a lot of the problems with the program. She had been making her trial modifications for over 6 months; in fact, it was only because of these reductions in her trial modification which were able to keep her in her home. Her family income had dropped from $85,000 to $54,000 because of a loss of spousal income. But, she had—despite her repeated efforts, she wasn't able to find out what happened, whether she would be offered and converted to a long-term modification. She was eventually told by her servicer that her HAMP modification conversion had been denied; however, they never provided a sufficient explanation as to why.

Worst of all, she was told that her non-HAMP modification that was being offered to her would actually increase her monthly payments, not only over her trial modification, but over her original mortgage, instead of decreasing it.

With our agency's help, she ultimately obtained a more sustainable modification that did allow her to lower her payment and allow her to remain in her home.

This woman's story is only one example of many which starkly illustrates one of the major points of the Oversight Panel's report this month. Treasury must do a better job of holding servicers accountable. If not, these well-intentioned programs will not work.

First, Treasury must exercise greater oversight of Fannie and Freddie, who are supposed to be overseeing the servicers. The failure of servicers to consistently and accurately provide valid reasons for canceling or denying a mortgage modification is critical, and makes it difficult to gather reliable data on the program's effective-

ness. When not in compliance, servicers must meaningfully be sanctioned.

Second, the reporting of the status of homeowners within the modification process is inadequate and does not allow for analysis to determine the extent to which the programs are actually preventing foreclosures. As two major examples, Treasury must obtain from the servicers, in public release, the reasons for and the number of, all denials of mortgage modifications by servicer. And, two, the number of junior liens that have actually been extinguished by Treasury's second-lien program, as this additional borrowed debt affects the long-term sustainability of mortgage modifications, and, as all you—as you both well know, inhibits principal writedowns. And we've included a number of other recommendations in our—my formal testimony.

Third, Treasury's expanded Web portal must launch. Borrowers need to be empowered to check their status and verify whether servicers have actually received the necessary documentation so that corrective action can be taken before it is too late. This concern is perhaps the one I hear most often from borrowers and housing counselors.

Finally, Treasury must provide a mechanism to assist people left in limbo who are not getting sufficient responses from their servicers. The stories we hear point to a clear need for an ombudsman, a homeowner's advocate within the Treasury, a staff of real human beings, not just the currently offered e-mail inbox.

There is much more to discuss, particularly with respect for the need for a nationwide Emergency Mortgage Support program, or EMS, to help borrowers facing reduced income that goes beyond Treasury's recent expansion for the unemployed.

There's also a great need for a national mortgage performance database that reports on the status of existing mortgages, similar to what we already have under HMDA for mortgage originations, so that we can better focus on our actions and assess our impact in solving the enormous problem we, collectively, face.

Improvements like these are not just the right thing to do, they are also the things we have to do if we are going to stabilize our economy.

PREPARED STATEMENT

Thank you very much, and I look forward to our—the questions.

Senator DURBIN. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF RICHARD H. NEIMAN

Chairman Durbin, Ranking Member Collins, and distinguished members of the Subcommittee: I am Richard H. Neiman, the Superintendent of Banks for the State of New York and a member of the Congressional Oversight Panel. I appreciate this opportunity to comment on the ongoing evaluation of the Treasury Department's implementation of the Emergency Economic Stability Act (EESA) with respect to home preservation. I should note that the views expressed in this testimony are my own. I will do my best to convey the Panel's views, but my statements cannot always reflect the opinion of our five diverse thinkers.

The Panel is charged by statute to provide monthly reports to Congress assessing the effectiveness of the Treasury's implementation of the Troubled Asset Relief Program (TARP), including foreclosure mitigation efforts. Assessing Treasury's response to the housing crisis is a particular point of emphasis for the Panel and for me per-

sonally as a bank regulator and as the New York Governor's appointee to lead our state's foreclosure prevention efforts.

When the Panel examined the foreclosure crisis in October of 2009, the picture was grim. About one in eight mortgages were already in foreclosure or default, and an additional 250,000 foreclosures were beginning every month. The Home Affordable Modification Program, or HAMP, was Treasury's main program, and we knew little then about how many HAMP trial mortgage modifications would ultimately become long-term modifications. HAMP was still focused on bringing new families into the program in order to provide immediate relief.

Treasury has since taken additional steps to mitigate foreclosures. Treasury began requiring HAMP loan servicers to explain to homeowners why their applications for loan modifications had been declined, and Treasury launched a drive to convert temporary modifications into long-term, 5-year modifications. In keeping with the Panel's recommendations, Treasury also announced new programs to support unemployed borrowers and to help underwater borrowers regain equity through principal write-downs.

While it is too soon to evaluate the results of these program enhancements, Treasury should be commended for its efforts to address unemployment and negative equity as drivers of default. As the recession has lingered, the crisis evolved to impact prime borrowers whose loans were originally affordable. Loss mitigation initiatives and HAMP guidelines need to keep pace with this changing nature of the problem.

However, these initiatives are in their early stage, and foreclosures have continued at a rapid pace. In total, 2.8 million homeowners received a foreclosure notice in 2009. Each foreclosure has imposed costs not only on borrowers and lenders but also indirectly on communities and the broader economy. These foreclosures have driven down home prices, and nearly one in four homeowners with a mortgage is presently underwater. Although housing prices have begun to stabilize in many regions, home values in several metropolitan areas, such as Las Vegas and Miami, continue to fall sharply. Indeed, all Americans are impacted, as taxpayers are now mortgage investors through Fannie and Freddie, so everyone faces losses from declining values.

Results from Treasury's existing programs continue to lag well behind the pace of the crisis. For every borrower who avoided foreclosure through HAMP last year, another 10 families lost their homes. Treasury's stated goal is for HAMP to offer loan modifications to 3 to 4 million borrowers, but only a portion of offers will result in temporary modifications, and even fewer of those temporary modifications will convert to final, 5-year status.

PANEL FINDINGS

The Panel has issued three reports to date on foreclosures. The most recent was just released on April 14. It lays out three primary areas of concern: the timeliness of Treasury's response to the subprime crisis, the sustainability of mortgage modifications, and the accountability of Treasury's foreclosure programs.

From the Panel's ongoing assessment of Treasury's response to the housing crisis, I would like to highlight two of these themes, namely sustainability and accountability. In both areas there are specific recommendations to improve program effectiveness.

Sustainability

Although HAMP modifications reduce a homeowner's mortgage payments, many borrowers continue to experience severe financial strain, which calls into question the long-term sustainability of the modified mortgage. The typical post-modification borrower pays about 59 percent of his total income on debt service, including payments on first and second mortgages, credit cards, car loans, student loans, and other obligations. Most borrowers who proceed through HAMP still face a precarious future, with severely constrained resources.

Treasury should consider whether its definition of "affordability" and the present 31 percent debt-to-income requirement for program entry adequately captures the many financial pressures facing families today. A particular concern is the existence of second mortgages, which may leave borrowers exposed to foreclosure risk even after the primary mortgage has been modified. Modification efforts should encompass the impact of second liens, which ideally would be extinguished, and any remaining other mortgage debt should be included when evaluating the sustainability of household finances.

Further, we have heard from servicers that whenever principal reduction is included as a component of the modification, even at the same debt-to-income ratio, the outcome is more sustainable. This highlights the importance of incorporating broad principal forgiveness into foreclosure mitigation programs. Treasury amended

the HAMP waterfall to require consideration of principal forgiveness, which also gives servicers a liability safe harbor from investors when making modifications. Initial industry reaction indicates that voluntary principal write-downs may not result in widespread change in servicer behavior, but I strongly encourage servicers to execute write-downs as appropriate.

It is also important to remember that the terms of permanent modifications only stay in place for 5 years. After that period, the interest rate can begin to rise one percentage point a year until it reaches the rate that prevailed at the time of modification. Even though rates will be capped at current prevailing rates, which are at an historic low, many families will experience increased payments after 5 years.

Accountability

The success of these measures to improve HAMP ultimately hinges on accountability. Treasury must take care to communicate clearly its goals, its strategies, and its specific metrics for success for its programs.

I would like to highlight four topics related to accountability: compliance, program transparency, launch of a web portal to empower borrowers, and the creation of an ombudsman or Homeowner Advocate within Treasury.

Compliance

The Panel's April report gets to the heart of the accountability question, by recommending that Treasury exercise greater oversight of Fannie Mae and Freddie Mac on compliance issues. In particular, the failure of servicers to consistently and accurately provide valid reasons for canceling or denying a mortgage modification has made it difficult to gather reliable data on the programs' effectiveness and Treasury should subject servicers to sanctions. Although servicers began to report on reasons why HAMP modifications were denied or cancelled beginning in February 2010, the data has been reported inconsistently. Indeed, a valid reason for a modification cancellation or denial was not provided in more than 70 percent of the cases. Treasury needs to ensure that homeowners are not improperly denied the opportunity for a modification and sent into foreclosure without their servicer accounting for their determinations. Treasury must thoroughly monitor the activities of participating lenders and servicers, audit them, and enforce program rules with strong penalties for failure to follow the requirements.

Program Transparency

Further, our Panel's recommendations concerning greater data collection on the HAMP process is important. The Panel has identified a comprehensive list of data that Treasury should commit to releasing publicly, including:

—Conversion rates by vintage of trial modifications and the percentage of modifications commenced in any given month that have converted;
—Average loan-to-value ratio (LTV) of all permanent modifications;
—Number of junior mortgages eliminated under the second lien program;
—Average front- and back-end debt ratios before and after permanent modification; and
—Breakdown of trial modification denial and cancellation reasons by number and percentage on a cumulative and monthly basis.

Treasury should also release information on the status of borrowers who received notice from servicers by January 31 of the expiration of their trial modification period, and inform the public with a new data category for those who are appealing the servicer's notice.

We need improved data access to identify the choke points in the process, so the program can adapt to ensure that Treasury's new standards taking effect on June 1 meet their objective. Using this data, Treasury might consider whether some duplicative or burdensome document requests are slowing the process, such as requiring profit and loss statements.

Additionally, Treasury should pledge to release data publicly through the full term of all loan modifications, not simply until TARP expires or until HAMP stops making additional modifications.

Web portal

Most importantly, the data must address the most frequent concern I have heard from borrowers and housing counselors as Chair of New York State's foreclosure mitigation task force: borrowers do not know the status of their submissions and are not receiving timely updates as to whether submitted documents have been received or are deemed adequate. These problems do not go away on June 1, but the number of people who will be denied access to the program will go up if they are not addressed.

I am troubled that Treasury's expanded web portal, where borrowers could check their application status and verify whether servicers have received necessary documentation, has so far failed to launch. Although Treasury is seeking to improve the servicers' notification process, borrowers should be encouraged and enabled to be proactive in monitoring the processing of their modification request. I urge Treasury to swiftly implement this tool.

Homeowner Advocate within Treasury

Borrowers have to expend extraordinary effort to achieve results in the modification process, and are kept in the dark throughout much of the process. This lack of servicer responsiveness highlights the need for an ombudsman or Homeowner Advocate within Treasury to go beyond the automated tool of the web portal.

As Superintendent of Banks for New York, I am closely in touch with complaints and concerns from our residents in regard to their mortgage loans. I was especially struck by a homeowner who had faithfully made trial modification payments for 6 months without being notified of her status. Her HAMP modification was eventually denied, and would have been replaced with a non-HAMP workout that increased her monthly payment. She ultimately persevered in obtaining an alternate and more sustainable modification that did lower her payment, but no homeowner should be left in limbo for months on the status of their modification application. HAMP implementation must learn from the currently low conversion rate to permanent modifications.

Borrowers should also be informed about how their eligibility for HAMP is calculated, including the inputs used when denied as a result of an alleged NPV-negative loan. This degree of transparency and accountability for servicers in their decision to deny a modification will also give borrowers the information they need to make a meaningful appeal if they believe they were denied a modification incorrectly or to submit additional facts in support of their application.

As a final point on accountability, Treasury needs to be clear on the amount of funding it intends to allocate for foreclosure mitigation. Treasury originally stated that $50 billion would be designated; yet, previous apportionments plus the amounts related to recent program enhancements total more than $61.6 billion. Treasury should clarify whether it intends to increase its spending or scale back its initiatives.

AREAS FOR ADDITIONAL ACTION

In my supplemental views supporting the Panel's April report, I identified two areas beyond HAMP where I believe more can be done to prevent foreclosures: Assisting homeowners who are experiencing temporary unemployment or other hardship; and creating a national mortgage performance database.

The Country Needs a National Emergency Mortgage Support Program (EMS)

Even prime borrowers with loans made on prudent terms are facing increasing pressure as the crisis has continued. Unemployment and reduced earnings is the number one reason for prime defaults according to Freddie Mac.

The State Foreclosure Prevention Working Group, a multi-state effort of state attorneys general and state banking supervisors, has conducted additional research that brings the impact on prime loans into sharp focus. The number of prime loans in foreclosure has doubled in each of the past 2 years and now account for 71 percent of the increase in the total number of loans in foreclosure.

The Administration's Help for the Hardest-Hit Housing Markets is a step in the right direction, both in terms of assisting those most in need and in leveraging states as partners. The recent enhancements to HAMP will also help unemployed borrowers through temporary payment reductions and expanded eligibility for permanent modifications.

As positive as these steps are, these measures do not replace the need for a nationwide Emergency Mortgage Support system (EMS). The Help for the Hardest-Hit Housing Markets program by design is limited to target geographies. And the recently announced 3- to 6-month reprieve for the unemployed under HAMP, although very helpful, is an insufficient timeframe to stabilize household budgets that have been ravaged by sharply reduced income. The scope of impacted borrowers is simply too great for anything short of a national program, which should be administered by the states with the support of the nonprofit housing community.

Pennsylvania, Delaware, North Carolina, New Jersey, and Connecticut currently have state programs to assist the unemployed facing foreclosure that can help inform a national model. They take different approaches to making short-term loans accessible for those who need temporary help while seeking to ensure a borrower will repay their loans once their hardship has passed.

An evaluation of these differing states approaches suggests that underwriting criteria should be based on bright lines for easy administration and program sustainability, but within a sufficiently flexible framework so that the program can truly help those it is intended to. For example, the number of past missed payments by a borrower should be evaluated on a bright line basis as most of the states do. However, the states differ about the number of missed payments that should be permitted, thus demonstrating the need for a guiding principle. The principle should perhaps be based on the age of the mortgage loan, whereby newer loans allow for fewer missed payments. This flexible framework, by incorporating a bright line, better protects the program from early payment default or fraud on newly-originated mortgages while allowing appropriate discretion for aged loans to take account of servicer delays in payment processing or occasional borrower oversight.

A full set of underwriting criteria is beyond the scope of my remarks today, but I mention this one example of how expanded assistance could be achieved within a prudent program framework. Emergency mortgage support should also involve lender and investor concessions, including eventual HAMP modification and perhaps waiving arrearages for unemployed borrowers.

A National Mortgage Performance Database Is Needed

The gaps in data access for borrowers seeking modifications highlight the general lack of data about the mortgage market. Access to complete information on existing mortgages does not exist, and the reason is simple: there is no mortgage loan performance reporting requirement for the industry.

Once a new loan has been initially reported under the Home Mortgage Disclosure Act (HMDA), it is no longer tracked in any public database. HMDA has been a powerful tool for combating housing discrimination and predatory lending in mortgage origination, but a performance data reporting requirement would provide a similar window on servicing practices after the loan has been made. Because lenders and servicers already report the payment status of open loans to credit bureaus, a performance data standard could be put into operation quickly.

Currently, Congress, banking regulators, consumer advocates, and other policymakers are left with incomplete or unreliable data purchased from third-party vendors or with limited data provided voluntarily by the industry. This lack of a public database has hindered the response to the housing sector. Improved intelligence on the mortgage market is critical to preventing future crises.

That is why I believe that Congress should create a national mortgage loan performance reporting requirement applicable to banking institutions and others who service mortgage loans, to provide a source of comprehensive information. Federal banking or housing regulators should be mandated to analyze such data and share the results with the public.

CONCLUSION

Foreclosure prevention is not just the right thing do for suffering Americans, but it is the lynchpin around which all other efforts to achieve financial stability revolve. We cannot solve the financial crisis without dealing with the root of the problem: the millions of American families who are at risk of losing their homes to foreclosure.

I appreciate the opportunity to share my views. I would be pleased to provide more details on the Panel's assessment of Treasury's foreclosure mitigation efforts or to answer any questions. Thank you.

Senator DURBIN. Ms. Van Tiem.

STATEMENT OF KATIE VAN TIEM, PROGRAM MANAGER, SUBPRIME LENDING INTERVENTION, NEIGHBORHOOD HOUSING SERVICES OF CHICAGO

Ms. VAN TIEM. Good afternoon. Thank you for the opportunity to share the experience of our community and others like it across the country.

My name is Katie Van Tiem. I'm a leader with the Southwest Organizing Project, SWOP, a broadbased community organization on the southwest side of Chicago. I also work at the Chicago Lawn/Gage Park Office of Neighborhood Housing Services.

Our residents feel both grief and anger about the growing foreclosure crisis and its devastating impact on our neighborhoods, and

about the lack of meaningful and substantial responses from both the public and private sectors.

We still believe the number one priority should be to keep families in their homes, and that an affordable loan modification is healthier and more cost effective than a foreclosure.

SWOP has been fighting predatory lending and foreclosures for more than a decade. Two years ago, we began mapping the foreclosures in our neighborhood, and what we saw stunned us: an entire community, drowning in a sea of red dots, and drowning from a tsunami. Hundreds of families have been torn—in the past 2 years, our neighborhood has experienced over 6,600 foreclosure filings. The foreclosure crisis has shifted from being a crisis of individual families in trouble to one of an assault on the very structure of our community. Hundreds of families have been torn from local schools and churches. Parish leaders have lost homes. Schools are experiencing a critical decline in enrollment and the loss of key parent leaders. The community is left with hundreds of vacant, boarded-up homes, havens for gangs and drug dealers. On some of our blocks, second grade students pass in front of 10 or 15 of these vacant homes on their way to and from school every day.

Home values have declined by more than 33 percent in our neighborhoods, leaving remaining homeowners under water and at risk of foreclosure. They walk into our offices, wondering how they're going to pay their increasing property tax bills. We know the crisis is still growing, and the need for policy change is more urgent than ever.

We've responded, on many levels. We've tripled the number of HUD-certified housing counselors, and we began a broad community campaign to engage local institutions, banks, and servicers, and government, to come up with real solutions to keep families in their homes.

As part of this campaign, SWOT negotiated an agreement with Bank of America to work on a special pilot project aimed at bank-initiated loan modifications. Throughout the last 9 months, SWOP continues to encounter obstacles caused by the banks' unwillingness to proactively modify loans. In the pilot's initial ZIP Code, which is actually on the map right now, over 543 Bank of America loans were identified as 60 plus days delinquent. SWOP trained 50 community residents, each of whom adopted 10 families from that list to contact and help move through Bank of America's loss-mitigation process. Resident leaders made direct contact with 70 percent of these borrowers, resulting in nearly 100 loan-mod applications handed directly to Bank of America.

We have proven the community has the capacity to act, but, unfortunately, SWOT believes that Bank of America has not demonstrated their capacity to deliver, even with the community's leadership. While an outcome of 52 workouts is valuable, it pales in comparison to the results that over hundreds and hundreds of hours of labor should have resulted in.

This experience, coupled with years of working with borrowers, created the impetus for my position paper critiquing HAMP and offering recommendations. Acknowledging the Treasury's efforts to recraft HAMP, we stand by our original policy suggestions, of

which I'm willing to share more about in the questions and answers.

SWOP believes an effective program must involve these five characteristics: bank-initiated loan modifications, an accurate net present value (NPV) tool using local real data, long-term forbearance plans for the unemployed, and permanent loan modifications, and participation must be mandatory.

First, mortgage servicers are grossly overwhelmed. To streamline and hasten loss mitigation, banks should standardize the process by mailing full loan modification offers, rather than open-ended solicitations, to borrowers.

Second, investors and servicers are making the wrong choice when deciding whether to modify, because they're working with the wrong information when determining NPV. Investors lose ten times as much on foreclosures than on mods, yet HAMP-eligible borrowers are being denied commonsense solutions.

Next, many distressed communities experiencing high rates of foreclosure like ours endure even longer-than-average unemployment periods. These homeowners need the option of a long-term forbearance plan, neither dependent on proof of unemployment income nor excluding borrowers already 90 plus days delinquent, as the majority of our cases are.

Fourth, trial periods cost taxpayers and borrowers more money and further damage credit history, while less than 1 in 5 ever become permanent. Modifications must be permanent for the life of these loans, beyond 5 years, in order to perform in the long run.

Finally, servicers should not be allowed to opt out, as, right now, well over 900,000 loans are currently excluded due to servicer nonparticipation. Mandatory participation must also come with real repercussions for not following correct procedure. And Government should have the authority to override investors pooling and servicing agreements, pooling and servicing agreements (PSAs), that preclude modifications when testing NPV-positive. The current structures incentivize servicers to foreclose.

PREPARED STATEMENT

So, our community is hemorrhaging, but this doesn't have to be our fate. There is really opportunity here to increase modifications, keeping families in their homes, and our neighborhoods intact.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF KATIE VAN TIEM

INTRODUCTION

Good afternoon, Chairman Durbin, Ranking Member Collins, and Members of the Committee. Thank you for the opportunity to testify and share the experience of our community and others like it across the country.

My name is Katie Van Tiem. I am a leader within the Southwest Organizing Project (SWOP)—a broad-based organization of 29 churches, mosques, schools, and other institutions, representing 30,000 families on Chicago's southwest side. SWOP's work enables families to exercise common values, determine their own future, and connect with each other to improve life in their neighborhoods. I am employed as the Program Manager for Subprime Lending Intervention in the Chicago Lawn/Gage Park Office of Neighborhood Housing Services of Chicago (NHS), a member institution of SWOP.

Our residents are saddened, scared, and angry about the growing foreclosure crisis and its devastating impact on our southwest side community. They also are upset about the lack of meaningful and substantial responses from both the public and private sectors.

It is not too late to fix the Home Affordable Modification Program (HAMP) or create another solution altogether; our country already has been ravaged by 1.5 million foreclosures, but a total of 8 million are anticipated to devastate by 2012. We still believe the number one priority should be to keep people—families—in their homes and that an affordable loan modification is better, healthier, and more fiscally beneficial for all involved parties than a foreclosure.

NEIGHBORHOOD IMPACT

SWOP and its member institutions have been fighting foreclosures, largely due to the subprime mortgage industry and predatory lending, for more than a decade. Two years ago, in response to the rapid increase, SWOP began plotting these foreclosures on a map of our neighborhood. What we saw surprised even us. Our maps showed an entire neighborhood drowning in a sea of red. Felicidad Masebay, a leader from St. Rita Church, located right in the middle of that mass of dots, took one look at the map and declared, "Oh my God, our neighborhood is bleeding!"

In those past 2 years, the neighborhoods that SWOP serves have experienced over 6,600 foreclosure filings.[1] The foreclosure crisis has, for us, shifted from being a crisis of individual families in trouble to one of an assault on the very structure of our community. As families are forced out of their homes, key neighborhood institutions are losing the social capital needed to keep them functioning, businesses are losing critical customers, and newly-vacant homes are becoming havens for gangs and drug dealers. Everybody loses.

We have lost hundreds of families from our anchor institutions, and our community leaders are deeply concerned. Our Pastors tell stories of parish leaders who have lost homes; schools are experiencing a critical decline in enrollment and the loss of key parent leaders. The community is left with hundreds of vacant, boarded-up homes. On some of our blocks, 2nd grade students pass in front of 10–15 vacant homes on the way to school. Home values in our neighborhood have declined by more than 33 percent, leaving remaining homeowners underwater and at risk of future foreclosure.

The development that businesses, local government, and community organizations helped create over the last 30 years lies in jeopardy. Scores of businesses have failed or are planning to leave, including a large grocery store the community fought hard to bring to the neighborhood over 10 years ago.

Even as home values plummet, homeowners are walking into our offices wondering how they are going to pay their increased property tax bills. As the Federal Reserve Bank of Chicago tells us, "City and local governments can lose up to $20,000 in revenue for every foreclosure proceeding in their jurisdiction,"[2] and "these foreclosures cost between 8 and 22 times the cost of a loan modification."[3]

ADDRESSING THE PROBLEM

SWOP and our community have responded on many levels. We have tripled our HUD-certified counseling staff, and we began a broad community campaign to engage community institutions, government, and banks/servicers to come up with real solutions to help keep families in their homes. Early on, we recognized that the problem could only be resolved if the major banks and servicers acted more proactively to keep people in their homes.

As part of this campaign, SWOP has negotiated an agreement with Bank of America to work with us on a special pilot program aimed at getting the bank to more proactively modify loans in trouble. Throughout the last 9 months of meetings and implementation, SWOP has continually encountered obstacles caused by the bank's unwillingness or inability to proactively modify loans. In the pilot program's initial zip code, 60629, over 543 Bank of America loans were 60+ days delinquent. SWOP identified and trained 50 community residents, each of whom adopted 10 families from that list to contact and help move through Bank of America's loan modification

[1] Data collected from Record Information Services, foreclosure filings in SWOP zip codes 60629, 60632, 60639, and 60652 from January 2008 to present. Retrieved from public-record.com.

[2] PICO National Network. (n.d.) *A Response that Makes Economic Sense: Systematic Home Loan Modification*.

[3] Hatcher, Desiree. (February 2006.) Federal Reserve Bank of Chicago. *Foreclosure Alternatives: A Case for Preserving Homeownership*.

process. Resident leaders made direct contact with 70 percent of these borrowers, resulting in 94 loan modification applications handed directly to Bank of America.[4] After 6 months of negotiation between counseling staff on both ends, only 33 borrowers have been offered HAMP Trial Modifications, 17 permanent modifications, and 2 alternative solutions.

SWOP has proven the community has the capacity to act. Unfortunately, SWOP's position is that Bank of America has not demonstrated their capacity to deliver, even with the community's assistance. While 52 work-outs may be a small victory, they pale in comparison to the other 6,600 foreclosures facing our community.

CREATING SOLUTIONS

This experience, coupled with years of working with borrowers with unaffordable loans, created the impetus for SWOP's position paper. In January, SWOP released a paper critiquing HAMP and providing a set of recommended changes. While we acknowledge the Department of the Treasury's efforts to recraft HAMP, we stand by our original recommendations. We are pleased with the recent emphasis on forbearance for the unemployed and loan principal reduction, but the last year has proven that a voluntary loan modification program fails to produce the number of loan modifications necessary to counter the scale and impact of the crisis.

A pro-active loan modification process with bank-initiated loan modification offers should be implemented, as the current case-by-case method is not working. Not only are mortgage servicing departments grossly overwhelmed, they are incentivized to foreclose.[5] In order to streamline and hasten the loss mitigation process, banks should standardize the process by mailing full loan modification offers, rather than open-ended solicitations. As the National Consumer Law Center (NCLC) also urges, "only when a borrower rejects a modification—or, if an initial, standardized modification fails—should detailed underwriting be done."

Next, a standardized and fully transparent Net Present Value (NPV) tool, using local, real-time data, should be employed. Investors and servicers are making the wrong choice when deciding whether to modify or not because they are working with the wrong information (e.g. REO Discounts.) As already highlighted, the costs and losses associated with foreclosures are huge. NCLC reports that investors lose ten times as much on foreclosures than they do on modifications,[6] yet HAMP-eligible borrowers are being denied modifications due to faulty results from an inaccurate test. The NPV test needs to be fixed allowing reality to make the case for more loan modifications, saving all parties involved.

Unemployed and underemployed homeowners need a workable solution. The country's unemployment rate for the month of February is 10.4 percent, while the state of Illinois's reached 12 percent.[7] Moreover, the average length of unemployment has increased to nearly 6 months, and many distressed communities experiencing high rates of foreclosure endure even longer unemployment periods.[8] These homeowners should have the opportunity to sign into a long-term forbearance plan, neither dependent upon proof of unemployment income, nor excluding borrowers already 90+ days delinquent, as the new HAMP changes dually dictate. The forbearance period could be linked to the unemployment rate of the related area.

Truly permanent loan modifications lasting the life of the loan should be granted. "Trial" modification periods slow the entire loan resolution process—costing taxpayers and families more money, further damaging borrower credit, and decreasing the number of permanent solutions. Currently, in Chicago, only 22 percent of total HAMP activity involves HAMP permanent modifications.[9] Permanent loan modifications are needed—including permanent interest rate adjustments and principal reductions. Loan modifications with principal reductions perform better than those without. Future payment shocks, after the initial 5-year rate freeze, will mirror the

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[4] Rosen, Anne. (April 2010.) *Bank of America Pilot Program: Results of Interest*.

[5] National Consumer Law Center, Inc. (2009, October.) *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior*. Retrieved from http://www.consumerlaw.org/issues/mortgage_servicing/content/Servicer-Report1009.pdf.

[6] National Consumer Law Center, Inc. (2009, October.) *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior*. Retrieved from http://www.consumerlaw.org/issues/mortgage_servicing/content/Servicer-Report1009.pdf.

[7] U.S. Bureau of Labor Statistics. (April 1, 2010.) Retrieved from http://www.google.com/publicdata?ds=usunemployment&met=unemployment_rate&tdim=true&dl=en&hl=en&q=unemployment+statistics#met=unemployment_rate&idim=state:ST170000&tdim=true.

[8] Illinois People's Action. (March 27, 2010.) Press Release. *Administration's New Plan: Baby Steps up a Mount Everest of Foreclosures*.

[9] U.S. Department of the Treasury, Making Home Affordable Program, Servicer Performance Report through March 2010. Retrieved from http://www.makinghomeaffordable.gov/docs/Mar%20MHA%20Public%20041410%20TO%20CLEAR.PDF.

ARM/POA payment shocks of the last 5 years; the most recent SIGTARP reports predicts average increase in the 4th year to be 23 percent while borrowers' incomes are unlikely to increase 23 percent.[10]

A revamped HAMP program must then be made mandatory. Mortgage servicers should not be allowed to opt out of the program, nor deny individual loans without correct procedure. The latest Servicer Report lists 6 million HAMP-eligible borrowers across the country, defining HAMP-eligible as 60+ days delinquent. Of these loans, 900,000 are excluded upfront due to servicer non-participation.[11] A more truthful HAMP-eligible picture would include those loans marked "imminently delinquent" and those in default from 1–59 days, in addition to 60+ day delinquent loans. Portraying the full HAMP-eligible pool of loans would unmask much more than 900,000 homeowners excluded due to servicer non-participation; as the public does not know the percentage of truly HAMP-eligible debt that is excluded by servicer non-participation.[12] Mandatory participation should also come with accountability and repercussions for not following correct procedure, and the government should have the authority to override investors' pooling and servicing agreements (PSA) that preclude modifications when testing NPV positive.

CONCLUSION

In order to increase loan modifications and decrease foreclosures, to save communities like ours and hundreds of others across the country from further destruction, the HAMP program needs to be improved. As stated, SWOP believes an effective loan modification program must involve bank-initiated loan modification offers, an accurate NPV tool, long-term forbearance for the unemployed and underemployed, and permanent loan modifications. And, participation must be made mandatory.

Thank you again for the opportunity to share our story and expertise.

Please see additional data to support claims of HAMP failure and the need for systemic change.

Increase in Foreclosure and Increase in Demand for Foreclosure Counseling

Foreclosures have been increasing—across the country, in the state of Illinois, in Chicago, and on the southwest side—while experts predict national levels to peak only at the end of this year.[13] Standard & Poor's recently predicted 3 years will be needed to clear the inventory of bank-repossessed properties and current delinquencies.[14] Credit Suisse forecasts that over 8 million families will lose their homes to foreclosure between 2009 and 2012, that's 16 percent of all mortgages.[15] Without significantly more intervention to stop foreclosures, as many as 13 million homes could be lost.[16]

During the month of February, foreclosure filings were reported on over 380,000 properties nationally—1 in every 418 housing units, up 6 percent from last year at this time.[17] Illinois currently ranks 8th in the country for foreclosure filings, with 1 in every 305 households receiving a filing for a total of 130,165.[18] Chicago's 2009 foreclosure filings increased by 21 percent compared to 2008, up from 57,927 to 70,122,[19] and Chicago now experiences a foreclosure every 22 minutes with an aver-

[10] SIGTARP. (March 25, 2010.) *Factors Affecting Implementation of the Home Affordable Modification Program*. Retrieved from http://www.sigtarp.gov/reports/audit/2010/Factors_Affecting_Implementation_of_the_Home_Affordable_Modification_Program.pdf.

[11] U.S. Department of the Treasury, Making Home Affordable Program, Servicer Performance Report through March 2010. Retrieved from http://www.makinghomeaffordable.gov/docs/Mar%20MHA%20Public%20041410%20TO%20CLEAR.PDF.

[12] U.S. Department of the Treasury, Making Home Affordable Program, Servicer Performance Report through March 2010. Retrieved from http://www.makinghomeaffordable.gov/docs/Mar%20MHA%20Public%20041410%20TO%20CLEAR.PDF

[13] Calculated Risk blog. August 20, 2009. *MBA Forecasts Foreclosures to peak at End of 2010*. Retrieved from http://www.calculatedriskblog.com/2009/08/mba-forecasts-foreclosures-to-peak-at.html.

[14] Prior, Jon. (February 16, 2010.) *Shadow Inventory of Homes to Take Nearly Three Years to Clear: S&P*. Retrieved from http://www.housingwire.com/2010/02/16/shadow-inventory-of-homes-to-take-nearly-3-years-to-clear-sp/.

[15] Credit Suisse. Fixed Income Research. (December 4, 2008.) *Foreclosure Update: over 8 Million Foreclosures Expected*. Retrieved from http://www.nhc.org/Credit%20Suisse%20Update%2004%20Dec%2008.doc.

[16] Hatzius, Jan and Michael A. Marschoun. Home Prices and Credit Losses: Projections and Policy Options, Goldman Sachs Global Economics Paper, (No. 177, Jan 13, 2010) at 16.

[17] RealtyTrac. *U.S. Foreclosure Activity Decreases 2 Per Cent in February*. Retrieved from http://www.realtytrac.com/contentmanagement/pressrelease.aspx?channelid=9&itemid=8695.

[18] RealtyTrac. *Illinois Real Estate Trends*. Retrieved from http://www.realtytrac.com/trendcenter/il-trend.html.

[19] Woodstock Institute. *Chicago City and Regional Foreclosure Activity Second Half 2009 Figures*. Retrieved from http://www.woodstockinst.org/.

age of 118 foreclosures in every square mile.[20] In the community areas on the southwest side of Chicago that SWOP serves, foreclosure starts have increased by 11.4 percent from the second half of 2008 to the second half of 2009.[21] Over the last 2 years, our neighborhoods have witnessed 6,600 foreclosure filings.

The demand for foreclosure counseling remains high. Locally, attributed in part to SWOP's successful outreach efforts, the Greater Southwest Development Corporation—another member institution of SWOP—witnessed a 53 percent increase between 2008 and 2009 in foreclosure counseling, up from 651 homeowners to 993, while NHS of Chicago completed 150 new intakes for the month of February alone.[22] And NHS counselors in the Chicago Lawn/Gage Park Office are carrying a caseload of over 50 clients each and a waiting list upwards of 15 each. Moreover, the Woodstock Institute—the nationally recognized non-profit research and policy organization focusing on lending, wealth creation, and financial systems reform—recently released a report (in addition to its February 2010 report entitled "Government Interventions Have a Limited Impact on Chicago Area Foreclosure Activity") on housing counseling in the state of Illinois. It found "a general consensus" among Illinois foreclosure counseling service agencies that the demand for services is higher than they are able to meet while 85 percent of the agencies that responded reported needing additional counselors to meet demand.[23] Foreclosure counseling alone (without substantive changes to HAMP) cannot be the only solution; funding must continue for HUD-certified counseling in the midst of this growing foreclosure crisis.

Inadequate Solutions, Especially HAMP Permanent Modifications

HAMP solution numbers are low. Again, SWOP thanks the Department of the Treasury for its attempts at recrafting a Federal program to help "responsible homeowners" avoid foreclosure. But, unfortunately, as foreclosure filings and the demand for foreclosure counseling continue to climb, the number of HAMP loan modifications—especially HAMP permanent loan modifications and not just the HAMP trial modifications—fails to counter the crisis.

National Data

The latest Servicer Performance HAMP Report demonstrates that, as of March 2010, only 230,801 homeowners across the country have achieved a permanent HAMP modification, while a total of 1,166,925 HAMP trials have started since program inception—a transition rate from trial to permanent at 19.7 percent.[24] When these "successes" are compared to the backdrop of 7.4 million homeowners across the country who are delinquent/behind on their mortgages,[25] these HAMP numbers are not reassuring; they are alarming.

MSA Data

While SWOP encourages HAMP data to be as local as possible, it wasn't until December of last year that these Servicer Performance HAMP Reports began including data at the Metropolitan Statistical Area (MSA) level, in addition to the national and state level. The MSA data, however, fails to include cumulative HAMP trials started since inception—information necessary to make a real comparison between transition rates of the nation to those of Chicago MSA.

Yet February's numbers do show 8,086 HAMP permanent modifications for Chicago MSA—an area about three times the size of the city of Chicago, as Chicago holds a population of nearly 3 million.[26] When Chicago alone houses 23,200 borrowers who fell into foreclosure and over 8,500 homes lost to foreclosure last year, it is difficult to see how 8,086 cumulative HAMP permanent loan modifications in

[20] Bianchi, Nick. (March 2010) National People's Action. *The Home Foreclosure Crisis in Chicago: An Assessment of Foreclosures and their Impacts in 2009*.

[21] Woodstock Institute. *Chicago City and Regional Foreclosure Activity Second Half 2009 Figures*. Retrieved from http://www.woodstockinst.org/.

[22] Cole, Anne. (February 2010.) *NHS Monthly Saves Report*.

[23] Woodstock Institute and Housing Action Illinois. (July 7, 2009) *On the Foreclosure Front Lines: Surveying the Capacity of HUD-Certified Housing Counseling Agencies in Illinois*. Retrieved from http://www.woodstockinst.org/publications/research-reports/.

[24] U.S. Department of the Treasury, Making Home Affordable Program, Servicer Performance Report through March 2010. Retrieved from http://www.makinghomeaffordable.gov/docs/Mar%20MHA%20Public%20041410%20TO%20CLEAR.PDF.

[25] Lender Processing Services, LPS Mortgage Monitor, February 2010 Mortgage Performance Observations. Retrieved from http://www.lpsvcs.com/NewsRoom/IndustryData/Documents/02-2010%20Mortgage%20Monitor/Pres__MM__Jan10Data.pdf.

[26] Wikipedia. (April 8, 2010) Chicago metropolitan area. Retrieved from http://en.wikipedia.org/wiki/Chicago__metropolitan__area#Metropolitan__statistical__area.

the entire MSA (less than the total number of completed foreclosures for the city of Chicago in 2009) can have a substantial impact.

Southwest Side Chicago Data

Low Transition Rates from HAMP Trial to HAMP Permanent.—Our on-the-ground efforts have taught us that achieving trial-to-permanent conversions is a significant challenge. This challenge can be quantified by looking at NHS of Chicago's modification data for its 10 target neighborhoods (which includes Chicago Lawn/Gage Park). Between April 2009 and March 2010, NHS helped nearly 600 families secure HAMP trial modifications. Only 78 of these families have subsequently secured a HAMP permanent modification, resulting in a 13 percent conversion rate. The reasons for the low conversion rate vary, but poor communication with lenders and redundant paperwork requirements continue to slow the process for many homeowners. For example, just 2 weeks ago, an NHS counselor received a phone call from a homeowner who had first submitted paperwork over a year ago to her servicer and has resubmitted paperwork over six times throughout the process. The counselor and homeowner are now in weekly contact, and the homeowner is still waiting to hear a response. Streamlining the loan modification process, including eliminating trial modifications, is critical to finding sustainable solutions for HAMP program participants.

Long Length of Time for HAMP Decisions.—Moreover, NHS housing counselors spend an average of over 8 hours with a client to receive a HAMP trial modification and still need an additional 4 hours to convert the trial to permanency.[27] Additionally, the average length of time it takes for a counselor/borrower to reach a HAMP trial modification has been increasingly slightly over the last several months to 131 days.[28] Not only does this highlight the continued need for counseling and advocacy, but also highlights the need to expedite the transition process. SWOP encourages Treasury to create accountability benchmarks with real consequences when it comes to HAMP review periods.

Average Debt-to-Income Ratio Found Higher than Targeted 31 percent for HAMP Modifications.—Successful—hence, affordable—loan modifications result in a win for all parties: the homeowner, neighbors, neighborhood institutions, local/state/Federal government, and the investor. The "affordability" of HAMP loan modifications is founded on the basis that the full monthly mortgage payment be no more than 31 percent of the household's gross monthly income. NHS of Chicago has found that as many as 30 percent of loan modifications are being offered to homeowners with documents which claim that the offer is made under HAMP when the loan modification does not appear to follow the HAMP guidelines—based upon the homeowners reported income, the payment reduction does not lower the PITIA payment to 31 percent of the homeowner's gross monthly income. Such loan modifications are often not sustainable and create the potential for redefaults in the future. Homeowners often accept these offers without realizing that the offer does not meet the HAMP guidelines.

SWOP encourages the use of all possible resources to investigate the affordability details of HAMP "permanent" modifications and apply pressure—with real consequences—to servicers that fail to follow guidelines.

Bank of America Data.—Please see attached *"Bank of America Pilot Program: Results of Interest"* for statistics on the wins and losses of our pilot program.[29]

Senator DURBIN. Thank you for your testimony.

So, several years ago, I introduced a bill to change the bankruptcy law to say that the primary residence could be considered for modification of the mortgage debt by the bankruptcy court, as we currently allow the court to consider secondary residence—vacation homes—they can do those, but they can't touch the primary residence. The feeling was that if the lender knew that, ultimately, the bankruptcy court had the power to do this, they would be inclined to take their own action earlier, before it reached bankruptcy court. I tried that twice. It didn't work. And I don't know if I'll try it again. But, let me set that aside for a second.

There are a couple of things that I want to explore with you for a moment, and try to ask you each to step back into the shoes of

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[27] Cole, Anne. (February 2010.) *NHS Monthly Saves Report*.
[28] Cole, Anne. (February 2010.) *NHS Monthly Saves Report*.
[29] Rosen, Anne. (April 2010.) *Bank of America Pilot Program: Results of Interest*.

the lender and understand their economic decision, that we know a foreclosure is a very expensive undertaking, and there is a loss of, some say, $50,000. That's a figure that's used a lot; I don't know how accurate it is. There is certainly a loss in the value of property when they're foreclosed and vacant, and the like. So, they know, ultimately, that the asset that they are, basically, lending the money on, and that they own for this purpose, is going to diminish dramatically in value if foreclosure is initiated. It seems to be an economic incentive for them to act and avoid foreclosure, if they can. And yet, they don't.

It strikes me there might be one or two reasons. If they had to really bring down the cost of that portfolio of real estate to its true value, it could create some underwriting problems at the bank, in terms of their own securitization and the reserves that they have for the work that they're doing. And, second, if it becomes a commonplace thing to renegotiate a mortgage to a lower principal value, the so-called "moral hazard" argument might get in; people will say, "If I'm under water, I'll just stop paying. I know the bank's going to call me, and we can renegotiate a mortgage at a lower principal."

So, I'm trying to figure out exactly what their economic argument is for resisting the modification, for people who clearly have the ability to pay something on their under water mortgage.

Jump ball. Anybody interested in commenting?

Please.

Mr. NEIMAN. I totally agree with you. One, I think we—there was a real missed opportunity by not adopting the cram-down when it was proposed, because I think that would have provided the right incentive, both as a carrot and a stick.

So, where we are today—and I think it's a great question, because, What is driving lenders? You know, we used to hear—and affordability? You know, we started looking at affordability as the key driver, and I think it's becoming much clearer that negative equity is a—really, now, a critical driver to sustainability. And the lenders, in—what we've been hearing, and I think it's a—it's—there's—it's supported in evidence that, in order to get to a sustainable mortgage—lenders are not interested in having a redefault, because that only prolongs the foreclosure—but, in order to get—minimize lender default and to get to a sustainable—a combination of interest rate reduction and a principal reduction really is clearly a stronger payment, even at the same DTI, than an interest only. Having the borrower, with reduced negative equity, with more skin in the game is a—proven evidence of a more sustainable mortgage.

One of the Treasury's proposals was to get to that concern. Lenders were saying, "We can't reduce mortgage." I think you highlighted, too, the writedown, the—taking the loss, and the moral hazard. I think the other was that the waterfall provision did not provide a safe harbor for them, because it would not—a principal writedown would not be viewed as standard and customary.

The Government—the Treasury—modified the waterfall provision to allow and to encourage principal writedowns, and now we are still hearing, from lenders, that they are reluctant to write down principal.

So, I agree with you totally that there are concerns, but it is critical that we get to the issue of principal writedowns as part of a— the modification process.

Senator DURBIN. Ms. Van Tiem.

Ms. VAN TIEM. Sure. Senator, I think that's a wonderful question. I mean, that's something we've been scratching our head about for years, not understanding, if everyone is losing money, why aren't modifications happening, and why is foreclosure being chosen?

I think one thing that it brings up is, kind of, the fight or the debate of the investor and the servicer. We work with servicers who blame it on the investor. We work with investors who blame it on the servicer. And so, I think that one of those reasons is that servicers are making their front-line decisions when you call in. And a lot of times, they refer to PSAs, which I mentioned is almost like Frankenstein papers; there's not actually live people making those decisions; it's a paper that was written, you know, 2, 3, maybe 4 years ago, and it's sitting there in a room, being translated by the servicers.

So, I think the current structure, right now, is set up that servicers receive lots of money from servicing loans in foreclosure, and they sometimes lose money and do not make any money from having a loan modification. And so, I think the current pay structures are incentivizing servicers to either not modify or just continue with their behavior. And I think that investors, if they knew more of what was happening, maybe they would be making larger points. But, I feel like we're mostly talking about servicing more than we're talking about investors.

Senator DURBIN. So, when the Secretary was here, he talked about this body of 5.5 million mortgages going under water and facing foreclosure across America, and said that about 1.8 million, one-third of them, would be eligible for the HAMP modification, and said the other two-thirds would not be, for a variety of reasons he went through. You know, I've heard them from him before. The properties are too valuable. Not likely in that particular——

Ms. VAN TIEM. Yeah.

Senator DURBIN [continuing]. ZIP Code. The people have—it's an investment property or a second home, or their income disqualifies them from a modification.

What percentage of the world that you live in fits into that two-thirds category?

Ms. VAN TIEM. So, you know, I agree with the list that he was going down, of the four types of mortgages that shouldn't be involved in these residential modifications. But, almost nobody in our neighborhood has a loan over $729,000 for residential second—you know, second property, jumbo loans. So, the—so, he—the answer to your question is, he was excluding almost no one from our neighborhood; and who he was talking about should be included is everyone in our neighborhood, yet everyone in our neighborhood is not benefiting from these programs.

Senator DURBIN. Okay.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Puvalowski, I want to go through with you the issue I raised with the Secretary about General Motors' repayment of some of its TARP money. Could you take us through: How much did GM get? What was the source of the repayment of the loan? How much is outstanding?

Mr. PUVALOWSKI. Sure. $49.5 billion of—with the TARP funds went into General Motors as a loan, some prior to bankruptcy, and some during bankruptcy. As General Motors emerged from bankruptcy, the U.S. Treasury—that is, the taxpayers—essentially had three assets: one, 61 percent of the common equity of General Motors; two, $2.5 billion worth of preferred shares, paying a dividend; and three, an obligation from General Motors to pay $7.1 billion to Treasury—essentially $7.1 billion continued as a loan that GM would have to pay back.

Senator COLLINS. And that's what was repaid, the $7.1 billion, correct?

Mr. PUVALOWSKI. That's exactly right. Now, what happened was, of the money that—of the TARP money that went into GM in the first instance, a majority was used by the time that General Motors emerged from bankruptcy, but there was $16.4 billion left as GM emerged from bankruptcy. That $16.4 billion was put into an escrow account. It's General Motors' money. The Treasury Secretary is absolutely right about that. It was the TARP loan paid to GM, it is owned by GM, but, in order to use that—those funds, GM had to get Treasury's permission to release funds from that escrow account in order to—and they have done that on various occasions. They paid off some debts relating to Delphi, one of its suppliers, and they have made, now, a series of payments back to Treasury to pay off the $7.1 billion.

What happened last week is that General Motors applied, and Treasury approved, the release from that escrow account of the remainder—$4.7 billion—that was owed to Treasury, and the rest of the escrow funds was released back to General Motors.

Senator COLLINS. But, the source of the money for—the source of the money for the escrow account is ultimately from what source?

Mr. PUVALOWSKI. The source of the money from that escrow account was the initial TARP loan to General Motors.

Senator COLLINS. Exactly. Which brings me to my point.

Mr. PUVALOWSKI. The——

Senator COLLINS. Wasn't GM essentially using TARP money to repay TARP money?

Mr. PUVALOWSKI. The—yes, is the answer. This is good news. It's good news that General Motors did not need to use the funds to pay other expenses. It's good news that the—that a part of the taxpayers' investment has been repaid. But, what needs to be made clear are two things. One is that the source of the funds came from an escrow account that was funded with TARP funds in the first place. And, second, as was discussed with the Treasury Secretary, there are still a—the vast majority of the taxpayer investment in General Motors remains outstanding, in the form of the 61-percent equity stake and $2.5 billion of preferred shares.

Senator COLLINS. This is so frustrating to me, because I think the public is being very misled. When General Motors runs an ad,

saying—by its CEO—saying, “That's why I'm here, to announce that we've repaid our Government loan in full, with interest, 5 years ahead of the original schedule,” do you think that's misleading?

Mr. PUVALOWSKI. The statement is literally true, because they have paid back the loan. But, again, what—that—the—to get the full picture, you need those two additional facts; one, that it was repaid with TARP funds; and, two, that it's only a small portion of the overall taxpayer investment.

Senator COLLINS. I think that most people listening to that ad would think that General Motors had repaid all of the taxpayers' investment into the company. And I think that impression was reinforced by the Treasury's press release and by the President's radio address, last Saturday, because the fact is, the source of the repayment money is from the taxpayers, also. Correct?

Mr. PUVALOWSKI. That is correct.

Senator COLLINS. Let me switch to a different issue, and that has to do with the oversight of the Special Inspector General's Office of programs under TARP. The Treasury has proposed a new program to provide capital to community banks, with the goal of increasing small business lending. And all of us are very concerned about the dearth of capital for small businesses.

It's my understanding that the Treasury has challenged the ability of your office to oversee this new program. Is that accurate?

Mr. PUVALOWSKI. That is accurate. What—the Treasury Department has announced an initiative in which $30 billion of TARP money will be taken out of the TARP program and put in—into a program called the Small Business Lending Fund (SBLF). That Small Business Lending Fund is, in—almost all major respects, a mirror image of the TARP's Capital Purchase Program (CPP). In fact, we estimate that 95 percent of the remaining CPP banks will simply convert their CPP investments into the Small Business Lending Fund, in which they will be able to get reduced dividend rates, should their lending go above 2009 levels. The basic economics are a good idea.

We were initially told that SIGTARP would be part of the oversight mechanisms that was put into the legislative proposal concerning SBLF. We were later told that that would not be the case.

We have concerns about that, in several respects. We have spent the last 1½ years, since our inception, developing an expertise, developing a staff, developing technological capacity, and we have two dozen ongoing investigations into CPP-related fraud allegations. To essentially take the—a program that involves the same amount—the same money, many of the same participants, and the same basic structure, and expect a different oversight body to get up to speed, assuming they have the resources to do it, would subject the taxpayer to very significantly and unnecessary fraud exposure.

Senator COLLINS. So, in your view, there's absolutely no justification for treating this program differently from the other TARP program and excluding your office from conducting vigorous oversight of the program.

Mr. PUVALOWSKI. We have strongly suggested that SIGTARP be made a part of the oversight mechanisms for SBLF. And I don't speak for the Congressional Oversight Panel or GAO, but, frankly,

I would think that those organizations, who also have spent substantial resources overseeing CPP, should be included, as well.

Senator COLLINS. Well, I can't imagine that we would allow this program to go forth without the same kind of necessary aggressive oversight that your office has provided.

Thank you, Mr. Chairman.

Senator DURBIN. I might just say, in followup to that, if I understand the logic behind this, TARP carries with it a negative connotation in the financial sector. It sounds like the "Government bailout," the "Government handout," with strings attached, on executive pay—and the notion, here, was to somehow move the money from the TARP into a different entity, which banks would not be loathe to turn to because of that connotation. And also, the hope is that that money would then be loaned to small businesses across America that are facing a credit crunch.

But, I don't disagree with Senator Collins' premise. Regardless of what we call it, the name we put on it, we want to make sure that it's being watched carefully and spent wisely, and that there is some accountability. So, I don't quarrel with your conclusion, but I think that is the mechanism. We are trying to cleanse and purify these TARP funds to the point where the community banks of Illinois, for example, may feel there's no, you know, negative connotation to be a participant in a new program like this.

I think——

Mr. PUVALOWSKI. And, Senator, we don't quarrel with those basic, kind of, policy determinations. We—the only point that we would—made on this is to suggest strongly that the appropriate oversight be put into place.

Senator DURBIN. I couldn't agree with you more.

I want to go back to a point that Ms. Tiem made in her testimony, and was, I think, also referred to by Mr. Neiman, and that is this consummate frustration people feel by being asked to submit the paperwork over and over and over again when they are trying to get modifications on their mortgages.

Does this reflect an effort by the servicers to wear down the applicants? Does it reflect ineptitude and change of staff at the servicers' level? How do you—I mean, you've been through this so many times. What's your thought on that?

Ms. VAN TIEM. That's another good question. You know, I think one problem that the servicers have is just capacity. You know, we've heard, from Bank of America, that they had, like, 30—couple of thousand staff, and they doubled their staff in the last year, to make up for HAMP and its changes. And that's still not enough. And Bank of America has some of the slowest loss mitigation departments around. And so, I think one, I would say, would be capacity. Two, I don't think it's necessarily intentional, that they're—they may be trying to wear people down, but I think it would circle back again into where the servicers' incentives are, and I think that, as long as they're getting paid out while they still move people through the foreclosure process, then there's nothing, really, like—there's no real impetus, a real fire behind them to kind of work that modification more quickly than they are.

Senator DURBIN. One of the things we've found—and Mr. Neiman, you might be able to comment on this, as well—it was vir-

tually impossible to figure out who was holding the mortgage on some of these parcels in this ZIP Code. We wanted to say, is—ultimately, who is it? Deutsche Bank? Is it Bank of America? Is it Chase? They have literally made it hard, if not impossible, to find out who that might be.

Mr. NEIMAN. Yeah. And even——

Senator DURBIN. There is——

Mr. NEIMAN [continuing]. When you find out who it is, it's typically the trustee, who is——

Senator DURBIN. Exactly.

Mr. NEIMAN [continuing]. Not the investor. Can I——

Senator DURBIN. Who would make the ultimate decision on modification to reduce the principal, for example? Doesn't it have to be the ultimate——

Mr. NEIMAN. The investor. And——

Senator DURBIN [continuing]. Investor?

Mr. NEIMAN [continuing]. That's—and that's often dictated by the pooling and servicing agreement. In some cases, it requires the concurrence of all those investors. And that's why some of these are that difficult.

Senator DURBIN. Before you go further, I'll just say, that was one of the motives behind the bankruptcy change.

Mr. NEIMAN. That's right.

Senator DURBIN. "It's a roundup time. Everybody show up in court. A decision's about to be made, and if you have an interest in this, you'd better be there and represent yourself." And that provision didn't go forward.

So, can you tell me, is there a way through this, that we can cut through all of this information, to the reality?

Mr. NEIMAN. Well, I think the—my reference to this Web portal is so critical, that there be one location where borrowers and lenders can go to verify what documents are submitted. You know, servicers were set up to collect payments. They—this is a resource, and a whole change of mindset, for servicers. And unless they have the tools, like a consistent, standardized Web portal offered through a Fannie Mae or through an individual servicers, where it is clear——

The one woman who I made reference to, she was a fortunate individual, who kept all her documents in Word files that she was able to send to us. So, when a servicer would say to her, "You didn't submit the tax form," she was able to show, and she showed us, "Yes, I did. Here's a copy of the evidence."

So, I think it is critical that we revisit, and Treasury commit to the timeline that they talked about, having a centralized system utilizing a Web portal that borrowers can evidence submission of documents and evidence servicer receipt.

Senator DURBIN. Mr. Neiman, I don't know if you're in a position to answer this question, but I want to follow up on a very valid point raised by Senator Collins, and that's Fannie Mae and Freddie Mac, and the fact that they have become, literally, the Government guarantors of mortgages, on a wholesale basis across America. And I don't know if they started off with that intention, but they certainly do play that role today.

And, as we look at their being overextended in many areas, and the Secretary's—I wouldn't say "reluctance," but his caution in approaching this—it would strike me that we also have to step back and say, "We have to be careful, here." We've lowered interest rates to zero. We are trying to create a market for mortgages, for private borrowers in residences in America. And Fannie Mae and Freddie Mac are playing a big role in this decision. And how we approach their reform is going to have an impact on the availability of mortgages across our Nation. Would you agree with that?

Mr. NEIMAN. I—oh, I totally agree with that. And mortgages would not be made today, but for the fact that Fannie and Freddie are standing behind those mortgages. So, this is complex. I agree that it has to be done in a thoughtful way. I think it has to be done in a way that respects the role of community banks that have set the correct model. The—it has to include a review of the securitization process. We have done a lot, at the State level, to establish, at the State level, underwriting standards, duties of care for brokers and lenders, and—or, one of the first States to register servicers and impose duties on care and information reporting requirements of the servicers themselves. And I think those are also recommendations that, if adopted at the Federal level, can significantly improve the housing market.

Senator DURBIN. If Senator Collins would let me ask one last question of Ms. Van Tiem.

I would like your thoughts, based on your experience, on the role of community banks. I respect them, I've worked with them, and I've been told, you know, by many people, "They're not the problem." And they have a tendency to, when they make a mortgage loan, make it in the community and follow up on it so that the people know who they're dealing with.

Critics have come in and said, "No, Senator, you're missing the point. They don't lend to a lot of people who are in lower-income categories. It's the larger banks that did that, for better or worse, in the subprime mortgage situation."

So, how often do you run into community banks when you're dealing with the incidence of foreclosure in your area?

Ms. VAN TIEM. Well, I would just say that we have really great relationships with the community banks in our neighborhoods. And I think they do lend to many people in our community, and they do lend good loans to people in our community.

We do come across them, sometimes, with loss mitigation, when you have a homeowner who had a good loan, but then had a drop income or a drop of employment, and then we have to deal with their servicing department. So, it's generally good loans, but—you know, I believe it was—I can't remember whose paper, but—you know, the increase, now, in foreclosures is 70 percent, you know, for prime loans, and so—clearly, because of the bust of the overall economy, we're seeing a lot of people with good loans have trouble. But, I would like to endorse support for community banks.

If I could backtrack just a second, I do think the Web portal is a good idea, in the sense that we need to streamline information. But, as long as we're talking about Government programs, I just want to say, too, that, even when all the information is in, and even when a servicer has everything accurate and up to date,

they're still making the wrong decisions, and they're still not modifying the number of loans that they should be modifying. They're either not paying attention to the waterfall and refusing to follow steps 3 and 4—or, now, hopefully, step 1, principal reduction—or the NPV is flawed and they're just really, with the wrong information, understanding how to make money, and the fact, again, that the program is voluntary. And, again, I'd like to say I really think the program should be mandatory so that people follow it, or at least have real teeth.

Senator DURBIN. Thank you.

Senator Collins.

Senator COLLINS. Thank you. I'm done.

Senator DURBIN. Well, I want to thank this panel. We've sure covered a lot of things here, in a short period of time, and we're lucky to have the Treasury Secretary give his time, as he did. But, of course, we do give him his appropriations, so he'd better show up.

But, he's been very kind and cooperative throughout this whole process. And you all have made sacrifices to be here, and we thank you very much for that.

CONCLUSION OF HEARING

So, the subcommittee's going to stand recessed. If there are written questions that may come your way in the next few days or a week, hope you can answer them on a timely basis.

Thank you.

[Whereupon, at 4:13 p.m., Thursday, April 29, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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