HERB KOHL
WISCONSIN

WASHINGTON OFFICE:
330 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5653
http://kohl.senate.gov/

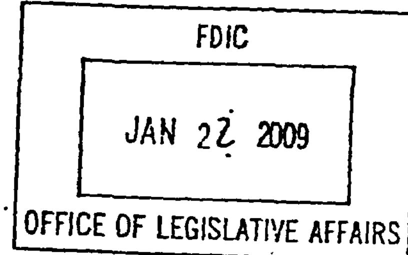
LA09-096
LA09-097

COMMITTEES:
APPROPRIATIONS
JUDICIARY
SPECIAL COMMITTEE ON AGING

United States Senate

WASHINGTON, DC 20510-4903

January 5, 2009


FDIC
JAN 22 2009
OFFICE OF LEGISLATIVE AFFAIRS

Hon. Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chairman Bair:

We are writing to lend support to [redacted] request that its motorcycle financing company and its subsidiaries be included in the FDIC's Temporary Liquidity Guarantee Program (TLGP). The application was made under the FDIC discretionary program that allows affiliates of approved financial institutions to participate in the program. We encourage timely consideration of the request.

As you know, [redacted] is an American icon and the only large-scale manufacturer of motorcycles in the U.S. Here in Wisconsin, the [redacted] assembly, manufacturing, testing, administrative and distribution operations offer family-supporting jobs and bring significant economic benefits to our community. Additionally, [redacted] facilities and retailers here and in other states, as well as domestic tire and parts manufacturers depend on the success of the company.

[redacted] and its subsidiaries [redacted] provides whole-sale financing to independent dealers, consumer purchasers of their motorcycles, and insurance programs for both dealers and consumers. [redacted] requests that these subsidiaries be includes in the TLGP as affiliates of [redacted]

Without access to unsecured debt [redacted] has been forced to rely on bank credit, which is unreliable in our current economy, and more expensive than opportunities available through the TLGP. Participation in the program will provide a better source of financing for consumer purchases. These sales are critical to our local economy where already decreased sales led to the lay-off of 8% of [redacted] U.S. workforce.

We are greatly concerned about these jobs in our community, and therefore, support the Harley-Davison, Inc. request for its subsidiaries to access credit through the discretionary approval of the FDIC.

Thank you in advance for your time and attention to this request. Please keep us and our staff apprised of any developments related to this request.

Sincerely,

Herb Kohl
U.S. Senator

Gwen Moore
Member of Congress

MILWAUKEE OFFICE:
310 WEST WISCONSIN AVENUE
SUITE 950
MILWAUKEE, WI 53203
(414) 297-4451
T.T.Y. (414) 297-4485

MADISON OFFICE:
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MADISON, WI 53703
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EAU CLAIRE OFFICE:
402 GRAHAM AVENUE
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EAU CLAIRE, WI 54701
(715) 832-8424

APPLETON OFFICE:
4321 WEST COLLEGE AVENUE
SUITE 370
APPLETON, WI 54914
(920) 738-1640

LA CROSSE OFF
205 5TH AVENUE
SUITE 216
LA CROSSE, WI
(608) 796-00

PRINTED ON RECYCLED PAPER

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 7, 2009

Honorable Spencer Bachus
Ranking Minority Member
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Congressman Bachus:

Thank you for your letter regarding the Federal Deposit Insurance Corporation's role in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP) and sharing your correspondence from the State of Alabama's Deputy Superintendent of Banks, Trabo Reed. The FDIC strongly supports the dual banking system, and we are committed to working closely with state regulators on supervisory priorities, including the TARP CPP initiative.

As you know, the TARP CPP is a federally funded program led by the U.S. Department of the Treasury (Treasury) in consultation with the federal banking agencies. State-chartered institutions submit applications either to the FDIC or the Federal Reserve which processes the request and makes a recommendation to the Treasury for approval or denial. The Treasury determines program participation. Although state nonmember institutions submit TARP CPP applications to the FDIC for consideration, we have consistently advised state banking authorities of application submissions and invited the states' comments. The FDIC provides daily notification to the Alabama State Banking Department of applications received as well as periodic written summaries of application status. The Alabama State Banking Department has opined on every TARP CPP application submitted from its jurisdiction.

We share concern that the processing of applications has been somewhat protracted because of the extended submission deadline for privately owned institutions, follow-up inquiries on applications, and the absence of a term sheet for Subchapter S institutions. The FDIC anticipates that decisions on some requests may not be reached until early 2009. We have received 34 applications from state nonmember institutions in Alabama, including four publicly traded institutions, 19 privately owned institutions, and 11 Subchapter S institutions. Applications from three of the four publicly traded, Alabama-based institutions have been submitted to the Treasury, which has approved two requests. The submission deadline for privately owned institutions was December 8, 2008; therefore, many of those 19 applications are now being processed by our Atlanta Regional Office. The 11 institutions with a Subchapter S corporate structure cannot be processed at this time because Treasury has not issued a TARP CPP term sheet for those institutions. We are hopeful that such a term sheet will be made available in the near term. I am very supportive of including Subchapter S and mutual companies in the TARP CPP program. I recognize they are typically smaller community banks that are critically-important credit providers on Main Street for small businesses and consumers.

I assure you that the FDIC enjoys a strong working relationship with the Alabama State Banking Department. We have a long history of cooperatively supervising state-chartered institutions in Alabama, and we will continue to seek the State's valuable perspective on regulatory matters. The FDIC recognizes the importance of community bank participation in TARP, and we continue to encourage FDIC-supervised banks to participate.

Thank you again for contacting me. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

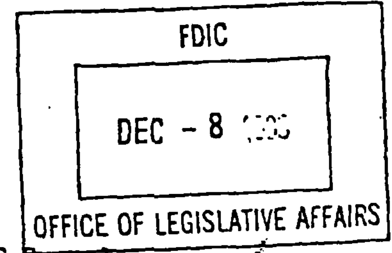
Sheila C. Bair

LA08-736

BARNEY FRANK, MA, CHAIRMAN

SPENCER BACHUS, AL RANKING MEMBER

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515



December 3, 2008

The Honorable Henry M. Paulson, Jr.
Secretary of the Treasury
United States Department of the Treasury
1500 Pennsylvania Avenue, NW, Suite 3330
Washington, DC 20220

The Honorable Ben S. Bernanke
Chairman
The Federal Reserve Board
20th and C Street, NW
Washington, DC 20551

The Honorable Sheila C. Bair
Chair, Federal Deposit Insurance Corporation
550 17th Street, NW
Room 6028
Washington, DC 20429

The Honorable John C. Dugan
Comptroller
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, DC 20219

The Honorable John Reich
Director
Office of Thrift Supervision
1700 G Street, N.W.
Washington, DC 20552

Dear Sirs and Madam:

Attached herewith is a copy of a letter from the Alabama State Banking Superintendent, Trabo Reed, expressing apprehension over the processing of applications by Alabama banks to participate in the Troubled Asset Relief Program. As I understand Commissioner Reed's concern, the length of the processing is causing rumors that some banks' applications have been rejected with obvious negative market reactions.

The heavy burden TARP operations have placed on the limited resources available to Treasury is well known to me, but the anxiety of banks in this situation is also understandable. Mr. Reed seems to believe some of the excessive delay may be due to inter-agency competition leading to applications being needlessly returned to have questions asked that have been adequately answered previously.

Your personal work burden has been incredibly heavy for months and I would not send this for your attention were it not for the very serious impact this could have on the banking community. Mr. Reed's judgment and integrity are well known and I hope you will give his concerns due consideration and have this matter examined.

Thank you for your attention to this.

Sincerely,

SPENCER BACHUS
Ranking Member

Enclosure

STATE OF ALABAMA
STATE BANKING DEPARTMENT

December 2, 2008

Honorable Spencer Bachus
Ranking Member
House Financial Services Committee
6th Congressional District of Alabama
2246 Rayburn Building
Washington, D.C. 20515

SUBJECT: **Alabama Banks' Issues Regarding TARP Capital Purchase Program (CPP) Approval Process**

Dear Congressman Bachus:

I am writing to express our concerns and to request your help relating to our banks and the TARP Capital Purchase Program's approval process. We have had concerns for some time, but after talking with a number of our banks, we believe that it is important that more transparency be provided in the TARP CPP evaluation process for the banks and state chartering agencies. Of course, we are concerned that the chartering agencies for state banks are not consulted while the fates of our banks are determined by panels of federal regulators and the U.S. Department of the Treasury. We also think that banks of all charter types that submit TARP CPP applications should be informed of where their applications are in the evaluation process.

Our federal counterparts at the Federal Reserve and the Federal Deposit Insurance Corporation (FDIC) have been models of cooperation in letting us know when our banks have submitted applications. However, those agencies' hands are tied when we inquire about the status of our banks' CPP applications. Consequently, we know little of where the banks' applications are, what issues need to be resolved before approvals can be granted, or what actions we can require the banks to take to obtain approvals. We are not even notified when a decision is reached on a CPP application. Consequently, we are unable as the chartering agency for these banks to take necessary, timely regulatory actions based upon the approval or denials of CPP applications.

This is a significant problem here in Alabama where we are the chartering agency for 129 banks operating in 20 states. We, as the chartering state, have an obligation to take appropriate actions based on the financial status of our banks and have obligations to inform the host states in which our banks operate of significant financial developments, such as TARP CPP approvals or denials.

Currently, our best information is that 28 Alabama, state-chartered banks have submitted applications for TARP CPP. Only one has received funding. Another has received preliminary approval under TARP CPP. We have little or no information about the status of the other 26 applications, but we are certain that some are experiencing extensive delays. We are unable to determine to whom we should speak regarding these applications, but we are convinced that, as the bank's chartering authority, we should have the ability to speak to any issues that may arise in the process.

As we understand the evaluation process for TARP CPP applications, the bank's primary federal regulator may choose not to recommend that an application be approved. For applications that the primary federal regulator strongly believes should be included in the program, it sends the applications directly to the Investment Committee at the Treasury Department. In both these cases, our experience has been that the FDIC and Federal Reserve consult with the states. For cases that require additional consideration, it is our understanding, that the primary federal regulator will forward the application to a Regulatory Council composed of senior representatives of the four federal bank regulatory agencies, the OTS, OCC, FDIC, and Federal Reserve as well as an observer from Treasury. The Regulatory Council makes a joint recommendation for approval or withdrawal of the application.

Applications recommended for approval by the federal bank regulators are sent to the Treasury TARP Investment Committee for review. The Investment Committee may send an application back to the primary federal regulator for additional information or to the Regulatory Council for further review. The Investment Committee advises the Assistant Secretary for Financial Stability who makes the final decision on preliminary approval. Once the evaluation process is complete, Treasury notifies institutions directly when preliminary approval is granted.

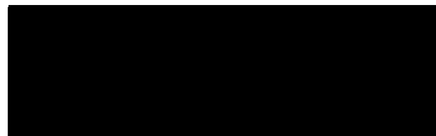
In the process outlined above, we are not consulted or notified at important stages of the process. The banks themselves receive requests for additional information without knowing where the questions are coming from or at what stage of the evaluation process their applications are being reviewed. Consequently, we are kept in the dark while Treasury and the federal regulators may miss valuable information that we can provide. As a state chartering authority, we are not asking for a part in the decision making. We understand that this is a Treasury program and Treasury makes the final investment decisions in consultation with federal regulators. We, however, believe that the chartering agencies for state banks should be allowed to speak to and answer questions

regarding their banks' applications. The states should also be notified when decisions are reached.

We, therefore, request your assistance to in asking that the following modifications be made to the TARP CPP evaluation process:

1) State chartering agencies should be notified when applications are sent to the Regulatory Council and Treasury TARP Investment Committee for review.
2) State chartering agencies should be allowed to speak to the Regulatory Council during its deliberations on applications of banks chartered by the state.
3) State chartering agencies should be notified of and be allowed to respond to questions or requests for additional information regarding applications of banks chartered by the state.
4) Banks of all charter types should be informed of what stage of the evaluation process their applications are being reviewed. This is particularly needed when additional questions and information requests arise.
5) State chartering agencies should be directly notified by Treasury or the primary federal regulator when an application is preliminarily approved or recommended for withdrawal.
6) State chartering agencies should be directly notified when approved TARP CPP applications are funded by Treasury.

Thank you for your help with this request. We believe that we will be better able to perform our function of protecting our citizens, and the TARP CPP evaluation process will be better served by taking all available information into consideration. If you have any questions or need additional information, please feel free to contact me by e-mail at trabo.reed@banking.alabama.gov or by telephone at (334) 242-3507.



Trabo Reed
Deputy Superintendent of Banks

Cc: Hon. John D. Harrison

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 8, 2009

Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your letter expressing your concerns about preventing fraud in connection with the Federal Deposit Insurance Corporation's loan modification proposal. We share your view that any loan modification plan should benefit only borrowers who legitimately find themselves unable to meet their current mortgage obligations.

As you know, the FDIC in our role as conservator of IndyMac Federal Bank implemented a systematic mortgage loan modification program for IndyMac in order to maximize returns and minimize the failed bank resolution costs to the Deposit Insurance Fund. For defaulted mortgage loans with high monthly payments relative to borrower income, the program reduced borrowers' monthly payments to an affordable level through interest rate reductions, extensions of terms, and principal forbearance. These IndyMac loan modifications did not involve any new extensions of credit or any use of taxpayer funds.

As we discussed in November, the FDIC has developed a proposal to apply the lessons learned at IndyMac on modification of troubled mortgages through a broader, national program. Using funds available under the Troubled Assets Relief Program, under our proposal, the government would share certain losses with lenders or investors in the event that a borrower redefaults on a mortgage that was modified using standard protocols for payment affordability similar to those developed for the IndyMac program. To prevent gaming and promote sustainable loan modifications, our proposal would require servicers to apply a standardized net present value analysis, and the loss guarantee would be limited to loans secured by owner-occupied homes where the borrower had demonstrated an ability to make the modified payment for several months. The proposal also would limit the loss guarantee to eight years, and help prevent adverse selection by requiring lenders and servicers to modify all their loans that meet the eligibility criteria under the proposal.

If we are to make a significant impact on the level of foreclosures in the housing markets, it is vital that we provide incentives to address the primary concern expressed by lenders and investors--the risk of greater losses if the modified mortgage redefaults in a declining market. Through this proposal we estimate that we could avoid approximately 1.5 million foreclosures that would otherwise occur this year. This could have a significant effect in returning stability to our housing market.

I share your concerns over potential fraud in the mortgage system. The use of stated income loans by far too many lenders did not provide the appropriate controls to ensure that a

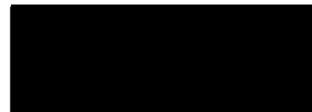
borrower could meet the fundamental standard of being able to afford the loan. The FDIC and other banking regulators have taken action over the past two years to reiterate the long-standing principles of prudent underwriting and to ensure that lending is based on the borrower's ability to repay the mortgage. Both at IndyMac and under our proposed guarantee program, all incomes to support the modification must be documented and verified.

I also agree that any program using taxpayer funds must have effective measures to prevent fraud. You provide several suggestions to help protect the integrity of the FDIC's loss guarantee proposal. We have already applied several of these protections at IndyMac and would require them in any taxpayer-funded program. At IndyMac, the Borrower's Financial Statement requires borrowers to confirm that they cannot pay their mortgage and that their statement of financial condition is complete and accurate. Similarly, IndyMac relies principally on IRS Form 4506-T for verification of income to support the modified mortgage. I agree that these procedures can be revised for any taxpayer-funded guarantee program to encompass execution under penalty of perjury, as well as to require borrowers to authorize the IRS Form 4506-T for the modified mortgage as well as for the year of origination. As you know, borrowers are subject to criminal prosecution under federal law for making false statements to secure a loan from an insured depository institution. For the proposed FDIC program, I certainly support robust audit procedures to ensure that any loan modification program is working as intended and follows established protocols.

If any program is to have a significant impact in reducing mortgage foreclosures, it is essential that we streamline the modification process while providing effective protections against fraud. I am concerned that forensic review of every mortgage will prevent a streamlined approach and make it very unlikely that the program could be rapidly implemented. I do believe that there are alternatives that will achieve our mutual goals of avoiding fraud. Under the proposed FDIC loss guarantee program, the taxpayer only pays the guarantee if there is a redefault of the modified mortgage. I believe that stringent audit and fraud reviews of redefaulted modifications will effectively eliminate taxpayer payments for fraudulent modifications. The program also could supplement this by reviews of a statistically significant sample of modified loans to ensure that loan files are complete and properly documented and that all appropriate steps were taken to minimize fraud.

Thank you again for your interest in the FDIC proposal. If you have questions or comments or if we can be of assistance in any way, please do not hesitate to contact me at (202) 898-6974. You also may have your staff contact my Special Advisor for Policy, Mike Krimminger at (202) 898-8950 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,



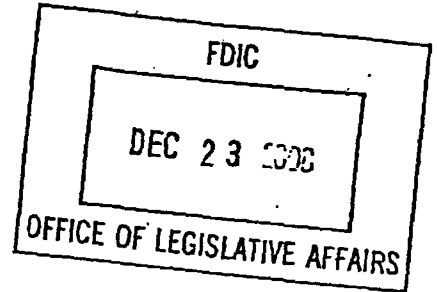
Sheila C. Bair

LA08-824

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

December 23, 2008



Via Electronic Transmission

Sheila C. Bair
Chairman of the Board
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear. Chairman Bair:

Thank you for meeting with me and my staff last month to address my concerns over your proposed mortgage loan modification program. As I conveyed during that meeting, I feel strongly that any plan not benefit borrowers who obtained mortgages through fraud. I write now to reiterate that concern.

Since our meeting, my staff has consulted with experts across the industry in order to better understand the extent of fraud in the mortgage market. These experts agreed that fraud is pervasive and estimated that anywhere between 30% - 70% of all mortgages, and up to 50% of owner-occupied mortgages, have been fraudulently obtained. Providing a benefit such as the FDIC's proposed loan modification program to those who committed fraud is bad policy.

Many of the consulted experts agreed that a plan like the one proposed could play an integral role in stemming the flood of foreclosures. However, those same experts echoed my concern that as proposed, your plan will not deter those who intend to defraud the system nor detect those that stand to benefit despite past mortgage fraud. I understand that you do not want to dissuade borrowers from participating in the program, but failing to include some basic fraud detection and prevention measures would likely have a disastrous unintended consequence – it would provide incentive for further fraud.

Last week, I asked the Inspector General of the FDIC to conduct a fraud review on a sample of modification-eligible loans. This sort of data could prove crucial for Congress and other policymakers to obtain a realistic estimate of the level of fraud in the system.

Today, I ask you to reconsider including some very basic fraud prevention measures in the loan modification program. Based on my staff's recent work,

I suggest several simple and non-obtrusive provisions that will help protect the integrity of your proposed plan:

1) Require borrowers to sign, under penalty of perjury, that their loan and application is free from fraud and/or misstatements;

2) Require borrowers to complete IRS Form 4506/T for years covered by the original and modified loan periods;

3) Include robust audit provisions which allow the FDIC Inspector General, as well as third party auditors, to examine documents of all parties in the mortgage chain;

4) Subject all loans to an independent forensic loan review; and

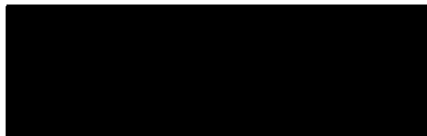
5) Insure all modified loans against fraud (one source estimates that the forensic loan review and fraud insurance would cost approximately $300 per loan).

The above recommendations place little additional burden on the borrower. According to one expert, the independent forensic loan review can be accomplished within 45 days and is already a prerequisite for the mortgage fraud insurance. Further, the forensic review and mortgage fraud insurance is expected to cost approximately $300 per loan file – a fraction of the potential loss from foreclosure.

I urge you to incorporate these risk management provisions into your program, as they would make it vastly more fraud-resistant and would ensure that more of the taxpayers' money is spent assisting legitimate borrowers in financial despair rather than rewarding fraudsters out to make an easy buck.

Please respond to this letter by January 8, 2009. If you have any additional questions, you can contact Jason Foster or Eben Roberts of my Committee staff at (202) 224-4515. Any formal correspondence should be sent in PDF format to Brian_Downey@finance-rep.senate.gov. Thank you for your consideration.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance

cc: The Honorable Jon T. Rymer, Inspector General
Federal Deposit Insurance Corporation

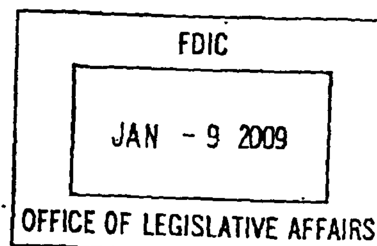
LA09-039

BARNEY FRANK, MA, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

January 8, 2009



The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chairman Bair:

The Committee on Financial Services will hold a meeting to discuss "Priorities for the Next Administration: Use of TARP Funds under EESA" at 2 p.m. on Wednesday, January 13, 2009, in room 2128 Rayburn House Office Building. I am writing to confirm an invitation to you or your designee to participate at this public proceeding.

The meeting will examine the lessons learned from the Bush Administration's use of TARP funds, and how those lessons can inform decisions on TARP deployment by the incoming Administration. The meeting will focus on the need to use TARP funds to prevent mortgage foreclosures; the need to focus TARP recipients on using federal funds to increase lending activity to boost the economy; proposals to provide greater accountability in the use of TARP funding; and the need for additional taxpayer protections such as more comprehensive executive compensation restrictions.

Please address the following in your testimony, as appropriate:

1. What additional measures should be taken, through administrative action or legislatively if need be, to ensure that TARP funds facilitate economic recovery?
2. Please provide specifics regarding how the next Administration might most effectively use TARP funding to mitigate foreclosures and help struggling homeowners.
3. Which additional accountability measures should be employed to ensure that TARP recipients are using federal funds for the purposes intended by Congress?
4. What additional conditions (such as more comprehensive restrictions on executive compensation and other corporate activities) should be placed on TARP funding to ensure that the interests of taxpayers are adequately protected?

Please read the following material carefully. It is intended as a guide to your rights and obligations as a witness under the rules of the Committee on Financial Services.

The Form of your Testimony. Under the Rules of the Committee on Financial Services, each witness who is to testify before the Committee or its subcommittees must file with the Clerk of the Committee a written statement of proposed testimony of any reasonable length. Please also include with the testimony a current resume summarizing education, experience and affiliations pertinent to the subject matter of the hearing. This must be filed at least two business days before your appearance. Please note that changes

to the written statement will not be permitted after the meeting begins. Failure to comply with this requirement may result in the exclusion of your written testimony from the record. Your oral testimony should not exceed five minutes and should summarize your written remarks. The Chair reserves the right to exclude from the printed record any supplemental materials submitted with a written statement due to space limitations or printing expense.

Submission of your Testimony. Please submit at least 100 copies of your proposed written statement to the Clerk of the Committee not less than two business days in advance of your appearance. These copies should be delivered to: Clerk, Committee on Financial Services, 2129 Rayburn House Office Building, Washington, D.C. 20515.

Due to heightened security restrictions, many common forms of delivery experience significant delays in delivery to the Committee. This includes packages sent via the U.S. Postal Service, Federal Express, UPS, and other similar carriers, which typically arrive 3 to 5 days later than normal. The United States Capitol Police have specifically requested that the Committee refuse deliveries by courier. The best method for delivery of your testimony is to have an employee from your organization deliver your testimony in an unsealed package to the address above. If you are unable to comply with this procedure, please contact the Committee to discuss alternative methods for delivery of your testimony.

The Rules of the Committee require, to the extent practicable, that you also submit your written testimony in electronic form. The preferred method of submission of testimony in electronic form is to send it via electronic mail to fsctestimony@mail.house.gov. The electronic copy of your testimony may be in any major file format, including WordPerfect, Microsoft Word, or ASCII text for either Windows or Macintosh. Your electronic mail message should specify in the subject line the date and the Committee or subcommittee before which you are scheduled to testify. You may also submit testimony in electronic form on a disk or CD-ROM at the time of delivery of the copies of your written testimony. Submission of testimony in electronic form facilitates the production of the printed hearing record and posting of your testimony on the Committee's Internet site.

Your Rights as a Witness. Under the Rules of the House, witnesses may be accompanied by their own counsel to advise them concerning their constitutional rights. I reserve the right to place any witness under oath. Finally, a witness may obtain a transcript copy of his testimony given in open, public session, or in a closed session only when authorized by the Committee or subcommittee. However, by appearing before the Committee or its subcommittees, you authorize the Committee to make technical, grammatical, and typographical corrections to the transcript in accordance with the rules of the Committee and the House.

The Rules of the Committee on Financial Services, and the applicable rules of the House, are available on the Committee's website at http://financialservices.house.gov. Copies can also be sent to you upon request.

The Committee on Financial Services endeavors to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, or have any

questions regarding special accommodations generally, please contact the Committee in advance of the scheduled event (4 business days notice is requested) at (202) 225-4247; TTY: 202-226-1591; or write to the Committee at the address above.

Please note that space in the Committee's hearing room is extremely limited. Therefore, the Committee will only reserve 1 seat for staff accompanying you during your appearance (a total of 2 seats). In order to maintain our obligation under the Rules of the House to ensure that Committee hearings are open to the public, we cannot deviate from this policy.

Should you or your staff have any questions or need additional information, please contact Michael Beresik at (202) 225-4247.

Sincerely,

BARNEY FRANK
Chairman

BF/mb

cc: The Honorable Spencer Bachus

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 8, 2009

Honorable John Cornyn
United States Senator
Occidental Tower
5005 LBJ Freeway, Suite 1150
Dallas, Texas 75244

Dear Senator Cornyn:

Thank you for your correspondence regarding the [redacted] application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program.

(b)(4)
(b)(8)

As you may know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of the Treasury (Treasury) and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation to the Treasury on each TARP application it receives, which ultimately determines if an institution may participate.

On October 24, 2008, the FDIC received a TARP application from [redacted] We transmitted this application to the Treasury on December 22, 2008. When Treasury makes a determination on this request, the Bank will be notified.

(b)(4)
(b)(8)

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

LA08-832

JOHN CORNYN
TEXAS

United States Senate

WASHINGTON, DC 20510-4305

December 19, 2008

Federal Deposit Insurance Corporation
550 Seventeenth Street, NW, Room 6076
Washington, District of Columbia 20429

Re: [redacted] 3 pages to follow (b)(6) (b)(6)

My constituent has sent the enclosed communication. A response which addresses his/her concerns would be appreciated.

Please send your response to the following address:

Office of Senator John Cornyn
Occidental Tower
5005 LBJ Freeway, Suite 1150
Dallas, Texas 75244-6199

ATTN: Diana Palacios
(972) 239-3453
(972) 239-2110 (Fax)

E-mail: Diana_Palacios@cornyn.senate.gov

Enclosure

Federal Deposit Insurance Corporation
Dallas Regional Office
1601 Bryan Street, Dallas, Texas 75201
(214) 754-0098 FAX (972) 761-2082

Division of Supervision and Consumer Protection
Memphis Area Office
5100 Poplar Avenue, Suite 1900, Memphis, Tennessee 38137
(901) 685-1603 FAX (901) 821-5309

Coralis FYI

November 12, 2008

(b)(6)

Dear (b)(6)

(b)(4) (b)(8)

The FDIC has received the application to participate in the Troubled Asset Relief Program's Capital Purchase Program that is being administered by the U.S. Department of Treasury. The application has been accepted for review and will be treated by the FDIC confidentially. We may contact you with additional questions or information requests as necessary. The FDIC will process this application as expeditiously as possible.

Your institution will be advised by the Department of the Treasury as to its determination on your request. This application may be withdrawn at any time upon written notice to this office. If you have any questions, please contact Acting Assistant Regional Director Moka Candle at (972) 761-2035 or Case Manager Teresa Rodriguez at (972)761-2935.

Sincerely,

Kurt R. Hagedorn
Acting Deputy Regional Director

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 8, 2009

Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Congressman Bachus:

Thank you for your letter regarding the deposit insurance applications of [redacted] to establish industrial loan companies.

The FDIC is required to assess each deposit insurance application relative to the seven statutory factors enumerated in Section 6 of the Federal Deposit Insurance (FDI) Act. These factors consider, among other elements of a proposal, the financial history and condition of the proposed depository institution and its parent organization; the proposed ownership, management, and capital structures of the proposed institution, and the risk presented by the proposed institution to the Deposit Insurance Fund.

Our reviews of the referenced applications are continuing. While the FDIC must consider the complexity and unique nature of each application, especially during these turbulent economic times, I assure you that the FDIC strives to process applications within a reasonable period of time. We will do so in the referenced cases, consistent with the companies' changing circumstances and the receipt of periodic submissions from the applicants. FDIC staff will continue to communicate with representatives of both organizations and will consider all relevant information in the analysis of the statutory factors.

Your interest in this matter is appreciated. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

[redacted]

Sheila C. Bair

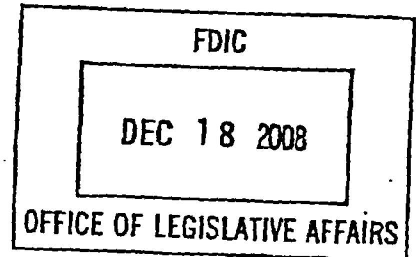
LA 08-800

BARNEY FRANK, MA, CHAIRMAN

U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

December 18, 2008



VIA FACSIMILE

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Chairman Bair:

The applications of Chrysler Financial Services [redacted]) and Ford Motor Credit Company LLC ("Ford Motor Credit") for an industrial loan company (ILC) charter have been pending for some time. [redacted] filed its ILC application in May 2005, while [redacted] first applied for an ILC charter in June of 2006 and resubmitted its application last February. I am writing to inquire as to the status of these long-pending applications.

As policymakers look for ways to stimulate the economy and blunt the harmful effects of a consumer-led recession, promoting the availability of commercial and consumer credit is vitally important. This is particularly true in the domestic auto industry, both for auto dealers financing their inventories and consumers financing their purchases. Auto company finance arms like [redacted] and [redacted] play a crucial role in meeting the credit needs of both dealers and consumers.

As you know, several foreign automakers, including Toyota and BMW, already own and operate ILCs today, placing the domestic auto industry at a competitive disadvantage in meeting the credit needs of its dealers and customers. While it is important that the FDIC engage in a thorough safety-and-soundness review of the applications filed by [redacted] that review should not go on forever.

The Honorable Sheila Bair
Page 2
December 18, 2008

Accordingly, I request that you provide me with a status report on the FDIC's consideration of these pending applications, including an estimate of when you expect to complete your review.

Thank you for your consideration.

Spencer Bachus
Ranking Member

cc: The Honorable Henry M. Paulson, Jr.
The Honorable Nancy Pelosi
The Honorable John A. Boehner
The Honorable Steny H. Hoyer
The Honorable Barney Frank

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 8, 2009

Honorable Ken Salazar
United States Senate
Washington, D.C. 20510

Dear Senator Salazar:

Thank you for your letter regarding [redacted] application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program.

(b)(4)
(b)(8)

As you may know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of Treasury (Treasury) and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation to the Treasury on each TARP application it receives, which ultimately determines if an institution may participate.

On November 10, 2008, the FDIC received a TARP application from [redacted] [redacted]. This application is being processed by our Dallas Regional Office. We understand that [redacted] has received a commitment for a $[redacted] million capital injection to coincide with a prospective TARP capital subscription. However, the outside investor group has applied to become a bank holding company and also is seeking TARP funds. Therefore, the FDIC and the Federal Reserve are coordinating these applications and have requested more information from the applicants. Of particular significance, [redacted] entered into a [redacted]

(b)(4)
(b)(

Once the FDIC and the Federal Reserve complete their recommendation on this request, the Treasury will make a determination on [redacted] application.

(b)(4)
(b)(8)

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

1A08-89

Crampton, Lali

From: Spitler, Eric J.
Sent: Friday, December 19, 2008 4:28 PM
To: Crampton, Lali; Baggage, Mable T.
Cc: Goodman, Alice C.
Subject: FW: [redacted]

Let's log this in as a letter from Sen. Salazar's office.

From: Mitchell, Sam (Salazar) [mailto:Sam_Mitchell@salazar.senate.gov]
Sent: Friday, December 19, 2008 4:03 PM
To: Spitler, Eric J.
Subject: [redacted]

Mr. Spitler:

Thank you so much for taking the time to speak with me on the phone this afternoon – I deeply appreciate it.

As we discussed, [redacted] has been working with FDIC to put itself in a position to make an application to Treasury for assistance under TARP. Specifically, after a cease-and-desist order was negotiated and entered into on December 2, and after [redacted] took all necessary write-downs required by FDIC, FDIC encouraged [redacted] to apply for TARP funds, but indicated that approval of such an application was contingent on [redacted] raising approximately $30 million in new private capital.

According to [redacted], the bank has succeeded in identifying an investor group to provide the $30 million in new capital. The investor group has filed a Bank Holding Company application with the Federal Reserve Board (which is expected to be substantially completed within the next several days) and has filed a TARP application that mirrors the TARP application by [redacted] [redacted] has also indicated to our office that the receipt of TARP funds would resolve its current regulatory issues and prevent failure of the bank.

Given the importance of [redacted] to the agricultural economy in northern Colorado, and given that [redacted] appears to have complied with the requirements imposed on the bank to date by FDIC, our office would like to encourage your agency to give [redacted] application full and fair consideration.

For your information, it is our understanding that the FDIC representatives with knowledge of [redacted] situation include Dallas Regional Director Thomas Dujenski and Dallas Assistant Regional Director Joseph Meade.

Thank you in advance for your attention to this request.

Sam

IA 08-819

Crampton, Lali

From: Spitler, Eric J.
Sent: Friday, December 19, 2008 4:28 PM
To: Crampton, Lali; Baggage, Mable T.
Cc: Goodman, Alice C.
Subject: FW: [redacted]

(b)(4) (b)(8)

Let's log this in as a letter from Sen. Salazar's office.

From: Mitchell, Sam (Salazar) [mailto:Sam_Mitchell@salazar.senate.gov]
Sent: Friday, December 19, 2008 4:03 PM
To: Spitler, Eric J.
Subject: [redacted]

(b)(4) (b)(8)

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(b)(4) (b)(8)

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For your information, it is our understanding that the FDIC representatives with knowledge of [redacted] situation include Dallas Regional Director Thomas Dujenski and Dallas Assistant Regional Director Joseph Meade.

(b)(4) (b)(8)

Thank you in advance for your attention to this request.

Sam

LA09-1027

ALLYSON Y. SCHWARTZ
13TH DISTRICT, PENNSYLVANIA

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES:
SELECT REVENUE MEASURES
SOCIAL SECURITY
COMMITTEE ON THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515–3813

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706 WEST AVENUE
JENKINTOWN, PA 19046
TEL: (215) 517-6572
FAX: (215) 517-6575

www.house.gov/schwartz

INTAKE PERSON: Ann Marie Keene DATE: 6-15-09

Name of Constituent: [redacted] b6

Address: [redacted] Apartment

City [redacted] State [redacted] Zip [redacted]

Home Phone: ______ Business Phone: ______

Date of Birth: ______

Social Security Number: [redacted]

Any Other Claim Numbers: [redacted]

Facts of the Cases: Applied for FDIC approval What is the status

Pursuant to the provisions the Privacy Act of 1974 (Title 5, Section 5552A of the United States Code) I hereby authorize the release of information from, or copies of, medical records or files regarding all information pertaining to me, to the Office of Congresswoman Allyson Y. Schwartz

Signature:

PRINTED ON RECYCLED PAPER

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 8, 2009

Honorable Ken Salazar
United States Senate
Washington, D.C. 20510

Dear Senator Salazar:

Thank you for your letter regarding [redacted] application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program.

As you may know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of Treasury (Treasury) and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation to the Treasury on each TARP application it receives, which ultimately determines if an institution may participate.

On November 10, 2008, the FDIC received a TARP application from [redacted] [redacted] Colorado. This application is being processed by our Dallas Regional Office. We understand that [redacted] has received a commitment for a $30 million capital injection to coincide with a prospective TARP capital subscription. However, the outside investor group has applied to become a bank holding company and also is seeking TARP funds. Therefore, the FDIC and the Federal Reserve are coordinating these applications and have requested more information from the applicants. Of particular significance, [redacted] entered into a Cease-and-Desist-Order that became effective on December 2, 2008. This Order and the Bank's financial condition may affect the institution's request for TARP program participation; therefore, the proposed capital injection represents a critical aspect of our regulatory analysis of bank viability.

Once the FDIC and the Federal Reserve complete their recommendation on this request, the Treasury will make a determination on [redacted] application.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 12, 2009

Honorable Charlie Melancon
House of Representatives
Washington, D.C. 20515

Dear Congressman Melancon:

Thank you for your letter regarding the increase in deposit insurance premiums paid by a bank in your district. While your letter does not identify the bank, I can nevertheless assure you that the premium increase was not in any way due to the temporary increase in the deposit insurance coverage limit from $100,000 to $250,000. The Emergency Economic Stabilization Act of 2008, which authorized the temporary increase in deposit insurance coverage limit, specifically prohibited the Federal Deposit Insurance Corporation from taking the higher coverage limit into account for purposes of setting deposit insurance assessments.

There are several possible explanations for the bank's premium increase. First, the bank's deposit insurance risk category may have changed. Pursuant to the Federal Deposit Insurance Reform Act of 2005, the FDIC substantially revised the risk-based deposit insurance assessment system and adopted a new rate schedule effective January 1, 2007. That rate schedule remained in effect unchanged during 2007 and 2008. Under the FDIC's assessment system, insured institutions are put into one of four risk categories, each charged a different assessment rate, based on periodic supervisory appraisals and on quarter-end capital levels. Rates applicable to the largest category (Risk Category I) vary by institution within a two basis point range based upon supervisory ratings and selected financial ratios. From quarter to quarter, the same institution may pay different rates within Risk Category I as its risk profile changes.

Second, the amount of deposits held by the bank also may have changed. Premiums are determined by multiplying an institution's assessment rate by its assessment base, which is closely related to the amount of domestic deposits that it holds.

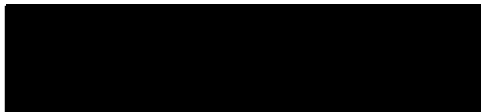
Finally, the bank may have had an assessment credit that now is exhausted. Under the Federal Deposit Insurance Reform Act of 2005, Congress required the FDIC to grant a one-time assessment credit to certain institutions. The FDIC applies this credit as an offset to an institution's insurance premium until the credit is exhausted. It is possible that the bank in question used the last of its assessment credits earlier this year and began paying the full assessment amount in the quarters thereafter.

As you are aware, the number of bank failures increased greatly in 2008, which has resulted in a substantial decline in the Deposit Insurance Fund's reserve ratio. By statute, when the reserve ratio falls below 1.15 percent, as it has, the FDIC must adopt a restoration plan that will restore the reserve ratio to 1.15 percent within five year. Pursuant to the restoration plan adopted by the FDIC Board in October 2008, the FDIC has increased rates for the first quarter of 2009 and has

proposed substantial changes to the assessment system (and new and higher rates than during 2007 and 2008) beginning in the second quarter of 2009.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,



Eric J. Spitler
Director
Office of Legislative Affairs

LA08-813 RJ

CHARLIE MELANCON
3RD DISTRICT, LOUISIANA

COMMITTEE ON ENERGY
AND COMMERCE

COMMITTEE ON
SCIENCE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515

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(504) 271-1707

828 SOUTH IRMA BLVD., SUITE 107
GONZALES, LA 70737
(225) 621-8490

423 LAFAYETTE STREET, SUITE 107
HOUMA, LA 70360
(985) 876-3033

124 EAST MAIN STREET
SUITE 220-A
NEW IBERIA, LA 70560
(337) 367-8231

December 18, 2008

Eric Spitler
Director of Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429

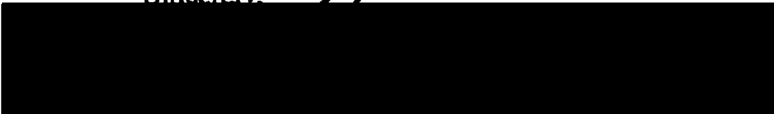
Mr. Spitler,

I am writing on behalf of a bank in my district that has recently seen its FDIC insurance premiums tripled. This bank is a 25-year old, financially sound, well-managed, well-capitalized bank with a good bank rating. Previously its insurance premium was $1700 a month and has recently increased to $5100 a month.

Any information that you could give on the basis of this increase would be greatly appreciated. Specifically, the bank would like to know if this is a reflection of the increase in FDIC insurance coverage from $100,000 to $250,000.

I thank you in advance for your cooperation.

Sincerely,



Charlie Melancon
Member of Congress

PRINTED ON RECYCLED PAPER

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 12, 2009

Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter, received December 1, 2008, enclosing your questions and those from Senator Enzi subsequent to my testimony on "Turmoil in the U.S. Credit Markets: Examining Recent Regulatory Responses" before the Committee on October 23, 2008.

Enclosed are responses to those questions. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C. Bair

Enclosure

Response to questions from the Honorable Christopher J. Dodd
by Sheila C. Bair, Chairman,
Federal Deposit Insurance Corporation

Q1. Please provide the legal justification for establishing the Temporary Liquidity Guarantee Program under the systemic risk exception in the Federal Deposit Insurance Act.

A1. The legal authority for establishing the Temporary Liquidity Guarantee Program (TLGP) is set forth in 12 U.S.C. 1823(c)(4)(G). Based on information regarding the unprecedented disruption in credit markets and the resulting effects on the ability of banks to fund themselves and the likelihood that the FDIC's compliance with the least-cost requirements of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(A) and (E)) would have serious adverse effects on economic conditions or financial stability by increasing market uncertainty, the Board of Directors of the FDIC and the Board of Directors of the Federal Reserve System made written recommendations to the Secretary of the Treasury that the FDIC's creation of the TLGP program to guarantee bank depositors and senior unsecured creditors against loss under certain described circumstances would avoid or mitigate such effects. After consultation with the President, as required by the statute, the Secretary of the Treasury made the systemic risk determination that provided the FDIC with the authority to implement the TLGP.

Q2. According to press reports, the emergency actions taken by the FDIC to guarantee unsecured senior debt issued by FDIC-insured depository institutions has had the unintended consequence of driving up the costs of borrowing for Fannie Mae, Freddie Mac and the Federal Home Loan Banks (FHLBs). Was this taken into account as a possible consequence as you formulated this course of action?

A2. As noted in the press, the spread of debt issued by Government-sponsored enterprises (GSEs), including Fannie Mae, Freddie Mac and Federal Home Loan Banks (FHLBs), over Treasuries increased considerably in October and November although the overall cost of funding declined. According to Merrill Lynch data on U.S. bond yields, the spread between AAA-rated agency debt and Treasuries increased by nearly 40 basis points between September and November 2008. We believe these developments primarily reflect broad financial market uncertainty and a generally unfavorable market sentiment towards financial firms. In fact, the spread of debt guaranteed by the FDIC under the Temporary Liquidity Guarantee Program over Treasuries is larger than the spread on GSE debt.

Financial firms, including those with a AAA-rating, saw their borrowing costs increase sharply, both in absolute terms and relative to Treasury yields, during the same two months, even as the Federal Reserve continued to lower the federal funds target rate. Merrill Lynch data show that the effective yield on AAA-rated corporate debt issued by financial firms increased by 140 basis points between September and October, before declining somewhat in November. Lower-rated corporate debt experienced even more significant increases over the same period of time.

The primary purpose of the FDIC's Temporary Liquidity Guarantee Program is to provide liquidity in the inter-bank lending market and promote stability in the long-term funding market where liquidity has been lacking during much of the past year. While the FDIC's action was focused primarily on helping to restore a stable funding source for banks and thrifts, we believe that such liquidity can, in turn, help promote lending to consumers and small businesses, which would have a considerable benefit to the U.S. economy, in general, and financial firms, including mortgage lenders and GSEs. Nevertheless, partly to mitigate any potential effect of the FDIC guarantee on funding costs for GSEs, the federal banking agencies have agreed to assign a 20 percent risk weight to debt guaranteed by the FDIC (rather than the zero risk weighting that is assigned to debt guaranteed by a U.S. Government agency that is an instrumentality of the U.S. Government and whose obligations are fully and explicitly guaranteed as to the timely repayment of principal and interest by the full faith and credit of the U.S. Government).

Q3. The FFIEC has proposed a rule that would lower the capital risk weighting that banks assign to Fannie Mae and Freddie Mac debt from 20 to 10 percent, but does not change the treatment for FHLB debt. Has any consideration been given to giving the same treatment to FHLB debt? Will FDIC-guaranteed unsecured bank debt have a comparable risk weight?

A3. On September 6, 2008, the Treasury and Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorship, administered by the FHFA. The next day, September 7, 2008, the Treasury announced the establishment of the Government Enterprise Credit Facility and entered into senior preferred stock purchase agreements (the Agreements) with Fannie Mae and Freddie Mac. These Agreements are intended to ensure that Fannie Mae and Freddie Mac maintain a positive net worth and effectively support investors that hold debt and mortgage-backed securities issued or guaranteed by these entities.

On October 27, 2008, the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision (together, the Agencies) published in the Federal Register a Notice of Proposed Rulemaking that would permit a banking organization to reduce to 10 percent from 20 percent the risk weight assigned to claims on, and the portions of claims guaranteed by, Fannie Mae and Freddie Mac (the NPR).[1] As proposed, the NPR would permit a banking organization to hold less capital against debt issued or guaranteed by Fannie and Freddie. The preferential risk weight would be available for the duration of the Treasury's Agreements

The NPR requested comment on the proposed regulatory capital treatment for debt issued or guaranteed by Fannie Mae and Freddie Mac and whether the Agencies should extend this capital treatment to debt issued or guaranteed by other government-sponsored entities (GSEs), such as the Federal Home Loan Banks (FHLBanks). The comment period for the NPR closed on November 26, 2008, and the Agencies received more than 200 public comments. Most of the commenters support lowering the risk weight for debt issued or guaranteed by the FHLBanks to narrow the credit spread between Fannie Mae and Freddie Mac debt and FHLBank debt. The

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[1] 73 Fed. Reg. 63656.

Agencies are reviewing the comments and determining whether a 10 percent risk weight is appropriate for a banking organization's exposure to a GSE.

On November 26, 2008, the FDIC published in the Federal Register a final rule implementing the Temporary Liquidity Guarantee Program.[2] Under the Temporary Liquidity Guarantee Program, the FDIC will guarantee the payment of certain newly issued senior unsecured debt issued by banking organizations and other "eligible" entities. Consistent with the existing regulatory capital treatment for FDIC-insured deposits, the Agencies will assign a 20 percent risk weight to debt guaranteed by the FDIC.

Q4. I commend you for aggressively pursuing loan modifications of the IndyMac loans that the FDIC now services. Please elaborate on the following three points that you make in your testimony that I want to explore further:

(a). You state that you have established a program to systematically modify troubled loans that IndyMac serviced. Please give us more details about this approach and how it differs from modifying loans on a case-by-case basis. Is there really such a thing as a systematic approach to loan modification, or do you have to touch every loan as you would on a case-by-case basis?

A4(a). The FDIC's loan modification program at IndyMac provides a streamlined and systematic approach to implementing affordable and sustainable loan modifications. By establishing clear guidelines for loan modifications determined by an affordability metric based on mortgage debt-to-gross income, the loan modification program allows servicers to apply the model to thousands of mortgages quickly, while defining for each loan how to achieve the targeted DTI. By using a waterfall of three basic loan modification tools – interest rate reductions, term or amortization extensions, and principal deferment – it is relatively simple to run thousands of loans through a computerized analysis of the necessary combination of tools needed to achieve an affordable and sustainable payment. A standardized net present value analysis, also computerized, allows IndyMac to ensure that its modifications provide a better value to the FDIC or investors in securitized or purchased loans. All IndyMac modifications are based on verified income information from third party sources such as the Internal Revenue Service or employers.

This is very different from the loan-by-loan approach used by most servicers, which seeks to gather detailed financial information from borrowers – usually based on verbal statements – and get the highest possible monthly payment while leaving the borrower with a set amount of 'disposable income.' While this approach may appear to offer a more customized approach, it has often meant that servicers relied on stated income and stated expenses to achieve a short-term solution that continued to place the borrower in a precarious and unsustainable payment. The difficulty with this approach is demonstrated by the high redefault rates reported by some servicers.

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[2] 73 Fed. Reg. 72244.

The FDIC Loan Modification Program at IndyMac achieves an affordable payment through a three step waterfall process:

- **Interest Rate Reduction**: Cap the interest rate at the Freddie Mac Weekly Survey Rate for the balance of the loan term and, if needed to reach the DTI target, reduce the interest rate incrementally to as low as 3 percent and re-amortize the principal balance over the remaining amortization term. The interest rate charged will not be greater than the current Freddie Mac Weekly Survey Rate at the time of modification. The reduced rate remains in effect for at least 5 years.

  If the target debt-to-income ratio has not been achieved, proceed to the next step.

- **Extended Amortization Term**: For loans with original terms of 30 years or less, re-amortize the principal balance at the reduced interest rate (3 percent floor) over an extended amortization term of 40 years from the original first payment date.

  If the target debt-to-income ratio has not been achieved, proceed to the next step.

- **Partial Principal Forbearance**: Defer a portion of the principal balance for amortization purposes, and amortize over a 40-year period at the reduced interest rate (3 percent floor). The remaining principal balance remains as a zero interest, zero payment portion of the loan. The repayment of the deferred principal will be due when the loan is paid in full.

Of the loan modification offers made at IndyMac thus far, 73 percent required rate reduction only, 21 percent required rate reduction and term extension, and 6 percent required rate reduction, term extension, and principal forbearance.

Q(b). Your testimony says that modifications are only offered where they are profitable to IndyMac or investors in securitized or whole loans. Are you finding that most modifications are profitable, and if so, please explain how you determine that they are more profitable than foreclosures?

A(b). Yes. While there are always some proportion of delinquent mortgages where a modification will not provide the best alternative to preserve value for the mortgage, many mortgages can be modified successfully while gaining the best value compared to foreclosure. One illustration of this fact is the net present value comparisons between the modified mortgage and foreclosure for the more than 8,500 completed modifications at IndyMac. To date, on average, the net present value of completed modifications at IndyMac has exceeded the net present value of foreclosure by $49,918 for total savings compared to foreclosure of more than $423 million.

As conservator, the FDIC has a responsibility to maximize the value of the loans owned or serviced by IndyMac Federal. Like any other servicer, IndyMac Federal must comply with its

contractual duties in servicing loans owned by investors. Consistent with these duties, we have implemented a loan modification program to convert as many of these distressed loans as possible into performing loans that are affordable and sustainable over the long term. This action is based on the FDIC's experience in applying workout procedures for troubled loans in a failed bank scenario, something the FDIC has been doing since the 1980s. Our experience has been that performing loans yield greater returns than non-performing loans.

The FDIC's Loan Modification Program at IndyMac is primarily based on four principles:

1) Affordable and sustainable modifications generally provide better value than foreclosure to lenders and investors, and to the IndyMac conservatorship and the FDIC's Deposit Insurance Fund. Modifications that exceed the net present value of foreclosure generally are consistent with servicing agreements and protect the interests of investors in securitized mortgages.

2) Sustainable loan modifications must be affordable for the life of the loan. As a result, the Loan Modification Program is based on a first lien mortgage debt-to-gross income ratio ranging from 38 percent to 31 percent. The modifications use a combination of interest rate reductions, term extensions, and principal deferment to achieve affordable payments. The interest rate on the modified mortgages is capped at a prime conforming loan rate reported by the Freddie Mac Weekly Survey. The interest rate can be reduced to as low as 3 percent for five years in order to achieve an affordable payment followed by gradual interest rate increases of 1 percent per year until the Freddie Mac Weekly Survey rate is reached.

3) All modifications should be based on verified income information, not stated income. This is essential to establish affordability.

4) A streamlined and systematic modification process is essential to address the volume of delinquent mortgages in today's market. The FDIC, along with many mortgage servicers, has adopted a more streamlined process focused on modifying troubled mortgages based on a simple debt-to-income ratio since it is easy to apply and avoids costly and unnecessary foreclosures for many more borrowers.

The Program results in a positive outcome for investors and borrowers as investor loss is minimized and the borrower receives a sustainable long-term modification solution. The Program requires full income documentation in order to minimize redefault and ensure the affordability standard is uniformly implemented. The gross monthly income for all borrowers who have signed the mortgage note must be supported by either the prior year's tax returns or recent pay stubs.

Q(c). You state that securitization agreements typically provide servicers with sufficient flexibility to apply the modification approach you are taking for the IndyMac loans. Given this flexibility, why are so few loan modifications being made?

A(c). While the securitization agreements do typically provide servicers with sufficient flexibility, many servicers have been reluctant to adopt the streamlined modification protocols necessary to stem the rate of unnecessary foreclosures due to concerns about challenges from investors, a tendency to continue prior practices of focusing on loan-by-loan customized modifications, and by staffing limitations.

At IndyMac, of the more than 45,000 mortgages that were potentially eligible for modification, IndyMac has mailed modification offers to more than 32,000 borrowers. Some proportion of the remainder do not pass the NPV test and others must be addressed through more customized approaches. So far, IndyMac has completed income verification on more than 8,500 modifications and thousands more have been accepted and are being processed and verified.

As the FDIC has proven at IndyMac, streamlined modification protocols can have a major impact in increasing the rates of sustainable modifications. However, even there, challenges in contacting borrowers and in getting acceptance of the modification offers can inhibit the effectiveness of modification efforts. These are challenges that we have sought to address by working closely with HUD-approved, non-profit homeownership counseling agencies, such as those affiliated with NeighborWorks. In addition, we have sought to reach out to local community leaders and provide cooperative efforts to contact borrowers at risk of foreclosure. These efforts, which many servicers are starting to pursue, should be a focus of efforts by all servicers going forward.

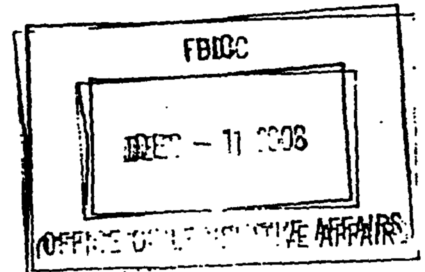
In addition, servicers' concerns over challenges from investors makes adoption of a national program to provide incentives from federal funds a critical part of the strategy to achieve the scale of modifications necessary to address our housing crisis. To address conflicting economic incentives and fears of re-default risk, the FDIC has proposed that the government offer an administrative fee to servicers who systematically modify troubled loans and provide loss sharing to investors to cover losses associated with any redefaults. These financial incentives should make servicers and investors far more willing to modify loans. This proposal addresses the biggest disincentive to modify troubled mortgages – the potential for greater losses if a modified loan redefaults and foreclosure is necessary some months in the future in a declining housing market. As a result, the FDIC proposal is designed to cover a portion of the losses that could result if the modified mortgage redefaults. This will provide practical protection to servicers by allowing easier proof for the value of the modification and eliminate investors' primary objection to streamlined modifications. We have estimated the costs of this program to be about $25 billion. To protect taxpayers and assure meaningful loan modifications, the program would require that servicers truly reduce unaffordable loan payments to an affordable level and verify current income, and that borrowers make several timely payments on their modified loans before those loans would qualify for coverage. This proposal is derived from loss sharing arrangements the FDIC has long used to maximize recoveries when we sell troubled loans. We believe this or some similar program of financial incentives is necessary to achieve loan modifications on a national scale to halt the rising tide of foreclosures and the resulting economic problems.

A2. When the FDIC proposed the Home Ownership Preservation (HOP) Loan program in May 2008, we noted that congressional action would be required to authorize the Treasury Department to make HOP loans. We believe that the HOP Loan program could be an important tool for avoiding unnecessary foreclosures in combination with other tools. As the housing market and home prices have continued to decline, we have suggested the loss guarantee approach discussed above as a way of streamlining and increasing the scale of loan modifications.

LA08-708

United States Senate

November 26, 2008



The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW,
Washington, DC 20429

Dear Ms. Bair:

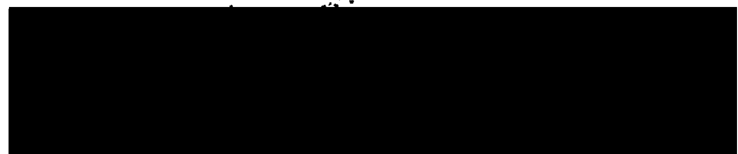
Thank you for testifying before the Committee on Banking, Housing, and Urban Affairs on October 23, 2008. In order to complete the hearing record, we would appreciate your answers to the enclosed questions as soon as possible.

Please repeat the question, then your answer, single spacing both question and answer. Please do not use all capitals.

Send your reply to Ms. Dawn L. Ratliff, the committee's Chief Clerk. She will transmit copies to the appropriate offices, including the committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies via e-mail in a MS Word, WordPerfect or .pdf attachment to Dawn_Ratliff@banking.senate.gov.

If you have any questions about this letter, please contact Ms. Ratliff at (202)224-3043.

Sincerely,



CHRISTOPHER J. DODD
Chairman

CJD/dr

Questions for the Hearing on "Turmoil in the U.S. Credit Markets: Examining Recent Regulatory Responses"
October 23, 2008

<u>Questions for The Honorable Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation, from Senator Enzi:</u>

1. I was happy to note in your testimony that you discussed the need to stop unnecessary foreclosures. You mentioned the FDIC's work as conservator of IndyMac and your participation in the Hope for Homeownership program as recent examples of your effort. Does the FDIC plan to develop a new program to extend loan modifications to a broader pool of mortgages than those held by IndyMac? How would such a program work and what would its impact be on mortgage investors? Where would the FDIC derive authority for such a program?

2. Has the FDIC given any further consideration to the FDIC's own Home Ownership Preservation Loan program? I believe this program is a good way to avoid foreclosures and severe mortgage modifications at the same time. If this program is no longer being considered, why?

Questions for the Hearing on "Turmoil in the U.S. Credit Markets: Examining Recent Regulatory Responses"
October 23, 2008

<u>Questions for The Honorable Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation, from Senator Dodd:</u>

1. Please provide the legal justification for establishing the Temporary Liquidity Guarantee Program under the systemic risk exception in the Federal Deposit Insurance Act.

2. According to press reports, the emergency actions taken by the FDIC to guarantee unsecured senior debt issued by FDIC-insured depository institutions has had the unintended consequence of driving up the costs of borrowing for Fannie Mae, Freddie Mac and the Federal Home Loan Banks (FHLBs). Was this taken into account as a possible consequence as you formulated this course of action?

3. The FFIEC has proposed a rule that would lower the capital risk weighting that banks assign to Fannie Mae and Freddie Mac debt from 20 to 10 percent, but does not change the treatment for FHLB debt. Has any consideration been given to giving the same treatment to FHLB debt? Will FDIC-guaranteed unsecured bank debt have a comparable risk weight?

4. I commend you for aggressively pursuing loan modifications of the IndyMac loans that the FDIC now services. Please elaborate on the following three points that you make in your testimony that I want to explore further:

   - You state that you have established a program to systematically modify troubled loans that IndyMac serviced. Please give us more details about this approach and how it differs from modifying loans on a case-by-case basis. Is there really such a thing as a systematic approach to loan modification, or do you have to touch every loan as you would on a case-by-case basis?

   - Your testimony says that modifications are only offered where they are profitable to IndyMac or investors in securitized or whole loans. Are you finding that most modifications are profitable, and if so, please explain how you determine that they are more profitable than foreclosures?

   - You state that securitization agreements typically provide servicers with sufficient flexibility to apply the modification approach you are taking for the IndyMac loans. Given this flexibility, why are so few loan modifications being made?

Questions for the Hearing on "Turmoil in the U.S. Credit Markets: Examining Recent Regulatory Responses"
October 23, 2008

5. Each agency represented at the hearing has aggressively used the tools at their disposal in dealing with the crisis. However, sometimes the use of those tools has led to unintended consequences. For instance, when the Treasury Department guaranteed money market funds, it led to a concern on deposit insurance and bank accounts. When the FDIC guaranteed bank debt, it had an effect on GSE borrowing costs, which in turn directly affects mortgage rates.

   Acknowledging that there is often a need to act quickly in these circumstances, please explain what steps and processes you have employed to inform other agencies about significant actions you undertake to ensure that there are not serious adverse unintended consequences and that your actions are working in concert with theirs.

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Office of Legislative Affairs

January 15, 2009

Honorable Jon Kyl
United States Senator
2200 East Camelback Road, Suite 120
Phoenix, Arizona 85016

Dear Senator Kyl:

Thank you for transmitting information about Dominion Real Estate Investments, LLC (DREI). The email from Messrs. Dwyer and Freeman provides valuable information about the company and its capabilities, and we will add this firm to our Contractor Resource List (CRL).

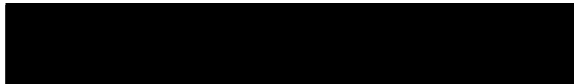
When the FDIC begins the procurement process for goods and/or services, we use market research data to identify potential contractors that can provide the needed goods or services. A repository for this market information is our CRL. This system organizes and maintains corporate capability statements submitted by firms seeking to do business with the FDIC, and our program managers and contracting officers use this system to identify sources for solicitation.

While we cannot guarantee DREI or any other potential contractor submitting a corporate capabilities statement will be included on future source lists, once DREI has been added to the CRL, the information is available for consideration.

If Messrs. Dwyer or Freeman have further questions, they may contact Elizabeth Walker in our Acquisition Services Branch at 703-562-6295.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,



Eric J. Spitler
Director
Office of Legislative Affairs

LA08-861

Office of
U.S. Senator Jon Kyl
Facsimile Cover Sheet

DATE: 12/24/08 **TIME:** ______ **PAGES TO FOLLOW:** 2

TO: Congressional Unit

OF: FDIC 202-898-3745(F)

RE: ______

FROM:

Senator Kyl		Emily Pitha	
Clint Chandler		Debbie Roberts	
Nancy Gilliam		Sharon Varga	
Jane Grace		Andrew Wilder	
Sandra Ledy		Craig Wismer	✓
Liz Mascot		Kimberly Wold	
		Other	

COMMENTS:

As described in attached email, representatives of Dominion Real Estate Investments would like to know with whom at the FDIC they could discuss possible contracting opportunities for the management or disposition of FDIC assets.

2200 East Camelback Road, Suite 120
Phoenix, Arizona 85016
Phone : (602) 840-1891 FAX: (602) 957-6838
Web: http://www.kyl.senate.gov

The information contained in this facsimile is intended only for the individual or organization named above and may contain confidential or privileged information. If you are not the intended recipient, any copying, distribution or dissemination of this is strictly prohibited. If you have received this transmission in error, please notify us by telephone immediately.

Wismer, Craig (Kyl)

From: Richard Freeman [RichardF@dominionrealestate.com]
Sent: Thursday, December 18, 2008 1:21 PM
To: Wismer, Craig (Kyl)
Cc: Chad Willems; rob@dominionrealestate.com
Subject: Follow-up (for the FDIC)
Attachments: Dominion Real Estate Investments July 2008.ppt

Dear Craig,

Per your request, below is an explanation as to why we, Dominion Real Estate Investments (DREI), believe the FDIC needs a local presence for the most cost effective and orderly disposition and management of distressed real assets. We also believe that DREI offers the best choice for such services here in Arizona.

As we have indicated to you, since the decline in Arizona real estate values began in late 2006 we have been involved with three primary vendors used by the FDIC, banks or other financial institutions to sell distressed real estate-related debt or the underlying real estate. These vendors are: DebtX (Boston, MA), First Financial (Oklahoma City, OK) and CB Richard Ellis (Washington, D. C.; New York, NY). While we and our investors have generally been impressed with the overall professionalism of these organizations, we did observe:

- Unfamiliarity with the market and area
- Properties in various stages of disrepair with no apparent fencing or other safety and security enhancements, potentially
  resulting in a lower value basis in the property
- An emphasis on speed to close rather than best price

Often those investors whose bids are accepted, and who have not performed proper due diligence before making a bid, do not ultimately purchase the properties after an on the ground inspection. As a result, these properties often are forced into foreclosure, fall in to disrepair and lower the value and safety of the surrounding communities.

As we suspect that the federal government will get involved in the sale and purchase of distressed real estate, we believe it is important to keep in mind the need for local involvement. Dominion Real Estate Investments (DREI) and its affiliated entities (real estate brokerage, home finance, home warranty and title) have the wherewithal to perform the functions of any out-of-state entity, while keeping a local perspective.

It is our understanding that the FDIC assigns the management and sale of the notes and deeds of trust to one company, such as First Financial, and the management of the underlying real estate collateral to another company. While DREI is capable of managing both asset classes, the Firm would be interested in either or both tasks.

As described more fully in the attached PowerPoint, DREI and its affiliated entities have been operating in Arizona for over ten years. Its principals have been involved in Arizona real estate for more than twenty years. (As you may recall Rob Dwyer previously worked with the Resolution Trust Corporation.) Dominion has more than 160 associated real estate professionals and a presence in six western states. The Firm's comprehensive property management capabilities encompass office buildings, retail centers, industrial facilities, multi-family properties and entitled and non-entitled land. In addition to the above, DREI and its affiliates have in-depth relationships with all major title companies, numerous local and national real estate investors, national and regional commercial banks, regional security companies and other real estate-related service providers

Again thank you for meeting with us and please contact us should you need any additional information.

Robert R. Dwyer & Richard Freeman
Owner/Managing Partners
Dominion Real Estate Investments LLC

Chad Willems
Principal
Summit Consulting Group

lower-rated institutions has been comprehensive as these applications generally must be presented to the CPP Council for consideration before Treasury will review them. It is our hope that the great majority of CPP applications will be processed by the regulators by June 30, 2009.

Q4. Can banks get expedited exams in the case of banks that have "stale exams?"

A4. Recent on-site examinations are very helpful when evaluating a bank's condition for the purposes of a TARP CPP request. However, we do not necessarily need to perform a new on-site examination to reach a viability assessment. The regulators have a variety of off-site review processes that are based on a combination of financial and supervisory information that complement previous examination results. In fact, the FDIC has made favorable TARP CPP recommendations to Treasury based, in part, on examinations that were less recent.

Q5. Are you taking into account the local competitive implications of providing CPP investments to large banks operating in our state while CPP investments in banks whose business is chiefly or entirely limited to the state are delayed?

A5. Treasury's CPP application review guidelines do not consider local competitive implications. However, the FDIC is sensitive to the current challenges facing Arizona-based financial institutions. These banks are afforded the same consideration for TARP CPP participation as large institutions or applicants from other states.

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 15, 2009

Honorable Aníbal Acevedo Vilá
Governor
Commonwealth of Puerto Rico
La Fortaleza
San Juan, Puerto Rico 00902

Dear Governor Vilá:

Thank you for contacting me about the participation of Puerto Rican financial institutions in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP). I wholeheartedly agree with you that TARP CPP capital subscriptions are necessary during this challenging time to keep credit available for consumers and business in Puerto Rico and across the nation. The Federal Deposit Insurance Corporation expects banks will use these funds to augment capital and responsibly make loans in their communities as a means of supporting economic growth.

The FDIC received several TARP CPP applications from state nonmember financial institutions in Puerto Rico, including an application filed by [redacted] The FDIC reviews TARP CPP applications submitted by state nonmember institutions, utilizing U.S. Department of Treasury's viability standards. If those standards are met, the FDIC will make a favorable recommendation; however, ultimate disposition is determined by the U.S. Department of Treasury.

(b)(4)
(b)(8)

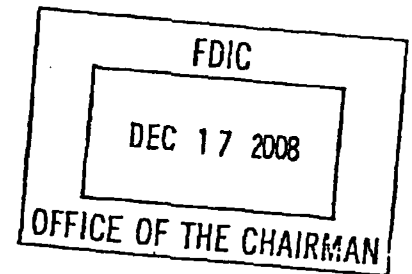
Thank you again for contacting me and be assured the FDIC understands the current state of the Puerto Rican economy and its impact on the Commonwealth's banking institutions.

Sincerely,

[redacted]

Sheila C. Bair

DC08 - 1101


FDIC
DEC 17 2008
OFFICE OF THE CHAIRMAN

ANÍBAL ACEVEDO VILÁ
GOVERNOR
COMMONWEALTH OF PUERTO RICO

December 11, 2008

The Honorable Sheila Bair, Chair
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Dear Madame Chair:

I write to respectfully request necessary consideration be provided to Puerto Rican institutions in need of Federal assistance through the Troubled Asset Relief Program (TARP) enacted through the Emergency Economic Stabilization Act. We must work to ensure that banks can bring about economic growth through lending in order to help lift the U.S. and Puerto Rican economies out from under this overwhelming recession and fiscal crisis.

Please provide necessary consideration and support for pending TARP applications filed by banks from Puerto Rico. Special deliberation ought to be given to the Puerto Rican institutions due to the magnitude and length of the recession in Puerto Rico, where it arrived prior to the effects being felt on the mainland, and where the economic challenges remain severe.

Please provide special consideration to the TARP request provided by [redacted] [redacted], which has a storied history in Puerto Rico and is one of the Island's leading commercial lenders. [redacted], an organically grown institution in Puerto Rico, is the largest minority-held institution in the United States. Furthermore, [redacted] is the largest employer in the southwestern region of Puerto Rico – an area that has a particular need for jobs and for the commercial banking sector.

(b)(4)
(b)(8)

[redacted] remains an integral part of the Puerto Rican economy. As the largest commercial lender on the Island, it invests heavily in an array of critical sectors like infrastructure, healthcare, agribusiness and small business. [redacted] has some 1500 employees throughout southwestern Puerto Rico.

(b)(4)
(b)(8)

The Honorable Sheila Bair
December 11, 2008
Page 2

(b)(4)
(b)(8)

I understand that the New York Region of the FDIC has put forward [redacted] TARP request. For the reasons identified above, I ask that you support this application pending before the FDIC and the United States Treasury.

Sincerely,

[redacted]

Aníbal Acevedo Vilá

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 16, 2009

Honorable John Shadegg
House of Representatives
Washington D.C. 20515

Dear Congressman Shadegg:

Thank you for your letter regarding the procedures of the Federal Deposit Insurance Corporation for dealing with loans acquired after the failure of a financial institution.

I share your concerns regarding the current economic climate and can assure you that we are working diligently to reduce the economic hardship and impact faced by customers of financial institutions that are closed. Bank failures are unfortunate and can have a significant impact on communities and individual borrowers.

As you noted in your letter, the FDIC has a legal responsibility as receiver for a failed institution to maximize the recovery for the benefit of depositors and creditors who may have lost money when the institution failed. In accordance with this responsibility and, within the context of a real estate market in decline, the FDIC must carefully analyze any requests for additional funding, as well as evaluate the risks associated with the proposed transaction, to determine whether the funding will provide the best opportunity to achieve the best possible recovery for the failed institution's estate. Staff from the FDIC's Division of Resolutions and Receiverships reviews each funding request on a case-by-case basis. For example, if the advancement of funds for construction purposes will result in a net increase in the underlying collateral value or such funds will protect, preserve or allow for build-out so that marketing of the real estate project can immediately begin, the FDIC as receiver may advance such funds.

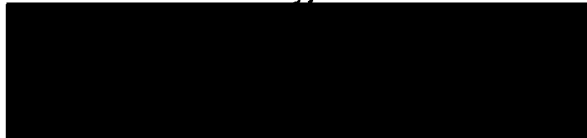
While the FDIC seeks to work with borrowers to resolve their loan obligations, we also seek to return failed bank assets to the private sector as quickly as possible. Returning assets to the private sector preserves the value of the assets and provides an opportunity for borrowers to establish a new lending relationship. To facilitate a new lending relationship, the FDIC will generally waive any prepayment fees at the borrowers request if they can find alternative financing.. In accordance with our statutory responsibility, the FDIC employs a variety of strategies to dispose of the assets of failed institutions. The sale of both performing and non-performing loans is one of the methods that has consistently proven successful. To fulfill this responsibility, the FDIC frequently packages loans that we acquire from failed financial institutions, and sells them on a competitive basis at their current value as determined by the open market. Generally, the marketing of acquired loans begins approximately 60 to 90 days following the failure of a financial institution. It is important to note that the legal rights and obligations of borrowers are not changed when the FDIC sells these loans.

Loans are negotiable instruments that are routinely sold in the financial markets on a daily basis. Although parties who purchase loans from the FDIC acquire the right to collect the full balance, their collection efforts are limited by the terms to which the borrowers agreed when they originally borrowed the funds. Additionally, the purchaser of a loan is bound by any written agreement that may have been reached between the FDIC and the loan customer prior to the sale of the promissory note.

Bank failures create difficult choices for the FDIC. The statutory requirement that the FDIC maximize recoveries and minimize losses in its management of failed bank assets is to ensure that uninsured depositors and other creditors recover their losses to the fullest extent possible. The statutory requirements also are designed to reduce losses to the Deposit Insurance Fund which protects taxpayers from having to pay the cost of protecting depositors. In balancing our statutory responsibilities with the needs of the failed bank's borrowers, the FDIC strives to ensure that borrowers are treated fairly and responsively.

If you have further questions, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,



Sheila C. Bair

DEC-23-2008 TUE 04:46 PM FAX NO. 6022487733 P. 02

LA08-818

JOHN SHADEGG
3RD DISTRICT, ARIZONA

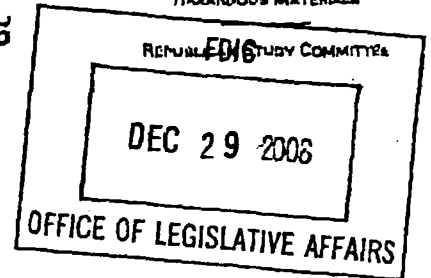
WASHINGTON, DC OFFICE:
306 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3361
FAX: (202) 225-3462

ARIZONA OFFICE:
301 EAST BETHANY HOME ROAD
SUITE C178
PHOENIX, AZ 85012
(602) 263-5300
FAX: (602) 248-7733

http://johnshadegg.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515–0304

ENERGY AND COMMERCE
SUBCOMMITTEES:
ENERGY AND AIR QUALITY
HEALTH
ENVIRONMENT AND HAZARDOUS MATERIALS
REPUBLICAN STUDY COMMITTEE


FDIC
DEC 29 2008
OFFICE OF LEGISLATIVE AFFAIRS

December 23, 2008

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW, Room 6076
Washington, D.C. 20429-0002

Sent via Mail and FAX

Re: FDIC Procedures for Dealing with Performing Construction Loans and Non-Construction Loans at Banks Taken Over by the FDIC

Dear Chairman Bair:

As you know, the nation currently faces significant economic difficulties. The purpose of this letter is to bring to your attention certain practices by the Federal Deposit Insurance Corporation (FDIC) which I believe are causing additional damage to the economy and doing unnecessary financial damage to borrowers who are not in default and have done nothing wrong. I am also inquiring to determine if legislation is necessary to correct these problems.

It is my understanding, both from staff at the FDIC and from constituents, that when the FDIC steps in and takes over a bank it does not continue to operate that institution as a bank but, rather, immediately liquidates the outstanding loans of the bank. I am told by your staff that this practice is required by law. It is also my understanding that the FDIC is required, also by law, to minimize any financial losses incurred in this process.

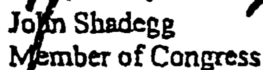
The specific issue I am concerned about is how the FDIC handles performing loans when it takes over a bank. I have been approached by constituents who had performing loans when the FDIC took over the financial institutions involved. These loans were current and were neither in default at the time nor had ever been in default. The borrowers had done nothing wrong. By contrast, the financial institution had apparently made a number of bad loans to other borrowers resulting in the FDIC taking over the institution. Although the holders of the loans in question were performing and remained willing to perform, the FDIC would not honor the bank's commitment under the loans and FDIC personnel were not willing to work with the borrowers to allow these loans to be purchased or taken over by another institution in a sufficiently expeditious manner so as not to cause additional financial losses.

As I am sure you can understand, a borrower under these circumstances who can neither obtain the ongoing funds needed under the loan nor secure timely assistance from the FDIC for the loan to be sold to another financial institution, is exposed to dire financial consequences. This is particularly unfair when, as in the instances which have been brought to my attention, the borrower has remained current and not in danger of defaulting.

In each of these instances, the FDIC staff bundled the existing performing, and also non-performing loans, and put them out for bid. In pursuing such sales the FDIC staff refused to work with the individual borrowers, even though they had performing loans and expressed concern about the consequences of delay in this process. These practices caused the individuals involved significant economic damage, and if they are occurring economy-wide, are hindering the economic recovery which the Administration and the Congress are trying to achieve as quickly as possible.

I would appreciate whatever information about these FDIC practices you can provide as expeditiously as possible so that I can assist my constituents, promote the recovery of the economy as quickly as possible, and, if necessary, introduce legislation to protect borrowers with performing loans.

Very truly yours,



John Shadegg
Member of Congress

Cc: President George W. Bush

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 16, 2009

Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

Thank you for your letter expressing concerns about how the current financial downturn may affect tenants of some multi-family affordable housing complexes. The Federal Deposit Insurance Corporation recognizes the critical need these projects serve and appreciates the unfortunate consequences that may occur when the owners of overleveraged properties struggle to meet high debt servicing levels.

As you point out, a wide variety of funding sources are available for these projects. The transactions described in your letter typically involve investment bank securitizations and loan originations by organizations not supervised by the FDIC. However, prudent and responsible underwriting for commercial properties, particularly multi-family affordable housing, remains a critically important issue.

The FDIC expects the institutions it supervises to follow prudent lending guidelines. Prudently underwritten real estate loans should reflect all relevant credit factors, including the capacity of the borrower or income from the underlying property, to adequately service the debt and should consider the value of the mortgaged property. Lenders should obtain appraisals to establish the value of collateral pledged on commercial real estate loans that exceed S1 million. In addition, appraisers should use rental rates consistent with prevailing market conditions when appraising income-producing properties, such as multi-family projects.

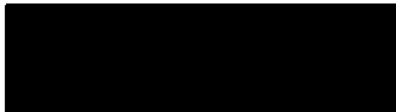
The *Interagency Appraisal and Evaluation Guidelines* state that "the estimate of market value should consider the real property's current physical condition, use, and zoning as of the appraisal date." This is the value the FDIC expects institutions to use when deciding to enter into the transaction — not a value based on hypothetical conditions, such as the de-regulation of rent-controlled units or a higher than normal turnover rate.

For those loans that become troubled, the FDIC agrees that prudent loan modifications may be in the best interests of the borrower, the lender, and the tenants. As you acknowledge in your letter, such "properties are more complex than standard real estate deals because of the rent regulations and subsidies that ensure affordability." The complexities of these transactions typically do not lend themselves to uniform guidance, as they require workout agreements tailored to each borrower's unique circumstances.

Borrowers that bought or refinanced properties at the market's peak may now find themselves with cash flow problems that are exacerbated if the underwriting assumptions were faulty. In the November 2008 *Interagency Statement on Meeting the Needs of Creditworthy Borrowers,* the FDIC, along with the other federal financial institution regulatory agencies, encourages all lenders and servicers to work constructively with borrowers who are financially unable to make their contractual mortgage obligations. The FDIC believes prudent workout arrangements consistent with safe and sound underwriting practices are generally in the long-term best interest of financial institutions and borrowers.

I hope this information responds to your concerns. If you have additional questions, please contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,



Sheila C. Bair

LA08-719

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COMMITTEES:
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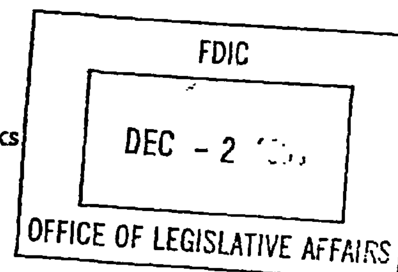
BANKING
JUDICIARY
RULES
FINANCE

United States Senate

WASHINGTON, DC 20510



December 2, 2008

Ben S. Bernanke
Chairman
The Federal Reserve Board
20th Street and Constitution Avenue, NW
Washington, DC 20551

John C. Dugan
Comptroller of the Currency
Administrator of National Banks
Washington, DC 20219

John M. Reich
Director
Office of Thrift Supervision
1700 G. Street, NW
Washington, DC 20552

Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Richard Neiman
Superintendant of Banks
New York State Banking Department
One State Street
New York, NY 10004-1511

Dear Sirs and Madam:

I am writing today regarding predatory equity transactions on subsidized and rent regulated multifamily properties in New York City. It has recently come to my attention that many of the same predatory lending and securitization practices that characterized the single-family subprime mortgage market over the past few years also extended into multifamily mortgage lending. Underwriting standards, especially for multifamily properties subject to rent regulation or receiving subsidies, deteriorated rapidly, and some real estate developers were able to justify higher purchase prices and larger loans by making unrealistic claims about operating costs, rent levels and tenant turnover rates.

This problem, like the subprime mortgage crisis, emerged as a result of credit being too easy to come by, for too long. Real estate developers, backed by large pools of investor capital and enabled by weak lending standards at major financial institutions, began taking on unsustainable debt in order to pay inflated prices for subsidized and rent-regulated buildings in the hopes of quickly flipping them at a profit.

This strategy, like in the single-family market, is only sustainable while prices continue to rise, and while credit remains cheap and easily accessible. Over the past few months, as even the New York City housing market has softened, and credit markets have tightened, some real estate developers are starting to feel the consequences. There are a number of overleveraged buildings in the New York City area that are already troubled,

with Riverton Houses, a 1200 unit complex in Harlem receiving the most attention. This property is reportedly already near default and efforts are underway to modify the mortgage.

Unfortunately this is an ongoing problem, as predatory equity purchasers continue to target affordable housing across New York City. Despite the recent difficulties in the credit markets, lenders are continuing to provide large loans to speculative purchases of multifamily housing. Just at the end of September, General Sedgwick Houses in the Bronx was purchased by a private equity buyer at a price that will require him to double rents overnight just to break even. This is a practical impossibility under rent regulations which leaves the landlord having to find another way to recoup his investment.

This all too familiar pattern has disastrous consequences for the tenants of the targeted multifamily property. In order to cover the high debt service on the property, owners are forced to either cut back on services and maintenance and let the building fall into disrepair, or harass tenants to try to get them to leave so that rents can be increased rapidly, or in many cases, both. Tenants, who unlike homeowners, have had no say in any of the decisions that have led to these problems, pay the steep price for the poor decisions made by the developer and the lender.

I respectfully ask that you act to respond to this emerging crisis in multifamily housing. One suggestion would be to work to develop a joint guidance for loan modifications on affordable multifamily properties. These properties are more complex than standard real estate deals because of the rent regulations and subsidies that ensure affordability. This guidance could establish clear and consistent underwriting standards that lenders and developers can use to ensure that the income derived from the property can sustain the modified loan given the affordability restrictions that are in effect at the property. Lenders and developers who are able to work out loan modifications should not be allowed to maintain the perverse incentives that create difficult and unpleasant living conditions for the tenants.

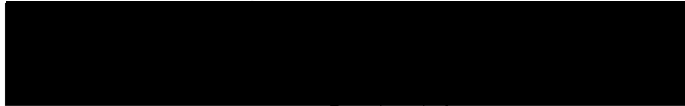
Second, you could also develop guidance on how banks should treat troubled multifamily properties that cannot be saved through modifications. There should be best-practices to help your regulated lenders appropriately handle disposition of affordable multifamily properties and ensure that they are transferred to landlords who have the experience and capability to manage affordable housing. Tenant advocacy groups in New York City are working with struggling property owners and lenders to facilitate preservation short sales. These favorable outcomes should be encouraged so that properties end up in stable hands, rather than being passed from one speculative buyer to the next.

Finally, you could develop prospective lending standards to ensure that this practice does not continue in the future, especially as credit markets begin to recover in the coming months. We now know all too well the long-term costs of irresponsible lending. It is incumbent on you as regulators to take steps now to prevent future asset bubbles. Loans for multifamily apartment buildings should be based on the same kinds of

sound underwriting criteria that are now required for single-family lending. The current rent rolls, as well as any affordability restrictions in place, must be taken into account when determining the debt load that a building can handle.

Thank you for your attention to these matters. I look forward to hearing your responses. Please don't hesitate to contact my office at (202) 224-6542 with any questions or concerns.

Sincerely,



Charles Schumer
United States Senator

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 16, 2009

Honorable Barney Frank
Chairman
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to respond to questions submitted by Congressman Joe Donnelly, Congressman Lincoln Davis, and Congressman Kenny Marchant subsequent to my recent testimony at the hearing on "Oversight of Implementation of the Emergency Economic Stabilization Act of 2008 and of Government Lending and Insurance Facilities: Impact on the Economy and Credit Availability" before the Financial Services Committee on November 18, 2008.

Enclosed are my responses for the hearing record. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C. Bair

Enclosure

Response to questions from the Honorable Lincoln Davis
by Sheila C. Bair, Chairman,
Federal Deposit Insurance Corporation

Q.1. Although much focus has been placed on increasing bank lending, according to Monday's Wall Street Journal, banks are lending at record levels, up 15% from a year earlier. Home equity loans are up 21% from last year. If bank lending is rising, the real problem seems to be the decline of the securities market. Do you agree with this assessment, and if so, what are the precise steps that we can take to stimulate this market?

A.1. Rising credit losses and heightened risk aversion have contributed to major disruptions of U.S. and global credit markets in recent months, including private asset-backed securitization, interbank lending, and other commonly used funding markets. For example, issuance of private mortgage-backed securities, which topped $1 trillion in 2006, slowed to virtually zero in the third quarter of 2008.

Amid these difficulties, federally-insured depository institutions stand out as a relatively reliable source of credit for the U.S. economy. While banks and thrifts have certainly experienced credit losses that have led to sharply reduced earnings for the industry as a whole, the industry's reliance on insured deposits and relatively high overall capital ratios have lent stability to bank funding and the supply of bank credit. Policy interventions undertaken since late September, including the Treasury's Capital Purchase Program, the FDIC Temporary Liquidity Guarantee Program, and the various Federal Reserve liquidity programs, have done much to strengthen the industry's capital position and access to funding, thereby ensuring that banks will be in a position to take up the slack for market-based funding vehicles, where the disruptions have been much more severe.

Nevertheless, there is no question that as the economy has slowed, overall demand for credit to finance consumer spending and business investment also has slowed. As banks have moved to recognize losses, they also have become more selective in granting credit. These are normal reactions to the decline in business conditions and credit quality, and are likely to push down the overall volume of bank credit growth from what it was during the economic expansion. However, we recognize the urgent need for banks to use the federal resources that have been offered them to preserve the availability of business and consumer credit to the maximum possible extent. Accordingly, federal regulators released supervisory guidance on November 12 reminding banks of their obligation to "fulfill their fundamental role in the economy as intermediaries of credit to businesses, consumers, and other creditworthy borrowers." In coming months, we will continue to closely monitor the progress of the industry in meeting this obligation.

With regard to recent growth in overall bank lending and home equity lending, I would note that on-balance-sheet holdings of loans are influenced to a significant degree by factors such as the ability to sell and securitize loans, the obligation to bring sold and securitized loans back onto the balance sheet, and the propensity of borrowers to draw on existing lines of credit. In the present

environment, we expect that all of these factors are contributing to what may be termed "involuntary" loan growth. These represent factors that we will need to account for as we make an overall assessment of bank lending patterns in coming months.

Q2. The FDIC's newly modified home mortgage modification plan is a concerted effort to modify home mortgages, but why do you believe that servicers will be willing to breach their servicing contracts in order to restructure these loans?

A2. In the present environment of rising mortgage foreclosures, the FDIC has been advocating a more systematic approach to modifying mortgages based on the program we have already instituted at IndyMac Federal Bank, where we are conservator. At IndyMac, the FDIC has already modified over 8,500 loans where we found that modification, rather than a policy of foreclosure, led to a greater expected financial return. Modifications based on this analysis have been undertaken both for loans that IndyMac services for its own portfolio and for loans it services for outside investors. Based on this experience and our reading of most pooling and servicing agreements (PSAs) that govern third-party mortgage servicing, we believe that modifications of this type that enhance value and do not require the write down of principal are generally permissible, and therefore do not breach the servicing contracts. In our opinion, it is the wide permissibility of this approach that makes it the best way to effect modifications on a large enough scale to achieve a significant reduction in the number of expected foreclosures and begin to restore a measure of order to U.S. housing markets.

Q3. What has been the most problematic structural hurdle to this point in implementing the Emergency Economic Stabilization Act? What would you do differently?

A3. The rather broad mandate created by the EESA legislation has led to three main types of proposed assistance.

The original intent, to purchase troubled assets on the open market by way of reverse auctions, has not been actively pursued. The second approach, to purchase preferred shares in depository institutions, is now well underway, with capital purchases totaling approximately $181 billion at 350 institutions. The third approach, as advocated by Members of Congress and suggested by the FDIC, is to use a portion of the appropriated funds to provide incentives for mortgage servicers to engage in a program to systematically modify past due loans and prevent unnecessary foreclosures.

With regard to a program to purchase troubled assets, The FDIC believes that the original intent of the TARP -- to remove problem assets from the balance sheets of banks and related entities -- continues to be vitally important. Such a program is necessary to expand banks' balance sheet capacity to undertake new lending as well as to attract private equity investment. Even with the various forms of government assistance that have been provided by the regulators and through EESA, troubled asset relief will still be necessary to enable financial institutions to address their inventories of troubled assets so that they can return to more normal lending activity. This

program should be made available to banks of all sizes, rather than just large financial institutions, to address financial stresses that may be occurring at the regional and local levels.

In the current market conditions, uncertainty about the potential losses embedded in the balance sheets of financial institutions is constricting lending between institutions and dissuading investors from providing the new capital essential to a recovery. In addition, government acquisition of troubled residential mortgages would facilitate action to restructure these loans and improve the performance of housing-related assets, providing the foundation both for a greater flow of credit and the investment of new capital into the financial system. However, because of the sheer volume of troubled mortgages, as well as the large number which are locked in securitization trusts, it is also vital to institute a specific program aimed at foreclosure prevention.

With respect to the Capital Purchase Program, the federal bank regulators expect banks to actively seek ways to use this assistance by making sound loans to household and business borrowers. The FDIC recognizes that banks will need to make adjustments to their operations, even cutting back in certain areas, to cope with recent adverse credit trends. However, the goal of providing government support is to ensure that such cut-backs and adjustments are made mostly in areas such as dividend policy and management compensation, rather than in the volume of prudent bank lending. These considerations are consistent with the precept that the highest and best use by banks of CPP capital in the present crisis is to support prudent lending activity.

Over 1,600 community financial institutions have applied to this program. In participating in the CPP program, as well as in launching the TLGP, it was the FDIC's express understanding that $250 billion would be made available for bank capital investments and that all eligible institutions, large and small, stock and mutual, would be able to participate. We strongly encourage both the Treasury Department and the Congress to make sure adequate funding is available for community bank participation. The FDIC also remains concerned that Subchapter S and mutual institutions have the opportunity to participate in this program. At present, these institutions do not have a corporate structure that would fit under the Capital Purchase Program's term sheets.

We also believe it is important for the CPP to be implemented in a manner that encourages and rewards private capital investments to be made alongside TARP capital. Private capital investments serve as a powerful vote of confidence in the viability of a financial institution over the long term and that viability is enhanced by programs that match private funds with TARP capital.

To this point, the difficulty with regard to mortgage loan modification has been designating TARP funds to provide incentives for servicers to modify loans at the least possible cost and with the fewest unintended consequences. We continue to work with our counterparts at other federal agencies and to discuss this issue with Members of Congress in the hope that these issues can be resolved quickly so that a workable plan can be implemented in early 2009.

Response to question from the Honorable Joe Donnelly
by Sheila C. Bair, Chairman,
Federal Deposit Insurance Corporation

Q1. We need strong oversight to make sure that TARP funds are used to free up the credit markets and increase lending activity. What steps are in place to ensure that the institutions that receive TARP funds are using this money to increase lending activity? Have we seen a measurable increase in lending by recipients of TARP funds?

A1. It is crucial that banking organizations track the use of the funds made available through federal programs and provide appropriate information about the use of these funds. The FDIC has issued a Financial Institution Letter advising insured institutions that they should track their use of capital injections, liquidity support, and/or financing guarantees obtained through recent financial stability programs as part of a process for determining how these federal programs have improved the stability of the institution and contributed to lending to the community. Equally important to this process is providing this information to investors and the public. As a result, this Financial Institution Letter advises insured institutions to include information about their use of the funds in public reports, such as shareholder reports and financial statements.

Internally at the FDIC, we have issued guidance to our bank examiners for evaluating participating banks' compliance with EESA and the CPP securities purchase agreements. Importantly, this examiner guidance will focus on banks' use of TARP CPP funds and how their capital subscription was used to promote lending and encourage foreclosure prevention efforts. The banking agencies will measure and assess participating institutions' success in deploying TARP capital and other financial support from various federal initiatives to ensure that funds are used in a manner consistent with the intent of Congress and participants are held accountable.

FDIC examiners will be reviewing the expectations that we have established in the recent Financial Institution Letter for banks participating in the CPP, including:

- Establishment of a monitoring process for the use of TARP proceeds and a clear strategy from the institution's board of directors for deploying the capital subscription;
- Increased lending efforts in the institution's market since receiving a TARP Capital Purchase Program subscription;
- Down-streaming subscription proceeds to the insured depository institution (if a holding company structure is in place) to ensure that TARP funds can be intermediated into loans and bank capital is augmented;
- Engagement in mortgage loan modification or foreclosure prevention efforts that rely on systematic, proactive approaches that enhance the net present value of individual mortgage loans versus foreclosure;

- Utilization of executive compensation programs that exemplify good corporate governance and conform with EESA and other requirements; and

- Implementation of the goals of the November 12 interagency statement to meet the needs of creditworthy borrowers in the institution's market area.

During examinations, our supervisory staff will be reviewing banks' efforts in these areas and will make comments as appropriate in FDIC Reports of Examination.. Our examiners will also be considering these issues when they assign CAMELS composite component ratings.

Response to questions from the Honorable Kenny Marchant by Sheila C. Bair, Chairman Federal Deposit Insurance Corporation

Creditors have experienced some difficulties in dealing with FDIC receivers subsequent to a receivership action.

Q1. If the receiver holds a construction loan that is current, and the project is under development, what policies or guidelines are in effect to ensure the project is completed?

A1. There are no policies in place that stipulate the Federal Deposit Insurance Corporation as receiver for a failed financial institution must ensure that all construction projects (whether current or in default) that were originated by the failed financial institution will continue to be funded to ensure project completion following the failure. As receiver, the FDIC has a statutory responsibility to the depositors and creditors of a failed bank to minimize losses by obtaining the maximum recovery from the assets of the receivership. The FDIC's Division of Resolutions and Receiverships (DRR) carries out these statutory responsibilities. A principal concern of DRR during its resolutions and disposition activities is to minimize adverse effects on the economic stability and well being of the impacted region or state, to the extent possible. However, it is our practice to review each construction loan funding request on a case-by-case basis and to make prudent business decisions based on the best interests of the receivership estate.

The loans acquired by the FDIC following the financial institution failure are owned by the estate of the failed bank, and many of our asset disposition activities are similar to those of a bankruptcy trustee in that funds we recover benefit other creditors of the estate as well. We try to carry out those responsibilities in a way that balances our obligation to maximize recoveries and minimize losses to the Deposit Insurance Fund, with the desire to work with borrowers as they repay their loans. In this regard, the FDIC is willing to work with borrowers, whenever possible, to resolve their indebtedness.

At times, the statutory responsibilities temporarily delay funding of construction draws for builders and developers as our receivership staff determine the value and viability of the construction project as well as the companies that have pledged to repay those loans. In some cases, following a detailed review of the project and after reviewing current financial information from the company and/or guarantors, the receiver will make difficult business decisions that continued funding of the project will not minimize loses nor maximize recovery for the receivership estate and consequently will terminate funding.

Q2. Does a receivership have authority to provide additional funding under existing lines of credit? How does a receiver provide such funds?

A2. Yes. Delegations of Authority to act within clearly defined parameters, including budgetary matters, are issued by the FDIC Board of Directors. As a result of this process, FDIC receivership personnel from our Division of Resolutions and Receiverships are given the authority to extend additional funding as necessary when the issuance of such monies is

beneficial to the receivership estate. In other words, if the advancement of funds for construction purposes will result in a net increase in the underlying collateral value or such funds will protect, preserve, or allow for build-out so that marketing of the real estate project can immediately begin, the FDIC as receiver may advance such funds. The receiver provides these funds from an account established specifically for each failed bank receivership.

The overarching goal of the receiver is to wind up the affairs of the failed financial institution. In order to achieve that goal, the receiver is given the right under 12 U.S.C. Section 1821(e) to repudiate undertakings entered into by the failed financial institution where it finds such undertakings to be burdensome and where such repudiation will promote the orderly administration of the failed financial institutions affairs.

Accordingly, our receivership personnel seek to balance making financial decisions that are in the best interests of the receivership estate while, at the same time, being cognizant of business decisions that may have an adverse financial impact upon construction companies, real estate developers, small business enterprises, and those they employ.

Q3. Is the receiver obligated to seek the highest return on assets, even if it means continued funding of a project under development?

A3. As receiver for a failed institution, the FDIC has a legal responsibility to maximize the recovery for the benefit of depositors and creditors who may have lost money when the institution failed. In accordance with this responsibility and within the context of a real estate market in decline, the FDIC must carefully analyze any requests for funding construction projects as well as evaluate the risks associated with the proposed transaction to determine whether the funding will provide the best opportunity to achieve the highest possible recovery for the failed institution's receivership estate.

L408-768

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Staff Director and
Chief Counsel

U.S. House of Representatives
Committee on Financial Services
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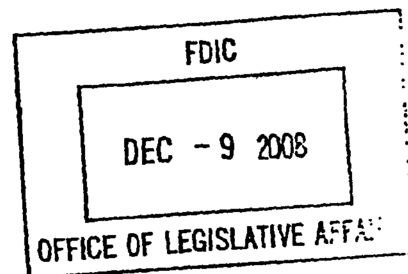
December 4, 2008



The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chairman Bair:

Thank you for testifying at the November 18, 2008, Committee on Financial Services hearing entitled, "Oversight of Implementation of the Emergency Economic Stabilization Act of 2008 and of Government Lending and Insurance Facilities: Impact on Economy and Credit Availability."

A copy of your transcript has been provided should you wish to make any corrections. Please indicate these corrections directly on the transcript. **Due to the disruption of mail service to the House of Representatives we ask that you fax the transcript in lieu of mailing it. Please fax only the pages on which you have made corrections, within (15) business days upon receipt to:**

Committee on Financial Services
ATTN: Terrie Allison
Fax (202) 225-4254

Rule XI, clause 2(e)(1)(A) of the Rules of the House and Rule 8(a)(1) of the Rules of the Committee state that the transcript of any meeting or hearing shall be "a substantially verbatim account of the remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved." We therefore ask that you keep your corrections to a minimum.

Also included are questions submitted by Representatives Davis, Donnelly, and Marchant. We ask that you respond to these questions in writing for the hearing record. Your responses may be faxed to the above number, along with your transcript corrections.

Please contact Terrie Allison at (202) 225-4548 if there are no corrections to your transcript.

If during the hearing you: (1) offered to submit additional material; or (2) were requested to submit additional material; please submit this material via electronic mail by sending it to fsctestimony@mail.house.gov. If you are unable to submit the material electronically, please contact the Committee staff to arrange for submission.

Thank you for your cooperation, and again for your testimony.

Yours truly,

Thomas G. Duncan
General Counsel

TGD/ta

Enclosure

FROM THE OFFICE OF U.S. REP. LINCOLN DAVIS

Re: Financial Services Full Committee Hearing: 11-18-08.
Questions directed to 1st Panel submitted for the record.

DIR

Questions

1.

To All: Although much focus has been placed on increasing bank lending, according to Monday's Wall Street Journal, banks are lending at record levels, up 15% from a year earlier. Home equity loans are up 21% from last year. If bank lending is rising, the real problem seems to be the decline of the securities market. Do you agree with this assessment, and if so, what are the precise steps that we can take to stimulate this market?

2.

To Chairwoman Bair: The FDIC's newly modified home mortgage modification plan is a concerted effort to modify home mortgages, but why do you believe that servicers will be willing to breach their servicing contracts in order to restructure these loans?

3.

To All: What has been the most problematic structural hurdle to this point in implementing the Emergency Economic Stabilization Act? What would you do differently?

JOE DONNELLY
2ND DISTRICT, INDIANA

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FINANCIAL SERVICES
AGRICULTURE
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December 8, 2008

The Honorable Barney Frank
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Frank:

Thank you for your leadership and for hosting the November 18, 2008 hearing on "Oversight of Implementation of the Emergency Economic Stabilization Act of 2008 and of Government Lending and Insurance Facilities; Impact on Economy and Credit Availability." Below are several questions that I would like to submit for the record.

Question for Secretary Paulson, Chairman Bernanke, and Chairwoman Bair:

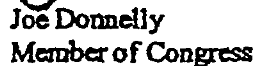
We need strong oversight to make certain that TARP funds are used to free up the credit markets and increase lending activity. What steps are in place to ensure that the institutions that receive TARP funds are using this money to increase lending activity? Have we seen a measurable increase in lending by recipients of TARP funds?

Frills

Question for Secretary Paulson:

To date, what kind of impact has TARP had on Main Street—small businesses, home and car buyers, and working families? Please reference at least one widely-used economic indicator to make your case.

Sincerely,



Joe Donnelly
Member of Congress

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Congressman Kenny Marchant Questions for HFSC Hearing on TARP
November 18, 2008

DRR

For the FDIC Chairman Bair:

Creditors have experienced some difficulties in dealing with FDIC receivers subsequent to a receivership action.

1. If the receiver holds a construction loan that is current, and the project is under development, what policies or guidelines are in effect to ensure the project is completed?
2. Does a receivership have authority to provide additional funding under existing lines of credit? How does a receiver provide such funds?
3. Is the receiver obligated to seek the highest return on assets, even if it means the continued funding of a project under development?

ROBERT P. CASEY, JR.
PENNSYLVANIA

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
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United States Senate

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January 16, 2009

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC 20429

Dear Chairman Bair:

I write today with a time sensitive matter related to the eligibility of [redacted], a major manufacturing employer in southeastern Pennsylvania, in the Temporary Liquidity Guarantee Program (TLGP). While I understand that you are in the middle of the transition process for the new Administration, I hope that you can appreciate the urgent nature of this matter.

[redacted] York Vehicle Operations, located in York, Pennsylvania, is the company's largest assembly facility. The plant employs 2,866 Pennsylvania workers and supports another 1,500 Pennsylvania jobs at local [redacted] dealerships. Last year, [redacted] dealers contributed nearly half a billion dollars to the state economy.

[redacted] Inc. recently requested a determination of the eligibility of their motorcycle financing company and its subsidiaries, [redacted] in the TLGP. The application was made under the FDIC's discretionary program that allows affiliates of approved finance institutions to participate in the program.

We support the application and, more importantly, urge you to make a final decision before January 20th. Without access to [redacted] may be forced to make tough decisions that will impact workers in Pennsylvania, jeopardize the local economy by impacting independently-owned [redacted] dealerships, and negatively impact the state economy.

I appreciate your attention to this important matter. Please contact Kasey Gillette or Nathan Steinwald of my staff at 202.224.6324 so that I may be kept up to date on your decision.

Sincerely,

[redacted]

United States Senator

PRINTED ON RECYCLED PAPER

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 29, 2009

Honorable Carl Levin
United States Senate
Washington, D.C. 20510

Dear Senator Levin:

Thank you for your letter to Chairman Bair on behalf of [redacted] and its application to the Troubled Assets Relief Program's (TARP) Capital Purchase Program.

The Federal Deposit Insurance Corporation's Chicago Regional Office forwarded its analysis of the Bank's application to the FDIC's Washington Office, and it is currently being reviewed and discussed with Bank management.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

DEC. 9. 2008 5:39PM

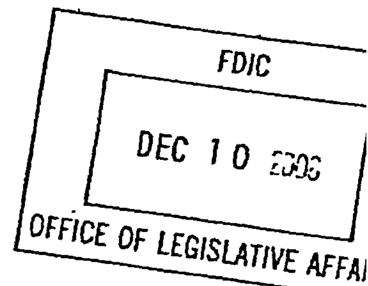
NO 0032 P. 1

LA08-769

CARL LEVIN
MICHIGAN

United States Senate

WASHINGTON, DC 20510-2202



December 9, 2008

The Honorable Sheila Bair
Chairwoman
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429-9990

VIA Facsimile (202-898-3745)

Dear Chairwoman Bair:

I understand that the FDIC may be involved in reviewing an application submitted by [redacted] requesting participation in the Treasury Capital Purchase Program (CPP). Founded in 1987, [redacted] is the largest financial institution headquartered in Michigan and is a leading mortgage lender. It has 170 banking centers and assets in excess of $14 billion.

Community banks such as [redacted] play a critical role in Michigan's economy. The CPP should treat all financial institutions equitably, regardless of their size or geographic location. For the program to be a success, it should provide stability and liquidity to a large number of smaller financial institutions, not just to the larger banks. That also means prompt action should be given to their requests and that they not be put at the end of the line behind the bigger banks. I urge you to give [redacted] application all due and prompt consideration.

Sincerely,

[redacted]

Carl Levin

PRINTED ON RECYCLED PAPER

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 29, 2009

Honorable Carl Levin
United States Senate
Washington, D.C. 20510

(b)(4)
(b)(8)

Dear Senator Levin:

Thank you for your letter to Chairman Bair on behalf of [redacted] and its application to the Troubled Assets Relief Program's (TARP) Capital Purchase Program.

The Federal Deposit Insurance Corporation's Chicago Regional Office forwarded its analysis of the Bank's application to the FDIC's Washington Office, and it is currently being reviewed and discussed with Bank management.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

LA08-734

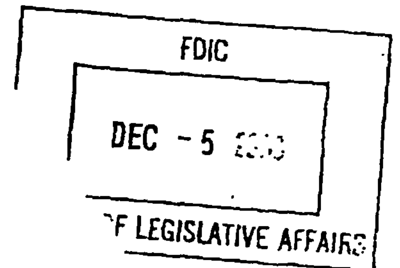
DEC. 4. 2008 5:59PM NO. 0028 P. 1

CARL LEVIN
MICHIGAN

United States Senate

WASHINGTON, DC 20510-2202

December 4, 2008



The Honorable Sheila Bair
Chairwoman
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429-9990

VIA Facsimile (202-898-3745)

Dear Chairwoman Bair:

I understand that the FDIC will be evaluating the application submitted by [redacted] requesting participation in the Treasury's Capital Purchase Program ("CPP"). Founded in [redacted] is headquartered in [redacted], Michigan. At a time when Michigan's economy is in dire need of investment and access to capital, it is critical that financial institutions that serve our state receive support from the CPP.

(b)(4)
(b)(8)

Community banks such as [redacted] play a critical role in Michigan's economy by supporting small business ventures and individual entrepreneurs who are key to our economic rebound. The CPP should treat all financial institutions equitably, regardless of their size or geographic location. For the program to be a success, it should provide stability and liquidity to a large number of smaller financial institutions, not just to the larger banks. That also means prompt action should be given to their requests and that they not be put at the end of the line behind the bigger banks. I urge you to give [redacted] application all due and prompt consideration.

(b)(4)
(b)(8)

Sincerely,

[redacted]

Carl Levin

PRINTED ON RECYCLED PAPER

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 30, 2009

Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your recent letter expressing your concerns about the potential for future redefaults of mortgages modified at IndyMac Federal Bank. I share your concern about potential redefaults following loan modifications. From our experience, the best way to limit this risk is to provide borrowers with modifications that are affordable and sustainable based on their current, verified income.

In your letter, you cite the recently published OCC and OTS Mortgage Metrics Report, which suggests that a high percentage of modified mortgages subsequently become delinquent. Unfortunately, the Report raised more questions than it answered. It broadly defined as "modifications" any change in the contract terms, including modifications that were merely temporary or actually increased borrowers' payments. This makes comparisons of redefault rates between different types of modifications impossible. In contrast, the mortgage modifications at IndyMac Federal lower a borrower's payment to an affordable payment for the life of the loan using several tools, including interest rate reductions. A Credit Suisse Fixed Income Research Report on Subprime Loan Modifications, dated October 1, 2008, found redefault rates of 15 percent where modifications reduce interest payments.

The Report also included a variety of redefault statistics, including the 30-day delinquency rates cited in your letter. However, the industry rarely relies on 30-day delinquencies for reporting redefaults because many of those delinquencies cure. As a result, the industry standard for reporting on redefaults is based on loans that are at least 60 days delinquent. The data in the Report regarding loans that are 60 days or more delinquent shows a redefault rate of 37 percent. Even at that stage between 10 to 20 percent ultimately cure.

We believe that sustainable modifications will produce lower redefault rates. Our early experience with the IndyMac Federal program indicates that focusing on affordability is the right approach. As of November 30, 2008, IndyMac Federal had completed processing and income verification on 3,615 loan modifications. Of these, 12 were 60 days or more past due, which translates to a redefault rate of less than one percent. These statistics are preliminary given that the program at IndyMac Federal was only initiated in August 2008.

Continued deterioration in economic conditions will certainly cause more mortgages to default, including those which have been previously modified. It should be noted, however, that

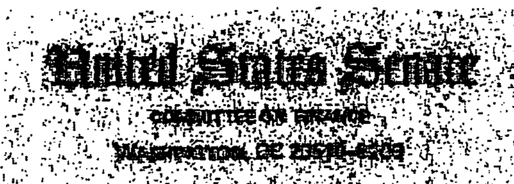
even with higher redefault rates, loan modifications still make good business sense in many cases. This is because a successful loan modification generally provides much greater value than any incremental losses associated with delayed foreclosure from an unsuccessful modification. At IndyMac, the projected value of modified mortgages--even assuming that more than a third redefault--has exceeded the value achievable through foreclosure by an average of $50,000. I believe this provides a strong business case for sustainable mortgage modifications.

I fully share your concerns about taxpayer exposure under any loan modification program. Applying workout procedures for troubled loans in a failed bank scenario is something the FDIC did during the 1980s and continues to do today. Our experience has been that turning troubled loans into performing loans enhances the overall value of the loans and minimizes costs for the Deposit Insurance Fund. For example, the net present value of loans that we have modified at Indy Mac exceeds foreclosure value by an aggregate savings of over $400 million even assuming a relatively high level of defaults.

Thank you again for your letter. I very much appreciate your continued interest in this important issue. If you have further questions or comments or if we can be of assistance in any way, please do not hesitate to contact me at (202) 898-6974. You also may have your staff contact Mike Krimminger at (202) 898-8950 or Eric Spitler at (202) 898-3837.

Sincerely,

Sheila C. Bair



January 12, 2009

Via Electronic Transmission

Sheila C. Bair
Chairman of the Board
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

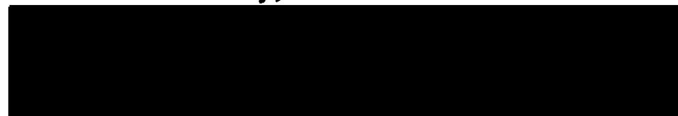
Dear. Chairman Bair:

The Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) recently published the most recent "Mortgage Metrics Report" (the Report). The Report stated, to my disappointment, that approximately 55% of loans modified in the first quarter of 2008 were at least 30 days delinquent or in the process of foreclosure after six months.[1] While the FDIC has stated that, as of the end of October 2008, not one of its modified IndyMac loans has re-defaulted, I question the long-term success of the program.

To address my concerns, please provide my staff with summary statistics of the status of IndyMacs's loans modified under the FDIC's current program. I am particularly interested to know how many of those modified loans are past due or delinquent. Additionally, please address how the expected results of the FDIC's proposed modification program will differ from the current state of modified mortgage loans as conveyed in the Report.

Please respond to this letter by January 23, 2009. If you have any additional questions, you can contact Jason Foster or Eben Roberts of my Committee staff at (202) 224-4515. Any formal correspondence should be sent in PDF format to Brian_Downey@finance-rep.senate.gov. Thank you for your consideration.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance

---

[1] The Report based its observations on a sampling of the "nine national banks and the five thrifts with the largest mortgage servicing portfolios."

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 30, 2009

Honorable Russell D. Feingold
United States Senator
517 East Wisconsin Avenue, Room 408
Milwaukee, Wisconsin 53202

Dear Senator Feingold:

Thank you for your letter on behalf of regarding application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program. As you may know, the FDIC is actively engaged with the U.S. Department of Treasury and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation on each TARP application it receives to the Treasury, which ultimately determines if an institution may participate in the Program.

The FDIC believes it is critically important that community banks participate in the TARP and supports requests from viable, well-managed community banks. Although community banks as a sector continue to be viable, the TARP offers an opportunity for individual institutions to strengthen balance sheets and continue providing banking services and credit to their communities.

The FDIC received a TARP application from . This application is being processed by our Kansas City Regional Office. When our Kansas City staff completes its analysis of this application, the results will be considered by the FDIC's Washington Office and a recommendation will be made to the Treasury. Once a determination has been reached, the Bank will be notified of the disposition of its application.

We acknowledge that the processing of applications has been somewhat protracted because of the extended submission deadline for privately owned institutions, follow-up inquiries on applications, and the absence of a term sheet for Subchapter S institutions. However, the term sheet for the Subchapter S institutions is now available.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

Eric J. Spitler
Director
Office of Legislative Affairs

LA09-058

RUSSELL D. FEINGOLD
WISCONSIN

506 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5323
(202) 224-1280 (TDD)
feingold.senate.gov

COMMITTEE ON THE BUDGET
COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON THE JUDICIARY
SELECT COMMITTEE ON INTELLIGENCE
DEMOCRATIC POLICY COMMITTEE

United States Senate

WASHINGTON, DC 20510-4904

January 9, 2009

Eric Spitler
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 Seventeenth St., NW
Washington, DC 20429

Dear Mr. Spitler:

(b)(6)

My office was recently contacted by [REDACTED] requesting information about the eligibility for TARP funds for the [REDACTED] (b)(4) (b)(8)

(b)(6)

I have enclosed [REDACTED] letter which details his specific questions. Please forward information in response to his concerns to the attention of Hilary DeBlois in my Milwaukee office.

Thank you for your assistance with this matter.

Sincerely,

[REDACTED]

Russell D. Feingold
United States Senator

Enclosure
RDF/hwd

Cc: [REDACTED] (b)(6)

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 30, 2009

Honorable Gary L. Ackerman
House of Representatives
Washington, D.C. 20515

Dear Congressman Ackerman:

Thank you for your comments on the treatment of the certificates of deposit placed through the Certificate of Deposit Account Registry Service in the Federal Deposit Insurance Corporation's risk-based deposit insurance assessment system.

We can assure you that your comments and concerns will be taken into account as the FDIC's Board of Directors consider a final rule relating to this issue.

We appreciate your interest in this issue. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

Eric J. Spitler
Director
Office of Legislative Affairs

LA09-026

HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515
(202) 225-2601
(202) 225-1589 Fax
http://www.house.gov/ackerman

COMMITTEE ON
FOREIGN AFFAIRS
CHAIRMAN,
SUBCOMMITTEE ON
THE MIDDLE EAST AND SOUTH ASIA
SUBCOMMITTEE ON ASIA, THE PACIFIC,
AND THE GLOBAL ENVIRONMENT

Gary L. Ackerman
Congress of the United States
5th District, New York

218-14 NORTHERN BOULEVARD
SUITE 204
BAYSIDE, NY 11361
(718) 423-2154
(718) 423-5053 Fax

COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS,
INSURANCE, AND GOVERNMENT
SPONSORED ENTERPRISES
SUBCOMMITTEE ON FINANCIAL
INSTITUTIONS AND CONSUMER CREDIT

December 16, 2008

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Re: FDIC Notice of Proposed Rulemaking RIN 3064-AD35

Dear Chairman Bair:

I am writing in response to the Federal Deposit Insurance Corporation's (FDIC) request for comments on proposed rule RIN 3064-AD35, specifically regarding the merits of treating reciprocal deposits placed through a network differently than traditional "brokered" deposits.

As the country's financial crisis continues to deepen, I am concerned that the FDIC's proposed rule could make it significantly more difficult for smaller financial institutions, such as community banks, to attract funding. I agree with the approximately 3,000 financial institutions and bankers that have submitted comments to the proposed rule, all of which have raised concerns regarding the rule's assessment of higher insurance fees on deposits that are currently included in the definition of "brokered deposits," even though these deposits are not invested by a traditional deposit broker, but rather are exchanged among banks on a reciprocal basis.

Small businesses and individuals, throughout both my district and the country, rely on community banks for loans and access to credit. Community banks, in turn, depend on the availability of large deposits in order to provide loans and credit to their customers. The assessment of higher insurance fees for these institutions could negatively and significantly affect the availability of credit at a time of when our credit markets are already seized.

I hope that you and the FDIC Board of Directors will strongly consider the concerns of the community banks as you consider the implementation of this rule.

Sincerely,

GARY L. ACKERMAN
Member of Congress

GLA:sb

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 30, 2009

Honorable Robert Wexler
House of Representatives
Washington, D.C. 20515

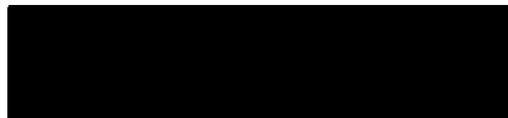
Dear Congressman Wexler:

Thank you for your comments on the treatment of the certificates of deposit placed through the Certificate of Deposit Account Registry Service in the Federal Deposit Insurance Corporation's risk-based deposit insurance assessment system.

We can assure you that your comments and concerns will be taken into account as the FDIC's Board of Directors consider a final rule relating to this issue.

We appreciate your interest in this issue. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,



Eric J. Spitler
Director
Office of Legislative Affairs

HOUSE OF REPRESENTATIVES
19TH DISTRICT, FLORIDA

COMMITTEE ON
FOREIGN AFFAIRS

COMMITTEE ON
THE JUDICIARY

COMMITTEE ON
FINANCIAL SERVICES

ROBERT WEXLER
CONGRESS OF THE UNITED STATES

December 19, 2008

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Re: FDIC Notice of Proposed Rulemaking RIN 3064-AD35

Dear Chairman Bair:

More than 900 Florida bankers have found it necessary to write the FDIC on an agency proposal that could make it significantly more difficult for community banks to attract funding for local lending. I join them in their concern.

The proposal would impose a higher insurance assessment on a type of deposit that is currently included in the definition of "brokered deposits," although these deposits are not invested by a traditional deposit broker, but rather are exchanged among banks on a fully reciprocal basis.

The Promontory Interfinancial Network provides such reciprocal placement through the Certificate of Deposit Account Registry Service (CDARS). I am informed that almost all of the Network's 2,750 members are community banks. Of the 312 FDIC-insured institutions in Florida, 140 – or 45 percent – are members of this Network.

Florida bankers are worried about this proposal for two reasons. First, the proposal does not distinguish these reciprocal deposits from standard brokered funds, even though they behave nothing like standard brokered deposits. CDARS deposits come from local depositors; 80 percent of all CDARS placements are made by customers within 25 miles of their bank's location. Also, the cost to banks for CDARS Reciprocal deposits is substantially less than standard brokered funding – 20 to 40 basis points on average, depending on maturity. CDARS deposits also have a high reinvestment rate – more than 83 percent across the Promontory Network, quite unlike a standard brokered deposit. In short, CDARS Reciprocal deposits cannot fairly be considered "hot money." Second, as a result of the potential imposition of a premium surcharge on CDARS reciprocal deposits, bankers fear these deposits will be unnecessarily stigmatized by the market, impeding their efforts to raise capital or other funds.

PALM BEACH COUNTY:
2500 NORTH MILITARY TRAIL
SUITE 490
BOCA RATON, FL 33431
(561) 988-6302
(561) 988-6423 FAX

WEST PALM BEACH:
(561) 732-4000

WASHINGTON, DC:
2241 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-3001
(202) 225-5974 FAX

BROWARD COUNTY:
MARGATE CITY HALL
5790 MARGATE BLVD.
MARGATE, FL 33063
(954) 972-6454
(954) 974-3191 FAX

WWW.WEXLER.HOUSE.GOV

This proposal could have broad consequences.

The CDARS Reciprocal service keeps local money local. Recent events – the effective failure and near failure of some of our country's largest financial institutions - have only confirmed that capital allocation decisions are best made locally. If our local community banks cannot attract large deposits, however, their role will deteriorate.

The importance of keeping capital local is also reflected in the laws of Florida, where the state legislature in early 2005 passed a law that enables local governments there to invest in CDARS to keep local money local. Cities, towns and counties prefer to keep money in the community, where it can be used to fund economic growth.

In addition, the CDARS service is particularly essential to the Community Development Bank (or CDFI) sector, which also relies on the Network to bring much-needed capital to some of the nation's most economically distressed and credit-starved communities. The Community Development Bankers Association and several of its individual members have written the FDIC to discuss their specific concerns.

Finally, I hope the FDIC also will take into account today's extraordinary economic circumstances when finalizing its rule on deposit assessments. Depositors are fearful. They know well that community banks are *not* too big to fail. Yet every day, community banks must compete against large institutions that are favored with implicit and explicit government support. This is, therefore, also an issue of fairness. Reciprocal deposits help community banks compete with the large banks that are now being favored with direct, and enormous, government assistance.

In conclusion, I urge the FDIC to exclude reciprocal deposit services such as CDARS from the definition of brokered deposits in its pending assessment proposal, and I thank you for your thoughtful consideration of my comments.

With warm regards,

Robert Wexler

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 30, 2009

Honorable Harry Reid
United States Senator
Double R Boulevard
Reno, Nevada 89521

(b)(4)
(b)(8)

Dear Senator Reid:

Thank you for your letter on behalf of [redacted] regarding its application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program. As you know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of the Treasury and the other federal banking agencies in considering TARP applications filed by banking institutions.

The FDIC supports the TARP and believes it is critically important that community banks participate. Although community banks as a sector continue to be viable, the TARP offers an opportunity for individual institutions to strengthen their balance sheets and continue providing banking services and credit to their communities.

(b)(4)
(b)(8)

In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation on each TARP application it receives to the Treasury, which ultimately determines if an institution may participate. The FDIC received a TARP application from [redacted] on October 27, 2008. Upon completing our review and after careful consideration, we will forward our recommendation to Treasury. When Treasury makes a determination on this request, the Bank will be notified.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

January 30, 2009

Honorable Harry Reid
United States Senator
Double R Boulevard
Reno, Nevada 89521

Dear Senator Reid:

Thank you for your letter on behalf of [redacted] regarding its application to the Troubled Asset Relief Program's (TARP) Capital Purchase Program. As you know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of the Treasury and the other federal banking agencies in considering TARP applications filed by banking institutions.

The FDIC supports the TARP and believes it is critically important that community banks participate. Although community banks as a sector continue to be viable, the TARP offers an opportunity for individual institutions to strengthen their balance sheets and continue providing banking services and credit to their communities.

In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation on each TARP application it receives to the Treasury, which ultimately determines if an institution may participate. The FDIC received a TARP application from [redacted] Nevada, on October 27, 2008. Upon completing our review and after careful consideration, we will forward our recommendation to Treasury. When Treasury makes a determination on this request, the Bank will be notified.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

LA 08-860

HARRY REID
NEVADA

MAJORITY LEADER

United States Senate

WASHINGTON, DC 20510-7012

December 18, 2008

Eric Spitler
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Room 6076
Washington, DC 20429

(b)(4)
(b)(8)
(b)(6)

Dear Mr. Spitler:

I am writing on behalf of [redacted] which has applied for funds from the Troubled Asset Relief Program under the Capital Purchase Program administered by the Treasury Department. As the agency that undertakes [redacted] initial review of this application, I respectfully request that the Federal Deposit Insurance Corporation give appropriate consideration to this application within the program guidelines.

If you have any additional questions regarding this matter, please contact Mark Wetjen at (202) 224-6964.

Thank you for your cooperation and assistance.

My best wishes to you.

Sincerely,

[redacted]

HARRY REID
United States Senator
Nevada

HR:cs

Reply to:

Double R Boulevard
Reno, Nevada 89521
(775) 853-2050
(775) 853-2058 Fax

LA 08 - 860

HARRY REID
NEVADA

MAJORITY LEADER

United States Senate

WASHINGTON, DC 20510-7012

December 18, 2008

Eric Spitler
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Room 6076
Washington, DC 20429

Dear Mr. Spitler:

I am writing on behalf of [redacted] which has applied for funds from the Troubled Asset Relief Program under the Capital Purchase Program administered by the Treasury Department. As the agency that undertakes [redacted] initial review of this application, I respectfully request that the Federal Deposit Insurance Corporation give appropriate consideration to this application within the program guidelines.

If you have any additional questions regarding this matter, please contact Mark Wetjen at (202) 224-6964.

Thank you for your cooperation and assistance.

My best wishes to you.

Sincerely,

[redacted]

HARRY REID
United States Senator
Nevada

HR:cs

Reply to:

Double R Boulevard
Reno, Nevada 89521
(775) 853-2050
(775) 853-2058 Fax

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

February 4, 2009

Honorable Peter J. Roskam
House of Representatives
Washington, D.C. 20515

Dear Congressman Roskam:

Thank you for your letter on behalf of the National Bank of Commerce of Berkeley, Illinois.

On January 16, 2009, the Office of the Comptroller of the Currency (OCC) closed the National Bank of Commerce (NBC) and the Federal Deposit Insurance Corporation was named receiver. To protect depositors, the FDIC entered into a purchase and assumption agreement with Republic Bank of Chicago, Oak Brook, Illinois, to assume all deposits of NBC.

Although the FDIC is legally authorized to consider providing direct financial assistance to open insured institutions pursuant to 12 U.S.C. §1823(c)(8), several limitations must be met before making that determination. Generally, the "least cost test" must be met, meaning that any such expenditure made by the FDIC must result in the least cost to the Deposit Insurance Fund of all possible methods of handling the situation [12 U.S.C. §1823(c)(4)]. In addition, open bank assistance may not have the effect of benefiting uninsured depositors [12 U.S.C. §1823(c)(4)(E)] and the expenditure may not have the effect of benefiting shareholders of the institution [12 U.S.C. §1821(a)(4)(C)]. Congress originally imposed these limitations on the FDIC in order to prevent the Deposit Insurance Fund from being used to protect uninsured depositors, shareholders, and even third-party creditors, rather than its primary role to protect insured depositors. The proposal for open bank assistance provided by NBC would have protected the interests of NBC's shareholders and therefore would not meet the statutory restrictions.

The law does provide an exemption to these requirements in the event that the FDIC, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury (in consultation with the President) determine that compliance with the least cost test would have serious adverse effects on economic conditions or financial stability [12 U.S.C. §1821(c)(4)(G)]. The FDIC was not able to make that determination in the case of NBC and, therefore, could not provide open bank assistance.

If you have any questions regarding this issue, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C. Bair

LA09-040

PETER J. ROSKAM
6TH DISTRICT, ILLINOIS

COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEES:

CAPITAL MARKETS, INSURANCE, AND GOVERNMENT-SPONSORED ENTERPRISES

DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY

OVERSIGHT AND INVESTIGATIONS

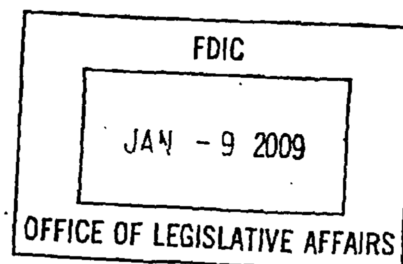
Congress of the United States
House of Representatives
Washington, DC 20515-1306

507 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4561
(202) 225-1166 FAX

150 S. BLOOMINGDALE ROAD
SUITE 200
BLOOMINGDALE, IL 60108
(630) 893-9670
(630) 893-9735 FAX

www.roskam.house.gov

January 8, 2009



Chairman Sheila C. Bair
Federal Deposit Insurance Corporation
MB-6028
550 17th Street NW
Washington, D.C. 20429

Dear Chairman Bair,

I am writing to express support for the application for Open Bank Assistance (OBA), submitted by the National Bank of Commerce (NBC), Berkeley, Illinois. The NBC has roughly 100 employees, an asset portfolio of approximately $400 million and with a branch in Addison, Illinois, in the Congressional District I represent, it serves the Chicagoland area with retail, real-estate and small business banking.

Providing OBA to the NBC will enable it to continue its service and provide substantial cost savings to the FDIC. Given the tremendous economic difficulties facing our nation and its financial institutions, the cost savings to the FDIC will preserve needed flexibility to respond to the ever-evolving exigencies in our national economy.

Up until the third quarter of 2008, the NBC was a well-capitalized financial institution with a consistent record of positive earnings. Their history of loan losses for the past ten years stands out amongst their peers. At the same time, the NBC is very supportive of small businesses, a number of which have grown to become significant employers within my district. A review of the bank's third quarter 2008 financial statement shows that but for the investment in GSE preferred stock and the exceptional downturn in the value of that stock, the NBC is a safe and sound institution. The bank's investment in the GSE preferred stock was not unusual as such investments were considered relatively safe, holding a risk-weighting of only 20%, the lowest rating next to cash. Indeed, the NBC has demonstrated good-faith and sincerity in their application, offering unrestricted on-site due diligence reviews and monitoring.

Given the NBC's performance history and demonstration that OBA is the least-costly alternative, I encourage the FDIC's support of their application for OBA. The extraordinary circumstances surrounding the devaluation of the GSE preferred stock should not jeopardize the existence of a community bank that plays a significant role within my district.

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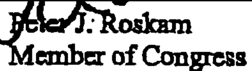
I appreciate your consideration of this request. If you have any questions, or require additional information, please feel free to contact me or David Mork on my staff at 202-225-4561.

Very truly yours,



Peter J. Roskam
Member of Congress

LA09-236

EMANUEL CLEAVER, II
5TH DISTRICT, MISSOURI

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING

REGIONAL WHIP (Region 4)

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House of Representatives
Emanuel Cleaver, II

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INDEPENDENCE, MO 64050
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emanuel.cleaver@mail.house.gov
http://www.house.gov/Cleaver

February 4, 2009

Honorable Shelia C. Bair
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chairwoman Bair:

It is my understanding that [redacted] has applied to the Federal Deposit Insurance Corporation's (FDIC) Temporary Liquidity Guarantee Program (TLGP). Specifically, [redacted] has applied under the discretionary provisions set forth in the program.

[redacted] operates a manufacturing facility in Kansas City, MO which is charged with powertrain operations and final assembly of three motorcycle platforms. A good number of the employees at the Kansas City facility reside the Fifth District of Missouri. Retaining [redacted] jobs would be an economic benefit to the Kansas City area and the overall region.

According to [redacted] their ability to take part in the TLGP program would allow them better access to unsecured debt. They contend it would be especially helpful to the [redacted] and their ability to survive this tumultuous economic time and retain some employees, as well as support its dealers, suppliers, and customers.

Your consideration of [redacted] application would be appreciated.

Warmest regards,

Emanuel Cleaver, II

FDIC
FEB 24 2009
OFFICE OF LEGISLATIVE AFFAIRS

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FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

February 9, 2009

Honorable John J. Duncan, Jr.
House of Representatives
Washington, D.C. 20515

Dear Congressman Duncan:

Thank you for your letter on behalf of several bankers in Tennessee. I assure you the Federal Deposit Insurance Corporation is sensitive to the critical role that credit availability plays in the Tennessee and national economies, and we are balancing those considerations with prudential safety and soundness requirements.

The FDIC and our counterparts at the other federal banking agencies are concerned about the availability of credit because of the rapid slowdown in the nation's real estate sector and serious disruptions in the credit market. Through published guidance and in discussions with the industry, we have encouraged banks to continue extending credit. Enclosed are copies of two recent regulatory releases: *Interagency Statement on Meeting the Needs of Creditworthy Borrowers* and *Monitoring the Use of Funding from Federal Financial Stability and Guaranty Programs*. Both letters encourage depository institutions to continue making loans to creditworthy borrowers. Furthermore, the FDIC is actively engaged with the Department of the Treasury and the other federal banking agencies in considering capital subscriptions under the Temporary Asset Relief Program's Capital Purchase Program. There is a significant expectation from the FDIC that banks will use these federal monies to provide credit to individuals and businesses. In our transmittal of the November 12 Statement to state non-member institutions, we articulated this expectation and advised banks that our examiners will be reviewing their performance in this regard. We are encouraged that over 1,600 state nonmember institutions have already applied to participate in the Capital Purchase Program.

FDIC examiners have considerable flexibility in conducting field examinations where they assess overall risk and evaluate compliance with applicable laws and regulations. Our examiners serve solely in a federal oversight role and do not instruct banks to make business decisions on individual credit relationships. Our policies recognize that a customer can have a problem and the bank can work with them to return the loan to performing status. For example, on consumer loans, if a bank "re-ages" a delinquent loan and it subsequently performs adequately for 120 days, we do not subject it to criticism. In other words, the FDIC understands that consumers and businesses run into financial obstacles in slowdowns and we give banks flexibility to work with these customers.

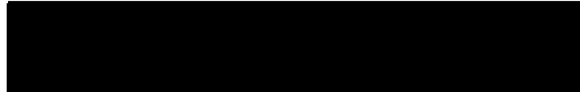
In the normal course of examinations, FDIC examiners may offer recommendations relative to asset or business line diversification, or the write-down/provisioning for weakened

assets. However, we do not tell institutions what loans to make, how to deploy their capital or how to manage their operations. In addition, we do not direct institutions to take specific actions regarding customer relationships. In practice, bank management has great latitude in dealing with its loan customers. We leave the business of banking to bankers, who are in the best position to know their customers and communities. However, it is important to recognize that regardless of how banks deal with individual borrowers, the banks' financial statements must accurately reflect their financial condition.

As federal supervisor for more than 5,000 institutions, most of which are community banks, the FDIC uniquely understands the vital role of bank lending on Main Street. The banks we supervise are often the lifeblood of credit in their communities, and these institutions have a tradition of working with local customers when times get tough. The FDIC recognizes the importance of financial institutions to the economy, and our practices as a bank supervisor reflect those priorities.

We appreciate the opportunity to address your concerns on this important issue. If you have further questions, please do not hesitate to contact me at 898-6974 or Eric Spitler, Director of our Office of Legislative Affairs, at 898-3837.

Sincerely,



Sheila C. Bair

Enclosures

Financial Institution Letters

Monitoring the Use of Funding from Federal Financial Stability and Guaranty Programs

FIL-1-2009
January 12, 2009

Summary: State nonmember institutions should implement a process to monitor their use of capital injections, liquidity support and/or financing guarantees obtained through recent financial stability programs established by Department of the Treasury, the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve. In particular, the monitoring processes should help to determine how participation in these federal programs has assisted institutions in supporting prudent lending and/or supporting efforts to work with existing borrowers to avoid unnecessary foreclosures. The FDIC encourages institutions to include a summary of this information in shareholder and public reports, annual reports and financial statements, as applicable.

Highlights:

- A number of federal programs have recently been instituted to promote financial stability and improve liquidity conditions for insured depository institutions. These initiatives consist of direct capital injections, federal guarantees on financing, and expanded borrowing facilities.
- Given that government funds, capital and guarantees are being used to support banking institutions, banks are expected to document how they are continuing to meet the credit needs of creditworthy borrowers, as described in the November 10, 2008, "*Interagency Statement on Responsible Lending*" (see FIL-128- 2008).
- The FDIC expects that state nonmember institutions (or their parent companies) will deploy funding received from these federal programs to prudently support credit needs in their market and strengthen bank capital.
- In order to assess how participation in these federal programs has helped the institution support lending and/or support efforts to work with existing mortgage borrowers to avoid unnecessary foreclosures, FDIC-supervised institutions should implement a process to document how these funds were used. State nonmember institutions should describe their utilization of this federal funding during bank examinations and are encouraged to summarize such information in published annual reports and financial statements. Including such information in public reports will provide important information for shareholder and public evaluation of participation in these programs.

Distribution:
FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Financial Officer
Chief Credit Officer

Contact:
For questions related to the Department of Treasury's Troubled Asset Relief Program, please contact Steven L. Fritts, Associate Director, at (202) 898-3723 or sfritts@fdic.gov. For all other questions, please contact Mindy West, Chief, at (202) 898-7221 or miwest@fdic.gov

3723 and sfritts@fdic.gov

Printable Format:
FIL-128-2008 - PDF (PDF Help)

Note:
FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2008/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226.

Financial Institution Letters

Interagency Statement on Meeting the Needs of Creditworthy Borrowers

FIL-128-2008
November 12, 2008

Summary: The FDIC joined the other federal banking agencies in issuing the attached "Interagency Statement on Meeting the Needs of Creditworthy Borrowers" on November 12, 2008.

Highlights:
Several federal programs have recently been instituted to promote financial stability and mitigate the effects of current market conditions on insured depository institutions. These efforts are designed to improve the functioning of credit markets and strengthen capital in our financial system to improve banks' capacity to engage in prudent lending during these times of economic distress.

The agencies expect all banking organizations to fulfill their fundamental role in the economy as intermediaries of credit to businesses, consumers, and other creditworthy borrowers. Lending to creditworthy borrowers provides sustainable returns for the organization and is constructive for the economy as a whole.

The agencies urge all lenders and servicers to adopt systematic, proactive, and streamlined mortgage loan modification protocols and to review troubled loans using these protocols. Lenders and servicers should first determine whether a loan modification would enhance the net present value of the loan before proceeding to foreclosure, and they should ensure that loans currently in foreclosure have been subject to such analysis.

In implementing this Statement, the FDIC encourages institutions it supervises to:

- lend prudently and responsibly to creditworthy borrowers;
- work with borrowers to preserve homeownership and avoid preventable foreclosures;
- adjust dividend policies to preserve capital and lending capacity; and
- employ compensation structures that encourage prudent lending.

State nonmember institutions' adherence to these expectations will be reflected in examination ratings the FDIC assigns for purposes of assessing safety and soundness, their compliance with laws and regulations, and their performance in meeting the requirements of the Community Reinvestment Act (CRA).

Distribution:
FDIC-Supervised Institutions

Suggested Routing:
Chief Executive Officer
Senior Credit Officer

Attachment:
"Interagency Statement on Meeting the Needs of Creditworthy Borrowers"

Contact:
Institution's contact person (Case Manager or Field Supervisor) at applicable FDIC Regional Office, or Associate Director Steven D. Fritts in Washington at 202-898-

Printable Format:
FIL-1-2009 - PDF (PDF Help)

Note:
FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2009/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226.

Last Updated 1/12/2009 communications@fdic.gov

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FDIC Office of Inspector General

LA09-070

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Congress of the United States
House of Representatives
Washington, DC 20515-4202

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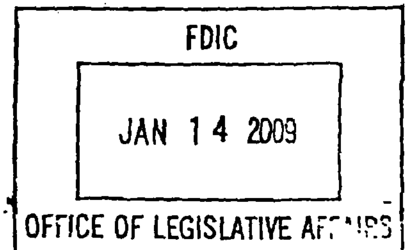
SUBCOMMITTEES:
NATIONAL SECURITY AND FOREIGN AFFAIRS
GOVERNMENT MANAGEMENT, ORGANIZATION, AND PROCUREMENT

January 6, 2009



The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Dear Chairman Bair:

I know most of the top bankers from East Tennessee and several others throughout the State.

They are all telling me the same thing in stronger terms than I have ever heard before. As the President of one bank, with which I have no connection whatever, said, holding one hand up much higher than the other: "What they are saying at the top is not getting down here to the bottom."

In other words, when the President, the Secretary of the Treasury and other top officials are trying to unfreeze the credit market and urging banks to make loans, the bank examiners at the local level are making it almost impossible to do so.

The examiners, almost none of whom have ever been in the banking business and thus do not fully appreciate how difficult it is, are writing up the best, safest loans on the books. They are doing this even though all payments are current and even on loans to upper income people who have more than sufficient assets to cover the loan.

A banker who used to do a lot of business with Senator Corker in Chattanooga when the Senator was in business there said he talked to him about it and gave him some specific examples. But when Sen. Corker asked him to put it in writing he said he could not because the examiners then would have destroyed his bank.

Another bank official told me recently that there are 230 banks in Tennessee that are having serious problems. Now I believe he probably was exaggerating but someone from almost every bank in

East Tennessee has told me over the last three months or so that the examiners have just gotten ridiculous.

Another banker said banks cannot make even very good loans now "strictly because of the examiners" and their "CYA" attitude.

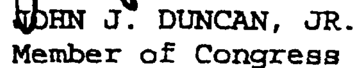
In 2000, Fortune Magazine said the Knoxville area had become the most popular place to move to in the whole Country based on the number moving in in relation to the number moving out. Almost all of East Tennessee has very large numbers moving here from the Midwest and Florida.

The economy here is still strong and will continue to be unless these bank examiners shut us down. If you think I am exaggerating, please have some independent polling firm ask bankers all over the Nation to tell you their stories in a way they can be assured there will not later be repercussions.

If you do not do this, I am afraid the troubles we are having now are going to grow much worse.

With kindest regards, I am

Yours truly,



JOHN J. DUNCAN, JR.
Member of Congress

JJD:jg

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

February 24, 2009

Honorable Mel Martinez
United States Senate
Washington, D.C. 20510

(b)(6)

Dear Senator Martinez:

(b)(4)
(b)(8)

Thank you for your letter on behalf of Mr. [redacted] regarding [redacted]

[redacted] is regulated by the Office of the Comptroller of the Currency. Consequently, we have taken the liberty of forwarding your inquiry to the OCC for consideration.

The Federal Deposit Insurance Corporation insures deposits at most of the nation's banks and savings associations and promotes the safety and soundness of these institutions by identifying, monitoring, and addressing risks to which they are exposed. The FDIC also is the primary federal regulator of state chartered banks that are not members of the Federal Reserve System.

Sincerely,

[redacted]

Mable T. Baggage
Congressional Administrator
Office of Legislative Affairs

cc: Congressional Liaison
Office of the Comptroller
of the Currency
250 E Street, S.W.
Washington, D.C. 20219

February 3, 2009

Mr. Eric Spitsler
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Room 6076
Washington, District of Columbia 20429

Dear Mr. Spitsler:

I am contacting you on behalf of my constituent, Mr. [redacted] (b)(6)

Mr. [redacted] is concerned about commercial lending. I am enclosing his correspondence for your review. Please address your response to him directly. (b)(6)

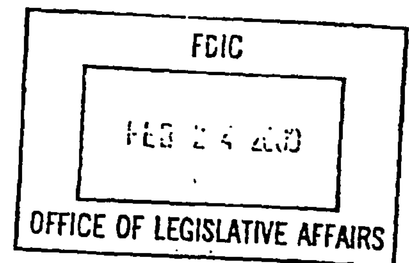
Thank you for your attention to this matter. Please do not hesitate to contact me with any questions or comments.

Sincerely,

[redacted]

Mel Martinez
United States Senator

MM/tlj
Enclosure



FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

February 24, 2009

Ms. Elizabeth Warren
Chairperson, Congressional Oversight Panel
732 North Capitol Street, N.W., Room C-320
Washington, D.C. 20401

Dear Ms. Warren:

This letter is in response to your request for information regarding federal efforts at foreclosure mitigation.

Per your request, we have structured our response in six parts: Part I discusses the FDIC's and IndyMac Federal Bank's collection of data on troubled and modified loans, while Part II through Part IV pertain solely to IndyMac Federal Bank. Specifically, Part II discusses the makeup and status of IndyMac Federal Bank's loans serviced; Part III discusses delinquencies; Part IV discusses modification efforts; Part V addresses redefault experience to date; and Part VI discusses loss severities.

As you know, IndyMac Bank, F.S.B., was closed on July 11, 2008, by the Office of Thrift Supervision and the Federal Deposit Insurance Corporation was appointed conservator. As conservator, the FDIC has operated IndyMac Federal Bank to maximize the value of the institution for sale, including identifying best practices in reducing unnecessary foreclosures.

Should you or your staff have additional questions, you may contact me at 202-898-6974 or Mr. Mike Krimminger, Special Advisor to the Chairman for Policy, at 202-898-8950.

Sincerely,

Sheila C. Bair

Enclosure

cc: Senator John E. Sununu
Congressman Jeb Hensarling
Mr. Richard H. Neiman
Mr. Damon A. Silvers

Congressional Oversight Panel

Mortgage Foreclosure Mitigation Survey

Response by the
Federal Deposit Insurance Corporation

Part I – Agency Information Gathering

The following responses by the Federal Deposit Insurance Corporation are based on the residential mortgage loan data that the FDIC collects from FDIC-supervised banks in the Consolidated Reports of Condition and Income (Call Report) as of the end of each calendar quarter. The Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB) collect these same data from the banks under their supervision in the Call Report. Residential mortgage loan data is reported in the Call Report as aggregate dollar amounts at the institution level, not at the individual loan level. No data is collected on numbers of residential mortgage loans.

Additional data, as specified below, has been provided from IndyMac Federal Bank, in FDIC Conservatorship.

For clarity, responses will be labeled "Call Report" or "IndyMac Federal."

1. Does your agency collect information on mortgage delinquencies? (Y/N)

Call Report: Yes. In responses for the Call Report, each bank reports the dollar amount of (1) loans past due 30 through 89 days and still accruing, (2) loans past due 90 days or more and still accruing, and (3) nonaccrual loans for the following categories of residential mortgages held as assets for purposes other than trading:

- Revolving, open-end loans secured by 1-4 family residential properties and extended under lines of credit
- Closed-end loans secured by first liens on 1-4 family residential properties
- Closed-end loans secured by junior liens on 1-4 family residential properties

In addition, for the three past due and nonaccrual categories, each bank separately reports the dollar amount of loans secured by 1-4 family residential properties that have undergone troubled debt restructurings that are included in the three residential mortgage categories identified above, but without a breakdown of such loans into these three categories. This data collection began March 31, 2008.

For residential mortgage loans that a bank has sold and securitized with servicing retained or with recourse or other seller-provided credit enhancements, the bank reports the dollar amount of securitized loans that are (1) 30 through 89 days past due and (2) 90 days or more past due. For each of these two past due categories, the bank separately reports the dollar amount of (1) closed-end loans secured by 1-4 family residential properties and (2) revolving, open-end loans secured by 1-4 family residential properties and extended under lines of credit.

IndyMac Federal: The Bank does collect data on delinquencies as part of its risk management and servicing operations.

2. Does your agency collect information on mortgage foreclosures? (Y/N)

Call Report: No. However, beginning March 31, 2008, each bank began to report the dollar amount of (1) loans held as assets for purposes other than trading that are secured by 1-4 family residential properties and are in process of foreclosure and (2) loans serviced for others that are secured by 1-4 family residential properties and are in process of foreclosure.

IndyMac Federal: Yes

3. Does your agency collect information on mortgage loss mitigation efforts (repayment plans, modifications, short sales, etc.)? (Y/N)

Call Report: No.
IndyMac Federal: Yes

4. If the answer to any of the three previous questions was yes, please detail the information collected, including the source of the data and a listing of all data fields. Please be sure to explain if the data is collected directly from regulated entities or via data vendors like First American/Loan Performance or McDash, and whether it is loan-level or survey-level data. Please also detail any estimates of the data's market coverage.

Call Report: See the introductory comments before Question 1 and the responses to Questions 1 and 2 above.

IndyMac Federal: The information is retrieved from various sources including the Servicer Portfolio Analytics System ("SPA"), Lender Processing Services ("LPS" f/k/a Fidelity), and SBO 2000.

5. If you collect data on delinquencies, foreclosures, mitigations and/or modifications, please submit any data code books or data dictionaries.

Call Report: As noted above, the Call Report collects aggregate dollar amounts at the institution level. The specific Call Report schedule and line item references and MicroData Reference Manual numbers for the data items identified in the responses to Questions 1 and 2 above are available on request.

IndyMac Federal: Attached is a copy of the current Investor Report, which provides detail on delinquencies and loss mitigation actions.

6. Please detail any coordination your agency has taken to date with other federal or state regulatory agencies in collecting information on mortgage delinquencies, foreclosures, and loss mitigation, including any steps taken to standardize data collection or to collect or analyze data jointly.

Call Report: The Call Report is a uniform interagency report shared by the FDIC, the OCC, and the FRB. The three agencies jointly determine the data that banks report in the Call Report in accordance with the Paperwork Reduction Act.

If your agency directly collects information on mortgage delinquencies, foreclosures, mitigations and/or modifications, please answer the questions in Parts II-VI as of December 31, 2008, unless otherwise directed. Please indicate if your agency does not possess the information necessary to answer the particular question.

Call Report: As noted above, the FDIC collects only aggregate dollar amounts for residential mortgage loan data at the institution level in the Call Report, not data on numbers of residential mortgage loans. Therefore, the Call Report does not provide the FDIC with the data necessary

to answer any of the questions in Parts II-VI of this survey. This information is maintained by IndyMac Federal Bank, FSB (IndyMac) as provided below for Parts II - VI.

If your agency uses multiple data sources, please be sure to indicate the data sources used in replying to each question.

Also, if your sample includes government-insured (FHA/VA) loans, please run the analysis separately for those loans.

Please indicate if you are unable to respond to the questions on a numeric basis, but can respond on a percentage basis, and then provide a respond on a percentage basis.

Part II. The Mortgage Loans

7. How many mortgage loans are in the data that you collect?

IndyMac Federal: IndyMac Federal Bank's portfolio consists of 708,766 loans with a UPB of $174.4 billion with Alt-A loan count of 653,679 representing the majority of the portfolio.[1]

8. How many of these loans are classified as subprime? Please note if the reporting institution makes this classification or, if the classification is made by your agency, what definition of subprime you use.

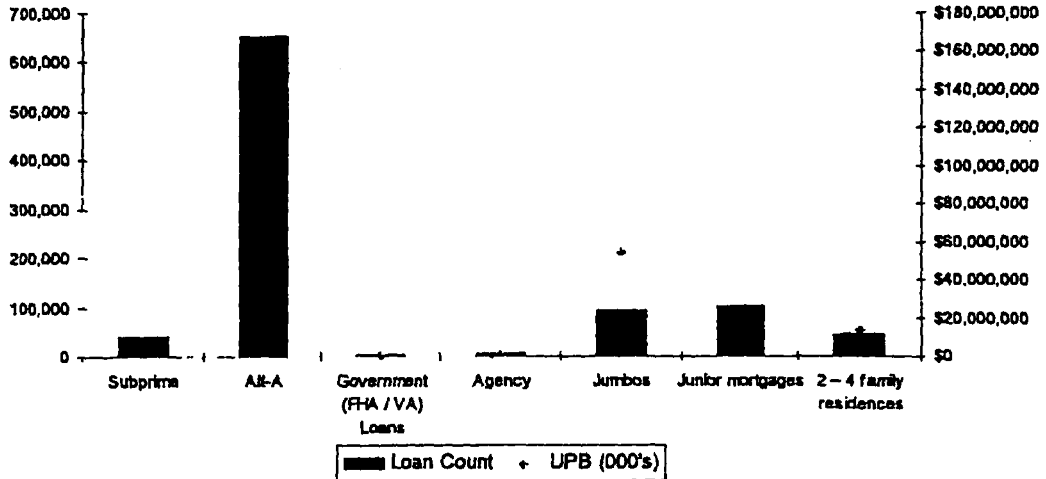
9. How many of these loans are alt-A? Please note if the reporting institution makes this classification or, if the classification is made by your agency, what definition of alt-A do you use.

10. How many of these loans are:

- **a. Government-insured (FHA/VA) loans?**
- **b. Jumbos?**
- **c. Junior mortgages?**
- **d. 2-4 family residences?**

[1] The population excludes Financial Freedom Senior Funding Corporation (a subsidiary of IndyMac Federal Bank, FSB specializing in reverse mortgages) and charged off HELOC loans as of 12/31/08.

IndyMac Federal: Combined answers to Questions 8-10 below.



Refer to Appendix for Product Definitions	Loan Count [2]	UPB (000's) [2]	% of Total UPB
Subprime	42,672	$5,436,937	3.12%
Alt-A	653,679	$166,387,645	95.41%
Government-insured (FHA / VA) Loans	4,467	$1,026,530	0.59%
Agency	7,948	$1,544,545	0.89%
Total	***708,766***	***$174,395,657***	100.00%

Jumbos [3]	92,744	$54,840,881	31.45%
Junior Mortgages	100,779	$5,702,867	3.27%
2 – 4 family residences	46,018	$13,693,327	7.85%

[2] Data is as of 12/31/08.
[3]. Jumbo balance as of origination date, not as of 12/31/08.

11. How many of these loans have a junior mortgage attached to the same property?

12. How many of these loans were identified as "owner-occupied" at origination?

13. How many of these loans are currently listed as "owner-occupied"?

14. How many of these loans were "low doc" or "no doc"?

Questions 15 & 16 are reproduced and answered following the responses to Questions 11-24.

17. How many loans had a CLTV at origination of ≥90%?

18. How many loans currently have negative equity?

19. How many loans are:

- **a. ARMs (including hybrid 2/28s and 3/27s)?**
- **b. Interest only?**
- **c. Negatively amortizing (including pay-option ARMs)?**

20. How many of the ARMs:

- **a. Are currently at a teaser rate?**
- **b. Will reset for the first time in the next 12 months?**
- **c. Have already reset?**

21. How many loans have prepayment penalties?

22. How many of the loans are securitized and how many are portfolio?

23. How many of the securitized loans are agency and how many are private-label?

24. How many of these loans were refinancings and how many were purchase-money?

Responses to Questions 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, & 24

	Loan Count	UPB (000's)	% of UPB
Properties with junior mortgages attached	185,735	$56,456,228	32.37%
Originated as "Owner-Occupied"	555,466	$149,586,178	85.87%
Currently Listed as Non-Vacant Status [1]	698,082	$171,392,551	98.27%
"Low Doc" or "No Doc"? [2]	425,141	$114,419,229	65.61%
Have Prepayment Penalties	234,346	$67,714,754	38.83%
In Securitizations [3]	629,610	$157,570,179	90.35%
In Portfolio	70,192	$14,123,678	8.10%
In Agency	292,225	$62,922,790	36.08%
In Private Label	337,385	$94,647,389	54.27%
Refinancings	449,371	$113,025,432	64.81%
Purchase-Money	259,395	$61,370,225	35.19%
CLTV ≥ 90%	243,364	$53,509,250	30.68%
Negative Equity (current CLTV ≥ 100%)	190,724	$59,640,757	34.20%
ARMs (including hybrid 2/28s and 3/27s)	347,240	$98,560,065	56.51%
Currently at a Teaser Rate or Initial Rate [4]	287,644	$82,196,729	83.39%
Reset For the First Time in the Next 12 Months [4]	25,344	$7,711,936	7.82%
Have Already Reset [4]	34,241	$8,661,400	8.79%
Interest Only	210,786	$69,316,801	39.75%
Negatively Amortizing (including pay-option ARMs)	81,833	$30,625,956	17.56%

[1] Properties are tracked for vacancies for the 60+ day delinquencies
[2] Includes Limited Doc, Stated Doc, Streamline, No Ratio, NINA, No Doc loans.
[3] Includes Agency, IMB REMICS and Non-IMB REMICS
[4] % is % UPB of total ARM Loans (including hybrid 2/28s and 3/27s)

15. How many of these loans, when originated, had front-end debt ratio (monthly housing debt, as PITI, to income) of:

- **a. Greater than or equal to 38%?**
- **b. Greater than 31% and less than 38%?**
- **c. Greater than 28% and less than 31%?**
- **d. Less than or equal to 28%?**

16. How many of these loans, when originated, had back-end debt ratio (total monthly debt to income) of

- **a. Greater than 65%?**
- **b. Greater than 55% and less than or equal to 65%?**
- **c. Greater than 45% and less than or equal to 55%?**
- **d. Less than or equal to 45%?**

Responses to Questions 15 & 16:

IndyMac Federal: Following the launch of the FDIC loan modification program on August 20, 2008, IndyMac Federal has verified incomes for loan modification proposals that have been accepted by borrowers who have forwarded income information for verification by IndyMac Federal. IndyMac staff have compared verified incomes with the incomes at origination (either stated or verified if full doc loans). However, prior to the appointment of the FDIC as Conservator on July 11, 2008, IndyMac Bank predominantly originated no or low documentation loans. As a result, the origination DTIs are not considered reliable except for full documentation loans.

This is illustrated by the information in the following tables for the entire population of loans. The tables compare the origination DTI with the actual verified DTI completed during the FDIC loan modification process. In the first table, the numbers highlighted in yellow are the percentages of loans that stayed in the DTI bucket originally reported once their income was verified for a modification. For example, while 57.7% of the loans reported a <31% DTI at origination (shown in 3rd Table), only 36.02% had verified income at the time of a modification that gave the borrowers a <31% DTI. The first table also shows that only 26.77% of the borrowers had DTIs <31% once their incomes were verified for a modification. While there are likely to be changes in income from origination to the date of a modification, these variations are not consistent with accurate reporting of origination incomes.

DOCUMENTATION TYPE CODE	(All)			
% of Each Original Bucket				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	36.02%	17.98%	46.00%	100.00%
31 - 40%	16.66%	22.05%	61.29%	100.00%
>40%	10.16%	17.43%	72.41%	100.00%
Grand Total	26.77%	18.95%	54.29%	100.00%

DOCUMENTATION TYPE CODE	(All)			
# Loans				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	1,188	593	1,517	3,298
31 - 40%	247	327	909	1,483
>40%	95	163	677	935
Grand Total	1,530	1,083	3,103	5,716

DOCUMENTATION TYPE CODE	(All)			
% of Total Population				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	20.78%	10.37%	26.54%	57.70%
31 - 40%	4.32%	5.72%	15.90%	25.94%
>40%	1.66%	2.85%	11.84%	16.35%
Grand Total	26.77%	18.95%	54.29%	100.00%

Essentially, the bottom chart shows that at origination, 57.7% of IndyMac loans were originated with a housing ratio below 31%, an additional 25.94% were between 31-40% and 16.36% were above 40%. However, once IndyMac verified the income at the back-end under modifications, only 26.77% had a front-end ratio below 31%, an additional 18.95% were between 31- 40% and 54.29% were above 40%. Interestingly, the migration patterns depicted in the top chart indicate that a full 46% of the loans that originally claimed to have a front-end ratio of below 31%, ended up having verified front-end ratios above 40%.

As expected full documentation loans are more consistent within their original buckets:

DOCUMENTATION TYPE CODE	F			
% of Each Original Bucket				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	59.54%	16.27%	24.19%	100.00%
31 - 40%	25.06%	29.80%	45.14%	100.00%
>40%	12.46%	20.98%	66.56%	100.00%
Grand Total	38.15%	21.44%	40.41%	100.00%

DOCUMENTATION TYPE CODE	F			
# Loans				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	721	197	293	1,211
31 - 40%	196	233	353	782
>40%	76	128	406	610
Grand Total	993	558	1,052	2,603

DOCUMENTATION TYPE CODE	F			
% of Total Population				
Count of SERVICER LOAN NUMBER	Verified DTI Bucket			
Orig DTI Bucket	<31%	31 - 40%	>40%	Grand Total
<31%	27.70%	7.57%	11.26%	46.52%
31 - 40%	7.53%	8.95%	13.56%	30.04%
>40%	2.92%	4.92%	15.60%	23.43%
Grand Total	38.15%	21.44%	40.41%	100.00%

Here, 46.52% were originally <31% front-end DTI, and a full 38.15% were verified to be below 31% front-end DTI. You can see here, that almost 60% of the loans originated below a 31% front-end ratio maintained that ratio through the modification process.

PART III. DELINQUENCIES

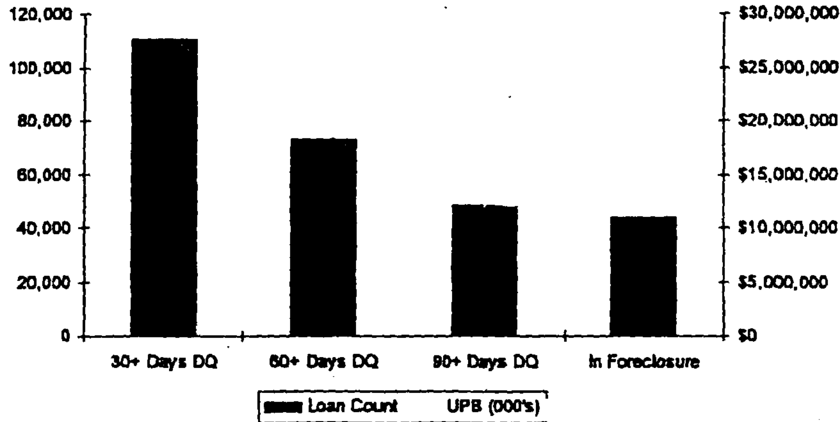
Please exclude modified loans from your answers to this section. If this is not possible given your data set, please indicate so.

25. How many of the loans you track are:

a. 30+ days delinquent?
b. 60+ days delinquent?
c. 90+ days delinquent?
d. In foreclosure?

IndyMac Federal:

Delinquencies	Loan	UPB (000's)	% of UPB
30+ Days DQ	110,254	$28,092,035	16.11%
90+ Days DQ	47,937	$12,301,441	7.05%
In foreclosure	43,422	$13,733,852	7.88%



26. How many foreclosure sales, short sales or deeds-in-lieu occurred over the last quarter for the loan pool your agency tracks?

IndyMac Federal:

	Loan Count	UPB (000's)	% of UPB
Foreclosure Sales [1]	6,917	$2,108,190	77.90%
Short Sales	1,897	$582,125	21.51%
Deeds-in-Lieu	59	$15,829	0.59%

[1] Includes only properties sold at foreclosure sale to 3rd parties.

27. How many of the 60+ days delinquent loans:

- **a. Had a CLTV at origination of ≥90%?**
- **b. Are currently negative equity (current CLTV≥100%)?**
- **c. Are ARMs?**
- **d. Are ARMs where the interest rate has reset?**
- **e. Are hybrid ARMs (2/28s, 3/27s, etc.)?**
- **f. Are hybrid ARMs where the teaser rate has reset?**
- **g. Have prepayment penalties?**
- **h. Are jumbos?**
- **i. Are subprime?**
- **j. Are alt-A?**
- **k. Are interest only?**
- **l. Negatively amortizing (including pay-option ARMs)?**
- **m. Have a junior mortgage?**
- **n. Are 2-4 family residences?**
- **o. Were listed as owner-occupied at origination?**
- **p. Are owner-occupied currently?**
- **q. Are low-doc or no-doc?**
- **t. Were refinancings?**
- **u. Were purchase-money mortgages?**

IndyMac Federal:

	Loan Count	UPB	% of 60+ DQ UPB
60+ Day Delinquent Loans [1]	116,477	$32,624,116	18.71%
Originated with a CLTV ≥ 90%?	58,325	$14,929,168	45.76%
Negative Equity (current CLTV ≥ 100%)	56,698	$17,588,671	53.91%
60+ day delinquent ARMs:	**71,558**	**$23,106,994**	**70.83%**
Hybrid ARMs [2]	47,049	$14,752,056	63.84%
Monthly Adjustable Option ARMs [2]	20,376	$8,037,945	34.79%
HELOCs [2]	4,133	$316,933	1.37%
Interest rate reset	9,713	$2,544,676	7.80%
Hybrid ARM Loans (2/28s, 3/27s, etc)	1,619	$707,016	2.17%
Hybrid ARMs where the teaser rate has reset	8,777	$2,155,557	6.61%
Negatively amortizing Loans (including pay-option ARMs)	30,463	$11,384,261	34.90%
Loans with prepayment penalties	56,986	$17,455,683	53.50%
Jumbo Loans	18,202	$10,652,828	32.65%
Subprime Loans	12,279	$1,943,140	5.96%
Alt-A Loans	102,338	$30,205,583	92.58%
Interest Only Loans	43,396	$14,171,312	43.44%
Have junior mortgages	43,202	$14,092,352	43.19%
2-4 family residences	7,345	$2,409,596	7.39%
Originated as "Owner-Occupied"	98,267	$29,024,616	88.97%
Currently classified as Non-Vacant	8,312	$2,395,363	7.34%
Low-Doc or No-Doc?	87,959	$26,397,754	81.90%
Refinances	64,472	$19,125,244	58.62%

[1] % is % of total servicing UPB as of 12/31/08
[2] % is % of 60+ day delinquent ARM UPB as of 12/31/08

27. (continued)

r. Had front-end debt ratio (monthly housing debt, as PITI, to income) when originated of: i. Greater than or equal to 38%?

ii. Greater than 31% and less than 38%?

iii. Greater than 28% and less than 31%?

iv. Less than or equal to 28%?

s. Had back-end debt ratio (total monthly debt to income) when originated of

i. Greater than 65%?

ii. Greater than 55% and less than or equal to 65%?

iii. Greater than 45% and less than or equal to 55%?

iv. Less than or equal to 45%?

IndyMac Federal: The Bank's data on front-end and back-end DTIs at origination is heavily skewed by the predominant number of low and no-documentation loans originated. As shown above, 81.9% of the 60+ day delinquent loans were no or low doc loans. The origination data is inconsistent with the DTI data revealed during the FDIC loan modification process, which relied on verification of income based on Internal Revenue Service information or other third party information. Accordingly, the FDIC places no reliance on the Bank's origination DTI data and does not believe it to be accurate.

A more accurate assessment of the front-end and back-end DTIs at origination is provided by the responses to Questions 15 and 16.

PART IV. MODIFICATIONS

If your data permits, please answer the questions in this section separately for: (1) securitized and non-securitized loans; and (2) modifications occurring before October 1, 2008, and modifications occurring between October 1, 2008 and December 31, 2008.

28. How many loans have been modified or placed into a repayment plan?

a. How many have been modified?

b. How many have been placed in were repayment plans?

IndyMac Federal: On August 20, 2008, IndyMac Federal implemented a streamlined loan modification program under the direction of the FDIC, as Conservator for IndyMac Federal. The FDIC loan modification program achieves an affordable, sustainable mortgage payment for eligible borrowers by reducing their first mortgage debt-to-income ratio (principal, interest, taxes, and insurance) to as low as 31% through a combination of interest rate reductions, term or amortization extensions, and deferment of payments on portions of the principal. Experience to date demonstrates that converting nonperforming mortgages into stable performing mortgages will return greater value than foreclosure. All modifications are subject to the terms of existing contracts governing servicing of the mortgages. In addition, all aspects of the modifications must provide a positive net present value compared to foreclosure alternatives.

As of 12/31/09, IndyMac Federal had completed, fully verified income information, and updated into the reporting system 5,225 FDIC loan modifications. As of that date an additional 1,877 had been completed and fully verified income information, but had not been updated into the reporting system. This provides a total of 7,417 completed and verified loan modifications. As of that date, an additional 3,305 FDIC loan modifications had been accepted by the borrowers and IndyMac Federal was in the process of verifying the borrowers' income. As of February 17, 2009, a total of 10,422 FDIC loan modifications had been completed with fully verified income information.

An additional 11,907 non-FDIC loan modifications were completed between January 1, 2008 and the launch of the FDIC's loan modification program on August 20, 2008.

Prior to the FDIC's Conservatorship, which initiated on July 11, 2008, IndyMac Bank relied extensively on repayment plans as a central feature of its loss mitigation program. In addition, forms of repayment plans were a focus of loss mitigation for the many loans owned by Freddie

Mac and Fannie Mae, but serviced by IndyMac. As a result, during 2008, IndyMac Bank implemented 73,236 repayment plans.

While repayment plans continue to be used for temporary interruptions in income, the FDIC loan modification program is focused on providing a long-term sustainable loan modification for the life of the loan and not towards shorter term repayment plans.

29. Of the modifications reported in question 28, how many resulted in the following (monthly payment inclusive of P&I):

- **a. A lowering of the monthly payment for life of the loan?**
- **b. A temporary lowering of the monthly payment?**
- **c. A lowering of the monthly payment by more than 10% for life of the loan?**
- **d. A temporary lowering of the monthly payment by more than 10%?**
- **e. An increase of the monthly payment for the life of the loan?**
- **f. A temporary increase in the monthly payment?**
- **g. Monthly payment remaining the same for life of the loan?**
- **h. A temporary freeze of the monthly payment?**

30. Of the modifications reported in question 28, above, how many resulted in:

- **a. A fully amortizing loan?**
- **b. A loan with less than full amortization (some additional payment at conclusion)?**
- **c. Loss/profit sharing arrangements?**

IndyMac Federal:

FDIC Loan Modifications	Non-Securitized	Securitized	Total
Lower Monthly Payments for Life of Loan	934	6,040	6,974
Temporary Lower Payment	0	0	0
Life of Loan Payment Reduction > 10%	480	2,855	3,335
Payment Reduction > 10% (for first 5 years)	272	1,496	1,768 [2]
Payment Reductions Between 0% & 10%	182	1,689	1,871 [3]
Life of Loan Increase in the Monthly Payment	1	26	27 [4]
Temporary Increase in the Monthly Payment	0	0	0
No Payment Change	29	387	416 [5]
Temporary Freeze of the Monthly Payment	0	0	0
Fully Amortized Loans	N/A	N/A	5,656
Less Than Full Amortization	N/A	N/A	1,761 [6]
Loss/Profit Sharing Arrangements	N/A	N/A	0

Footnotes for preceding table:

[1] FDIC Modifications completed between 10/01/08 and 12/31/08

[2] 1,768 loans have a temporary payment reduction > 10%. For these, interest rates go as low as 3% for 5 years followed by gradual 100 bps. annual increases until capped at the FHLMC survey rate.

[3] Beginning October 2008, all FDIC modification offers required a 10% minimum payment reduction.

[4] Borrowers for 27 loans accepted a small (<10%) payment increase as part of a pilot program for Pay Option ARMs. The modification capped the interest rate at the Freddie Mac rate and provided life of loan stable, sustainable payments, rather than the potentially large increase under the original loan.

[5] These 416 loans did not have a payment decrease, but received a sustainable payment for the life of the loan by eliminating any future interest rate variations by capping the rate at the Freddie Mac Weekly Survey Rate.

[6] These modifications involve extension of the loan term to 40 years, but due to restrictions in the servicing agreements must be payable in 30 years and, consequently, have a balloon due on sale, refi, or maturity.

31. Of the modifications reported in question 28,that reduced monthly payments, inclusive of principal and interest, how many involved:

- **a. Solely a deferral (forbearance) on some amount of principal or arrearage?**
- **b. Solely a write-down of principal?**
- **c. Solely a reduction in interest rates?**
- **d. Solely an increase in the loan's term with a reamortization (tenor)?**
- **e. Solely a change to the loan's amortization schedule?**
- **f. A combination of (a) and (c) (above)?**
- **g. A combination of (a) and (d)?**
- **h. A combination of (b) and (c)?**
- **i. A combination of (b) and (d)?**
- **j. A combination of (b) and (e)?**
- **k. A combination of (c) and (e)?**
- **l. A combination of (a), (c), and (d)?**
- **m. A combination of (b), (c), and (d)?**
- **n. A combination of (b), (c), and (e)?**

Response to Question 31:
IndyMac Federal:

	Non-Securitized	Securitized	Total
Forbearance	-	-	-
Principal Write Down	-	-	-
Interest Rate Reduction	663	4,777	5,440
Term Extension	-	-	-
Amortization Extension	-	-	-
Forbearance and Interest Rate Reduction	-	-	-
Forbearance and Term Extension	-	-	-
Write Down and Interest Rate Reduction	-	-	-
Write Down and Term Extension	-	-	-
Write Down and Amortization Extension	-	-	-
Interest Rate Reduction and Amortization Extension	-	1,000	1,000
Forbearance, Interest Rate Reduction and Term	148	-	148
Write Down, Interest Rate Reduction and Term	-	-	-
Write Down, Interest Rate Reduction and Amortization	-	-	-
Additional Modification Combinations:			
Interest Rate Reduction and Term Extension	153	63	216
Interest Rate Reduction, Amortization Extension	-	613	613
Total FDIC Modifications through 12/31/08	964	6,453	7,417

32. Of the modifications reported in question 28, how many involved

- **a. An up-front payment of fees?**
- **b. An up-front payment of arrearages?**
- **c. A waiver of fees?**
- **d. Changing a variable rate loan into a fixed rate loan?**

IndyMac Federal: None of the FDIC loan modifications involve an up-front payment of fees or arrearages. All past due amounts are capitalized into the principal balance of the modified mortgage.

Unpaid fees due to IndyMac Federal or any related entity are waived.

All modifications involve an interest rate capped for the life of the loan at the Freddie Mac Weekly Survey Rate, so the modifications do change any variable rate loan into a loan with an interest rate cap.

33. Of the modifications reported in question 28, how were on properties with junior mortgages?

34. Of the modifications reported in question 28, how many that had junior mortgages at the time of origination still have a junior mortgage?

35. Of the modifications reported in question 28, how many are negative equity post-modification?

36. Of the modifications reported in question 28, what is the average origination CLTV loans?

37. Of the modifications reported in question 28, above, what is the average post-modification CLTV of modified loans?

IndyMac Federal: Since IndyMac Federal's loan modifications are not based on the loan to value ratio of the mortgage after modification, the Bank does not maintain comprehensive CLTV data on the modified mortgages.

38. Of the modifications reported in question 28, how many were no-doc or low-doc loans?

39. Of the modifications reported in question 28, how many were jumbos?

40. Of the modifications report in question 28, how many were on mortgages with private mortgage insurance?

Responses to Questions 33, 34, 35, 36, 38, and 40:

Please note that the following table includes both FDIC and non-FDIC loan modifications completed during 2008.

Of the modifications reported in Response to Question 28:	Securitized	Non-Securitized	Total
Properties with Jr. Mortgages	2,367	1,197	3,564
Loans originated with junior mortgages that still have a junior mortgage	2,065	967	3,032
Loans with negative equity post-modification	601	115	716
Average origination CLTV?	79.73%	85.90%	N/A
"No-Doc" or "Low Doc" Loans	6,726	3,810	10,536
Jumbo Loans	1,898	754	2,652
Mortgages with private mortgage insurance	1,389	1,053	2,442

PART V. REDEFAULTS

If your data permits, please answer the questions in this section separately for:
(1) securitized and non-securitized loans; and (2) modifications occurring between July 1, 2008 and September 30, 2008, and modifications occurring between October 1, 2008 and December 31, 2008.

41. How many modified loans (including modifications conditional on successful payments) redefaulted before making their first modified payment?

42. How many modified loans are:
- **a. 30+ days delinquent (including "rolling 30s")?**
- **b. 60+ days delinquent?**
- **c. 90+ days delinquent?**

43. How many modified loans are 60+ days delinquent and for which:
- **a. Monthly payments were reduced?**
- **b. Monthly payments were *not* reduced?**
- **c. Monthly payments were reduced by less than 10%?**
- **d. Monthly payments were reduced by 10% or more?**

44. How many modified loans are 60+ days delinquent and for which:
- **a. There was a principal write-down (regardless of interest rate reduction)?**
- **b. There was an interest rate reduction (but not a principal reduction)?**

c. **CLTV on the loan is currently ≥100%?**
d. **CLTV on the loan is currently ≥95%?**
e. **There is a junior mortgage on the property?**
f. **The original loan was no-doc or low-doc?**

45. How many modified loans are 60+ days delinquent for which the front-end debt ratio (monthly housing debt, as PITI, to income) immediately post-modification is:

a. **Greater than or equal to 38%?**
b. **Greater than 31% and less than 38%?**
c. **Greater than 28% and less than 31%?**
d. **Less than or equal to 28%?**

46. How many modified loans are 60+ days delinquent for which the back-end debt ratio (total monthly debt to income) immediately post-modification is:

a. **Greater than 65%?.**
b. **Greater than 55% and less than or equal to 65%?**
c. **Greater than 45% and less than or equal to 55%?**
d. **Less than or equal to 45%?**

Responses to Questions 41, 42, 43, 44, 45, and 46:

IndyMac Federal: For performance data on **FDIC modifications**, please refer to the attached IndyMac Federal Investor Report, as of December 31, 2008.

Non-FDIC [2]	Jul 1 - Sep 30				Oct 1 - Dec 31			
	Securitized		Non-Securitized		Securitized		Non-Securitized	
	Count	%	Count	%	Count	%	Count	%
Current	2,559	67.9%	479	52.5%	1,884	89.2%	234	70.3%
60+	1,209	32.1%	434	47.5%	229	10.8%	99	29.7%
90+	706	18.7%	310	34.0%	107	5.1%	78	23.4%
Total	**3,768**		**913**		**2,113**		**333**	
RE-defaults prior to 1st Mod Pmt	331	8.80%	142	15.60%	455	21.50%	101	30.30%
Reduction of Monthly Payment	712	28.00%	221	42.70%	133	8.40%	29	16.10%
No Reduction of Monthly Payment	497	40.50%	213	53.80%	96	18.20%	70	45.80%
Payment Reduced by < 10%	96	23.10%	36	0.00%	13	7.10%	0	0.00%
Payment Reduced by > 10%	616	29.00%	185	46.50%	120	8.60%	29	17.90%
Principal Writedowns	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Interest Rate Reduction	776	29.80%	234	40.40%	130	7.80%	70	26.90%
CLTV currently ≥ 100%	693	34.60%	206	51.00%	123	10.10%	68	40.20%
CLTV currently ≥ 95%	789	34.60%	260	51.70%	146	10.60%	75	35.00%
Junior mortgages attached	422	36.20%	105	52.00%	84	5.20%	8	4.60%
"No Doc" or "Low Doc"	904	33.30%	320	46.80%	165	10.00%	78	29.80%
Had front-end debt ratio (monthly housing debt, as PITI, to income) immediately post-modification of:								
Greater than or equal to 38%	87	36.7%	24	0.0%	26	21.7%	5	62.5%
Greater than 31% and less than 38%	109	33.4%	24	50.0%	21	12.1%	2	40.0%
Greater than 28% and less than 31%	78	33.0%	18	51.4%	16	14.4%	0	0.0%
Less than or equal to 28%	937	31.5%	368	46.9%	166	9.7%	92	28.8%
Had back-end debt ratio (total monthly debt to income) immediately post-modification of:								
Greater than or equal to 65%	1		1		0		0	
Greater than 55% and less than or equal to 65%	3		3		3		1	
Greater than 45% and less than or equal to 55%	299		109		29		23	
Less than or equal to 45%	976		321		197		75	

[1] % is % of category that was 60+ days delinquent as of 12/31/08.
[2] The high number of early payment defaults for non-FDIC mods is influenced by requirements of some owners to use repayment plans, such as Fannie Mae's "Home Saver Advance" which do not reduce payments.

PART VI. LOSS SEVERITIES

47. In the fourth quarter of 2008, what was the mean and the median loss severity, after accounting for insurance recoveries, (both in absolute dollar terms and as a percentage of loan value) for:

a. Mortgages that were foreclosed?

b. Mortgage that were modified (assuming no future redefaults)?

c. Mortgages that were modified previously (including modifications contingent upon successful payments), but redefaulted and were foreclosed?

IndyMac Federal: The following table reflects the total servicing portfolio and modifications to REO only for non-FDIC modifications. None of the FDIC loan modifications have redefaulted and resulted in REO.

Description	Type	Loss	Severity
Total Servicing Portfolio	Simple Mean	137,240	46.1%
	Weighted Avg.	n/a	43.1%
	Median	161,551	45.8%
Mod to REO	Simple Mean	110,302	45.5%
	Weighted Avg.	n/a	44.2%
	Median	91,424	43.3%

For FDIC modifications at IndyMac Federal, the net present value of the 5,225 modifications completed, with fully verified income information, and updated into the reporting system exceeded the net present value of foreclosure by an average of 35.6%. The modifications provided aggregate estimated net savings of $187,275,236.

LA09-142

Congressional Oversight Panel

732 North Capitol Street, NW
Rooms: C-320 and C-617
Mailstop: COP
Washington, DC 20401

February 4, 2009

Ms. Sheila Bair
Chairman, Board of Directors
Federal Deposit Insurance Corporation
550 17th Street, NW, Room 6028
Washington, DC 20429-9990

Dear Ms. Bair:

I am writing to request that the Federal Deposit Insurance Corporation (FDIC) assist the Congressional Oversight Panel (Panel) in its oversight over federal efforts at foreclosure mitigation.

The Panel was created pursuant to section 125 of the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343 (EESA). EESA vested the Panel with broad oversight authority and duties, including the requirement to make regular reports to Congress on the effectiveness of foreclosure-mitigation efforts. Congress also empowered the Panel to "secure directly from any department or agency of the United States information necessary to enable it to carry out" its oversight responsibilities.

As part of its effort to evaluate the effectiveness of foreclosure mitigation efforts, the Panel requests that FDIC respond to the following survey about foreclosure-mitigation efforts.

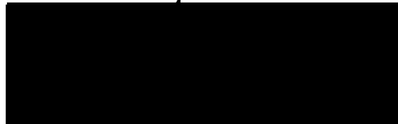
The Panel recognizes that FDIC may not possess data sufficient to answer all the questions in the survey. If FDIC does posses such data, however, the Panel is requesting that FDIC perform the data analysis necessary to answer the questions in the survey, even if FDIC does not routinely perform such analysis of the data. The Panel requests that you provide separate survey responses for mortgage loans currently held by IndyMac Federal Bank, FSB (IndyMac), unless IndyMac loans are the only mortgage loans about which you are providing information.

The Panel requests that you provide this information as soon as possible, but in no case later than **5:00 p.m. on Wednesday, February 18, 2009.**

If you have any questions or would like additional information, please contact Charlie Honig at charles_honig@cop.senate.gov or (202) 224-1656.

Thank you for your attention to this request.

Sincerely,



Elizabeth Warren
Chairperson
Congressional Oversight Panel

cc: Rep. Jeb Hensarling

Sen. John E. Sununu

Mr. Richard H. Neiman

Mr. Damon A. Silvers

Congressional Oversight Panel
Mortgage Foreclosure Mitigation Survey

Please answer the following questions regarding information that you directly collect regarding mortgage delinquencies, foreclosures, and modifications.

Part I. Agency Information Gathering

1. Does your agency collect information on mortgage delinquencies? (Y/N)
2. Does your agency collect information on mortgage foreclosures? (Y/N)
3. Does your agency collect information on mortgage loss mitigation efforts (repayment plans, modifications, short sales, etc.)? (Y/N)
4. If the answer to any of the three previous questions was yes, please detail the information collected, including the source of the data and a listing of all data fields. Please be sure to explain if the data is collected directly from regulated entities or via data vendors like First American/Loan Performance or McDash, and whether it is loan-level or survey-level data. Please also detail any estimates of the data's market coverage.
5. If you collect data on delinquencies, foreclosures, mitigations and/or modifications, please submit any data code books or data dictionaries.
6. Please detail any coordination your agency has taken to date with other federal or state regulatory agencies in collecting information on mortgage delinquencies, foreclosures, and loss mitigation, including any steps taken to standardize data collection or to collect or analyze data jointly.

If your agency directly collects information on mortgage delinquencies, foreclosures, mitigations and/or modifications, please answer the questions in Parts II-VI as of December 31, 2008, unless otherwise directed. Please indicate if your agency does not possess the information necessary to answer the particular question..

If your agency uses multiple data sources, please be sure to indicate the data sources used in replying to each question.

Also, if your sample includes government-insured (FHA/VA) loans, please run the analysis separately for those loans.

Please indicate if you are unable to respond to the questions on a numeric basis, but can respond on a percentage basis, and then provide a respond on a percentage basis.

Part II. The Mortgage Loans

7. How many mortgage loans are in the data that you collect?

8. How many of these loans are classified as subprime? Please note if the reporting institution makes this classification or, if the classification is made by your agency, what definition of subprime you use.

9. How many of these loans are alt-A? Please note if the reporting institution makes this classification or, if the classification is made by your agency, what definition of alt-A you use.

10. How many of these loans are:
    a. Government-insured (FHA/VA) loans?
    b. Jumbos?
    c. Junior mortgages?
    d. 2-4 family residences?

11. How many of these loans have a junior mortgage attached to the same property?

12. How many of these loans were identified as "owner-occupied" at origination?

13. How many of these loans are currently listed as "owner-occupied"?

14. How many of these loans were "low doc" or "no doc"?

15. How many of these loans, when originated, had front-end debt ratio (monthly housing debt, as PITI, to income) of:
    a. Greater than or equal to 38%?
    b. Greater than 31% and less than 38%?
    c. Greater than 28% and less than 31%?
    d. Less than or equal to 28%?

16. How many of these loans, when originated, had back-end debt ratio (total monthly debt to income) of
    a. Greater than 65%?
    b. Greater than 55% and less than or equal to 65%?
    c. Greater than 45% and less than or equal to 55%?
    d. Less than or equal to 45%?

17. How many loans had a CLTV at origination of ≥90%?

18. How many loans currently have negative equity?

19. How many loans are:
    a. ARMs (including hybrid 2/28s and 3/27s)?
    b. Interest only?

c. Negatively amortizing (including pay-option ARMs)?

20. How many of the ARMs:
    a. Are currently at a teaser rate?
    b. Will reset for the first time in the next 12 months?
    c. Have already reset?

21. How many loans have prepayment penalties?

22. How many of the loans are securitized and how many are portfolio?

23. How many of the securitized loans are agency and how many are private-label?

24. How many of these loans were refinancings and how many were purchase-money?

PART III. DELINQUENCIES

Please exclude modified loans from your answers to this section. If this is not possible given your data set, please indicate so.

25. How many of the loans you track are:
    a. 30+ days delinquent?
    b. 60+ days delinquent?
    c. 90+ days delinquent?
    d. In foreclosure?

26. How many foreclosure sales, short sales or deeds-in-lieu occurred over the last quarter for the loan pool your agency tracks?

27. How many of the 60+ days delinquent loans:
    a. Had a CLTV at origination of ≥90%?
    b. Are currently negative equity (current CLTV≥100%)?
    c. Are ARMs?
    d. Are ARMs where the interest rate has reset?
    e. Are hybrid ARMs (2/28s, 3/27s, etc.)?
    f. Are hybrid ARMs where the teaser rate has reset?
    g. Have prepayment penalties?
    h. Are jumbos?
    i. Are subprime?
    j. Are alt-A?
    k. Are interest only?
    l. Negatively amortizing (including pay-option ARMs)?
    m. Have a junior mortgage?
    n. Are 2-4 family residences?
    o. Were listed as owner-occupied at origination?
    p. Are owner-occupied currently?

q. Are low-doc or no-doc?
r. Had front-end debt ratio (monthly housing debt, as PITI, to income) when originated of:
    i. Greater than or equal to 38%?
    ii. Greater than 31% and less than 38%?
    iii. Greater than 28% and less than 31%?
    iv. Less than or equal to 28%?
s. Had back-end debt ratio (total monthly debt to income) when originated of
    i. Greater than 65%?
    ii. Greater than 55% and less than or equal to 65%?
    iii. Greater than 45% and less than or equal to 55%?
    iv. Less than or equal to 45%?
t. Were refinancings?
u. Were purchase-money mortgages?

PART IV. MODIFICATIONS

If your data permits, please answer the questions in this section separately for: (1) securitized and non-securitized loans; and (2) modifications occurring before October 1, 2008, and modifications occurring between October 1, 2008 and December 31, 2008.

28. How many loans have been modified or placed into a repayment plan?
    a. How many have been modified?
    b. How many have been placed in were repayment plans?

29. Of the modifications reported in question 28, how many resulted in the following (monthly payment inclusive of P&I):
    a. A lowering of the monthly payment for life of the loan?
    b. A temporary lowering of the monthly payment?
    c. A lowering of the monthly payment by more than 10% for life of the loan?
    d. A temporary lowering of the monthly payment by more than 10%?
    e. An increase of the monthly payment for the life of the loan?
    f. A temporary increase in the monthly payment?
    g. Monthly payment remaining the same for life of the loan?
    h. A temporary freeze of the monthly payment?

30. Of the modifications reported in question 28, above, how many resulted in:
    a. A fully amortizing loan?
    b. A loan with less than full amortization (some additional payment at conclusion)?
    c. Loss/profit sharing arrangements?

31. Of the modifications reported in question 28,that reduced monthly payments, inclusive of principal and interest, how many involved:
    a. Solely a deferral (forbearance) on some amount of principal or arrearage?
    b. Solely a write-down of principal?

c. Solely a reduction in interest rates?
d. Solely an increase in the loan's term with a reamortization (tenor)?
e. Solely a change to the loan's amortization schedule?
f. A combination of (a) and (c) (above)?
g. A combination of (a) and (d)?
h. A combination of (b) and (c)?
i. A combination of (b) and (d)?
j. A combination of (b) and (e)?
k. A combination of (c) and (e)?
l. A combination of (a), (c), and (d)?
m. A combination of (b), (c), and (d)?
n. A combination of (b), (c), and (e)?

32. Of the modifications reported in question 28, how many involved
    a. An up-front payment of fees?
    b. An up-front payment of arrearages?
    c. A waiver of fees?
    d. Changing a variable rate loan into a fixed rate loan?

33. Of the modifications reported in question 28, how were on properties with junior mortgages?

34. Of the modifications reported in question 28, how many that had junior mortgages at the time of origination still have a junior mortgage?

35. Of the modifications reported in question 28, how many are negative equity post-modification?

36. Of the modifications reported in question 28, what is the average origination CLTV loans?

37. Of the modifications reported in question 28, above, what is the average post-modification CLTV of modified loans?

38. Of the modifications reported in question 28, how many were no-doc or low-doc loans?

39. Of the modifications reported in question 28, how many were jumbos?

40. Of the modifications report in question 28, how many were on mortgages with private mortgage insurance?

PART V. REDEFAULTS

If your data permits, please answer the questions in this section separately for:

(1) securitized and non-securitized loans; and (2) modifications occurring between July 1, 2008 and September 30, 2008, and modifications occurring between October 1, 2008 and December 31, 2008.

41. How many modified loans (including modifications conditional on successful payments) redefaulted before making their first modified payment?

42. How many modified loans are:
    a. 30+ days delinquent (including "rolling 30s")?
    b. 60+ days delinquent?
    c. 90+ days delinquent?

43. How many modified loans are 60+ days delinquent and for which:
    a. Monthly payments were reduced?
    b. Monthly payments were *not* reduced?
    c. Monthly payments were reduced by less than 10%?
    d. Monthly payments were reduced by 10% or more?

44. How many modified loans are 60+ days delinquent and for which:
    a. There was a principal write-down (regardless of interest rate reduction)?
    b. There was an interest rate reduction (but not a principal reduction)?
    c. CLTV on the loan is currently ≥100%?
    d. CLTV on the loan is currently ≥95%?
    e. There is a junior mortgage on the property?
    f. The original loan was no-doc or low-doc?

45. How many modified loans are 60+ days delinquent for which the front-end debt ratio (monthly housing debt, as PITI, to income) immediately post-modification is:
    a. Greater than or equal to 38%?
    b. Greater than 31% and less than 38%?
    c. Greater than 28% and less than 31%?
    d. Less than or equal to 28%?

46. How many modified loans are 60+ days delinquent for which the back-end debt ratio (total monthly debt to income) immediately post-modification is:
    a. Greater than 65%?
    b. Greater than 55% and less than or equal to 65%?
    c. Greater than 45% and less than or equal to 55%?
    d. Less than or equal to 45%?

PART VI. LOSS SEVERITIES

47. In the fourth quarter of 2008, what was the mean and the median loss severity, after accounting for insurance recoveries, (both in absolute dollar terms and as a percentage of loan value) for:

a. Mortgages that were foreclosed?
b. Mortgage that were modified (assuming no future redefaults)?
c. Mortgages that were modified previously (including modifications contingent upon successful payments), but redefaulted and were foreclosed?

PAUL C. BROUN, M.D.
10TH DISTRICT, GEORGIA

COMMITTEE ON
HOMELAND SECURITY

COMMITTEE ON
SCIENCE AND TECHNOLOGY

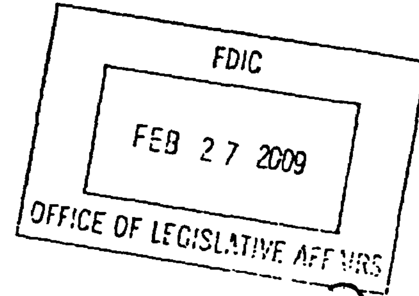
COMMITTEE ON
NATURAL RESOURCES

LA09-248

Congress of the United States
House of Representatives
Washington, DC 20515-1010

WASHINGTON OFFICE
WEB: BROUN.HOUSE.GOV

February 27, 2009



Mr. Eric Spitler
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW, Room 6076
Washington, DC 20429-0002

Dear Mr. Spitler,

I am writing on behalf of Mr. [redacted] Mr. [redacted] has contacted me for assistance in a matter concerning the Federal Deposit Insurance Corporation. (b)(6)

Enclosed are the Privacy Act Release Form and any additional correspondence that I have received from Mr. [redacted] I would greatly appreciate your assistance in reviewing this matter and providing any assistance possible. (b)(6)

Thank you in advance for your assistance with this matter. If you or your staff is in need of any additional information, please contact Dessie Martin in my Athens District Office via mail at 3706 Atlanta Highway, Suite 3B, Athens, GA 30606 or by phone at (706) 549-9588. Also, please be so kind as to contact my office promptly when any development occurs.

I appreciate your help.

Paul C. Broun, M.D.
Member of Congress

PB/dm
Enclosure

TIM JOHNSON
SOUTH DAKOTA

RAPID CITY OFFICE: (605) 341-3990
PO BOX 1098, RAPID CITY, SD 57709

ABERDEEN OFFICE: (605) 226-3440
PO BOX 1554, ABERDEEN, SD 57402

SIOUX FALLS OFFICE: (605) 332-8558
PO BOX 1424, SIOUX FALLS, SD 57101

United States Senate

WASHINGTON, DC 20510-4104

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(202) 224-5842

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TOLL FREE:
1-800-537-0025

E-MAIL: tim@johnson.senate.gov
WEB SITE: http://johnson.senate.gov

March 13, 2009

Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Dear Chairman Bair:

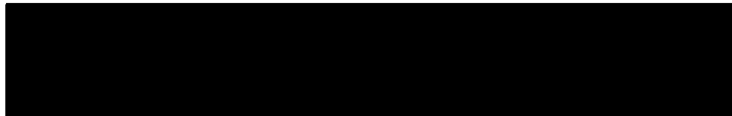
On behalf of the Senate Committee on Banking, Housing and Urban Affairs' Financial Institutions Subcommittee, I am writing to invite you, or your designee, to testify before the Subcommittee at a hearing entitled "Current Issues in Deposit Insurance." The hearing is scheduled for Thursday, March 19th at 2:00 P.M. in Room 538 of the Dirksen Senate Office Building.

The Subcommittee requests that your testimony discuss current issues in deposit insurance. As our economy faces extraordinary times, we must ensure that our banking system remains safe and sound, depositors are protected, and failing banks and credit unions are appropriately dealt with. We would appreciate your views on a range of topics including the deposit insurance provisions contained in H.R. 1106, S. 541, the temporary increase of depositor coverage from $100,000 to $250,000 mandated in the Emergency Economic Stabilization Act (EESA), the special assessment announced by the FDIC on February 27th, 2009, and mandatory rebates, among other topics.

For purposes of the Committee Record and printing, your written statement must be submitted in electronic form by email to laura_swanson@johnson.senate.gov and dawn_ratliff@banking.senate.gov, or on a CDRW in WordPerfect (or other comparable program) format, double spaced. Also, two ORIGINAL copies of the statement must be included for the printers, along with 73 copies for the use of Committee members and staff. Your statement should be sent no later than 24 hours prior to the hearing. Your oral statement should be approximately 5 minutes in duration. Your full statement will be made part of the hearing record.

If you have any questions regarding the hearing, please contact Laura Swanson at 202-224-1646.

Sincerely,



Tim Johnson
Chairman, Financial Institutions Subcommittee

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

March 16, 2009

Honorable Mike McIntyre
House of Representatives
Washington, D.C. 20515

Dear Congressman McIntyre:

Thank you for your letter regarding the applications to the Troubled Asset Relief Program's Capital Purchase Program by [redacted] As you may know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of Treasury (Treasury) and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation on each TARP application it receives to the Treasury, which ultimately determines if an institution may participate.

The FDIC received TARP applications from [redacted] North Carolina, and [redacted] North Carolina. Both applications are being evaluated under the eligibility and participation standards prescribed by Treasury. The FDIC has been in regular contact with management at both institutions to discuss their capital augmentation plans and strategic initiatives for 2009. We expect to complete our processing of these TARP applications shortly, but the ultimate outcome will be driven by the eligibility and participation standards established by Treasury.

The FDIC has received 54 applications from state nonmember institutions headquartered in North Carolina. The great majority of these applicants are small community banks that provide essential loan and deposit services to their local economies. We have recommended 31 of these institutions to Treasury for approval, 27 of which have already received TARP CPP award notifications from Treasury. The FDIC is a strong advocate for community banking across the country as most of the institutions we supervise are smaller institutions that focus on consumer and small business lending in their local markets.

Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

LA09-28

MIKE McINTYRE
7TH DISTRICT, NORTH CAROLINA

COMMITTEE ON AGRICULTURE
CHAIRMAN
SUBCOMMITTEE ON SPECIALTY CROPS, RURAL DEVELOPMENT AND FOREIGN AGRICULTURE

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEE ON AIR AND LAND FORCES
SUBCOMMITTEE ON TERRORISM, UNCONVENTIONAL THREATS AND CAPABILITIES

U.S. HELSINKI COMMISSIONER
ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

BOARD MEMBER
UNITED STATES NAVAL ACADEMY

Congress of the United States
House of Representatives
Washington, DC 20515–3307

WEB PAGE:
www.house.gov/mcintyre

SENIOR WHIP

CO-CHAIRMAN
SPECIAL OPERATIONS FORCES CAUCUS

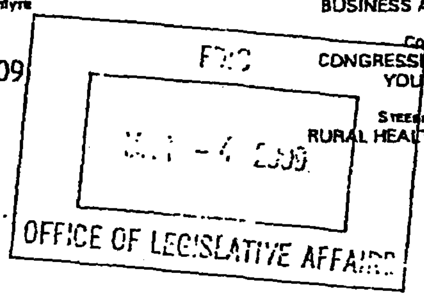
CO-CHAIRMAN
CONGRESSIONAL WATERWAYS CAUCUS

CO-CHAIRMAN
COALITION TASK FORCE ON BUSINESS AND TECHNOLOGY

CO-CHAIRMAN
CONGRESSIONAL CAUCUS ON YOUTH SPORTS

STEERING COMMITTEE
RURAL HEALTH CARE COALITION

February 13, 2009



Mr. Eric Spitler
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Dear Mr. Spitler:

I am writing on behalf of several banks in my district that are experiencing problems securing TARP funding due to delays with their pending applications. Specifically, I am writing in regards to [redacted] both which are located in my district and fall under the Federal Deposit Insurance Corporation's jurisdiction.

While I understand that larger institutions have received this funding, smaller banks are the financial lifeline of our communities, and it is imperative that they remain solvent. Therefore, I would respectfully request, pursuant to all applicable rules and regulations, information regarding the status of [redacted] application for TARP funding, in addition to details on how these funds are being distributed to both small and large banking institutions. There appears to be confusion among many of the local banks in my district who have applied for funding and it would be of great assistance to have adequate information to address these issues.

Thank you for your timely attention to this matter. I look forward to hearing from you soon.

Sincerely,

Mike McIntyre
Member of Congress

MM:bm

2437 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–3307
(202) 225–2731
FAX: (202) 225–5773

310 GOVERNMENT CENTER DRIVE, NE
BUILDING S, UNIT 1
BOLIVIA, NC 28422
(910) 253–0158
FAX: (910) 253–0159

301 GREEN STREET, ROOM 218
FAYETTEVILLE, NC 28301–5088
(910) 323–0260
FAX: (910) 323–0069

500 NORTH CEDAR STREET
LUMBERTON, NC 28358–4895
(910) 735–0610
FAX: (910) 739–5085

201 NORTH FRONT STREET, SUITE
WILMINGTON, NC 28401–3
(910) 815–4959
FAX: (910) 815–4543

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Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

March 16, 2009

Honorable Mike McIntyre
House of Representatives
Washington, D.C. 20515

Dear Congressman McIntyre:

Thank you for your letter regarding the applications to the Troubled Asset Relief Program's Capital Purchase Program by [redacted]. As you may know, the Federal Deposit Insurance Corporation is actively engaged with the U.S. Department of Treasury (Treasury) and the other federal banking agencies in considering TARP applications filed by banking institutions. In our role as primary federal supervisor for state nonmember institutions, the FDIC makes a recommendation on each TARP application it receives to the Treasury, which ultimately determines if an institution may participate.

(b)(4)
(b)(8)

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Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

[redacted]

Eric J. Spitler
Director
Office of Legislative Affairs

LA09-285

MIKE McINTYRE
7th District, North Carolina

COMMITTEE ON AGRICULTURE
Chairman
Subcommittee on Specialty Crops, Rural Development and Foreign Agriculture

COMMITTEE ON ARMED SERVICES
Subcommittee on Air and Land Forces
Subcommittee on Terrorism, Unconventional Threats and Capabilities

U.S. Helsinki Commissioner
ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Board Member
UNITED STATES NAVAL ACADEMY

Congress of the United States
House of Representatives
Washington, DC 20515–3307

WEB PAGE:
www.house.gov/mcintyre

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Co-Chairman
SPECIAL OPERATIONS FORCES CAUCUS

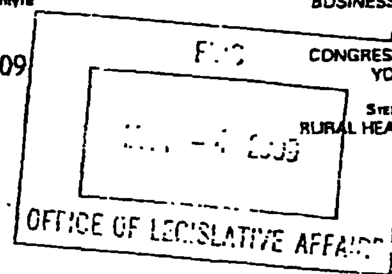
Co-Chairman
CONGRESSIONAL WATERWAYS CAUCUS

Co-Chairman
COALITION TASK FORCE ON BUSINESS AND TECHNOLOGY

Co-Chairman
CONGRESSIONAL CAUCUS ON YOUTH SPORTS

Steering Committee
RURAL HEALTH CARE COALITION

February 13, 2009



Mr. Eric Spitler
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

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(b)(4) (b)(8)

While I understand that larger institutions have received this funding, smaller banks are the financial lifeline of our communities, and it is imperative that they remain solvent. Therefore, I would respectfully request, pursuant to all applicable rules and regulations, information regarding the status of [redacted] application for TARP funding, in addition to details on how these funds are being distributed to both small and large banking institutions. There appears to be confusion among many of the local banks in my district who have applied for funding and it would be of great assistance to have adequate information to address these issues.

(b)(4) (b)(8)

Thank you for your timely attention to this matter. I look forward to hearing from you soon.

Sincerely,

[redacted]

Mike McIntyre
Member of Congress

MM:bm

2437 Rayburn House Office Building, Washington, DC 20515–3307, (202) 225–2731, Fax: (202) 225–5773

310 Government Center Drive, NE, Building S, Unit 1, Bolivia, NC 28422, (910) 253–0158, Fax: (910) 253–0159

301 Green Street, Room 218, Fayetteville, NC 28301–5066, (910) 323–0260, Fax: (910) 323–0069

500 North Cedar Street, Lumberton, NC 28358–4835, (910) 735–0610, Fax: (910) 739–5085

201 North Front Street, Suite 410, Wilmington, NC 28401–3957, (910) 815–4959, Fax: (910) 815–4543

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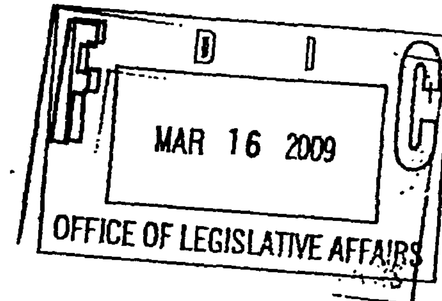
LA09-378

BARNEY FRANK, MA, CHAIRMAN

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

March 16, 2009



The Honorable Martin J. Gruenberg
Vice Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Mr. Gruenberg:

The Committee on Financial Services will hold a hearing entitled "Federal and State Enforcement of Financial Consumer and Investor Protection Laws" at 10 a.m. on Friday, March 20, 2009, in room 2128 Rayburn House Office Building. I am writing to confirm an invitation to you to participate at this public proceeding.

This hearing will focus on the criminal and civil enforcement of financial consumer and investor protection statutes. Your testimony should address the following specific issues or questions:

1. Discuss the criminal or civil enforcement and other supervisory actions your agency has taken, is now taking, and plans to take against individuals and companies engaged in financial fraud (including mortgage fraud and securities fraud) and other violations of financial consumer protection laws and regulations. Include in your discussion the actual penalties you have sought or are seeking in these cases.

2. Discuss any impediments that your agency faces to effective enforcement of fraud and other financial consumer protection laws and regulations. Are there legal impediments that limit your authority to enforce these laws? In addition, does your agency face budget or funding restraints that prevents your agency from devoting the resources necessary to fully enforce these laws.

3. Responsibility for the criminal and civil enforcement of financial fraud and other consumer protection laws and regulations is the responsibility of a broad range of federal and state agencies. Discuss your coordination and cooperation with these agencies in carrying out your enforcement activities. Describe any gaps you see in this enforcement net or underlying law that may enable financial institutions or other persons to engage in abusive financial practices without repercussion.

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with the Clerk of the Committee a written statement of proposed testimony of any reasonable length. Please also include with the testimony a current resume summarizing education, experience and affiliations pertinent to the subject matter of the hearing. This must be filed at least two business days before your appearance. Please note that changes to the written statement will not be permitted after the meeting begins. Failure to comply with this requirement may result in the exclusion of your written testimony from the record. Your oral testimony should not exceed five minutes and should summarize your written remarks. The Chair reserves the right to exclude from the printed record any supplemental materials submitted with a written statement due to space limitations or printing expense.

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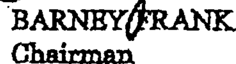
Please note that space in the Committee's hearing room is extremely limited. Therefore, the Committee will only reserve 1 seat for staff accompanying you during your appearance (a total of 2 seats). In order to maintain our obligation under the Rules of the House to ensure that Committee hearings are open to the public, we cannot deviate from this policy.

Should you or your staff have any questions or need additional information, please contact Andrew Miller at (202) 225-4247.

Sincerely,



BARNEY FRANK
Chairman

BF/mb

cc: The Honorable Spencer Bachus

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 17, 2009

Honorable Michael E. Capuano
House of Representatives
Washington, D.C. 20515

Dear Congressman Capuano:

Thank you for your letter expressing concern about actions proposed by the federal government to assist Citigroup. As you probably are aware, on February 27, 2009, Citigroup announced plans to strengthen its capital structure through conversion of a significant portion of its preferred securities to common equity in a series of exchange offers. On the same day, Treasury announced it would participate in Citigroup's exchange offering.

As we discussed recently, I agree that during these unprecedented times, regulators and policymakers must identify appropriate actions to address deterioration in large, systemic financial institutions. Please be assured that the Federal Deposit Insurance Corporation will, at the same time, continue to take into account the impact of these difficult decisions on the taxpayers and other key stakeholders.

If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,

Sheila C. Bair

LA 09-243

Committee on Financial Services

Committee on Transportation and Infrastructure

Committee on House Administration

Democratic Steering & Policy Committee

Democratic Caucus; Chair, Committee on Organization, Study & Review

www.house.gov/capuano

Congress of the United States
House of Representatives
Michael E. Capuano
8th District, Massachusetts

WASHINGTON OFFICE:
1414 LONGWORTH BUILDING
WASHINGTON, DC 20515-2108
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FAX: (202) 225-9322

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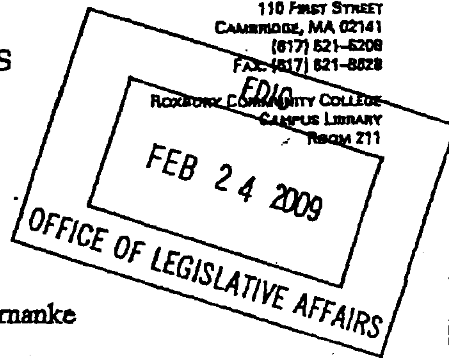

February 24, 2009

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, DC 20551

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

The Honorable John C. Dugan
Comptroller of the Currency
Office of the Comptroller of the Currency
Independence Square
250 E Street, SW
Washington, D.C. 20219

Dear Secretary Geithner, Chairman Bernanke, Chairman Bair, and Comptroller Dugan:

Recent news reports indicate that the federal government is considering exchanging its non-voting preferred stock in Citigroup, which enjoys both a guaranteed return and a preferred status, for common voting stock, the value of which will rise or fall with the market. Reports also suggest that the federal government may increase its investment in certain large banks, including increasing ownership in Citigroup to 40%. If these reports are incorrect, please clarify what actions are being considered regarding Citigroup and other large institutions. If in fact these accounts are accurate and the government plans to swap the types of shares it holds, I am writing to strongly urge that you not forgo taxpayer protections currently enjoyed without obtaining absolute control of the institution.

Obtaining 40% instead of 51% of Citigroup's stock is a half-hearted approach. It exposes taxpayers to market fluctuation risks and does not provide the federal government with a voice in the leadership of the failing banking institution. I understand the desire to have voting rights after such large investments. If the federal government wishes to exchange its stock in order to gain a vote, it should take effective control of the failing banking institution so it can change its leadership and policies as needed. Exchanging preferred stock for a minority position while simultaneously giving up the guaranteed return is a significant disservice to taxpayers as it puts their stake in these companies at risk and removes their only form of financial protection. No investor would seriously consider such an approach – there is no reason why the taxpayers' representatives should follow a different, less protected path.

I understand that there are accounting obstacles regarding how to value the assets of our banking institutions and many ways to handle this issue. I believe the measurements used in

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conducting the new stress tests should account for the new world we are in. For example, government preferred stock could be counted as if it were common stock, pools of assets could be reviewed to determine what percentage are still likely to perform, or federal regulators could provide additional time to allow assets to fully mature before requiring additional capital. In all instances, the values of the assets have not changed, but we are merely changing the way we measure those assets in order to fairly address a temporary crisis.

Again, if these reports are incorrect, please clarify what actions are being considered in regards to Citigroup and other large institutions. If the reports are accurate, I request that you clarify the taxpayer benefits in taking this approach.

Sincerely,

Michael E. Capuano
Member of Congress

Cc: The Honorable Barney Frank
Chairman, House Financial Services Committee

LA09-3

BARNEY FRANK, MA, CHAIRMAN

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

March 17, 2009

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, DC 20429

Dear Chairman Bair:

The Committee on Financial Services will hold a field hearing entitled "Seeking Solutions: Finding Credit for Small and Mid-Size Businesses in Massachusetts" at 10 a.m. on Monday, March 23, 2009, in Gardner Auditorium, Massachusetts State House, Boston, Massachusetts. I am writing to confirm an invitation to you, or your designee, to participate at this public proceeding.

The purpose of this hearing is to ascertain the condition of credit availability for working capital and capital investments for small and medium size businesses in Massachusetts.

The Committee is interested in federal and state programs that exist or are planned for the purpose of making more credit available for small and medium size businesses. If federal laws or regulations are making credit availability more difficult, please address these regulations and laws with recommendations, if any, to change or modify them.

Lenders should inform the Committee of efforts they are undertaking to address this problem and relate any institutional policies that may be relevant. If there are federal laws or regulations that make such lending more difficult, please inform the Committee of these regulatory policies or legal restraints and suggest any changes that may make lending easier.

Borrowers should inform the Committee of any difficulties they may have had in securing credit and funds and any suggestions you may have to make borrowing easier.

All participants should be expected to address the Committee with prepared testimony for five minutes and then be prepared to discuss the subject and answer questions following the opening statements. Mr. Rosengren will be given fifteen minutes for his presentation. Written testimony, which may be longer than the oral testimony should be submitted to the Committee at the time of the hearing.

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Should you or your staff have any questions or need additional information, please contact James Segel at (202) 225-4247.

Sincerely,

BARNEY FRANK
Chairman

BF/mb

cc: The Honorable Spencer Bachus

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 18, 2009

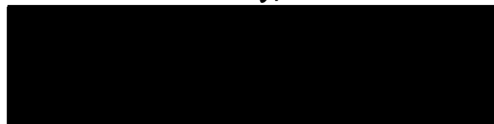
Honorable Bob Riley
Governor
State of Alabama
State Capitol
Montgomery, Alabama 36130

Dear Governor Riley:

Thank you for your letter in support of Colonial BancGroup (Colonial). I appreciate your concerns regarding the impact of the Colonial banking organization on the Alabama economy.

The Federal Deposit Insurance Corporation continues to encourage Colonial's capital-raising efforts related to its Troubled Asset Relief Program application with the Treasury Department. Let me assure you that should other banking programs become available during these turbulent economic times, the FDIC will consider Colonial as a potential participant, consistent with established criteria, for any such program.

Sincerely,



Sheila C. Bair

OC09-261

OFFICE OF THE GOVERNOR

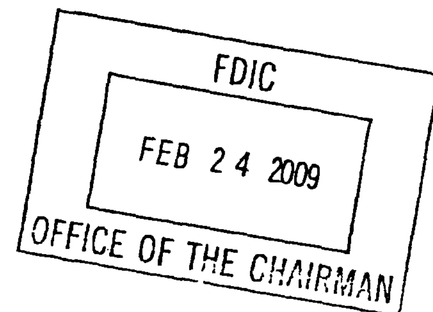
BOB RILEY
GOVERNOR

STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-0937

STATE OF ALABAMA

February 9, 2009



The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429-0002

Dear Madam Chairman:

I want to thank you for meeting with Colonial Bank's people last week. As we have discussed, Colonial is a significant presence in Alabama's economy, and with what has occurred to SouthTrust (Wachovia), Compass (BBVA) and the merger of AmSouth and Regions, its continuance as an Alabama-based bank is now essential.

I know that Colonial's leadership wants to work closely with the FDIC, and anything you can do to facilitate that work, particularly including Colonial in what I understand is being called "TARP II," will be especially appreciated by me.

Sincerely,

Bob Riley
Governor

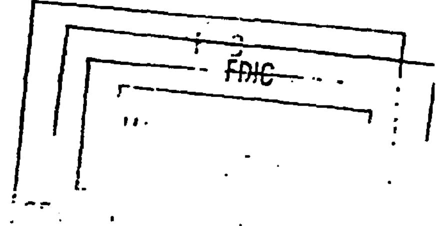
BR/ps/rs

LA09-443

United States Senate

WASHINGTON, DC 20510-0905

March 18, 2009



Mr. Eric Spitler
Federal Deposit Insurance Corporation
550 17th Street Northwest, Room 6076
Washington, DC 20429-0002

(b)(6)

Dear Mr. Spitler:

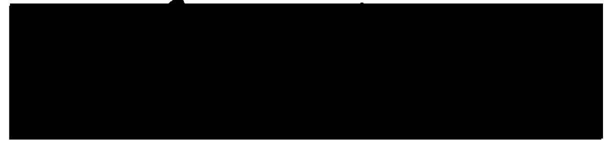
I am referring the enclosed inquiry from my constituent, [redacted], regarding TARP application to your office.

My constituent would appreciate your careful consideration of these remarks, and your thoughts on what remedies there are for this situation. Please respond directly to him and send a copy to me.

The Honorable Bill Nelson
United States Senate
Washington, DC 20510
Attention: Stephanie Mickle - 202-224-1554

I thank you for your attention to this matter.

Sincerely,



BARNEY FRANK, MA, CHAIRMAN

U. S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

SPENCER BACHUS, AL, RANKING MEMBER

March 20, 2009

The Honorable Martin J. Gruenberg
Vice Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Mr. Gruenberg:

The Committee on Financial Services will hold a hearing entitled "Exploring the Balance between Increased Credit Availability and Prudent Lending Standards" on Wednesday, March 25, 2009, at 10:00 a.m. in room 2128 Rayburn House Office Building. I am writing to confirm your invitation to testify at this hearing.

A recent AP article entitled "Federal Government Gives Mixed Messages" outlined a dilemma faced by many banks: how to increase quickly lending to creditworthy borrowers when such borrowers are scarce in some areas, the banks' balance sheets are constrained by impaired assets, and the regulators are pressuring banks to increase capital and reserves and improve underwriting standards. This hearing will focus on the challenges for financial institutions, and particularly for recipients of funds through the Troubled Asset Relief Program (TARP), in increasing credit availability while maintaining prudent lending and other operational standards. The Committee would like to hear your views on the following, where applicable:

- What legislative, regulatory or other impediments are hindering the ability of banks to increase the availability of credit?
- What more can be done on either a regulatory or legislative basis to help banks increase credit availability generally? Is there a scarcity of creditworthy borrowers? If so, is that because credit standards have become more stringent, potential borrowers are more financially constrained, or some combination of those factors? What effect, if any, does the application of mark-to-market accounting standards have on the credit crunch?
- Are bank regulators requiring full reappraisals of properties subject to loan modifications? What are the implications for borrowers – e.g., would distressed market conditions lead to depressed appraisal values that could impair a borrower's ability to obtain meaningful loan modifications, and what can be done to mitigate such outcomes?
- As a practical matter, how can banks best fulfill their fundamental role as intermediaries in the credit markets consistent with prudent lending standards

and strong capital requirements in a period of extreme financial and economic stress?

- Other than the November 12, 2008 Interagency Statement on Meeting the Needs of Creditworthy Borrowers, have regulators provided sufficient guidance regarding the need to increase credit availability while maintaining prudent lending standards? Has such guidance been helpful? Has bank supervision been consistent with the guidance? Should the standards or guidance be different for TARP recipients than it is for non- recipients, and if so, how?
- What metrics are used to evaluate progress in improving credit availability and the level of lending activity by regulated financial institutions? What evidence do you have about the extent to which (1) creditworthy consumers and businesses are seeking credit; (2) consumer and commercial credit otherwise has become more available; (3) creditworthy borrowers are able to get credit.
- There is considerable anecdotal evidence, particularly in the commercial real estate and small business sectors, and in other businesses generally, that long-standing customers of banks with existing lines of credit are having that credit pulled altogether, or significantly reduced on roll-over, even for projects or businesses in which substantial capital investments have been made. Please discuss.

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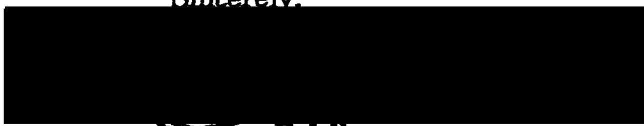
Should you or your staff have any questions or need additional information, please contact Deborah Silberman, Michael Beresik, or Lawranne Stewart at (202) 225-4247.

Sincerely,



Barney Frank
Chairman

BF/ds
cc: The Honorable Spencer Bachus

Duplicate response
-4 each signer

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 26, 2009

Honorable Jon Kyl
United States Senate
Washington, D.C. 20510

Dear Senator Kyl:

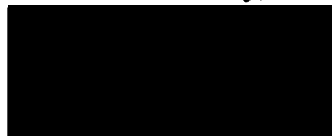
Thank you for your letter regarding the Federal Deposit Insurance Corporation's role in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP). The FDIC strongly supports Arizona community banks, and we have encouraged institutions headquartered in your state to file applications for the TARP CPP program.

As you know, the TARP CPP is a federally funded program led by the U.S. Department of the Treasury (Treasury) in consultation with the federal banking agencies. State nonmember institutions submit TARP CPP applications to the FDIC for initial consideration. We process each request individually and make a recommendation to Treasury which ultimately determines program participation. The FDIC has received 13 TARP CPP applications from state nonmember Arizona institutions. We have recommended four Arizona CPP applicants to Treasury for approval; however, two of those applicants withdrew their requests. One other application that had not yet been processed has been withdrawn. The other eight applications are being considered by our regional and Washington offices. We are processing TARP CPP requests using a standardized approach that treats applicants across the country fairly and objectively.

I am enclosing responses to the questions you posed regarding the TARP prepared by the FDIC's Division of Supervision and Consumer Protection.

If we can provide further information, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director, Office of Legislative Affairs at (202) 898-3837.

Sincerely,



Sheila C. Bair

Enclosure

Response to Questions about the Participation of Arizona Institutions in the Capital Purchase Program

Q1. Are banks in states like Arizona disadvantaged in applying for CPP?

A1. We do not believe Arizona-based institutions are at a disadvantage for CPP consideration. Treasury's CPP eligibility and participation criteria are the same for all institutions across the country. Arizona institutions have and will continue to receive the same objective consideration as institutions from other states. The FDIC has encouraged all state nonmember institutions to consider participation in the CPP to augment capital and enhance credit availability.

Q2. Why have some banks received funds when healthier Arizona banks have not?

A2. As stated above, we have not yet determined our recommendation for the majority of the applications received from Arizona-headquartered institutions. All applicants are subject to an objective regulatory review process as well as an evaluation by Treasury's own CPP Investment Committee. We believe that the standardized CPP review process ensures a methodical and objective assessment of all applications considered by Treasury in its investment decision-making.

Q3. What are the steps in approving a bank's participation in CPP? Specifically, what is the timeline and in what order are applications considered?

A3. Treasury, in consultation with the federal banking supervisors, has developed a standardized process for applying to the CPP and evaluating the financial strength and viability of applicants. The federal banking regulators assess applications based on certain factors, such as examination ratings, selected performance ratios, and other supervisory information. Well-performing institutions with the highest examination ratings are generally recommended to Treasury for approval. Institutions with lower examination ratings or weaker performance indicators require further review and may be referred to the CPP Council which consists of representatives from the four federal banking agencies with Treasury officials as observers. If an application cannot be recommended to Treasury for approval, the primary federal regulator generally requests the applicant withdraw its CPP request. The institution's primary federal banking regulator or the CPP Council forwards an approval or denial recommendation to Treasury, which further reviews the application and may request additional analysis or information from the regulators or the CPP Council. Once Treasury reaches its final determination on awarding a CPP subscription, either Treasury or the primary federal regulator advises the applicant.

The timeline for and order of processing TARP CPP applications have varied. Some applications were not eligible for referral to Treasury until mid-December 2008 because of the timing of the term sheet for privately held institutions. In addition, the processing of some applications has been protracted because of deteriorating credit quality conditions and a desire of the banking regulators to conduct an on-site review. The vetting process for applications from

LA09-292

Congress of the United States

WASHINGTON, DC 20510

March 05, 2009

Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Scott M. Polakoff
Acting Director
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
20th and Constitution Avenue, NW
Washington, DC 20551

John C. Dugan
Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Ladies and Gentleman:

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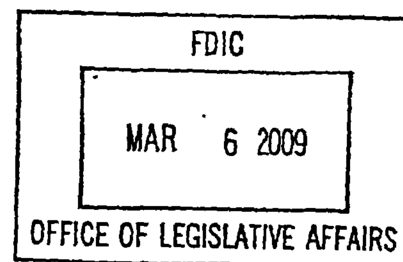
FDIC
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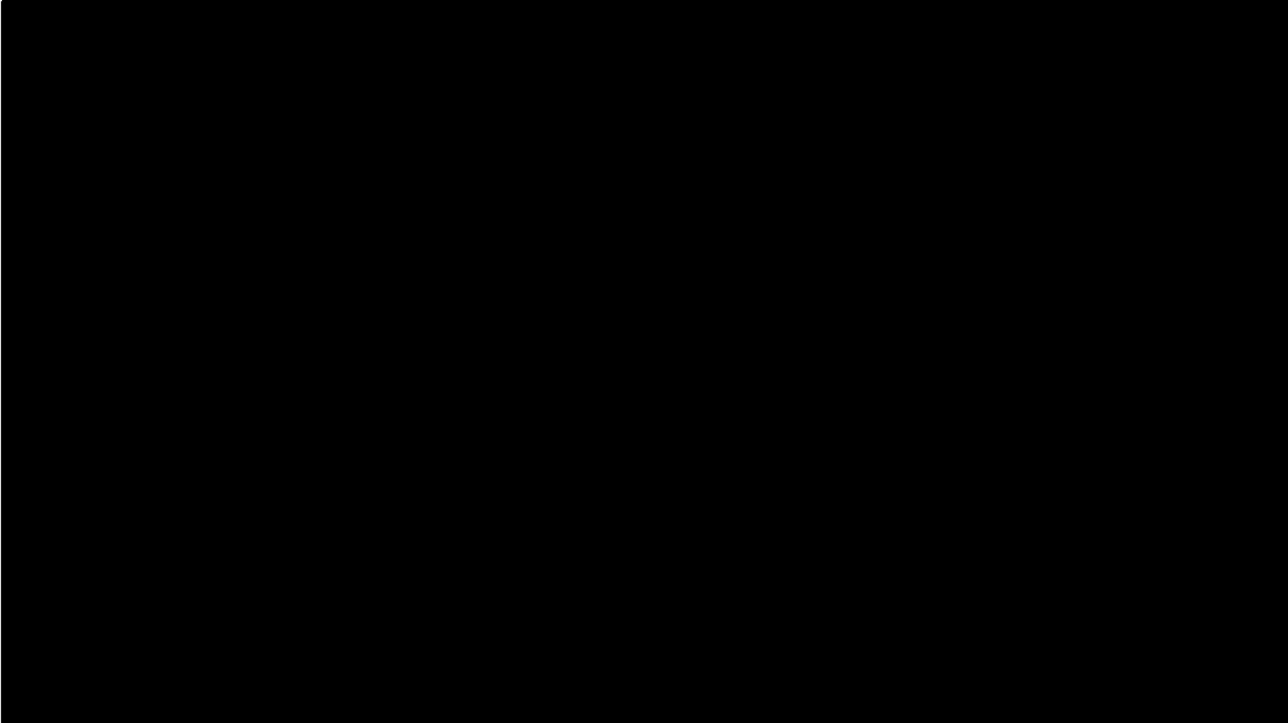

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 26, 2009

Honorable Trent Franks
House of Representatives
Washington, D.C. 20515

Dear Congressman Franks:

Thank you for your letter regarding the Federal Deposit Insurance Corporation's role in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP). The FDIC strongly supports Arizona community banks, and we have encouraged institutions headquartered in your state to file applications for the TARP CPP program.

As you know, the TARP CPP is a federally funded program led by the U.S. Department of the Treasury (Treasury) in consultation with the federal banking agencies. State nonmember institutions submit TARP CPP applications to the FDIC for initial consideration. We process each request individually and make a recommendation to Treasury which ultimately determines program participation. The FDIC has received 13 TARP CPP applications from state nonmember Arizona institutions. We have recommended four Arizona CPP applicants to Treasury for approval; however, two of those applicants withdrew their requests. One other application that had not yet been processed has been withdrawn. The other eight applications are being considered by our regional and Washington offices. We are processing TARP CPP requests using a standardized approach that treats applicants across the country fairly and objectively.

I am enclosing responses to the questions you posed regarding the TARP prepared by the FDIC's Division of Supervision and Consumer Protection.

If we can provide further information, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director, Office of Legislative Affairs at (202) 898-3837.

Sincerely,

Sheila C. Bair

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Response to Questions about the Participation of Arizona Institutions in the Capital Purchase Program

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Q2. Why have some banks received funds when healthier Arizona banks have not?

A2. As stated above, we have not yet determined our recommendation for the majority of the applications received from Arizona-headquartered institutions. All applicants are subject to an objective regulatory review process as well as an evaluation by Treasury's own CPP Investment Committee. We believe that the standardized CPP review process ensures a methodical and objective assessment of all applications considered by Treasury in its investment decision-making.

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LA09-292

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WASHINGTON, DC 20510

March 05, 2009

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Washington, DC 20429

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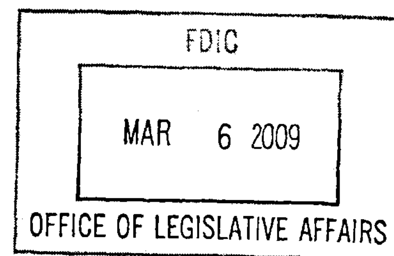

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March 26, 2009

Honorable Ann Kirkpatrick
House of Representatives
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Dear Congresswoman Kirkpatrick:

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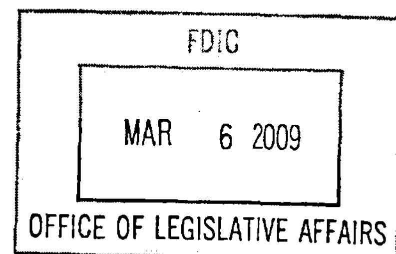

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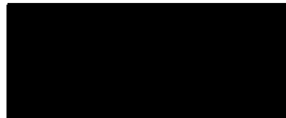

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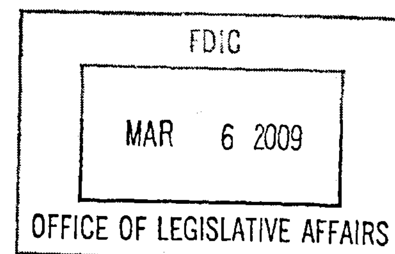
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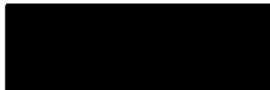

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1. Are banks in states like Arizona disadvantaged in applying for CPP?
2. Why have some banks received funds when healthier Arizona banks have not?
3. What are the steps in approving a bank's participation in CPP? Specifically, what is the timeline and in what order are applications considered?
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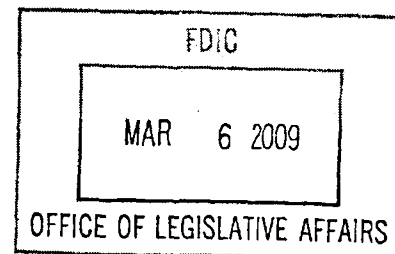
5. Are you taking into account the local competitive implications of providing CPP investments to large banks operating in our state while CPP investments in banks whose business is chiefly or entirely limited to the state are delayed?



As members of the Arizona Congressional delegation, we are not interested in preferential treatment for our banks, but we certainly expect that federal policy will be applied fairly. We look forward to your responses.

ely,

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 26, 2009

Honorable Ed Pastor
House of Representatives
Washington, D.C. 20515

Dear Congressman Pastor:

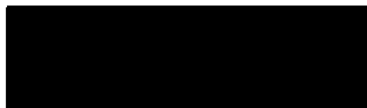
Thank you for your letter regarding the Federal Deposit Insurance Corporation's role in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP). The FDIC strongly supports Arizona community banks, and we have encouraged institutions headquartered in your state to file applications for the TARP CPP program.

As you know, the TARP CPP is a federally funded program led by the U.S. Department of the Treasury (Treasury) in consultation with the federal banking agencies. State nonmember institutions submit TARP CPP applications to the FDIC for initial consideration. We process each request individually and make a recommendation to Treasury which ultimately determines program participation. The FDIC has received 13 TARP CPP applications from state nonmember Arizona institutions. We have recommended four Arizona CPP applicants to Treasury for approval; however, two of those applicants withdrew their requests. One other application that had not yet been processed has been withdrawn. The other eight applications are being considered by our regional and Washington offices. We are processing TARP CPP requests using a standardized approach that treats applicants across the country fairly and objectively.

I am enclosing responses to the questions you posed regarding the TARP prepared by the FDIC's Division of Supervision and Consumer Protection.

If we can provide further information, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director, Office of Legislative Affairs at (202) 898-3837.

Sincerely,



Sheila C. Bair

Enclosure

Response to Questions about the Participation of Arizona Institutions in the Capital Purchase Program

Q1. Are banks in states like Arizona disadvantaged in applying for CPP?

A1. We do not believe Arizona-based institutions are at a disadvantage for CPP consideration. Treasury's CPP eligibility and participation criteria are the same for all institutions across the country. Arizona institutions have and will continue to receive the same objective consideration as institutions from other states. The FDIC has encouraged all state nonmember institutions to consider participation in the CPP to augment capital and enhance credit availability.

Q2. Why have some banks received funds when healthier Arizona banks have not?

A2. As stated above, we have not yet determined our recommendation for the majority of the applications received from Arizona-headquartered institutions. All applicants are subject to an objective regulatory review process as well as an evaluation by Treasury's own CPP Investment Committee. We believe that the standardized CPP review process ensures a methodical and objective assessment of all applications considered by Treasury in its investment decision-making.

Q3. What are the steps in approving a bank's participation in CPP? Specifically, what is the timeline and in what order are applications considered?

A3. Treasury, in consultation with the federal banking supervisors, has developed a standardized process for applying to the CPP and evaluating the financial strength and viability of applicants. The federal banking regulators assess applications based on certain factors, such as examination ratings, selected performance ratios, and other supervisory information. Well-performing institutions with the highest examination ratings are generally recommended to Treasury for approval. Institutions with lower examination ratings or weaker performance indicators require further review and may be referred to the CPP Council which consists of representatives from the four federal banking agencies with Treasury officials as observers. If an application cannot be recommended to Treasury for approval, the primary federal regulator generally requests the applicant withdraw its CPP request. The institution's primary federal banking regulator or the CPP Council forwards an approval or denial recommendation to Treasury, which further reviews the application and may request additional analysis or information from the regulators or the CPP Council. Once Treasury reaches its final determination on awarding a CPP subscription, either Treasury or the primary federal regulator advises the applicant.

The timeline for and order of processing TARP CPP applications have varied. Some applications were not eligible for referral to Treasury until mid-December 2008 because of the timing of the term sheet for privately held institutions. In addition, the processing of some applications has been protracted because of deteriorating credit quality conditions and a desire of the banking regulators to conduct an on-site review. The vetting process for applications from

lower-rated institutions has been comprehensive as these applications generally must be presented to the CPP Council for consideration before Treasury will review them. It is our hope that the great majority of CPP applications will be processed by the regulators by June 30, 2009.

Q4. Can banks get expedited exams in the case of banks that have "stale exams?"

A4. Recent on-site examinations are very helpful when evaluating a bank's condition for the purposes of a TARP CPP request. However, we do not necessarily need to perform a new on-site examination to reach a viability assessment. The regulators have a variety of off-site review processes that are based on a combination of financial and supervisory information that complement previous examination results. In fact, the FDIC has made favorable TARP CPP recommendations to Treasury based, in part, on examinations that were less recent.

Q5. Are you taking into account the local competitive implications of providing CPP investments to large banks operating in our state while CPP investments in banks whose business is chiefly or entirely limited to the state are delayed?

A5. Treasury's CPP application review guidelines do not consider local competitive implications. However, the FDIC is sensitive to the current challenges facing Arizona-based financial institutions. These banks are afforded the same consideration for TARP CPP participation as large institutions or applicants from other states.

LA09-292

Congress of the United States
Washington, DC 20515

March 05, 2009

Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Scott M. Polakoff
Acting Director
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
20th and Constitution Avenue, NW
Washington, DC 20551

John C. Dugan
Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Ladies and Gentleman:

We are writing to express our concern about the Administration of the Capital Purchase Program ("CPP"). A program that commits billions in tax payer dollars should be held to the highest standards of administration. Specifically, we believe that such a program should be fair, equitable and transparent.

According to the Arizona Department of Financial Institutions, at least 11 state-chartered banks have applied for CPP funds, but to date, only a single Arizona bank has received TARP funds. Ironically, we have heard that Arizona banks are a low priority to receive funds ostensibly because real estate is such a large part of our local economy. But, Arizona is precisely where funds are needed most as our banks work to serve customers and restart our economic engine. While Arizona banks have been shut out of the program, distressed banks in Massachusetts have received funds as have banks in states with real estate stress similar to Arizona such as Nevada and Georgia. This raises several questions:

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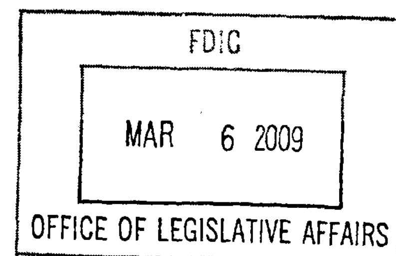

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ely,

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 26, 2009

Honorable Gabrielle Giffords
House of Representatives
Washington, D.C. 20515

Dear Congresswoman Giffords:

Thank you for your letter regarding the Federal Deposit Insurance Corporation's role in the Troubled Asset Relief Program's (TARP) Capital Purchase Program (CPP). The FDIC strongly supports Arizona community banks, and we have encouraged institutions headquartered in your state to file applications for the TARP CPP program.

As you know, the TARP CPP is a federally funded program led by the U.S. Department of the Treasury (Treasury) in consultation with the federal banking agencies. State nonmember institutions submit TARP CPP applications to the FDIC for initial consideration. We process each request individually and make a recommendation to Treasury which ultimately determines program participation. The FDIC has received 13 TARP CPP applications from state nonmember Arizona institutions. We have recommended four Arizona CPP applicants to Treasury for approval; however, two of those applicants withdrew their requests. One other application that had not yet been processed has been withdrawn. The other eight applications are being considered by our regional and Washington offices. We are processing TARP CPP requests using a standardized approach that treats applicants across the country fairly and objectively.

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Sheila C. Bair

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LA09-292

Congress of the United States
WASHINGTON, DC 20510

March 05, 2009

Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Scott M. Polakoff
Acting Director
Office of Thrift Supervision
1700 G Street, NW
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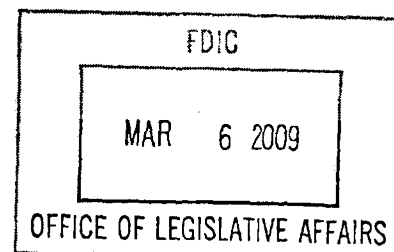
FDIC
MAR 6 2009
OFFICE OF LEGISLATIVE AFFAIRS

As members of the Arizona Congressional delegation, we are not interested in preferential treatment for our banks, but we certainly expect that federal policy will be applied fairly. We look forward to your responses.

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FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

March 26, 2009

Honorable David P. Roe
House of Representatives
Washington, D.C. 20515

Dear Congressman Roe:

I am writing in response to your letter raising questions about the emergency special assessment recently approved by the FDIC's Board of Directors and regulatory reform as it relates to the pro-cyclicality of deposit insurance assessments. As you may know, the special assessment was adopted as an interim rule with request for comments. The comment period closes April 2, 2009. The Board of Directors will consider all the comments received before adopting a final rule.

As you noted in your letter, recent and anticipated failures of FDIC-insured institutions resulting from deterioration in banking and economic conditions have significantly increased losses to the Deposit Insurance Fund (DIF). The reserve ratio of the DIF declined from 1.22 percent as of December 31, 2007, to 0.40 percent (preliminary) as of December 31, 2008.

Because the fund reserve ratio had fallen below 1.15 percent as of June 30, 2008, and was expected to remain below 1.15 percent, applicable law required the FDIC to establish and implement a restoration plan that would restore the reserve ratio to at least 1.15 percent within five years, absent extraordinary circumstances. On October 7, 2008, the FDIC established a restoration plan for the DIF that called for the FDIC to set assessment rates such that the reserve ratio would return to 1.15 percent within five years and proposed higher rates in accordance with the plan.

In February 2009, the FDIC made several very difficult decisions intended to ensure that our nation's deposit insurance system remains sound. First, in recognition of the severe stress facing banks and the financial system, the FDIC extended the period of the restoration plan from five to seven years. Second, the FDIC adopted assessment rates effective beginning the second quarter of 2009 that are higher, but only slightly so, than those proposed in October 2008, despite a large increase in projected losses. Finally, the FDIC adopted an interim rule that sets a special assessment of 20 basis points to be collected September 30, 2009.

The FDIC realizes that these assessments are a significant expense, particularly during a financial crisis and recession when bank earnings are under pressure. Banks face tremendous challenges right now even without having to pay higher assessments. We also recognize that assessments reduce the funds that banks can lend in their communities to help revitalize the economy. For that reason, the FDIC continues to consider alternative ways to alleviate the pressure on the deposit insurance fund that are consistent with our statutory authority. We recently imposed a surcharge on guaranteed bank debt under the Temporary Liquidity Guarantee Program and will use the surcharge to reduce the proposed special assessment. We also asked

for comments on whether the FDIC should base the special assessment on assets (which would place more of the assessment burden on larger institutions) or some other measure rather than domestic deposits and whether assessments should take into account the assistance being provided to systemically important institutions.

The FDIC has requested that Congress increase the FDIC's authority to borrow from Treasury from $30 billion to $100 billion. In addition, the FDIC has requested temporary authority to increase its borrowing authority above $100 billion (but not to exceed $500 billion) based on a process that would require the concurrence of the FDIC, the Federal Reserve Board, and the Treasury Department, in consultation with the President.

An increase in the FDIC's borrowing authority of this magnitude would give the FDIC a sufficient margin of error for unforeseen bank failures and allow it to reduce the size of the special assessment while still assessing at a level that maintains the DIF through industry funding. Although the industry would still pay assessments to cover projected losses and rebuild the fund over time, a lower special assessment would mitigate the pro-cyclical effects of assessments.

One of the most important goals of the reforms included in the Federal Deposit Insurance Reform Act was to make the deposit insurance assessment system less pro-cyclical. To achieve this result, the FDIC was provided with greater flexibility to assess institutions based on risk and to build up the DIF in good times. However, the legislation included restrictions on the growth of the DIF that may still contribute to higher assessments against financial institutions during times of economic stress.

Under current law, when the DIF reserve ratio is at or above 1.35 percent, but not more than 1.5 percent, the FDIC is required to dividend one-half of the amount in the DIF that maintains the reserve ratio at 1.35 percent. In addition, the FDIC is required to dividend all amounts in the DIF that keep the reserve ratio above 1.5 percent. The result of these mandatory dividends is to limit the ability of the DIF to grow in good times and to effectively cap the size of the DIF.

These restrictions on the size of the DIF will limit the ability of the FDIC to rebuild the fund in the future to levels that can offset the pro-cyclical effect of assessment increases during times of economic stress. Limits on the size of the DIF of this nature will inevitably mean that the FDIC will have to charge higher premiums against the industry when conditions in the economy are causing significant numbers of bank failures.

Thank you for writing. We will be including your letter in the public comment file for consideration in the development of the final rule on the emergency special assessment. Please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837 if you would like to discuss this matter further.

Sincerely,

Sheila C. Bair

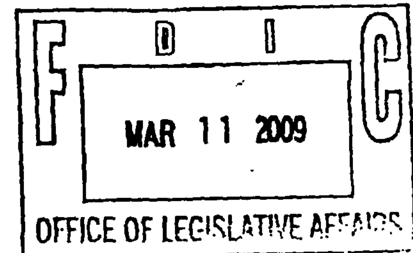
LA09-356

DAVID P. ROE
1ST DISTRICT, TENNESSEE

419 CANNON HOUSE OFFICE BUILDING
(202) 225-6356

Congress of the United States
House of Representatives
Washington, DC 20515-4201

March 11, 2009



The Honorable Sheila Bair
Chairwoman
Federal Deposit Insurance Corporation
550 17th Street, NW Room 6028
Washington, DC 20429

Dear Chairwoman Bair:

Last week, Congresswoman Lynn Jenkins wrote you regarding recent declines to the Deposit Insurance Fund and the Federal Deposit Insurance Corporation's (FDIC) decision to make an emergency across-the-board assessment. I believe the answers to her questions would provide valuable insights in evaluating legislation currently pending before Congress, and would appreciate your informing me about:

1) Why did the FDIC opt for an across-the-board emergency assessment? The Federal Deposit Insurance Reform Act of 2005 requires the agency to establish and implement a DIF restoration plan when the reserve ratio falls below 1.15 percent within five years, absent extraordinary circumstances. What in your view are "extraordinary circumstances?
2) Does forcing institutions to pay increased assessments in the midst of continuing economic hardship counterproductive and lead to further insolvency? If so, does this reveal a fundamental flaw in our financial regulatory system
3) Congress…is beginning to debate regulatory reform. How would you recommend altering the regulatory system particularly as it relates to what appears to be pro-cyclicality of the deposit insurance system?

In addition to the concerns Congresswoman Jenkins raised specifically, I would be interested in your thoughts or the merits of assessing banks based on their total assets (minus their tangible capital) as opposed to the FDIC's current practice of assessing banks based on total domestic deposits. My understanding is the FDIC has the authority to do this if it so chooses. It seems to me the current shortfall in the DIF is less a function of deposits than it is a function of other activities that some banks engaged in. As one banker put it, "Deposits don't cause banks to fail but assets do." Ultimately, it seems to me that any plan to raise the reserve ratio should be funded in the fairest manner possible and I would appreciate any direction you can provide us as we consider a way out of this depression.

I appreciate your attention to this matter and hope you won't hesitate to contact me or my staff if you have any questions.

Sincerely,

[redacted]

David P. Roe
Member of Congress

PRINTED ON RECYCLED PAPER

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

March 26, 2009

SHEILA C. BAIR
CHAIRMAN

Honorable Lynn Jenkins
House of Representatives
Washington, D.C. 20515

Dear Congresswoman Jenkins:

Thank you for writing and I appreciate the kind words from a fellow Kansan. This is in response to your questions about the emergency special assessment recently approved by the FDIC's Board of Directors and regulatory reform as it relates to the pro-cyclicality of deposit insurance assessments. As you may know, the special assessment was adopted as an interim rule with request for comments. The comment period closes April 2, 2009. The Board of Directors will consider all the comments received before adopting a final rule.

As you noted in your letter, recent and anticipated failures of FDIC-insured institutions resulting from deterioration in banking and economic conditions have significantly increased losses to the Deposit Insurance Fund (DIF). The reserve ratio of the DIF declined from 1.22 percent as of December 31, 2007, to 0.40 percent (preliminary) as of December 31, 2008.

Because the fund reserve ratio had fallen below 1.15 percent as of June 30, 2008, and was expected to remain below 1.15 percent, applicable law required the FDIC to establish and implement a restoration plan that would restore the reserve ratio to at least 1.15 percent within five years, absent extraordinary circumstances. On October 7, 2008, the FDIC established a restoration plan for the DIF that called for the FDIC to set assessment rates such that the reserve ratio would return to 1.15 percent within five years and proposed higher rates in accordance with the plan.

In February 2009, the FDIC made several very difficult decisions intended to ensure that our nation's deposit insurance system remains sound. First, in recognition of the severe stress facing banks and the financial system, the FDIC extended the period of the restoration plan from five to seven years. Second, the FDIC adopted assessment rates effective beginning the second quarter of 2009 that are higher, but only slightly so, than those proposed in October 2008, despite a large increase in projected losses. Finally, the FDIC adopted an interim rule that sets a special assessment of 20 basis points to be collected September 30, 2009.

The FDIC realizes that these assessments are a significant expense, particularly during a financial crisis and recession when bank earnings are under pressure. Banks face tremendous challenges right now even without having to pay higher assessments.

We also recognize that assessments reduce the funds that banks can lend in their communities to help revitalize the economy. For that reason, the FDIC continues to consider alternative ways to alleviate the pressure on the deposit insurance fund that are consistent with our statutory authority. We recently imposed a surcharge on guaranteed bank debt under the Temporary Liquidity Guarantee Program and will use the surcharge to reduce the proposed special assessment. We also asked for comments on whether the FDIC should base the special assessment on assets (which would place more of the assessment burden on larger institutions) or some other measure rather than domestic deposits and whether assessments should take into account the assistance being provided to systemically important institutions.

Recent experience has shown that bank failures are difficult to predict and the possibility of additional, unforeseen failures is significant. The size of the special assessment reflects the FDIC's need to maintain adequate resources to cover potential unforeseen losses. The FDIC has a thin margin for error in this regard because its $30 billion borrowing authority from Treasury for losses from bank failures has not increased since 1991, although industry assets have more than tripled.

The FDIC has requested that Congress increase the FDIC's authority to borrow from Treasury from $30 billion to $100 billion. In addition, the FDIC has requested temporary authority to increase its borrowing authority above $100 billion (but not to exceed $500 billion) based on a process that would require the concurrence of the FDIC, the Federal Reserve Board, and the Treasury Department, in consultation with the President.

An increase in the FDIC's borrowing authority of this magnitude would give the FDIC a sufficient margin of error for unforeseen bank failures and allow it to reduce the size of the special assessment while still assessing at a level that maintains the DIF through industry funding. Although the industry would still pay assessments to cover projected losses and rebuild the fund over time, a lower special assessment would mitigate the pro-cyclical effects of assessments.

One of the most important goals of the reforms included in the Federal Deposit Insurance Reform Act was to make the deposit insurance assessment system less pro-cyclical. To achieve this result, the FDIC was provided with greater flexibility to assess institutions based on risk and to build up the DIF in good times. However, the legislation included restrictions on the growth of the DIF that may still contribute to higher assessments against financial institutions during times of economic stress.

Under current law, when the DIF reserve ratio is at or above 1.35 percent, but not more than 1.5 percent, the FDIC is required to dividend one-half of the amount in the DIF that maintains the reserve ratio at 1.35 percent. In addition, the FDIC is required to dividend all amounts in the DIF that keep the reserve ratio above 1.5 percent. The result of these mandatory dividends is to limit the ability of the DIF to grow in good times and to effectively cap the size of the DIF.

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Thank you for writing. We will be including your letter in the public comment file for consideration in the development of the final rule on the emergency special assessment. Please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837 if you would like to discuss this matter further.

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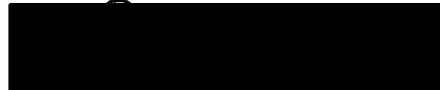


Sheila C. Bair

LA09-355

LYNN JENKINS, CPA
2nd DISTRICT, KANSAS

ASSISTANT WHIP

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

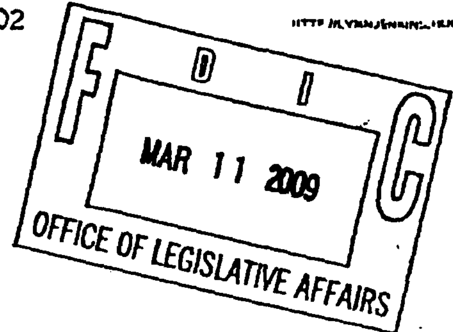
Congress of the United States
House of Representatives
Washington, DC 20515–1602

130 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6601

3550 SW 5TH STREET
TOPEKA, KS 66601
(785) 234-5966

701 N. BROADWAY STREET
PITTSBURG, KS 66762
(620) 231-5966

HTTP://LYNNJENKINS.HOUSE.GOV



March 04, 2009

The Honorable Sheila Bair
Federal Deposit Insurance Corporation
550 17th St., NW Room 6028
Washington, DC 20429

Dear Chairwoman Bair:

I am proud that a fellow Kansan such as yourself has risen to play such a key role in leading our nation through one of the worst financial downturns in recent history. I know that we all have Americans' best interests at heart as we confront the challenges facing our nation.

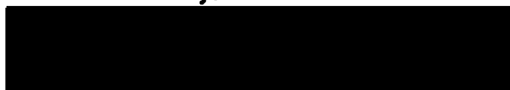
I write to you today on behalf of the many community financial institutions which I represent in Kansas' Second District. Growing up in rural Kansas, you know as well as I do the close-knit communities in which these institutions operate, faithfully investing the hard-earned dollars of their neighbors to the betterment of the community and the depositors.

It is clear that recent bank failures have significantly increased losses to the Deposit Insurance Fund (DIF), resulting in a decline in the reserve ratio. I am concerned that, at .40 percent, the reserve ratio for the combined bank and thrift insurance fund is at its lowest level since 1993. However, as you know, the banks in my community did not cause this economic trauma and they believe that they are being unfairly saddled with higher premiums to compensate for the mistakes of others. With these concerns in mind, I have a few questions:

1) Why did the FDIC opt for an across-the-board emergency assessment? The Federal Deposit Insurance Reform Act of 2005 requires the agency to establish and implement a DIF restoration plan when the reserve ratio falls below 1.15 percent within five years, absent extraordinary circumstances. What in your view are "extraordinary circumstances" that might trigger regulatory forbearance?
2) Does forcing institutions to pay increased assessments in the midst of continuing economic hardship counter-productive and lead to further insolvency? If so, does this reveal a fundamental flaw in our financial regulatory system?
3) Congress, particularly the House Financial Services Committee on which I serve, is beginning to debate regulatory reform. How would you recommend altering the regulatory system particularly as it relates to what appears to be pro-cyclicality of the deposit insurance system?

Your insight into these issues would be very helpful as our committee wrestles with these issues. Thank you for your time and consideration of these questions.

Sincerely,



Lynn Jenkins, CPA
Member of Congress

CC:
Treasury Secretary Tim Geithner
Federal Reserve Chairman Ben Bernanke
Comptroller of the Currency John Dugan
Office of Thrift Supervision Director John Reich

LA09-554

THAD COCHRAN
MISSISSIPPI

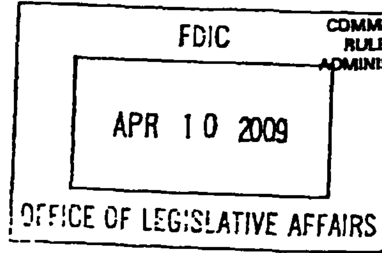
COMMITTEE ON APPROPRIATIONS
RANKING MEMBER

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

COMMITTEE ON RULES AND ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-2402



March 27, 2009

Ms. Sheila C. Bair
Chairman of the Board
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

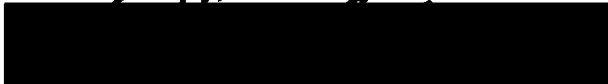
(b)(6)

Dear Chairman Bair:

Enclosed is correspondence sent to me by one of my constituents, Mr. [redacted] [redacted], and his business partner, [redacted], detailing their views and concerns over the current administration of the Troubled Asset Relief Program. As a courtesy to me, I would appreciate you reviewing the issues raised in his letter.

Any assistance you can provide this important matter would be deeply appreciated.

Sincerely,



THAD COCHRAN
United States Senator

TC/wt
Enclosure

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

January 12, 2009

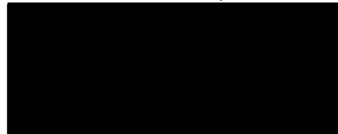
Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter, received December 1, 2008, enclosing your questions and those from Senator Enzi subsequent to my testimony on "Turmoil in the U.S. Credit Markets: Examining Recent Regulatory Responses" before the Committee on October 23, 2008.

Enclosed are responses to those questions. If you have further questions or comments, please do not hesitate to contact me at (202) 898-6974 or Eric Spitler, Director of Legislative Affairs, at (202) 898-3837.

Sincerely,



Sheila C. Bair

Enclosure

Response to questions from the Honorable Christopher J. Dodd
by Sheila C. Bair, Chairman,
Federal Deposit Insurance Corporation

Q1. Please provide the legal justification for establishing the Temporary Liquidity Guarantee Program under the systemic risk exception in the Federal Deposit Insurance Act.

A1. The legal authority for establishing the Temporary Liquidity Guarantee Program (TLGP) is set forth in 12 U.S.C. 1823(c)(4)(G). Based on information regarding the unprecedented disruption in credit markets and the resulting effects on the ability of banks to fund themselves and the likelihood that the FDIC's compliance with the least-cost requirements of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(A) and (E)) would have serious adverse effects on economic conditions or financial stability by increasing market uncertainty, the Board of Directors of the FDIC and the Board of Directors of the Federal Reserve System made written recommendations to the Secretary of the Treasury that the FDIC's creation of the TLGP program to guarantee bank depositors and senior unsecured creditors against loss under certain described circumstances would avoid or mitigate such effects. After consultation with the President, as required by the statute, the Secretary of the Treasury made the systemic risk determination that provided the FDIC with the authority to implement the TLGP.

Q2. According to press reports, the emergency actions taken by the FDIC to guarantee unsecured senior debt issued by FDIC-insured depository institutions has had the unintended consequence of driving up the costs of borrowing for Fannie Mae, Freddie Mac and the Federal Home Loan Banks (FHLBs). Was this taken into account as a possible consequence as you formulated this course of action?

A2. As noted in the press, the spread of debt issued by Government-sponsored enterprises (GSEs), including Fannie Mae, Freddie Mac and Federal Home Loan Banks (FHLBs), over Treasuries increased considerably in October and November although the overall cost of funding declined. According to Merrill Lynch data on U.S. bond yields, the spread between AAA-rated agency debt and Treasuries increased by nearly 40 basis points between September and November 2008. We believe these developments primarily reflect broad financial market uncertainty and a generally unfavorable market sentiment towards financial firms. In fact, the spread of debt guaranteed by the FDIC under the Temporary Liquidity Guarantee Program over Treasuries is larger than the spread on GSE debt.

Financial firms, including those with a AAA-rating, saw their borrowing costs increase sharply, both in absolute terms and relative to Treasury yields, during the same two months, even as the Federal Reserve continued to lower the federal funds target rate. Merrill Lynch data show that the effective yield on AAA-rated corporate debt issued by financial firms increased by 140 basis points between September and October, before declining somewhat in November. Lower-rated corporate debt experienced even more significant increases over the same period of time.

The primary purpose of the FDIC's Temporary Liquidity Guarantee Program is to provide liquidity in the inter-bank lending market and promote stability in the long-term funding market where liquidity has been lacking during much of the past year. While the FDIC's action was focused primarily on helping to restore a stable funding source for banks and thrifts, we believe that such liquidity can, in turn, help promote lending to consumers and small businesses, which would have a considerable benefit to the U.S. economy, in general, and financial firms, including mortgage lenders and GSEs. Nevertheless, partly to mitigate any potential effect of the FDIC guarantee on funding costs for GSEs, the federal banking agencies have agreed to assign a 20 percent risk weight to debt guaranteed by the FDIC (rather than the zero risk weighting that is assigned to debt guaranteed by a U.S. Government agency that is an instrumentality of the U.S. Government and whose obligations are fully and explicitly guaranteed as to the timely repayment of principal and interest by the full faith and credit of the U.S. Government).

Q3. The FFIEC has proposed a rule that would lower the capital risk weighting that banks assign to Fannie Mae and Freddie Mac debt from 20 to 10 percent, but does not change the treatment for FHLB debt. Has any consideration been given to giving the same treatment to FHLB debt? Will FDIC-guaranteed unsecured bank debt have a comparable risk weight?

A3. On September 6, 2008, the Treasury and Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorship, administered by the FHFA. The next day, September 7, 2008, the Treasury announced the establishment of the Government Enterprise Credit Facility and entered into senior preferred stock purchase agreements (the Agreements) with Fannie Mae and Freddie Mac. These Agreements are intended to ensure that Fannie Mae and Freddie Mac maintain a positive net worth and effectively support investors that hold debt and mortgage-backed securities issued or guaranteed by these entities.

On October 27, 2008, the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision (together, the Agencies) published in the Federal Register a Notice of Proposed Rulemaking that would permit a banking organization to reduce to 10 percent from 20 percent the risk weight assigned to claims on, and the portions of claims guaranteed by, Fannie Mae and Freddie Mac (the NPR).[1] As proposed, the NPR would permit a banking organization to hold less capital against debt issued or guaranteed by Fannie and Freddie. The preferential risk weight would be available for the duration of the Treasury's Agreements

The NPR requested comment on the proposed regulatory capital treatment for debt issued or guaranteed by Fannie Mae and Freddie Mac and whether the Agencies should extend this capital treatment to debt issued or guaranteed by other government-sponsored entities (GSEs), such as the Federal Home Loan Banks (FHLBanks). The comment period for the NPR closed on November 26, 2008, and the Agencies received more than 200 public comments. Most of the commenters support lowering the risk weight for debt issued or guaranteed by the FHLBanks to narrow the credit spread between Fannie Mae and Freddie Mac debt and FHLBank debt. The

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[1] 73 Fed. Reg. 63656.

Agencies are reviewing the comments and determining whether a 10 percent risk weight is appropriate for a banking organization's exposure to a GSE.

On November 26, 2008, the FDIC published in the Federal Register a final rule implementing the Temporary Liquidity Guarantee Program.[2] Under the Temporary Liquidity Guarantee Program, the FDIC will guarantee the payment of certain newly issued senior unsecured debt issued by banking organizations and other "eligible" entities. Consistent with the existing regulatory capital treatment for FDIC-insured deposits, the Agencies will assign a 20 percent risk weight to debt guaranteed by the FDIC.

Q4. I commend you for aggressively pursuing loan modifications of the IndyMac loans that the FDIC now services. Please elaborate on the following three points that you make in your testimony that I want to explore further:

(a). You state that you have established a program to systematically modify troubled loans that IndyMac serviced. Please give us more details about this approach and how it differs from modifying loans on a case-by-case basis. Is there really such a thing as a systematic approach to loan modification, or do you have to touch every loan as you would on a case-by-case basis?

A4(a). The FDIC's loan modification program at IndyMac provides a streamlined and systematic approach to implementing affordable and sustainable loan modifications. By establishing clear guidelines for loan modifications determined by an affordability metric based on mortgage debt-to-gross income, the loan modification program allows servicers to apply the model to thousands of mortgages quickly, while defining for each loan how to achieve the targeted DTI. By using a waterfall of three basic loan modification tools – interest rate reductions, term or amortization extensions, and principal deferment – it is relatively simple to run thousands of loans through a computerized analysis of the necessary combination of tools needed to achieve an affordable and sustainable payment. A standardized net present value analysis, also computerized, allows IndyMac to ensure that its modifications provide a better value to the FDIC or investors in securitized or purchased loans. All IndyMac modifications are based on verified income information from third party sources such as the Internal Revenue Service or employers.

This is very different from the loan-by-loan approach used by most servicers, which seeks to gather detailed financial information from borrowers – usually based on verbal statements – and get the highest possible monthly payment while leaving the borrower with a set amount of 'disposable income.' While this approach may appear to offer a more customized approach, it has often meant that servicers relied on stated income and stated expenses to achieve a short-term solution that continued to place the borrower in a precarious and unsustainable payment. The difficulty with this approach is demonstrated by the high redefault rates reported by some servicers.

[2] 73 Fed. Reg. 72244.

The FDIC Loan Modification Program at IndyMac achieves an affordable payment through a three step waterfall process:

- **Interest Rate Reduction**: Cap the interest rate at the Freddie Mac Weekly Survey Rate for the balance of the loan term and, if needed to reach the DTI target, reduce the interest rate incrementally to as low as 3 percent and re-amortize the principal balance over the remaining amortization term. The interest rate charged will not be greater than the current Freddie Mac Weekly Survey Rate at the time of modification. The reduced rate remains in effect for at least 5 years.

  If the target debt-to-income ratio has not been achieved, proceed to the next step.

- **Extended Amortization Term**: For loans with original terms of 30 years or less, re-amortize the principal balance at the reduced interest rate (3 percent floor) over an extended amortization term of 40 years from the original first payment date.

  If the target debt-to-income ratio has not been achieved, proceed to the next step.

- **Partial Principal Forbearance**: Defer a portion of the principal balance for amortization purposes, and amortize over a 40-year period at the reduced interest rate (3 percent floor). The remaining principal balance remains as a zero interest, zero payment portion of the loan. The repayment of the deferred principal will be due when the loan is paid in full.

Of the loan modification offers made at IndyMac thus far, 73 percent required rate reduction only, 21 percent required rate reduction and term extension, and 6 percent required rate reduction, term extension, and principal forbearance.

Q(b). Your testimony says that modifications are only offered where they are profitable to IndyMac or investors in securitized or whole loans. Are you finding that most modifications are profitable, and if so, please explain how you determine that they are more profitable than foreclosures?

A(b). Yes. While there are always some proportion of delinquent mortgages where a modification will not provide the best alternative to preserve value for the mortgage, many mortgages can be modified successfully while gaining the best value compared to foreclosure. One illustration of this fact is the net present value comparisons between the modified mortgage and foreclosure for the more than 8,500 completed modifications at IndyMac. To date, on average, the net present value of completed modifications at IndyMac has exceeded the net present value of foreclosure by $49,918 for total savings compared to foreclosure of more than $423 million.

As conservator, the FDIC has a responsibility to maximize the value of the loans owned or serviced by IndyMac Federal. Like any other servicer, IndyMac Federal must comply with its

contractual duties in servicing loans owned by investors. Consistent with these duties, we have implemented a loan modification program to convert as many of these distressed loans as possible into performing loans that are affordable and sustainable over the long term. This action is based on the FDIC's experience in applying workout procedures for troubled loans in a failed bank scenario, something the FDIC has been doing since the 1980s. Our experience has been that performing loans yield greater returns than non-performing loans.

The FDIC's Loan Modification Program at IndyMac is primarily based on four principles:

1) Affordable and sustainable modifications generally provide better value than foreclosure to lenders and investors, and to the IndyMac conservatorship and the FDIC's Deposit Insurance Fund. Modifications that exceed the net present value of foreclosure generally are consistent with servicing agreements and protect the interests of investors in securitized mortgages.

2) Sustainable loan modifications must be affordable for the life of the loan. As a result, the Loan Modification Program is based on a first lien mortgage debt-to-gross income ratio ranging from 38 percent to 31 percent. The modifications use a combination of interest rate reductions, term extensions, and principal deferment to achieve affordable payments. The interest rate on the modified mortgages is capped at a prime conforming loan rate reported by the Freddie Mac Weekly Survey. The interest rate can be reduced to as low as 3 percent for five years in order to achieve an affordable payment followed by gradual interest rate increases of 1 percent per year until the Freddie Mac Weekly Survey rate is reached.

3) All modifications should be based on verified income information, not stated income. This is essential to establish affordability.

4) A streamlined and systematic modification process is essential to address the volume of delinquent mortgages in today's market. The FDIC, along with many mortgage servicers, has adopted a more streamlined process focused on modifying troubled mortgages based on a simple debt-to-income ratio since it is easy to apply and avoids costly and unnecessary foreclosures for many more borrowers.

The Program results in a positive outcome for investors and borrowers as investor loss is minimized and the borrower receives a sustainable long-term modification solution. The Program requires full income documentation in order to minimize redefault and ensure the affordability standard is uniformly implemented. The gross monthly income for all borrowers who have signed the mortgage note must be supported by either the prior year's tax returns or recent pay stubs.

Q(c). You state that securitization agreements typically provide servicers with sufficient flexibility to apply the modification approach you are taking for the IndyMac loans. Given this flexibility, why are so few loan modifications being made?

A(c). While the securitization agreements do typically provide servicers with sufficient flexibility, many servicers have been reluctant to adopt the streamlined modification protocols necessary to stem the rate of unnecessary foreclosures due to concerns about challenges from investors, a tendency to continue prior practices of focusing on loan-by-loan customized modifications, and by staffing limitations.

At IndyMac, of the more than 45,000 mortgages that were potentially eligible for modification, IndyMac has mailed modification offers to more than 32,000 borrowers. Some proportion of the remainder do not pass the NPV test and others must be addressed through more customized approaches. So far, IndyMac has completed income verification on more than 8,500 modifications and thousands more have been accepted and are being processed and verified.

As the FDIC has proven at IndyMac, streamlined modification protocols can have a major impact in increasing the rates of sustainable modifications. However, even there, challenges in contacting borrowers and in getting acceptance of the modification offers can inhibit the effectiveness of modification efforts. These are challenges that we have sought to address by working closely with HUD-approved, non-profit homeownership counseling agencies, such as those affiliated with NeighborWorks. In addition, we have sought to reach out to local community leaders and provide cooperative efforts to contact borrowers at risk of foreclosure. These efforts, which many servicers are starting to pursue, should be a focus of efforts by all servicers going forward.

In addition, servicers' concerns over challenges from investors makes adoption of a national program to provide incentives from federal funds a critical part of the strategy to achieve the scale of modifications necessary to address our housing crisis. To address conflicting economic incentives and fears of re-default risk, the FDIC has proposed that the government offer an administrative fee to servicers who systematically modify troubled loans and provide loss sharing to investors to cover losses associated with any redefaults. These financial incentives should make servicers and investors far more willing to modify loans. This proposal addresses the biggest disincentive to modify troubled mortgages – the potential for greater losses if a modified loan redefaults and foreclosure is necessary some months in the future in a declining housing market. As a result, the FDIC proposal is designed to cover a portion of the losses that could result if the modified mortgage redefaults. This will provide practical protection to servicers by allowing easier proof for the value of the modification and eliminate investors' primary objection to streamlined modifications. We have estimated the costs of this program to be about $25 billion. To protect taxpayers and assure meaningful loan modifications, the program would require that servicers truly reduce unaffordable loan payments to an affordable level and verify current income, and that borrowers make several timely payments on their modified loans before those loans would qualify for coverage. This proposal is derived from loss sharing arrangements the FDIC has long used to maximize recoveries when we sell troubled loans. We believe this or some similar program of financial incentives is necessary to achieve loan modifications on a national scale to halt the rising tide of foreclosures and the resulting economic problems.

Q5. Each agency represented at the hearing has aggressively used the tools at their disposal in dealing with the crisis. However, sometimes the use of those tools has led to unintended consequences. For instance, when the Treasury Department guaranteed money market funds, it led to a concern on deposit insurance and bank accounts. When the FDIC guaranteed bank debt, it had an effect on GSE borrowing costs, which in turn directly affects mortgage rates.

Acknowledging that there is often a need to act quickly in these circumstances, please explain what steps and processes you have employed to inform other agencies about significant actions you undertake to ensure that there are not serious adverse unintended consequences and that your actions are working in concert with theirs.

A5. The FDIC's Temporary Liquidity Guarantee Program was created during intensive discussions between the FDIC, the Department of the Treasury and the Federal Reserve over the Columbus Day weekend (October 11 - 13) and announced on October 14. Over the next several weeks, the FDIC adopted an Interim Rule, an Amended Interim Rule and a Final Rule. The FDIC's Interim Final Rule adopted on October 23 specifically requested comments on the Temporary Liquidity Guarantee Program and the FDIC received over 750 comments, including comments from other government agencies. During this process, the FDIC had frequent discussions with the Treasury, the Federal Reserve, the Office of the Comptroller of the Currency and the Office of Thrift Supervision about various aspects of the program and its potential consequences.

With regard to concerns that the actions by the FDIC to guarantee bank debt had an effect on GSE borrowing costs, as discussed above, the spread of debt issued by Government-sponsored enterprises (GSEs), including Fannie Mae, Freddie Mac, and Federal Home Loan Banks (FHLBs), over Treasuries increased considerably in October and November although the overall cost of funding declined. According to Merrill Lynch data on U.S. bond yields, the spread between AAA-rated agency debt and Treasuries increased by nearly 40 basis points between September and November 2008. We believe these developments primarily reflect broad financial market uncertainty and a generally unfavorable market sentiment towards financial firms. In fact, the spread of debt guaranteed by the FDIC under the Temporary Liquidity Guarantee Program over Treasuries is larger than the spread on GSE debt.

Financial firms, including those with a AAA-rating, saw their borrowing costs increase sharply, both in absolute terms and relative to Treasury yields, during the same two months, even as the Federal Reserve continued to lower the federal funds target rate. Merrill Lynch data show that the effective yield on AAA-rated corporate debt issued by financial firms increased by 140 basis points between September and October, before declining somewhat in November. Lower-rated corporate debt experienced even more significant increases over the same period of time. The primary purpose of the FDIC's Temporary Liquidity Guarantee Program is to provide liquidity in the inter-bank lending market and promote stability in the long-term funding market where liquidity has been lacking during much of the past year. While the FDIC's action was focused primarily on helping to restore a stable funding source for banks and thrifts, we believe that such liquidity can, in turn, help promote lending to consumers and small businesses, which would

have a considerable benefit to the U.S. economy, in general, and financial firms, including mortgage lenders and GSEs. Nevertheless, partly to mitigate any potential effect of the FDIC guarantee on funding costs for GSEs, the federal banking agencies have agreed to assign a 20 percent risk weight to debt guaranteed by the FDIC (rather than the zero risk weighting that is assigned to debt guaranteed by a U.S. Government agency that is an instrumentality of the U.S. Government and whose obligations are fully and explicitly guaranteed as to the timely repayment of principal and interest by the full faith and credit of the U.S. Government).

Response to questions from the Honorable Michael B. Enzi
by Sheila C. Bair, Chairman,
Federal Deposit Insurance Corporation

Q1. I was happy to note in your testimony that you discussed the need to stop unnecessary foreclosures. You mentioned the FDIC's work as conservator of IndyMac and your participation in the Hope for Homeownership program as recent examples of your effort. Does the FDIC plan to develop a new program to extend loan modifications to a broader pool of mortgages than those held by IndyMac? How would such a program work and what would its impact be on mortgage investors? Where would the FDIC derive authority for such a program?

A1. In mid-November, the FDIC announced a new proposal for loan modifications that is similar to the program we developed at IndyMac. Both target borrowers who are 60 days or more past due, and both seek to apply a consistent standard for affordable first-lien mortgage payment. The new FDIC proposal has a 31 percent debt-to-income ratio, whereas IndyMac modifications are designed to achieve a 38 percent debt-to-income ratio, but can go as low as 31 percent.

The FDIC's proposal is designed to promote wider adoption of systematic loan modifications by servicers through the use of payment incentives and loss-sharing agreements, and thus reach more troubled borrowers. Specifically, to encourage participation, funds from the Troubled Asset Relief Program (TARP) would be used to pay servicers $1,000 to cover expenses for each loan modified according to the required standards. In addition, TARP funds would be used to provide guarantees against the losses that lenders and investors could experience if a modified loan should subsequently redefault. The guarantee would be paid only if the modification met all prescribed elements of the loan modification program, if the borrower made at least 3 monthly payments under the modified loan, and if the lender or servicer met the other elements of the program.

The impact of this new proposal will be less costly than the lengthy and costly alternative of foreclosure, where direct costs can total between 20 and 40 percent of a property's market value. We expect about half of the projected 4.4 million problem loans between now and year-end 2009 can be modified. Assuming a redefault rate of 33 percent, this plan could reduce the number of foreclosures during this period by some 1.5 million at a projected program cost of $24.4 billion.

We believe that Section 109 of the EESA provides authority for this proposal. Section 109 provides that "the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures."

Q2. Has the FDIC given any further consideration to the FDIC's own Home Ownership Preservation Loan program? I believe this program is a good way to avoid foreclosures and severe mortgage modifications at the same time. If this program is no longer being considered, why?

A2. When the FDIC proposed the Home Ownership Preservation (HOP) Loan program in May 2008, we noted that congressional action would be required to authorize the Treasury Department to make HOP loans. We believe that the HOP Loan program could be an important tool for avoiding unnecessary foreclosures in combination with other tools. As the housing market and home prices have continued to decline, we have suggested the loss guarantee approach discussed above as a way of streamlining and increasing the scale of loan modifications.