AARP SOLUTIONS FORUM

THE FORECLOSURE CRISIS AND OLDER AMERICANS

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LUNCHEON SPEAKER

U.S. Representative Barney Frank (D-MA)

Transcript by
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SUSAN REINHARD: Good morning and welcome. I am Susan Reinhard. I direct the Public Policy Institute at AARP. And we just started this spring to launch this series of what we call Solutions Forums. This forums are designed to bring together thought leaders, people very concerned not only about the problem, but the solutions to those problems – bring them together around specific topics and have somewhat of a deep dive into the research and into the policy options to solve them.

So this is all in relation to health and economic security for all as we age. This is our sixth forum, and our second this week, so we are really focusing on these issues. On Monday, we were looking at coverage – or health coverage for low-income adults. And today, we are focusing on older Americans and the foreclosure crisis – certainly a timely topic, but I want to begin by acknowledging – (chuckles) – acknowledging those who made it possible.

First, is George Gaberlavage, who is the director of the PPI consumer and state affairs team. I have to give George credit. He has been telling us for a year we really need more data about what is going on in this area around foreclosures, around mortgage crisis, and we just don't have it. So he went on the search for the data. And Alison Shelton, who is up here, is the one who got that data – (chuckles) – and did something with it. So we appreciate – Alison is a senior policy advisor at the Public Policy Institute. And Rick Deutsch, who is over here, is the director of the communications and outreach for the Public Policy Institute. And he has really been the brainchild of developing the Solutions Forums, including this one.

So with that said, thank you to all of you for being here. And we will turn over to the panel for a moment. But I just wanted to set a little context. I don't have to tell the people in this room that we are meeting a time of financial crisis. It is – if you have been watching even this morning, we are sort of up, and then we go down, and then we go up. It is a bit of a rollercoaster right now. So we are very anxious to have this kind of conversation because while much of the focus is now on investments and protecting investors, this long-running crisis has its roots in a consumer problem around everyday, ordinary consumers, many of whom are older adults.

These are homeowners with mortgages. And while efforts are being made on many fronts to help financial markets recover, there is great reason to be concerned about these homeowners, particularly these older homeowners who don't have as much time to recover from these losses. Until recently, there has been very little discussion about older Americans and foreclosures. And there is a good reason, as I indicated earlier in my introduction of George, there hasn't been the data to really look at this. It is hard to believe we haven't had the quote, unquote, "age variable" to look at the foreclosure crisis.

So now we do, and the story that we are going to be talking about today helps us get a little clearer of the picture that we should be addressing. The story we are going to talk about is that older Americans, age 50-plus, the AARP demographic, so to speak, are, indeed, suffering from this mortgage crisis. Older Americans are big players in the mortgage market. Instead of paying down debt at this time, which is something at AARP would like to encourage as people are moving into their retirement, they are increasingly carrying more mortgage debt into their retirement years.

Today Americans age 40 and over hold 40 percent of all mortgage debt outstanding, which is double the share from two decades ago. Unfortunately, older Americans represent about 28 percent – that is more than one in four – percent – one in four of delinquencies and foreclosures in this current crisis. Almost 700,000 Americans age 50 and older were either delinquent or in foreclosure at the end of last year, 2007.

Older African Americans and Hispanics have fared even worse in recent years with foreclosure rates that are more than double than older Caucasians. We are very concerned about this middle-aged and retired Americans having few options for making a financial recovery. For many families – myself included, I imagine many people in this room – home equity is a key asset. But older Americans, as I indicated older, have less time to be able to recover from losing their home. AARP talks very often about having the ability to age in place in one's home, but you have to have a home in order to be able to do that.

And particularly, depending on their age and retirement status, older Americans have fewer opportunities for jobs to help them. And so, of course, AARP is very interested in how people can maintain their place in the workforce.

But today we are focusing on this topic. And I would like to welcome these distinguished panelists, who will present more research on these compelling issues. I am going to turn first to Michael Barr, who is going to be the grand master of ceremonies today. You probably know him. At least many of the people know this in the room, but I am going to tell them about you anyway, Michael. And I think we also probably have bios in your packets in front of you.

He is a law professor at the University of Michigan Law School, a senior fellow at the Center for American Progress, and a non-resident senior fellow at the Brookings Institution. At the University of Michigan, Michael teaches financial institutions, international finance, jurisdiction and choice of law among other subjects. I am not sure how many other subjects you could take on, Michael. (Chuckles.) It is quite a load. He served as a clerk for Justice David Souter and his wide experience also includes serving at the U.S. Treasury as deputy assistant secretary for community development policy.

In this position, he helped to negotiate final passage of the financial modernization law and to enact over 25 billion in initiatives for low-income communities. So please extend a warm welcome to Michael, who will turn and introduce all the panelists. Thank you, Michael.

(Applause.)

MICHAEL BARR: Thank you very much. Thank you very much, Susan. And thank you to everyone at AARP for having me here. Obviously, this crisis we are in is a fast-moving one. I am going to try and provide a little bit of an overview to set the context for our discussion today. I coach my kids' soccer teams, and so I left work yesterday around 4:15 to go coach soccer for a few hours. And by the time I had gotten home, the Treasury had bailed out an entire sector of the financial industry. So things are moving very fast. By that, I mean the money market mutual fund industry.

So let's think a little bit about where we are and how we got here to set the stage for our discussion about the effect of the crisis on older Americans. As all of you painfully know, the U.S. economy is now caught in a vicious downward spiral of declining home prices, escalating foreclosures, rising losses on mortgage-backed and asset-based securities, disappearing liquidity. The crisis already spread rapidly from the mortgage market to engulf other forms of consumer credit, commercial real estate, municipal debt, and has reached far beyond American soil.

Major financial institutions, needless to say, have failed. And in my judgment, the risk of a sustained global economic crisis remains seriously high. We must act aggressively to contain this crisis, reform our home mortgage system, and develop new approaches to broad-scale housing and financial-sector reform beginning with a clear problem of the understanding itself – a clear understanding of the problem itself. We could problem the understanding, but that would make things worse. (Laughter.)

Above all, lax regulation – lax regulations, supervisory neglect, lack of transparency and conflicts of interest undermined our financial system. Financial innovations and securitization brought us increased liquidity and many benefits to our new economy, but also broadened the wedge between the incentives facing different players in the system. Brokers, lenders, borrowers, rating agencies, securitizers, loan servicers, and investors. The lack of transparency and oversight coupled with rising home prices hid the problem for some time.

When home prices and other assets imploded, credit was cascaded through the financial system, and a lack of trust in the system – the lack of trust in the system and that even sound financial institutions face contagion from the crisis. That is why we need fundamental change. So let's think a little bit about what has been done so far. The administration, I think, for too long simply pressed mortgage holders to restructure mortgages and suspend foreclosures on a voluntary basis.

That proved to be deeply insufficient to the task. And some evidence of that is obviously the implosion of assets that we have had, a freefall in U.S. home prices and mortgage-related assets, a crisis in credit quality extending through contagion across the financial sector. Just looking at homes, the total inventory of homes in foreclosure reached 2.75 percent by June 2008. Delinquencies had already reached 6.41 percent of all mortgages. More than two million foreclosures are anticipated within the next two years. And as of September, home prices had already fallen by approximately 20 percent from their peak just two years ago.

The median home price fell for the first time since the Great Depression. And sharply falling home prices have put a growing number of homeowners under water with more than 10 million households already facing home mortgage debt levels exceeding the value of their homes. As the crisis has spread, it has helped to slow down the U.S. and global economies and bring down major U.S. financial institutions. If you just look anywhere in the financial sector now, you see the problems. Giants of industry have crumbled. Bear Stearns gone – bailed out by J.P. Morgan with the support of Treasury and the financial backing of the Fed.

IndyMac Bank, big sub-prime lender, facing old-fashioned bank run – an old-fashioned bank run and disappeared, taken over by the FDIC. Fannie Mae and Freddie Mac are now run by the government of the United States with their 5 trillion in debt. Lehman Brothers has declared bankruptcy. Merrill Lynch has been absorbed into Bank of America. AIG has succumbed and been – is now owned by – 80 percent owned by the U.S. government with an $85 billion loan guarantee. The government has just stepped in and insured or offered insurance to all money market mutual funds.

We are in a serious deep and horrible crisis. And it is obvious today, but it ought to have been obvious a year ago, that the country cannot afford continued haphazard crisis management lurching from financial bailout to bankruptcy and back to bailout again with no principles, no policy framework, and frankly, no prayer of success – nor can it afford another eight years of regulatory and supervisory neglect. And that is why I really believe that we need attention focused on the financial crisis from day one of a new administration. And we need fundamentally to reform our broken housing finance system beginning with one of the central causes of the system, and that is serious lack of regulation and oversight in the home mortgage market.

We need to fill what my friend, Ned Gramlich, aptly termed “the giant hole in the supervisory safety net.” And we need to fill it. We need to fill it soon. We need regulation that improves the market-based systems incentives that failed us. Broker reputational risk, lender oversight of brokers, investor oversight of lenders, rating agency oversight, all filled with conflicts and misaligned incentives. We need to do – take this opportunity to implement a common-sense reform to the mortgage market, common-sense reforms to our capital markets to prevent these crises in the future.

Let me just say, if we do those things, I am actually quite optimistic about the future of our financial sector in this country. That is, if we return to the basic fundamentals of sound financial regulation, of sound incentives in our financial system, I am confident that because innovation has been the hallmark of our U.S. financial system, that our system once again would be sound and strong. But we are far from that today. And that is why this panel discussion – set of panel discussions this morning is so, so very important.

Our first panel will be on the impact of foreclosure crisis on older Americans. Robin Talbert will be moderating it. Robin, as you all know, is the president and executive director of the AARP Foundation. And she has an all-star panel. New data from Alison, insightful comments from Marietta and Bill – and I am excited for the panel.

Robin?

ROBIN TALBERT: Thank you, Michael.

(Applause.)

It is my pleasure to be here today. The mission of the AARP Foundation really focuses on the needs of the most vulnerable older Americans. And we pay particular attention to financial security issues that impact older Americans who are women, people of color, and are really struggling to make ends meet. So this is a very important topic for us.

I would like to introduce our panelists today starting with Bill Apgar, who is a lecturer in public policy and senior scholar at Harvard's Joint Center for Housing Studies. He was also the past assistant secretary of housing at the Federal Housing Commissioner at the U.S. Department of Housing and Urban Development. He is a founding member of the board of Preservation of Affordable Housing. And he chairs the board of the Homeownership Preservation Foundation.

I would also like to introduce Marietta Rodriguez, who is the national director for Homeownership Programs for NeighborWorks America, which is a national initiative to promote homeownership for underserved markets of Americans. Marietta also serves as the national operational volunteer for the Girl Scouts of the USA, where she worked with Girl Scout councils across the country with organizational strategic planning alliances, board and staff development.

And Alison Shelton is a strategic policy advisor in AARP's Public Policy Institute, where she works on foreclosure, debt, financial literacy, and retirement security issues. And she was previously a special assistant at the Treasury Department, where she worked on international and domestic finance issues. And there are more complete bios in your packet.

So that we can get started, we are going to have Alison kick off with her new data. And then we will have some responses from our other panelists. And then, we will be able to have some questions and discussion. Alison?

ALISON SHELTON: Okay, thank you. You should have a copy of the paper in your packets. Our goal in undertaking this study was to understand the impact of the mortgage crisis. Our demographic, AARP's demographic, which is Americans age 50 and older. The problem was how to do this. The data is not available from any of the most used sources. For example, Honda, the MBA survey, don't have an age variable. And the AHS has age, but it doesn't have delinquency. So what we did – we went to Experian, one of the big three credit bureaus. And we bought a sample from them. We bought a sample representing – a sample that is 2.5 million people who own mortgages. Of these people, about 1 million are age 50 and over.

We are very happy that this is quite a significant sample size, so we have some confidence in our results. The data comes from December 31st, 2007 – the end of last year, which was so that we could benchmark it against some other data that we have. In order to validate the dataset, we compared it to the MBA figures. And the first thing we noticed was that the foreclosure rates in the Experian dataset are considerably lower than the MBA foreclosure rates.

We think that this is to be expected because the Experian data is a consumer dataset. It is foreclosure rates among consumers, whereas the MBA looks at loans. There is timing differences. There is collection differences. For example, the Experian data is collected by the CDIA guidelines. So we are comfortable with the differences in the rates because we ran some correlations and we found very high correlations between the delinquency rates 30 and 60 days, I believe it was, between Experian and the MBA. The correlation was .93 and 92, respectively – somewhat lower, but still well-correlated for foreclosure starts. It was .81.

So I don't want to go onto the results without thanking the foundation first for funding this study. Thank you very much, Robin.

MS. TALBERT: Pleasure.

MS. SHELTON: And also some other people in the audience, who have provided me very helpful comments and suggestions, but of course aren't responsible for anything that goes wrong.

Here is the first main overall finding, which is that Americans age 50 and over hold 41 percent of all first mortgages. This table is the key table in my view. I have highlighted age – this is going to be hard here. I have highlighted the line that is age 50-plus. You can also see this table in your packet if you have trouble reading from this screen here. What we have found is that among consumers age 50-plus, the number delinquent – 30, 60, 90, 180 – is 634,000. In addition, about 50,000 consumers age 50 and over were in foreclosure for a total of nearly 700,000 older Americans who were in trouble during the six months leading up to December 2007.

These are people who were delinquent, in foreclosure, or had already lost their homes during that period. If you skip to the last column, that represents about 28 percent of all people of all ages who were delinquent, in foreclosure, or had lost their homes during the period.

Here is another table. You will see that the total foreclosure rate for people age 50-plus is .24. It is lower than that for people under age 50. It is still significant, we believe. Unfortunately, we don't have historical data, so we can't tell you how this changed over time. We also can't tell you what has happened since December.

This is an interesting table, I think. It looks at the impact of the crisis on older African Americans and Hispanics. And you will see, again, in the red line for people 50 and over that the rates for African Americans and Hispanics are .51 – half of 1 percent, much higher than that for whites. In fact, the rates for older African Americans and Hispanics are higher than for whites of any age.

Another issue we looked at is sub-prime loans. And we found that having a sub-prime loan increases the delinquency and foreclosure rates relative to having a prime loan. If anywhere – we are not, unfortunately, able to tell from the data how many older Americans received prime, as opposed to sub-prime, loans. We found this figure by separating – we could tell which banks were prime or sub-prime specialists. And we linked consumers to those lenders that were able to tell that much. And if anyone is interested in discussing the sort of limitations and positive things about the dataset, you can do that with me afterwards.

But we found that having a sub-prime loan increases the chances of delinquency and foreclosure for older Americans by many multiples of – for foreclosure, the multiple is nearly 17 in the far-right column there.

And my last slide takes on the issue of negative equity and having a loan-to-value ratio of greater than 100 percent. And again, older Americans seem to be more deeply affected by this issue than younger Americans. They are twice as likely to be in foreclosure if they have a sub-prime loan. And we know that there are different incentives that happen when you have a loan value that is greater than your equity value. Some people just want to walk away. But our sense is that for older Americans who are living on fixed incomes, having a negative equity means it is harder to exit from the loan and to get out from underneath a high mortgage burden that is unsustainable.

So that is the end of my talk and my time, I think. I would like to wrap up by saying that nearly 700,000 Americans age 50 and over were delinquent, in foreclosure, or had lost their homes by the end of the last year – by the end of 2007. Older African Americans and Hispanics have been particularly hard hit by this crisis. And older Americans appear particularly vulnerable to house price declines and to sub-prime loans.

Now, the Experian dataset offers a number of opportunities for further research. And we will be continuing to mine it as we go along. And we would welcome comments and suggestions on our research as we go forward.

(Applause.)

MS. TALBERT: Thank you, Alison. We will hear from Bill now.

WILLIAM C. APGAR: Thank you. Alison made clear the ongoing foreclosure crisis has serious implications for older Americans. This is not a crisis that you want to be a 28 percent part of. (Laughter.) You want to be a 0 percent part of it. And so in some senses, the numbers are irrelevant because in many ways, the important issue is that up until now we have been talking about this in an absence of information. The TV news is filled of the oh, look at this person with a $3 million house, you know, on a budget of 28-nine ($29,800) and we have those images coming out. But 28 percent of the problem, according to the Experian data, is older Americans.

They are our parents, our grandparents, our neighbors. They are real people. What is striking to me – and there is two overwhelming responses to the data that Alison presented – was we are well into the biggest financial crisis of at least my recollection. Policy-making is breaking out during soccer matches and all over the place. And we are flying blind. We are flying blind.

It is striking how little we know about the nature of this crisis. Now, AARP should be commended for going out and taking the initiative to buy these data. But just be clear. This data was in a computer bank that existed. That data has been available to many participants in this market, except opinion leaders and public-policy people. And you should be credited for doing that.

But I am still struck by how ironic it is that this information that we are presenting today was not being presented by HUD or Treasury or the Federal Reserve Board or other regulators. It was act of a private institution working on behalf of their – the groups that they care most about – unleashing this information. Now, we talk about the transparency, but in an information age, there is something wrong with this picture – something wrong with the idea that we don't have basic information about the dimension of this crisis.

Now, second of course, in the rush of recent events, it is common to speak about how all of this is unprecedented. It is a whole new ballgame. We like a lot of sports metaphors. I do. Once coached soccer, so I can relate to Michael. A lot new ballgame. Well, yeah, there is many unique features of this – a combination of events. But I would submit that the mortgage market meltdown was made up of many very predictable components and very understandable components.

We need to reflect more on the structural flaws of the mortgage system that just didn't arrive last week, but have been there for years and years and years building, gaining momentum and going unaddressed. Same for issues around fundamental housing issues for seniors. The problem with seniors, of course, is the mortgage crisis is heading – smashing head-on to a series of housing issues that seems to have faced that aren't new. The fact that housing costs have risen faster than the capacity of many households to pay for decent housing. And that has led them to have to continue to push hard against serious housing affordability obstacles.

It should not be a surprise that older homeowners have become increasingly vulnerable to mortgage instability. Unlike previous generations who manage to end their work years more or less in an even keel relative to outstanding indebtedness, today, seniors increasingly carry mortgage debt into their retirement years. Again, you see some of the facts. By 2007, 53 percent of all homeowners age 50 or older had a mortgage up from 34 percent. The day of the mortgage-burning party on retirement is over.

Now, we can make this seem like it is reckless behavior on the part of folks who aren't guided. But we know that this mortgage debt that is building up is results of thousands of little decisions to take a little bit more loan out to pay for the kids' education, to cover a health bill, to deal with the fact that housing costs are high relative to basic income. It is a reflection of the failure to deal seriously with our housing affordability issues that have been building and growing over the time.

And so we come to this stage where the lack of affordable housing opportunities persist; 3.5 million owners with heads age 50 or older devote more than 50 percent of their income to housing. All right. They are not living high on the hog. And access to credit is one of the ways in which they help balance themselves out. For older American seniors, over 1 million pay more than 50 percent of their income in housing. Now, what does this say? Well, among other things, it says there are a lot of people who aren't going to be paid for these relief packages that are coming through. Some of the most stressed out folks have little cash left over and will not be able to participate in some of the new mortgage financing opportunities.

And in addition, many of them are vulnerable to the decline in home values. Although in general, we are proud of the fact that many of our seniors have a lot of wealth, we know that increasingly large numbers of seniors have limited equity in their home. AHS – American Housing Survey – the latest data from 2007 before the most recent decline has accentuated – and those data said that there is a relatively large number of folks with limited home equity.

And what Alison's data shows – the AARP-Experian data – is that while you are in this time and you have limited home equity, chances of going into foreclosure are very high. So now we turn the discussion over to others. I just want to end where I have been. We need to continue to work on the basic mortgage crisis. The lack of information is stunning. It is absolutely stunning. And we need to think along the – addressing these structural reforms that Michael has talked about in others. We need to understand how this is part of a larger housing context. And we need to get serious about taking pressing housing issues and mortgage market issues forward and every American seriously.

And we need to use this new Experian data as an important opportunity to enhance our understanding. You know, I was joking that if we can spend a half a trillion dollars to put up a fund to stabilize financial markets, how about putting up a small money so that AARP's dollar isn't the only dollar on the table to putting together a database that can really guide the policy deliberations in the future.

(Applause.)

MS. TALBERT: Thank you, Bill. Now we will hear from Marietta.

MARIETTA RODRIGUEZ: Good morning. I couldn't agree more. This is an incredibly timely and critical topic for all of us to be examining. And the data that we have to deal with is very limited. This new research sheds light on the impact of the crisis of older Americans. And it confirms many of the assumptions that service providers like housing counselors in the NeighborWorks network have been dealing with in the last four years.

The housing and foreclosure crisis is widespread. It has expanded beyond the sub-prime market. And it is affecting Americans of all ages. And it is told by some estimations that America could see the largest loss of wealth since the Great Depression, as a result of this financial crisis.

As some of you may realize or may know, NeighborWorks America received a congressional appropriation recently of $180 million to put out to housing counseling organizations and housing state finance agencies. We have recently had just one quarter of reporting on that particular program, the National Foreclosure Mitigation Counseling Program. But I think some of that early data is telling for this discussion.

For example, nearly 35 percent of homeowners who received counseling under this program are age 55 and older, clearly showing there is a need and a vulnerability among this population. Additionally, 21.5 percent of our national foreclosure mitigation counseling units were provided to minority clients age 50 and older, particularly African-American women and Latino women single-headed households.

So I think this is a very telling number when we start to think about service delivery and how to serve the needs of this population. When looking at the mortgage data that NeighborWorks has access to, we see that elderly populations are concentrated in many of the same places that foreclosures are concentrated, which, again, tells us about service delivery and what folks need. We examined 20 zip codes in the highest portion of populations 65 years and older. Twelve of those were in Florida; six were in Arizona, and two in New Jersey.

Florida, the state with the highest portion of population over 65, has four of the top metropolitan areas of foreclosures. Sub-prime mortgages in these zip codes are going to foreclosure rate higher than the national average as a whole.

The other thing that our National Foreclosure Mitigation Counseling Program data revealed to us is that the clients that are coming in that are 65 and older have higher credit scores than those of the younger clients, which again tells us that their vulnerability is a little bit different than the traditional customer. The average credit score is 21 points higher than those age 50 to 64 and 30 points higher than those under age 50.

The other more telling service delivery notion was that the clients coming in at 50 years age and older are also more likely to want to receive housing counseling assistance face to face versus on the telephone or through the Internet. So in terms of service delivery providing and providing the needs to this customer base, counseling groups on the ground need to be equipped to serve this population with more face-to-face counselors.

I think the implications of Alison's and AARP's research, our limited research in the first quarter of this program's reporting tell us that this population is vulnerable. They need services. They are looking for information. And they are looking for trusted advisors. I also think that as a country, we need to start examining what this means in terms of housing inventory, and where the concentrations of affordable senior housing may be located, and how they overlay with some of these pockets of foreclosures. And I think there are some policy decisions and local strategy decisions problematically that need to be addressed as a result.

(Applause.)

MS. TALBERT: Thank you, Marietta.

I would like to thank all of our panelists for this incredibly compelling and troubling information. I think that it validates what many of us who serve low-income older Americans are seeing through our various efforts. But it is very, very useful to have the – I think finally to have the hard data that will, I think, be useful in helping us all come to solutions.

I am going to forego my moderator's opportunity to ask the first question, I think, and in the interest of time, open it up to the audience because I know that having heard this, there have to be a lot of really burning questions and perhaps some ideas to share with the panelists. So we have some microphones available if you can raise your hand if you would like to ask a question. And also, please identify yourself so that we can know who is speaking.

Questions? On my way. Go ahead.

Q: Yes. My name is Edrice Abdullah (ph). I am with the District of Columbia government, Department of Assurance, Securities and Banking. My question is – a bunch of this data, has it been segregated by jurisdictions, so that possibly I can gain access to all that information that directly relates to the District of Columbia as we develop our policies and programs specific to this environment?

MS. SHELTON: We do have information that is geographic. And that is our next step of our research. And so we will be looking more carefully into that. A preliminary look says we have some problem with small member counts. But I think for D.C., we might have some good robust and interesting results. And we will be working hard on that over the next few months.

Q: Hi, I am Susanna Montezemolo with AARP. And I am interested in looking at this not only from the owner-occupied housing, but also from the rental housing perspective. We already know that older Americans are more likely to be in subsidized housing. We also know from this that older Americans are being foreclosed upon. What happens to them after that? And does this put more of a strain on our already strained rental housing system? And are there any solutions to that?

MR. APGAR: Well, if I could take a crack at that. First of all, I truly believe that many people hang onto these homes even as their incomes decline and their debt mounts because they lack what they perceive to be suitable alternatives. And we have to continue to work on providing good quality affordable rental housing that will be viewed as a viable alternative to seniors, and do that in a way when people can begin to make the transitions when they are in better health and more able to make the adjustments.

But it is also true that the hundreds of thousands of people falling out of homes are going to put quite a lot of pressure on the existing rental markets. And that is going to exacerbate problems for renters across the board. Now all of sudden, low-income renters in some communities are going to find themselves in competition with folks who may have just lost their home, but still may have pretty good jobs and have the capacity to pay a decent rent.

And so the spillovers in the housing market are just starting now to become apparent.

MR. BARR: Let me just add to that, too, that a number of the homes going into foreclosure are homes that are rented out to others. And the disruptions that are caused to the renters when the owner goes into foreclosure are significant. And those dislocations are already occurring in the system.

MS. RODRIGUEZ: I would just also note that from a service provider perspective that the intricacies and the challenges of an older American facing serious delinquency on foreclosure are a little bit different. And navigating what options may be available and how to make those decisions and getting the message out that there are resources in the community that can help older Americans navigate and go through that decision are really critical. And I am not sure – I think there is work to be done to reach that population and share the resources that might be available.

Q: Good morning. Excellent job, panel. My name is Hershel Liepo (sp) and I am with the Comptroller of the Currency. I was curious about the seasoning of some of these mortgages and whether or not many of the foreclosures were based upon first or second mortgages, issues of refinancing and equity stripping. And then, with regard to trusted advisors, basically, what happened? Why weren't some of the supports that seniors would look to the in community and from our financial institutions there to help?

MS. SHELTON: Well, thanks. You have given a good introduction to the next stages of our research. We have besides geographic information by state and by metropolitan statistical area; we also have information on the type of loan. We have home equity loans. We have home equity lines of credit. We have information on the age of the loan, which you mentioned. You have some information on income level, credit worthiness, credit scores, and so we will be looking at all of that as we proceed.

But I don't have results now.

MR. APGAR: But the telling statistic, of course, in there is that we couldn't get loan level information on whether or not it was a sub-prime lender. But we could definitely identify those agencies that were specialists in so-called sub-prime loans. And the multiple of foreclosure that is linked to the particular entity is 17 times more likely to go into foreclosure. This is a story of aggressive marketing on folks who didn't really understand the problems they were getting into.

And so it is a fail of the mortgage system. But I think it calls into question our whole system of providing advice and counseling to homebuyers because definitely, our counseling efforts, as noble as they were, were clearly overmatched by the aggressive marketing activities of many of the folks who were just out to scam seniors.

MR. BARR: It is sort of like imagining Bill on his own against the Nike advertising machine.

(Laughter.)

MS. TALBERT: I think we have time for one more question. Yes?

Q: My name is Mauricio Soto. I am with the Urban Institute. And I really want to praise the AARP for this dataset. I know how difficult it is to get recent data on these topics.

And I have two questions. One is for Alison and the other one is for the panel. The first one was Alison is the number you have for foreclosure rates is about .39 percent, which sounds like a very small number. Could you put those numbers into context? Are there historical rates for foreclosure – are they much higher? Do you expect them to go way higher?

And for the panel, in looking at this crisis, do you feel that the goal that we have in the 1990s of homeownership for everybody – is it an attainable goal? Should we change that? Is it appropriate? Is it more appropriate for some people to rent and for some to own? Thank you.

MS. SHELTON: Unfortunately, we do not have historical data. It does exist, but it is very expensive. Experian is a moneymaking firm, and they are not giving us this data. So it is unfortunate that I can't point to any trends.

To put it into context, I think the most effective way we have found so far is to point to this number of 700,000 older Americans who are either delinquent or in foreclosure.

MS. TALBERT: Panelists, do you have an answer to the second question?

MR. APGAR: Given my recent senior moment, I forgot the second question. (Laughter.) But the general thrust of the question is I wish we knew more. And I wish we knew more, right? And is this the highest level ever? Well, there are all kinds of other databases that suggest that this crisis is mounting and in terms of other time series data that we have. And there is no reason to believe that if we were able to get time series from the credit bureaus and others we would see the same pattern.

All the other things that we are looking at in these database resonate with that – the structure by location, the structure by age, the structure by lending source. The data is perfectly consistent with these trends. And my guess is as more data becomes available under my small budget item for research that we will begin to unpack what is going on, and that seniors, like everyone else, has been caught up in an aggressive marketing scheme that has gained momentum over the last six or eight years that unchecked by operative regulatory oversight. And we know the story. We are just filling in the details, so we can, as Marietta said, provide appropriate service relief to a group that has special characteristics even though they are caught up to a general mess.

MS. RODRIGUEZ: To answer your question about the appropriateness of homeownership and is that still appropriate for Americans, I am going to be so bold to say that it absolutely is. Homeownership can be an incredible stabilizing force in America's communities. It can be incredibly stabilizing for America's families. I would say particularly for an older American who has greater propensity today than any other time in American history to age in place and for that property to be retrofitted for their needs.

I think it is absolutely appropriate. What is missing from the equation and what has been missing from this crisis is appropriate homeownership with appropriate financing. And I think NeighborWorks America with its network has been promoting homeownership for all of the reasons that I have mentioned for the last 14 years. But we have been doing it in a very specific way. And that is by educating the homeowner about how to shop for an appropriate home and an appropriate mortgage.

And I think that is what is missing in this equation. The best defense against this crisis is a well-educated consumer who can tell the difference between an option arm and a 228 versus a 30-year fixed. So I think those are the – that is the nuance here. I think that homeownership is absolutely still relevant and still an appropriate thing for most Americans. Is it right for everybody? Absolutely not. But educating someone and having them make the decision is where this discussion should go next.

MS. TALBERT: Marietta, thank you. That is a great closing comment. I think that we would all agree that we do need to educate consumers about this, at the same time as we are trying to really understand what the problem is and look for both the systemic changes and the consumer education and information.

So I want to thank the panel and we now need to move onto the next panel. Thank you very much.

(Applause.)

MR. BARR: Let me ask the next panel to come right up in the interest of time. Please join us at the front right away. That was just a terrific panel, a great, I think, stage-setter for our discussion today. Really important information that Alison presented to us on the plight of older Americans, and I think terrifically insightful comments from the whole panel.

Our second panel has changed somewhat in composition from what you have listed in your program. And so we are going to have Kathleen Keest sitting in for Kurt Eggert. I will be sitting in for Dean Sagar. We have Marty Gruenberg and David Kittle. Please join me here and I will introduce the panel as they are getting seated.

David Kittle is taking on a big job in four weeks. He will be the chair of the Mortgage Bankers Association – not an easy job in this environment. He is a native of Louisville, Kentucky, but he shares my love for the beauty of Northern Michigan, so I am glad he is on the panel with us this morning.

Kathleen Keest is senior counsel at the Center for Responsible Lending. She is the former assistant attorney general of Iowa. And as most of you know, is an early, strong, dedicated advocate for the rights of low-income Americans in our financial system.

And lastly, we have my good friend, Marty Gruenberg, who I am thrilled is here this morning. Marty is the vice chairman of the board of the FDIC. He and Sheila Bair together are the heroes of this crisis. If you can find people who knew what they were doing when they were supposed to do it, Marty and Sheila are the ones. They have been at the forefront in urging appropriate mortgage reform. They have been at the forefront of urging the industry to modify troubled mortgages. They are now at the forefront in restructuring on a broad scale the loans of troubled homebuyers at IndyMac. And Marty has been in this field for – I am going to embarrass him – a quarter of a century in advocating for the rights of low-income Americans in the Senate Banking Committee and now at the FDIC.

So I am just thrilled with this panel. We are going to start with Kathleen Keest, who is going to play Kurt Eggert on TV.

KATHLEEN KEEST: Thank you, Michael. So first thing you have to do is add about 11 inches, put kind of a Southern California look on me, and pretend like I have a professorial air, which I most certainly do not. And I will try to channel Kurt. And what we were supposed to do here is I am going to very briefly talk about some of the solutions that he is recommending. And unfortunately, since he is in Southern California, I didn't feel like calling him at 3:30 this morning to say what is your take on sort of the latest headlines. So when we talk about that, I won't be channeling him.

But I think one of the things that – since we have such a short amount of time, I think part of a problem that we are having right now is that the consequences of – the consequences of the fundamental problems in the sub-prime and non-traditional lending market sort of have grown so massive and are moving so quickly that everybody is scrambling to try to keep up with the consequences, and we are losing sight of what caused it all to begin with.

And I think probably what we need to do is just bring the attention back to that because part of what is going on here is this self-enforcing downward spiral that is sort of like we have the foreclosures, which exacerbates a housing decline, which then creates more foreclosures. And until and unless there is a circuit breaker, the bottom is just going to get farther away.

And so I think in his paper that he presented – and he is another person who has been talking for a long time about the securitization process having been a huge part of bringing us this problem to begin with, and the securitization process being a huge part of not letting us find solutions. And so we have to get around that.

And in the amount of time we have, I won't have time to talk about sort of why all of the voluntary programs that we have out here now, you know, Hope Now and Hope One and Hope Two and Hope for Homeowners, which I understand in Washington is now being called Ho-Ho – (laughter) – all have the problem in common that they are voluntary. And we don't have time to talk about the reasons why voluntary programs are not working very well. And in the discussion time period, if people have questions, maybe we can talk a little bit about that.

But to jump straight ahead to what Kurt's recommendations are and for those of you who have picked up his paper this morning, you will see it. Sort of the first is kind of reregulation of the securitization process. And the point he has focused in on in this is the servicing industry because that is where – that is where the securitization process and the borrowers intersect. It is there and there alone. And the servicers are the ones that intermediate everything. And for a lot of reasons including, you know, institutional incentives that put – you know, that make it hard to come up with win-win solutions, those processes have to be changed.

And so he and a lot of other people are suggesting regulating servicers. And they are essentially unregulated now. I mean, a few states, I think, are moving towards trying to do it. But essentially, it is an unregulated industry. And as I understand his model – what he has envisioned is sort of a regulatory model that includes routine oversight. You know, there is kind of two models of regulation. That is the FTC model, which is almost purely – you know, they don't do routine examinations. You wait for something to go wrong and then – well, you don't wait for it, but it is going to happen. And then you come in post hoc and do an enforcement. And then you have the bank-regulating model, which is you go in periodically and you do oversights and try to catch things before they happen.

And so by doing that and having a model where there can be routine ongoing oversight and where there are duties that the servicer have that includes loss mitigation, so that the default is not to urge quick foreclosures, but rather to urge mitigation and staying away from foreclosures, and having an oversight process that monitors how the servicers do that. Then we can do something to sort of pull the roadblock that the servicing-borrower intersection right now is in gridlock.

The second one that he mentions and is sort of a variation on an approach that has been talked a lot about, which is that you can do the – you can overcome all of the articulated objections to modifications and principal write-downs. And of course, you know that the principal write-down is sort of a real problem because so many homes are underwater now, and that makes it hard for people to refinance, take the what I used to call the exit ramp out of troubled loan. And so without a principal write-down, you end up having – that is another one of the roadblocks.

And so one of the recommendations that has been floating around is to change the bankruptcy law, which right now and in chapter 13 bankruptcy, which is what is called a wager interplant – it is kind of like a household reorganization plan – is if – right now your second home, you investment homes, your yacht or whatever – if your debt is worth – the balance of the debt on that home – on that asset is worth more than its fair-market value, anything except your primary residency, the bankruptcy court can reorganize that and say, okay, we are going to have you pay on the fair-market value of that asset instead of the debt on that asset when we come up with your payment plan.

Right now primary residence is the only asset that you can't do that in bankruptcy. So a fairly logical solution has been let people do that. It gets around all of the articulated objections to loan modifications. But there has been a lot of – almost universal opposition to it. So I'm sorry – I don't mean almost universal opposition – among the industry that has kept that from moving.

So he was offering a compromise position. I think there may have been a typo in his paper on this. I would ask him about it, but didn't get a chance – didn't have a response to it. His suggestion was that sort of the difference – I think what he meant was the difference between the actual – the fair-market value at the time of the bankruptcy and the balance kind of be set aside as what we call a soft second, which means that you would pay – your repayment plan would be on the basis of the fair-market value that there would be kind of an extra lien that the shortfall – or that the difference was out there.

And then it would only be repayable when you sell the property, so that it works sort of the same way that a lot of – for example, municipal home improvement loan kinds of things does – it is there. It protects the investor, but it is long term, and you don't have to – the borrower doesn't have to worry about it until they would otherwise realize on the value of their home by selling it.

The last one that he talks about is one that actually may be what is in the news this morning, which is government purchase of the loans. And again, it is sort of similar to what a lot of people have been talking about coming up with a homeowners loan corporation, something similar to that. And in his paper, sort of what he had suggested with just a couple of things – a couple of pitfalls to be careful about. One is that you need to avoid the adverse selection problem of having the lenders who want to sell to the government – sell kind of the worst of them while they keep the best of them. And so there is a couple of different ways of doing that. One is that – you know, I guess first off, sort of the fundamental point he was making that the purchase price should reflect what the real value and realistic risk of the loan should be.

In other words, the loss should be – the loss should be taken by the investors and the lenders upfront and reflected in the government's purchase price, and then – rather than paying too much for it and put any potential loss onto the taxpayers at the backend. And he had suggested the possibility of to avoid the adverse selection problem, maybe having an independent board kind of decide what loans to buy and the principal write-down and the amount of the principal write-down as it relates to the purchase price and the modifications.

And the second – you know, one of the real big hurdles is the second lien holders right now who don't have – I don't know how to phrase it, I guess. They can hold up everything, but they have got nothing to lose by holding up everything. Let's put it that way. And so one of his suggestions that I thought was kind of interesting was, you know, worse comes to worst, use eminent domain to force the purchase of those second liens.

And sort of the upshot of that would be with the government then holding them is that these – the government would then able to do the necessary modifications in order to make these loans sustainable and stop the slide of the foreclosures, and then let us move onto having a little bit more luxury to think carefully about where we are going. So in a – that is the three-minute version of Kurt's suggestions so far as I know. And any mistakes are my own.

MR. BARR: Thank you very much, Kathleen. Marty?

MARTIN GRUENBERG: Mike, thank you. It is a pleasure for me to be here. Mike and Kathleen are longtime friends and I think, in particular, AARP deserves great credit for sponsoring this forum. I think older Americans, in particular, have been a target of the sub-prime mortgage lending issue because, by definition, older Americans oftentimes have accumulated equity in their homes. And as a result, they are targeted particularly for the refinancing of these mortgages, which as you know, has actually accounted for a majority of the sub-prime mortgage lending that occurred at its peak. It is really one of the critical aspects of this issue.

I would like to say that – Mike mentioned the leadership that the chairman of the FDIC, Sheila Bair, has provided on this issue. And that is really merited. I think Chairman Bair really has been a leader from the beginning in bringing attention and advocating for selection on this issue, and the clear, consistent approach that the FDIC has urged has been for these homeowners who cannot afford to pay the resets on these mortgages and are at risk of foreclosure and are owner occupiers.

What you want to do is develop modifications of the terms of these mortgages that are long term and sustainable, so that these homeowners can remain in these homes for an extended period of time. That is in the interest of the homeowner. It is in the interest of the community because as you know, if two or three homes in a neighborhood are foreclosed on, that will impact not just the homeowner and the homeowner's family, but will, in fact, impact all of the homeowners in that neighborhood and the values of their homes.

And finally, it has consequences for the larger housing market disruptions that we have seen. It is critical in order to address the larger financial stability issues that we are seeing today to bring some stability to the housing market. And modifying mortgages for owner occupiers so that they can remain in their homes and continue to pay these mortgages will be beneficial for the economy, and by and large will be in the interest not only of the homeowner, but in the investors and the holders of those mortgages, as well.

And there is a lot I could say about the specifics of loan modification, but I think the current interest is probably greatest in the program we are implementing in regard to the large failed thrift institution, IndyMac, that the FDIC closed and is currently managing on a foreclosure – on a resolution basis. And one of the opportunities this provided was that IndyMac, among its businesses, operated a significant servicing operation. So it provided us an opportunity to try to address this issue, which we feel very strongly is in the fiduciary interest in terms of maximizing the value of these mortgages and the return, and protecting our deposit insurance fund, and has the additional benefit of assisting homeowners to remain in their homes and maintain stability in the neighborhoods.

So let me briefly walk through what we are doing in regard to IndyMac. As you know, the FDIC inherited a significant number of distressed loans because of recent bank failures. Our plan is to offer homeowners loan modifications whenever feasible. In the case of IndyMac Bank, more than 60,000 mortgages are more than 60 days past due or in foreclosure. Of these, some 40,000 are owned or serviced by IndyMac and could be eligible for the FDIC program. But not all will qualify. From the financial data we have gotten from borrowers so far, we believe that about one-third of them may qualify.

In addition, I would note that Fannie Mae and Freddie Mac have agreed to be part of this program. And this could make several thousand additional loans eligible. Because of the large numbers of troubled loans, the FDIC is systematically identifying loans in the IndyMac portfolio that are eligible for modification. We have also suspended most foreclosure actions for mortgages owned by IndyMac. This lets us evaluate the portfolio and identify the best ways to maximize the value.

When it improves the value of the loan, we will be offering loan modifications to eligible borrowers. To date, over 7400 modification offers have been sent to borrowers since the FDIC announced the program in late August. In the first three weeks of the program, over 1500 homeowners accepted the offers. And that is well before the 30-day deadline they have to respond. This streamlined modification program will achieve the greatest recovery possible from problem loans.

This is in keeping with our statutory mandate to minimize the impact on the deposit insurance fund and to improve the return to uninsured depositors and creditors for the failed institution. But at the same time, we are able to help troubled homeowners stay in their homes. And let me make clear that this program is strictly for owner occupiers who are in trouble. This is not intended to help speculated investors who purchase these homes.

The FDIC is documenting income to determine whether modified payments are truly affordable. We are using a combination of interest-rate reductions, extended amortization and forbearance to arrive at an affordable payment, which we are defining as 38 percent of DTI – of debt to income. Of the homeowner, no fees are being charged and unpaid late charges are waived.

This program makes sense from an economic standpoint for IndyMac, as well as for these borrowers. A performing loan is worth far more than a non-performing loan. Recent FDIC sales of non-performing single-family home loans have come in at about 32 percent of book value. That compares with 87 percent of book value for sales of performing loans. Our hope is that the program for IndyMac Federal Bank will be a catalyst for others across the country to modify loans rapidly and systematically.

Thank you very much.

(Applause.)

MR. BARR: Thank you very much, Marty. I think that is an exciting program, and I look forward to our conversations about it in the Q&A. David?

DAVID KITTLE: Michael, thank you. It is a pleasure to be here. I was asked by two or three people this morning if it is truly an exciting time to becoming chairman of the Mortgage Bankers Association. And I will use a pilot metaphor. I am a private pilot. I have been flying about 26 years. And I would much rather be in an airplane that is a little sophisticated in a little weather that is not quite so smooth and have a little challenge. Anybody can fly an airplane in calm wind. So I am looking forward to the challenge. And we are going to get through.

As I was sitting here this morning and watching all the slides go up with the graphs, I kept seeing the number 50 and over. And I realized I am there. And every day I get up, and I still think I am 35. So I guess this affects me, too.

The landscape of the real estate industry has certainly changed. It is changing every day. It is changing this morning. It changed last night. And financial institutions are weathering through a difficult time right now with delinquencies and foreclosures on sub-prime loans, Wall Street firms attempting to deleverage. With the finance industry, MBA, we have long advocated for transparency in our business. There is enough responsibility to go around. But to identify a single entity or event as the sole cause for the financial crisis, as Mr. Eggert's paper – loan modification – has, it may not be the best course of action.

It is important to note that nobody wins when a borrower goes into foreclosure – the community, the lender, the homeowner – nobody wins. Short sales typically result in losses of about 19 percent compared to a loss of almost 40 percent when a loan goes through a full foreclosure sale. We released in the second quarter in September the national delinquency survey. And the increase in overall delinquency rate was driven by increases in the number of loans 90 or more days past due primarily in California and Florida, as has been previously mentioned today.

The 30-day delinquency percent remains below levels seen as recently as 2002. And California and Florida accounted for 39 percent of all the foreclosures started in the country during the second quarter. And they both accounted for 73 percent of the increase in foreclosures between the first and the second quarters. Only eight states right now had foreclosure rates starts that were above the national average – Nevada, Florida, California, Arizona, Michigan, Rhode Island, Indiana, and Ohio. So it does spread across, but we do have 42 states that are below the national average.

The American dream does mean so many things to so many people. It includes the moment when a buyer purchases their first home. For years, the housing market was hot and we were seeing home values rise double digits each year in parts of the country. And homeowners tapped into their equity for remodeling, vacations, and other major purchases. We need to remember the top three reasons for foreclosure. And they are unemployment, divorce, and illness.

Mortgage Bankers Association has been on Capitol Hill advocating for a new regulator for the GSEs since the Clinton administration. We have been on Capitol Hill advocating for FHA modernization for the last 10 years. And since 2003, we have been advocating for a national standard against predatory lending. One of the terms that Mr. Apgar was using was aggressive marketing. In fact, that is predatory lending. It is on – across the spectrum, but it is most severe on seniors.

As I was sitting here thinking, our seniors out there have great credit scores. They have saved and spent all their lives for their homes. And they are very proud people, as they should be. So when you get into a tough financial situation because of an illness or because of the economy, it is actually an embarrassment to have to call your lender and communicate with them that you are going to be behind in your payments. That is the biggest challenge our member servicers face is communicating with the borrower.

Our member servicers are actually out going door to door to communicate with people and to help them do a loss mitigation workout. But we have to remember that we can't have predatory lending until we lend. I testified before Congress on Tuesday of this week on the new RESPA proposal – off on a very quick tangent, if you don't mind. We want transparency. We are proposing a new HUD-1 settlement statement and a new good faith estimate, where all the lines actually match. HUD is proposing a new four-page good faith estimate and a 45-minute script that is to be read to the consumer in addition to everything else they have to sign in closing.

We need simplification and we need transparency. We are also advocating for the mortgage brokers – licensing, education, increased net worth requirements and a national registry for all loan officers regardless of where they work, so we can track them from company to company. Financial literacy is not only a good thing for the customer, but the individual that is sitting down to take the loan application also needs to understand the forms they are presenting to the customers.

Hope Now – something that we helped start at MBA – has helped over 2 million people in foreclosure through the end of August. That is a very encouraging statistic. We just got a housing bill passed. It included FHA modernization and it is a shame that we had to have a crisis in order to get the government to act. Unfortunately, that bill does not take effect until next week. So the FHA modernization portion of that – that money won't go to HUD until October the 1st. And it will take them a very long time to implement new procedures. It is a good thing we got it. It is way behind the curve.

I heard something about rental housing earlier and people being displaced. One of the good things in the housing bill – the low-income housing tax credit was matched with the multi-family mortgage insurance premium. And what that will do is encourage new rental housing to be built. It is not built yet. It is behind the curve. But new affordable rental housing now is encouraged to be built going forward.

I will close my remarks with this. The bankruptcy bill was brought up. We aggressively helped and led the way to defeat that. It is called the cram-down provision. The name alone should give you pause. What it does – and I got in the business in 1978. That happens to be the last time the bankruptcy laws were changed. And in 1978, I could make anybody in this room a single-family owner-occupier loans under the exact same terms as a loan that you wanted to use as an investment.

When they included second homes and investment properties in bankruptcy, the rules changed. It became a higher risk loan because a judge that knows nothing about the mortgage business could come in and change the terms. So now you have in order to get a second home and an investment property 20 to 25 percent down, one-and-a-half additional points over an owner-occupied home, and a much higher interest rate. If we want to take out more liquidity from the market place, let's put single-family homes in bankruptcy and watch the investors that are remaining run and interest rates go up that are not going to be willing to take the risk where they do now. That is why interest rates are so low on single-family homes. That is why interest rates on credit cards are so high because they can be included for bankruptcy. And I will close with those remarks.

Thank you.

(Applause.)

MR. BARR: Thank you very much, David. So I am going to make a comment, ask a question, then ask the other panelists to ask questions of each other or comment on each other's presentations for just a moment. And then we are going to open it up. We are going to borrow a little bit of my own time from the third panel to do that. So never fear. We will be on track.

So just a quick thing on loan modifications. There are ways of doing broad-scale loan modifications with relatively few legal changes. Jim Feldman and I published a paper earlier this year on how to do that by changing their REMIC provisions under the tax code. You can find it at the Center of American Progress website. And there is a discussion there also – a broad-scale restructuring called the safe loan plan that I worked on with other colleagues at CAP using a treasury auction process to take troubled loans out of the private sector where they currently are in complicated securitization trusts and move them somewhere – either into a private holder or to treasury, where they can be re-modified. And you can find that back from January of last year at the CAP website. And it may provide some food for thought it today's environment.

My question is to Marty. You guys are doing this great broad-scale restructuring at IndyMac. You talked about it being an example for the private sector. Could it also be an example for the Treasury Department, which is now effectively running both Fannie Mae and Freddie Mac to get broad-scale restructuring of troubled loans in their portfolio?

MR. GRUENBERG: We were encouraged that Fannie Mae and Freddie Mac essentially permitted the FDIC to apply its loan modification program to the IndyMac program that we are implementing. And so that suggests to us that there is a potential to that. So I don't want to go beyond that, but we certainly give Fannie and Freddie a great deal of credit because that will potentially significantly expand the number of home loans that IndyMac services, expand their eligibility for the loan mod program.

MR. BARR: Great. Kathleen, do you have a question or comment for the other panelists?

MS. KEEST: I guess I have a couple of comments. One – and I just wanted to let the audience – I am not qualified to have a debate about data or statistics or economics, but I just actually came here from a meeting with an economist who was talking about that figure about the cost – the impact on the price of mortgages if the bankruptcy fix were enacted. And he was talking about papers that indicated something like a 20 basis points difference rather than the kind of rate difference that was talking about.

So anyway, there is some – there are – shall we say competing data out there about that cost. And I will just refer you to some of that data. I think – is it Mr. Leviton from Georgetown that has done sort of a contrary study, so I will just recommend that to you.

And I did want to just talk a little bit about sort of the modifications. We have had a lot of talk about the numbers, who has been modified, and then what are the definitions – what is modification versus forbearance or all this other stuff? And there is a professor from Valparaiso University Law School named Alan White who has recently posted a paper on – for those of you data geeks – SSRN – the Social Science Research Network. And Alan White has actually looked at remittance reports that go from the servicers. And he looked at about 27 big pools, so that he was able to actually see more what the modifications looked like. And there is a lot of different things – you know, a lot of different ways of doing sort of workouts and modifications to see – to try to get to something that is sustainable.

And the thing that I thought was interesting about it was, you know, to the extent that the basic problem was loans that were being made that were unaffordable, that basically 46 percent of the modifications involved either no payment changes or payment increases. About 23 percent involved payment increases. And the reason that happens is that the notion of the modification is okay, let's take your delinquent payments and add it to the balance, and then re-amortize over the rest of the scheduled term. And that will raise your payments then.

And so nearly a quarter of the modifications involved increased payments. And another 23 – that was 23 percent – 23 percent involved no changes. And less than 1 percent involved principal reductions. So anyway, I guess I would say that I think one of the big things we need to do when we hear the data about, you know, who is being modified and who is not – in his pool, I think it was like over – I'm sorry. I forget the number of pools. But he was saying that in June of 2008, there were 582 modifications and 1870 foreclosures started. So to say that we are being overwhelmed – sort of the pipeline is getting a little clogged there – (chuckles) – I think is an understatement.

And the liquidated loans, which I think he means foreclosures completed – it was 948. So that is about 40 percent more than loans modified in June of this month.

MR. BARR: Marty, any additional comments or questions?

MR. GRUENBERG: I guess the only additional point I would want to make is that the FDIC has spent a lot of time working with the different industry participants on the flexibility to do loan modifications on these mortgages that are tied up in these securitizations. And that is in large measure dependent on the terms of these so-called pooling and servicing agreements that apply to these mortgages and the securitizations.

And depending on the language of the agreements, some allow greater flexibility and some allow less flexibility. But it is our determination that all of them to greater or lesser degree allows significant opportunities for loan modifications. And what we have found most critical is to the extent that the flexibility is there to engage in loan modifications, it is in everyone's interest for these modifications to be long term and sustainable for the borrower. You don't want a one- or two-year deal that really doesn't give significant relief to the borrower and is effectively not going to enable the borrower to remain in the home on a long-term sustainable basis.

That is just pushing the problem down a year or two, and you are going to be right back where you started from for everybody – the homeowner, the community, and the market, as well, for that matter. So there is really a compelling interest for those who qualify to do these loan modifications on a long-term sustainable basis that is affordable to the homeowner. And it is our determination that there is significant flexibility to greater or lesser degrees within these pooling and servicing agreements to do that.

MR. BARR: Great. Thank you, David. Any further comments or questions for the panel?

MR. KITTLE: Just one. And again, not to debate it, but I will comment on what she said. We go back to the bankruptcy just for a second – is that that is great that we have a Georgetown economist who is collecting data and formulating an opinion based on what he thinks. What I was commenting on is 30 years of absolute fact that those loans cost more and they cost more because the bankruptcy laws were changed. And I would much rather go on fact than on data on what I think might happen in the future.

MR. BARR: Thank you very much. I think we have lively material for debate and discussion, so let me call on all of you.

Q: Thank you. Elise Cohen from the National Consumer Law Center. I had one question for Marty and one question for David. I was wondering about the 38 percent debt-to-income ratio in the IndyMac loan modifications. First of all, thank you for all the work you have been doing. I was wondering if there was any information about the backend ratios or residual income and extent to which either now or over time, the FDIC will be able to know what other measures of affordability could be useful going forward for loan modification. So I just sort of wanted to put that out there.

And for David, my data question is we heard from Bill and other people earlier that basically, public-policy people and the public have not had available data on foreclosures, on loan modifications. Many of us subscribe to your data. And they don't give us opportunities to sort of drill down. And so the question is to what extent is the industry or the MBA supporting public availability of these kinds of data? Thank you.

MR. BARR: Marty and then David.

MR. GRUENBERG: We spend a lot of time trying to make a judgment of what measure of affordability to use. We consulted with a lot of folks. And I think the general conclusion we came to was that 38 percent debt-to-income ratio is both a meaningful guide to what is a sustainable and affordable basis for a homeowner to continue payments. And the one that we can determine based on the financial information we have available to us. So that was really the reason for it.

And I guess – just to add to the point I made earlier. You want long-term and sustainability fixes and it is critical to try to do this on a systematic basis because we have – we are dealing, as you know, with large volumes of loans. So developing systematic approaches to implement these modifications are really critical.

MR. BARR: David?

MR. KITTLE: Great question. I am glad you subscribe to our data. And as you know, the Federal Reserve and Congress both use it because of its credibility. I would rather tell you I don't know than make something up. But here is off the cuff what I think. Over 85 percent of the loans that are serviced are by our members. And that is why our data is so credible because we have a great resource there. I think that it has to do with some privacy issues. I don't know that to be true. But I will tell you this. I will find out and I will respond to you.

Q: Thank you. I think it would be great if researchers and public policy-makers and NGOs could work together on data – (off mike).

MR. KITTLE: On the surface, I couldn't agree more with you. But I will find out why.

MR. BARR: Other questions? Yes.

Q: Thanks. I'm Debbie Goldberg with the National Fair Housing Alliance. I have a two-part question. First, I want to thank all of you for the thought and attention you are putting into these issues, and the earlier panelists, and AARP, as well. Let's see if I can do this in a succinct way.

So we are clearly in extraordinary times and we are rewriting the rules about how the financial services industry is working. It is not clear to me, though, that we are working quite as hard on rewriting the rules with respect to borrowers and kind of stabilizing and maybe rectifying their situation.

So you guys are at the forefront. And again, I want to thank you for all of the work that you are doing. I have been involved in the last couple of years with a program through the Fair Housing Alliance working with our centers in the Gulf to help homeowners who are having mortgage problems. And it is ironic to say that I think those people are actually a little better off because they are in the Gulf and were hit by Katrina than they would be if they were living anyplace else because they have the exact kind of loans that everybody else around the country is seeing, but lenders have been a little more patient because their homes are still not repaired.

But one of the things that we found in counseling those borrowers and trying to work out loan modifications for them is that while we are often able to reduce interest rates and sometimes get, you know, various fees and things forgiven, and we are able to work out loan payments that are lower than what they had been before, so that they are in one sense sustainable for people over the long haul. What we are doing at the same time – and I think this is reflected in the Alan

White paper that Kathleen referred to – we are actually increasing their debt because the back interest and the delinquent payments are being added onto the loan.

And so when you think about an older person and the kind of equity situation that puts them in, it seems to me that it doesn't actually help them that much over the long run because their debt level has increased. So yes, they may be able to afford the payments, but their debt level has increased. And to me, that suggests that the issue of getting principal reductions in loan modifications is really critical. And I guess I am curious about what you all think are the prospects for doing that. And I would just put that in the context of we are rewriting the rules. We are rewriting the rules for AIG and Merrill Lynch, I mean, and you know, all these other companies. How can we rewrite the rules for borrowers?

And then the one other thing I will ask, as well, while I have got the mike – (chuckles) – and before it is taken away.

MR. BARR: It might be soon.

Q: (Chuckles.) You know, we are finally at a point and I am very glad that we are at this point where we are thinking about how to help people going forward. But what about all the people who are behind us, all of the people who have already been foreclosed on because it has taken us this long to figure out that we need to help them. And what do we do to help restore the position of those people, many of whom should never have been put in the loans that led to the loss of their homes. How do we help put them back not only in the position of home ownership, but restore some of the equity that they lost?

MR. BARR: So let me treat that as a comment rather than a question. And we will sneak in one last question over here. And then maybe our panel – actually, if it is really short, we will sneak in two questions. Then our panel will take the comment and the two questions together. I just have time for these two questions. One here and one here. And then our panel will respond quickly to the three – the comment and the two questions together.

Yes, sir?

Q: (Off mike.) Not bad though. You mentioned the housing and economic recovery act. Just briefly, if all three of you can touch on what part of that you think will help 50-plus homeowners most, and why and what level of that help will be. That is it.

MR. BARR: Great. And then, yes, sir?

Q: I have had the opportunity of being both on the housing counseling side, as well as the mortgage lending side, and now the government side. When we are talking about these defaults, there seems to be very little discussion about consumer greed – flat-out consumer greed. I need to hear what – I mean, what is on the drawing board dealing with consumer greed because for us to go forward without acknowledging that that was a part of the problem as well – you know, just like everybody can't be a victim. Okay? I think someone needs to start talking about that issue.

MR. BARR: Thank you. And then since I already called on you. Yes, last point.

Q: Nina Simon (sp) with AARP Foundation. I think this question was embedded in Debbie's comment. My question for Marty – it sounded like there were principal write-downs as part of the IndyMac loan modification proposal. And my question is if that is correct, why is that not the case, especially for loans where the properties are underwater anyway and the FDIC is going to have to write down the value of those assets.

MR. BARR: Great. So let's each of us take a turn. We are going to keep ourselves to under 45 seconds in responding. First, on principal reductions, it is legally permissible. It is feasible. And if you are worried about giving too much of a benefit to the consumer, you can include a soft second due on sale.

Second, how much did the Hope for Homeowners Act help? It is expected to help about 400,000 homebuyers; no way of knowing how many of them are elderly Americans, but it is a start on our current crisis, a really helpful start. And there is also 4 billion in neighborhood stabilization funds to try and help some of the communities and families that have already been foreclosed upon.

And greed of consumers – yes, part of the problem. But I think if anything, there has been an overemphasis in the media discussion of this on the greed of consumers and less than there ought to be on the greed of every other player in the system.

MS. KEEST: I would only add about – I'm sorry – the principal reduction stuff is that, you know, as we go forward and talk about the – well, first off, obviously, the bankruptcy fix would fix that part of it. And you have heard both sides of that, so that is a political judgment. But the second possibility is if the talk about sort of an RTC goes forward, it seems to me that that is a good place to be thinking about that in terms of like what the purchase price is and taking the haircut at the time you decide to do the purchase price and that kind of stuff.

So we have an opportunity to do that, and I would hope that we don't take that off the table and don't just think that speed is too urgent to deal with the problems of the borrowers because, as I said, we have to have the circuit breaker before we can stop this slide.

MR. GRUENBERG: Yeah. In regard to the question on the principal write-downs, the position we are in as the – we are operating IndyMac on a bridge-bank basis pursuant to a foreclosure. We have sort of balanced both our responsibilities to maximizing return in regard to the deposit insurance fund and the taxpayers, as well as trying to provide relief to homeowners. I think it was our judgment based on the legal authorities that we have that an interest-rate reduction is an easier way for us to reach an affordability level for the homeowners in these mortgages that we service than the principal write-downs.

On the consumer greed point, I guess I would like to, you know – as Mike said, there is an element to that. But what I do think is very revealing is that on the sub-prime mortgages – and I made this point before. The majority of the sub-prime mortgages made were refinancings of existing homes. What that means is these weren't people coming in to buy a new home on a speculative basis. They were really by and large folks who were living in homes with fixed-rate mortgages, so they could afford to pay. And they had some equity accumulation. And knowing the nature of the marketing that goes on, particularly in the sub-prime segment, they were often induced with representations that, indeed, they could lower their monthly mortgage payment. At the same time, they would be able to realize taking some equity out of their home to make repairs or meet other pressing obligations.

So while there is an element, I think, of the point you raise, I do think, for the most part, there were many people who were owner occupiers had homes and refinanced them into mortgages that were very problematic and put them at great risk.

MR. BARR: David?

MR. KITTLE: I guess I am the disagreer up here today. But just to slightly disagree with you, Marty, is that, yes, they were products that people refinanced into. But they also refinanced to cash out to pay off vacations, cars, lifestyle choices – lifestyle choices, cars, vacations, clothes, whatever, home. Some of them did take out loans for their education. And that was a consumer choice. One statistic – and I will close with this – of the sub-prime arms that are out there, 80 percent of those are still paid on time.

I used an example with Congressman Frank in Boston last year. And if you line up 100 people against the wall – or all of us against this wall, and it's 100 people, we are going to have 20 of you sit down. You are not paying on time. The other 80 are. Are we going to tell those 80 people they shouldn't have got a home loan and bought a new house? Something to think about in the statistics – drill the numbers and, you know, there is more than just what people throw out here. So – thanks.

MR. BARR: Great. Thank you very much. We are going to go right into the next panel, and George is going to get us all back on track and on time.

(Applause.)

GEORGE GABERLAVAGE: Okay. We are going to get going right away. This session, I think – this session, I think, is fundamental because so much of what has occurred and what we have been discussing this morning has its origins in the experience of consumers in the mortgage marketplace. And this is about – this session is about that experience and how we can improve it.

Diane Thompson is an attorney with the Consumer Law Center. She also serves on the consumer advisory council to the Federal Reserve Board. And in the paper that you have fulfilling the promise of truth in lending, Diane and her co-author, my good friend, Elizabeth Renoir (ph) document the legislative and regulatory history of our most important consumer credit disclosure, the APR. But most importantly, they do propose a way to restore the APR to its full effectiveness at a time when it is most needed in our credit marketplace. So Diane, please go ahead.

DIANE THOMPSON: Good morning. It is really a pleasure to be here on such a distinguished panel. Marietta was talking this morning about the importance of financial education. And I certainly don't disagree that financial education is important. But I start from the premise that we have now arrived at a point where mortgage products are so complicated that no consumer is going to be able to understand them. And I think, in fact, the events of the last year or so make clear that it is not only consumers that didn't understand or didn't price these products correctly. (Laughter.)

I'm increasingly at a loss to see if anybody priced and understood these parts correctly. When I used to talk about this about three and four years ago, I would say, you know, the industry is pricing these products. You can see the derivatives and how they are selling them that they have clearly understood the risk, and there are all these risk disclosing and pooling and servicing agreement, which are never disclosed to the consumer. But I don't know whether the investors suffered from an over-optimism bias even greater than consumers or whether they didn't read the prospectuses.

But in an event, it is clear that – both. Yes, I think that is likely. But I think it is clear that nobody can understand these products, that the pricing is simply out of hand. We have pricing that varies on what the interest rate is. We have pricing that varies on fees. We have different terms of mortgages. We have rates and payments that vary. Understanding how that pricing works, what the risk of that is simply too complicated for most of them. And so I think proposals like the default mortgage proposal that Michael is going to talk about are very important.

Substantive regulation in this area is extremely important – absolutely necessary. Even in a world, though, where we get to some kind of constrained choices, pricing on mortgages is inherently complicated, and complicated beyond what most people can intuitively understand, and is unfamiliar. When we look at interest, all of us consistently underestimate the cost of interest and the cost of future payments.

There is some very interesting work that has been done that suggests that when people are given payment streams, they will underestimate the interest by 25 percentage points – not basis points, percentage points. So they will look – if you give them a payment stream that has an effective interest rate of 35 percent, people will assume that that is an interest rate of about 10 percent. So without some feature that tells them what the rate is – if people are just looking at the payments, they extremely overestimate – they underestimate and they consistently underestimate how expensive it is.

And that bias holds true. It is reduced by wealth and it is reduced by education, but it still holds true. Additionally, mortgages aren't just in the rate, so, I mean, rate and payments are bad enough. But then we have all these fees. In the HUD report for the RESPA reform proposal, they looked at average HUD-1 settlement statements from around the country, and there are tens of fees typically on those called by hundreds of different names. And we know that the more fees that there are on a mortgage transaction, typically the higher the costs are on the mortgage transaction. The higher the individual costs are, the higher the total costs are, and the higher the interest rate is.

And that is partly because when we split the fees up into lots of little fees, we are too lazy, we don't do the math. And we also just think, well, none of those look very big, and so we sort of go on and we accept them where the aggregate effect is very large. It gets even more complicated when you are financing those fees, as we do in most mortgage transactions. The math to figure out what the relative relationship between the fees and the rate is sufficiently complicated that probably less than 10 people in the country can do it in their head. And most of us who try to do in the head are going to make pretty serious mistakes.

Added to this complication is our general need that most decision-makers have, including very highly trained and educated ones, to only be able to hold in hand at any one time when they are thinking about it, about two to three decision points. So when you are making a complicated decision, you are going to look at about two to three factors to decide which is the best decision. And if you are given more factors in that, you are going to sort of choose which are the two or three that you think are the most important and focus on those.

So what I think we need to do is we need to somehow help consumers, to the extent that we can, focus on what the most salient and important features are of the cost of credit. And this sounds like an overwhelming problem. How do we do it? Well, the good news is that we have actually a very good, a very effective disclosure that has been around for a long time that is shown to work, that consumers look for – consumers as high as 80 percent report that they look for and they use when they are shopping for credit. And it is also – there are some data that suggest that it lowers the cost of credit in markets where its disclosure is uniform and done consistently.

And that is the – there are two key disclosures under the truth in lending act – the finance charge disclosure, which is a dollar amount of the total cost of credit – the fees plus the rate. And then there is the APR – the annual percentage rate. And consumers consistently report looking for the APR and relying on it in their shopping. And what the APR does is it combines the fees and the interest into a percentage rate – like an interest rate. And it stabilizes that, holds it constant over time, so it doesn't matter how long the loan is for. You can compare a 15 year and a 30 year and a 40 year and a 50 year. And there are some complicated questions about duration, but I am not going to talk about those right now.

But in general, if you are going to hold the loan to term, it holds it steady for the length of the loan. It holds it steady for what your fees and your rate are. It works extremely well – good data, some data – some good data anyhow that suggests pretty strongly that it reduces the cost of credit. The problem is that has happened in much of the rest of the mortgage market – the Federal Reserve Board has allowed the finance charge to become essentially deregulated over the last 20 years.

And they have allowed an increasing carve-out of almost ad hoc exceptions to the finance charge. So a whole list of fees that a consumer would not incur, but for the loan – so they are clearly part of the cost to the consumer of getting that loan are now excluded from the finance charge, which makes both the finance charge and the APR much less effective as a measure of the cost of credit.

The other piece of bad news here is that HUD and other agencies have – when they focused on particularly RESPA reform – have undercut the use of the APR by not including it and not highlighting it in the disclosures, and so giving people all kinds of other information to focus on instead of this one bundled cost.

Elizabeth and I, in our paper, argue that if we could move – and much of this is within the power of the Fed. Some of this would require congressional action. If you move to a more inclusive finance charge, you restore – you strengthen the APR, you make it a much more meaningful measure of the cost of credit and it permits consumers to exercise – it permits housing counselors to train consumers on how to do meaningful shopping and permits consumers to exercise a certain amount of market discipline and protect their own interest.

MR. GABERLAVAGE: Thank you. It has been a pleasure to work with Bill on this project – Bill Apgar. I mostly read his articles from afar, but now it has been great working with him personally. And in their paper, which you have in your packets, "Understanding Mortgage Market Behavior: Creating Good Mortgage Options for All Americans," Bill and his co-author, Ren Essene note that traditional economic theory fails to adequately explain consumer behavior in the mortgage market. And we need to look to behavioral signs to better understand what is actually occurring and how we can improve outcomes.

And the paper attempts to outline a number of potential initiatives such as trusted advisor networks that can assist borrowers, especially the low-income and low-wealth borrowers to avoid the kind of aggressive marketing that saddles them with unaffordable and unnecessary debt. So Bill, please.

MR. APGAR: Thank you. You have the paper. I had an opportunity to speak before, so I am going to cut my remarks back, which means I won't go over twice as much. I will only go over a little bit to give more time to Michael. You know, again, I think the key is to remember that we just didn't get here overnight – that these structural weaknesses, these flaws in our analysis have been there for a while. And this idea that somehow, if we could only perfect the consumer to make them more knowledgeable, more whatever, and essentially override a lot of human tendencies to be more focused on the short term than the long term, to not be able to manage the complexity of these products and stuff, we will have the perfect system.

This is a bit of a disillusion that we have been into. And our regulatory system has bought into it at some level by assuming if we give people more things to read, they will be smarter and they will make better choices. The other thing, of course, is that we have got to be careful about how we apply rules. And if I had one recommendation going forward is everybody that engages in the same activity in the economic sense should be governed by the same regulation in the market.

You know, we haven't talked about the banks and the non-banks and the states and the locals and all this patchwork of regulation. Trust me, the foreclosure crisis didn't notice all these divisions – that when the foreclosure boom was sweeping through neighborhoods, it didn't take note of the fact that that loan was made by a state-regulated entity or that loan was held under a bank that was governed by one of the three – the various parties.

It was one loan wasn't going to be repaid. So uniformity is my overall recommendation. I will relate it to the consumer piece, which you have talked about. And we did write a paper with Diane with Ren. And Diane and Michael, of course, are talking about similar contexts. Just a couple of observations. I just have to recognize with no disrespect to everybody that the ability of consumers to make informed choices in the mortgage arena is limited. This is no disrespect to the value of individual engagement. This is no statement about the fact that we want a nanny state. It is a fact that in complex matters, people may not be the best judge of what is best for them in some instances.

And the behavioral economics points this out. And we can see now the – how vulnerable consumers are to these aggressive – I use the word "aggressive" because it is not illegal. Many of the practices were not illegal. It was a broker telling somebody, oh, forget about that APR statement that you fought so hard to get out of. That doesn't mean anything. What really matters is what your monthly payment is, what is your this, what is your that. And the capacity to overwhelm the disclosures by countervailing pressure to a consumer that basically wants to have the loan and wants to not have to worry too much about it.

We need to move beyond consumer counseling is our recommendation and expanded disclosure – not that those are unimportant. Disclosure is a key part of transparency. Financial literacy is a key part of having consumers being able to engage as much as possible in decisions that affect their lives. But we need to move beyond that. We need to think, for example, about making sure that consumers have access not just to information, but advice. All right?

Many of our other great professional areas – the law, the medicine. We don't go into the clinic and the doctor doesn't hand us a guidebook of saying here is your health options. Read about it and make your choice. They provide ultimately, advice – not that providing health information is not important, but in some instances, you want people to cut through the complexity and working on our behalf, give us some advice. Lawyers the same way.

The problem, of course, is these financial intermediaries – these mortgage lenders and loan officers are falsely – consumers falsely ascribe them to be trusted advisors when, in fact, they are incentivized sellers of products. Their job is no different than the proverbial much maligned tin man or auto car salesmen, or all the other people who have been examples of this kind of aggressive practice. Their job is to make – not necessarily provide advice – not everybody, but generally.

Finally, moving forward – remember there are special situations of seniors. Right now we have a special group of people that have a lot of equity and some limited cash. And I worry about the fact that unless we make real our pledge to get workable use of reverse mortgages or other ways to tap that equity, we will have another group – 10 years from now, will say, boy, wasn't that too bad? We came out of this mortgage crisis and what we had was a whole lot of energy focused on picking off that equity from this vulnerable group.

We have been talking about reverse mortgages for 30 years. We have barely made a dent in that. This is one of the big structural issues of how we have a lot of folks with more equity than cash. How can we turn both sets of resources to something that will help them have real security in their retirement years?

(Applause.)

MR. BARR: I may just stand up here, so this side of the room can see, too. So I am – my position up here is consistent with Bill and Diane's. I take as a fundamental fact that human beings behave in ways that do not fit the fully rational actor model with perfect information and foresight used in most economic models and that is the basis for most of our kinds of regulations.

And these insights suggest that we might want to rethink our basic models for mortgage regulation. I want to talk about one idea to do that. So consumers, as we have heard, misunderstand the importance of compounding of interest. We all do. We do it in our savings and that leads us to undersave. We do that with respect to borrowing. It leads us to overborrow. The two market contexts are very different though. In the context of undersaving, society would like us to save more; the market would like us to save more. In the context of borrowing, society would like us to borrow less, and the market, because it is fundamentally broken with a system of misaligned incentives, wants us to borrow more. And so we might need different solutions in those different contexts.

In the context of saving, we have seen remarkable progress through using behavioral insight to increase retirement saving. How have we done that? We have had what are called opt-out 401(k) retirement plans. If you are an employee and you go to your employer and you sign up to get your job, you are automatically enrolled in a retirement plan unless you opt out. And when companies have taken up this challenge and used an opt-out retirement strategy, they have dramatically increased retirement savings just by changing the starting point, changing the default – horrible word in this context, but changing the starting point for consumer action. Rather than trying to spend 12 hours educating the worker on the benefits of retirement saving, the worker is just signed up unless they opt out.

So maybe this strategy could work in the credit world. What if we had an opt-out home mortgage system? Think about it. You go to get a loan and you are automatically signed up for a – let's say, for example, a 30-year fixed-rate mortgage with understandable terms – terms in which the APR reveals the true cost of credit. And that is the mortgage you get unless you opt out.

Now, that sounds great. That is a good start. But I just said the market for the credit world is different from the market for the savings world. Why? Because the market has an incentive to get you to take a worse mortgage and a higher-cost mortgage. So we need to make the system sticky. We need penalties if the private sector gets you to opt out for a mortgage and doesn't provide reasonable disclosures to you about the risk. And it is an unreasonable kind of product.

And so in our paper, we discussed the range of ways to increase potential legal exposure to firms in that context. So that is the idea – a sticky, opt-out mortgage system. I think that is the way we should go.

Thank you.

(Applause.)

MR. GABERLAVAGE: I am going to exercise the prerogative of the chair and we will go right into questions from you. So do you have any questions?

Q: Yes. Obviously, there is a lot of changes going forward with mortgages and the future of homeownership. If you guys could just touch a little more on reverse mortgages and where you see changes in that area and positives and negatives going forward after the correction, that would be great.

MR. APGAR: Well, my own reaction is that people have been talking about reverse mortgages for so long. And consumers are not taking them up. So there must be something we are not doing right. And I don't know what it is. Right now we are starting to see some growth in the FHA program. We are definitely seeing the marketing of those mortgages more aggressively. And it seems like a good idea. But when I listen to those mortgage advertisements, I see some of the same misleading deceptive concepts coming through the ads and not a realistic understanding of what that is.

So I don't think we have perfected that problem. I am not an expert on reverse mortgages. But I do perceive that the same marketed abuses that have helped create the current context could be applied to the growing reverse mortgage market. And that could be a problem down the road.

MS. THOMPSON: My background is that I was a litigator in a legal services office in East St. Louis for almost 13 years. And much of our experience is that reverse mortgages were often sold extremely abusively, inappropriate circumstances, pushed hard by home improvement contractors in the same way that we saw all kinds of refinancing loans pushed. Reverse mortgages are, by their nature, extremely expensive products. And they are products that for most people guarantee the loss of any remaining equity in their home.

That said, they can be a useful way for seniors to be able to age in place. Many seniors would prefer not to have a reverse mortgage because many seniors want to be able – have been led, as many of us have, to think about the home not just as a place to live and as a place to give them dignity and security in their own age, but as a wealth-acquisition tool to be passed on from generation to generation. And a reverse mortgage undoes any possibility of that.

So I think their usefulness can be great. It can be very important for seniors. They are extremely expensive. People need good quality counseling, which they don't always get. And I think for most seniors, they regard it as an option of last resort.

MR. BARR: Just a quick point – I agree with both comments that were just made about the dangers of reverse mortgages. I will just add that if you look at the retirement savings of elder Americans and you don't count in their housing equity, they haven't saved enough. Carl Schultz and his colleagues have done a very careful study of this. So housing equity is really important for the retirement savings of elderly Americans. There isn't a good way for them to use that equity now. And reverse mortgages, for the reasons just described, scare the bejeezus out of me under their current format.

That is a technical term.

(Laughter.)

MR. GABER: Another question?

Q: I have a question over here.

MR. GABER: Oh, okay.

Q: Is that okay? So my question is primarily for Bill, although I am interested in what other panelists have to say. But in your former role as the Federal Housing administrator, it seems that there is a growing interest in looking at FHA as one of the solutions moving forward to the foreclosure crisis that we are facing. And I think when we look back, we know that FHA itself has had a number of problems over the years. And I know you have been involved in dealing with some of those.

And so I am curious about what you think needs to be done differently with FHA. If we are going to rely on it, so that we don't encounter some of the problems that we have had in the past.

MR. APGAR: Yes. FHA is a challenged organization. It fell into disrepair. And it sort of dropped out of the scene because it was sluggish and not quick and nimble at a time in which the market was changing rapidly. To me, it is interesting, of course, is when everything gets into trouble, we want to put the risk back on government. You know, so we put a lot of the risk in these new mortgage programs back on government through FHA. We are now putting a lot of risk back in the ownership of these larger private-sector companies by having them now owned or more directly engaged with by public organizations.

And the question is, can FHA bear that risk? And I do not foresee that the FHA modernization has gone far enough – our reform has gone far enough to give them the internal capacity to really properly manage the risk that they have been given. I think they are working hard at it. I don't want to, you know, prejudge the answer. But this is tough business.

When you can't pick the appraiser of the mortgage that you are insured, lender select, a rule that has been around for years, still guides the appraisal selection. When Congress is still debating fundamental issues about whether or not they have to take down payment assistance mortgages. I am not worried about that particular concept because you could argue either way on whether that is a good idea. But the idea that the basic parameters under which they operate is done by a congressional committee spanning over months and years of debate, and a market which needs to have adjustments more rapid than that.

So we are going to have to give FHA some new tools to do – new resources, and some new flexibility of action. Otherwise, it could be not able to manage the risks that we dealt it.

MR. GABER: One more question.

MS. THOMPSON: If I could just – there are two things about the FHA program I would like to say. One is that in most cases where debt is reduced, is it is going to be required under the FHA program – there can be significant tax consequences. And this is something that Congress did not deal with at all in the bill and is going to need to be dealt with or any of the benefits – potential benefits of the FHA refinance program are going to be pointless. It won't work.

The other thing is that for all – from a consumer standpoint, for all of its problems that the FHA had, and for its relatively high default rate, it is a pittance of what the sub-prime default rate was. And it is very clear when you look at the data that FHA lending has been displaced by sub-prime lending. So I think it is a good thing that we are pushing it back to FHA lending, even with all of the problems and issues that we can see there – including – I think Bill's very important point about shifting the risk to government –

MR. APGAR: Yeah. I just don't think that the sub-prime default rate is the standard against we want to measure any organization.

(Laughter.)

MS. THOMPSON: No, but you know –

MR. GABERLAVAGE: One more question.

MR. APGAR: FHA did better than that. That is true.

MR. GABERLAVAGE: One more question.

Q: I am writing for our readers in the Palm Beach Post. And for them, a lot of them, when they see all that has happened this morning – we know that all these big sweeping reforms came out. But the bottom line for a lot of retirees in Florida is should I put my house on the market now or not? Can you give any sense of do all these changes translate into anything for a person who is trying to decide is this the right time to sell my house? Or is this all so complex that it would be months and years before it matters to the average person?

MR. BARR: I think that there are – you know, there are interrelated things going on. One, there is some effort being made, in my judgment, much too late to put in place real efforts to resolve the crisis that is a positive. That is some beginning of effort to put in place real structural reforms for the future. But only really just the beginning, even with everything that has happened in the last week.

And so, three, I think no one in their right mind would answer your question.

(Laughter.)

MR. APGAR: But I have to answer the question for my kid who is thinking about buying a house. So what do I tell him? I tell him that ultimately good value is long term. This is – spot market prices move up and down. But don't do anything until the market hits the bottom. And finding the bottom is what this is all about. What we had was this enormous overhang of unresolved mortgages, not knowing how far they were in the process and where they were going to come out the other end. And so this effort to resolve it – the resolution trust fund to resolve that is an effort to help the market find the bottom.

Too late, not well done, but essential. So the question is whether or not once we get an idea of how many units are in foreclosure, are likely to come out, and some orderly process of laying them out, then the market will find the bottom. Prices will quit going down. And we will start seeing some recovery. This will probably speed the time of that, but you know, it is not there. So the advice is, if it is a good property and you can get a good price, go. If not, wait awhile and see where we are at.

MR. BARR: And just to further elaborate, I think the problem is that there is this relationship between the asset price and credit markets. And the asset price will continue to fall unless there is resolution in the credit markets. And we are not going to get resolution in the credit markets for quite some time, even with these reforms in place.

I think that we are in for quite a long period of time of both financial and economic uncertainty. And so in principle, one should wait for the bottom. It is not obvious that – what is obvious to me that I would not be able to predict when that is in this crisis. There is a high probability that this crisis will continue for quite a significant amount of time.

MS. THOMPSON: We got into this problem because we were all encouraged to treat our houses as essentially cash investments, as fundable investments that we could swap out with any other investment. That is one of the significant reasons that we ended up in this crisis. I think it is a mistake for people to try to market time when they buy and sell their homes. People buy and sell homes for all kinds of reasons that have nothing to do with the dollar value.

I mean, it is all true. If you can time it for other reasons, that is fine. But I think in general, people need to be cautious about the idea that they are going to be able to market time anyhow. But certainly, market time something like a home, which you have all kinds of other reasons for being ready to sell, not being ready to sell, being ready to buy, not being ready to buy.

MR. GABER: Diane has just had the last word, and we are going to take a break.

(Applause.)

Thank you.

MR. BARR: So I think I am supposed to also say we are going directly to pick up our lunches in the hallway. Bring them right back in here. And at 12:25 – please start eating right away because at 12:25, we will begin our luncheon program.

(Break.)

MR. BARR: (In progress) – so far, we've heard I think really path-breaking work that the AARP has done with new data collection about the effects of the mortgage crisis on older Americans. The finding that 28 percent of those currently delinquent or in foreclosure are older Americans is really quite a striking finding and helps put a better face, a more accurate face, on the plight of those who are suffering from the current crisis.

We've had a series of panels with excellent suggestions for reform. And now we have really the highlight and a special treat for us today, a hearing from Representative Barney Frank, the chairman of the House Financial Services Committee. Introducing Barney Frank in Washington is sort of like introducing Brad Pitt in Hollywood. Really, you don't need to say very much. (Laughter.) He is one tough legislator. He is smart. He is strong. He knows how to get things done in Washington. He has been a tireless advocate for low-income and moderate-income Americans in all his work. He has led the fight against predatory lending for his entire time in the House Financial Services Committee. He passed legislation, really tough anti-predatory legislation, last year. When no one said he could get it done, he did. He's been at the forefront of helping homeowners through the current crisis, with the legislation that was passed and enacted into law this summer, helping hundreds of thousands of homeowners, helping communities across the country.

And he is undoubtedly quite busy today, as I know he's been all week, dealing with this unfolding financial crisis. So without further ado, please join me in welcoming our friend and the chairman of the House Financial Services Committee, Barney Frank.

(Applause.)

REPRESENTATIVE BARNEY FRANK (D-MA): Thank you, Michael. That was a very generous introduction. There is one request, though, I appreciate it was the right time and you said very nice things, but before I retire, to satisfy my intellectual curiosity, if not my ego, I would like to be introduced, with further ado. Because I want to know what further ado looks like. (Laughter.) I've been denied it all these years and I want to know before I go what it is.

I am very glad to be here before this very important organization. I have had a great deal of regard for AARP, even before my brother, David, went to work in the communications part. And there are so many friends and coworkers, that it's good to be here. You know, people fib from time to time. One is, oh, I don't like to say I told you so. Well, everybody likes to say I told you so. And as the membership of this organization, this sponsoring organization, understands, it is one of the few pleasures that improves with age. (Laughter.) You can keep doing it; no disabilities stop you.

And those of us on the liberal side, those of us who have been advocating for a strong public policy role in working alongside the market so that the market functions well, so that the fruits of the market are shared in a fair way, not an equal way, but a fair way, we're entitled to say I told you so. For a number of years, a couple of decades, the prevailing philosophy in this city, and in much of the world because of the influence of this city, was the best thing government can do is to get out of the way of the private sector, let capital alone and it will treat you well. My first day in Congress, well, my first month, Inauguration Day, 1981, I got elected 1980, Ronald Reagan, I remember, I was standing there when he said, "Government is not the answer to our problem; government is the problem."

And then you had Republicans ruined Congress for 12 years and the leading economic spokesman was the former professor of economics, Dick Armey. And his mantra was, markets are smart; government is dumb. And the current situation thrashed from Reagan through Armey and this conservative philosophy, to the current situation in which the past couple weeks have featured the Bush appointees to the Federal Reserve and the Treasury, Chairman Bernanke and Secretary Paulson, and their basic role has been to go up and down Wall Street and say, we are from the government, and we are here to help you. And they have been very well-received. That used to be a bad joke that conservatives would tell. (Laughter.) It is now their – (inaudible).

By the way, I think highly of Mr. Bernanke and Mr. Paulson. I think they are doing well, although I think it's been inappropriate in a democracy to have them in this position where they were sort of doing this stuff unilaterally. They had no choice. And it's not to their discredit, but it's systemic failure, this notion that you wait until there's a terrible situation and you just hope that the chairman of the Federal Reserve would pop up with the secretary of the Treasury and rescue you. I told Mr. Bernanke that I think in Wall Street that they were referring to him as the Loan Arranger and his faithful companion, Paulson. (Laughter.) It's again, not the way, in a democracy, the way you should be doing this.

And that's why I was one of those who said I thought we had reached a point where we needed to institutionalize it. And that's what we're doing. We will institutionalize this. There will now be a vote in the Congress. And some of my colleagues were saying, well, do we want to get involved. It would be entirely inappropriate for those of us who have been critical of executive overreach and of a failure to involve the legislative branch to try and duck the responsibility that we should share here. So we are going to do it.

But it also gives us the opportunity to do it well. As Michael indicated, when we were asked to do certain things with regard to Fannie Mae and Freddie Mac, et cetera, we took the opportunity there to add some social equity – (inaudible) – with long work, we were finally able to get an affordable housing trust fund signed by George Bush that we could not otherwise have gotten done. We put in the money for the foreclosed properties.

There were other things in there, if you're in the housing business, you understand that sort of everything that was around in terms of facilitating the construction of affordable housing we did, we saved thousands of people from eviction by putting in there legislation that said in certain properties they would stay there. And that, by the way, is the market for what we will do for the whole country next year. We have now set the pattern of preserving subsidized housing.

So that brings us to the current situation. We have to say a couple things about it. First of all, we have spent a lot of time recently debating the consequences of a phenomenon. And it's important to debate the consequences. The consequences are that we have got a credit market that has seized up and that has very real negatives for everybody. This isn't just for Wall Street. I met on Monday with the leader of the one of the financial institutions in this country who told me that he thought his company might soon be out of the business of providing financing for people to buy automobiles because of this crunch. Well, that means they don't make as many cars, they don't sell as many cars. I mean, this is something that has negative effects throughout.

Now, we're debating the consequences, but let's not forget the cause. The cause is a failure to have government regulation over risky activities. Now, one thing that we have to be insistent upon – I know this is true for Speaker Pelosi, for Senate Majority Leader Reid, Senator Dodd, myself and many others – we could not responsibly consider this particular response that we are talking about – it's an intervention to try and deal with the consequences of this – without committing ourselves to taking action to prevent it from recurring. This can't be something we're going to have to do every five years. So I think we have to act. But we have to act in a way that says this shall not happen again.

Now, we've made some progress in that. And again, the big debate has been regulation versus deregulation. And people forget, in 2006, in November, less than two years ago, when the Democrats won and I was about to be chairman of the Committee on Financial Services, and there was some consternation about that. You know, the Republicans sent out letters which we saw copies of saying don't vote for the Democrat for Congress because if you do, the chairman of the committee will be Charlie Rangel, John Conyers and Barney Frank. I showed that to Charlie and he said, gee, I didn't know you were colored. (Laughter.)

But we were immediately besieged by people who said, you know what, your agenda has to be deregulation. I really – you know, if anybody's writing a paper, go back and look at this. Go back and look at the number of people who were telling us in November of 2006 that the economy was suffering from too much regulation, that people were going to Europe. And you had Secretary Paulson commission this report, the Scott Report, for Professor Scott from Harvard Law School. Senator Schumer and Mayor Bloomberg gave us the McKinsey Report. There were others that said deregulate, some more moderately as in the Schumer-Bloomberg case, than others.

And some of us said at the time, well, wait a minute, we're worried about some of these activities that is unregulated and we frankly did not have the votes to do anything about it. That's obviously changed significantly because we've had this debate about regulation versus deregulation and it's clear that we have suffered far more from the absence of regulation than too much regulation.

By the way, there will still be areas where we over-regulate, on some of the smaller banks, et cetera, we've been working to try and remove some of these annoying things. The Patriot Act imposes far too much regulation on community banks. They've got to file all kinds of reports that are a waste of time and energy.

But on the fundamental question, we have left unregulated a lot of economic activity. Two clear examples. First of all, the making of sub-prime mortgages. And you know, we've had some experiments comparing regulation to un-regulation, or non-regulation, in this area. Mortgages are originated by two groups: regulated entities called banks and credit unions and thrifts and the unregulated mortgage finance companies, et cetera. If only the regulated entities had made mortgage loans, we would not have had this crisis. It was the ability of unregulated entities without making money – loans on non-deposit funds that caused the problem.

In 1994 – and there was a philosophical difference between the two political parties on this – in 1994, under the leadership of my predecessor, who was a senior Democrat, John LaFalce, and Henry B. Gonzalez, a great populist, the Democratic Congress passed and Bill Clinton signed the Homeowners Equity Protection Act, which said to the Federal Reserve, protect people by outlawing certain kinds of mortgages. Alan Greenspan said, I refuse to do that, I'm not smarter than market – a burst of humility from Mr. Greenspan – (laughter) – and I defer to the market. So nothing happened in regulation and you got all these bad mortgages.

And, by the way, if the argument is, well, the legislation was flawed, that's refuted by the fact that Ben Bernanke, after the Democrats took over, and as Michael said, passed a bill on sub-prime, and then they said, well, wait a minute, let's not let Congress do it, better the Fed should do it. Mr. Bernanke, to his credit, then issued regulations that will limit sub-prime mortgages going forward of the wrong kind using exactly the authority that Alan Greenspan refused. So it can't be that the authority was flawed.

So a lot of bad decisions were made and bad loans were made and securitized so that there was no discipline about worrying who would pay you back. And then the other even bigger mistake was to allow this proliferation of creativity in the financial area, securitization with collateralized debt obligations and credit default swaps and a lot of other things that very – don't feel bad – very few people fully understand, including, unfortunately, the people who engage in it. (Laughter.) And they took the initial bad decisions to make loans to people who should not have gotten them and proliferated them throughout the system with a great deal of leverage. That's why we are in the situation we are in.

So as we deal with the consequences, we cannot forget the causes. And we are determined to make sure that there are not these bad sub-prime loans and that there are not the proliferation. And by the way, I was very pleased to see the AARP's report about the sub-prime loans, among the victims have been older people. Because people said, oh well, these are just irresponsible people. You've got a lot of older people who should not have been in the business in the first place getting loans hornswaggled and then are refinancing and doing other things, and the AARP report shows how widespread this pattern was and how wide the victimization was.

Well, anyway, we are where we are. The first response was, okay, we've got all these bad credit decisions, let's have some ad hoc interventions. Bear Stearns kept it from getting worse, but it didn't work as well as it should. Fannie Mae and Freddie Mac – then they decided, okay, too much intervention, the Wall Street Journal was complaining, so they tried free enterprise, unrestricted. Lehman Brothers came up and said let it go under.

I am going to file a resolution, by the way, I'm going to declare September 15th, Free Enterprise Day – (laughter) – because it is the one day in the history of the Bush Administration that they were for free enterprise. They weren't on Sunday; they weren't on Tuesday. But they were last Monday. You could go look it up, like Casey Stengler (sp) says, because on Monday they were saying, we let it fail, we're for free enterprise, we're not for any bailout, then came Tuesday and AIG and $85 billion worth of intervention. (Laughter.) But Monday was Free Enterprise Day.

But that didn't work either. Intervening and not intervening ad hoc didn't work. That's why I began, among others, to say that we needed a more systemic intervention. By the way, when I said that first – and one of the journalists will remember this, some of whom are here – John Boehner, the Republican leader, was asked about this. He said, oh no, we don't want any more government intervention. Last night I got a lecture from Mr. Boehner on my patriotic duty to fully support this. (Laughter.) So he did a little bit of a conversion as well. He also told me I needed a haircut. (Laughter.)

But we now have got to do this systemically. Now, people should understand, if we don't do it, Bernanke can continue to do it. On Tuesday night – and I've been around this a long time – I was surprised at the dimensions of this. I knew something about it after Bear Stearns. I asked Chairman Bernanke if he had the $85 billion without any strain to put it to AIG. He said I have $800 billion. The Federal Reserve has $800 billion, which it earns through its money-making businesses and its management of the economy. And under a 1930 statute, he can lend that to any entity in America on any terms he sees fit and take whatever he wants as collateral. It is more power than any individual would have in a democracy. And he acknowledges that, by the way; Ben is not looking to do this.

What we then faced was either we do this in a systematic way, with rules that we put forward, or he'll continue to have to do this. He made it very clear last night that he is eager to give this up and once we pass this you will not see him doing it again. People were worried about this; we're not going to talk about curtailing it now and there will be still be increased liquidity that he'll be injecting. But he will not be in this business.

The reason I'm for it is, as I said, one, I think it's the consequence of this set of bad decisions and we have to deal with it. Two, he could have done it anyway. And, three, this give us a chance to write some social content into it as we did previously. One is on compensation. By the way, there was this outrage over the severance packages for the heads of Fannie Mae and Freddie Mac. And I admire them. Dick Syron has been a friend and a good public servant as well as a responsible private actor. But it was clearly incompatible with where we were for them to get those severances. The Bush administration regulators were able to cancel those severance packages because of authority that Congress put into the package that they did not ask for and that the secretary of the Treasury told them he didn't want. So we will again be talking about compensation packages. We can't set the dollar figure.

It has been widely acknowledged, including by the icon of financial regulation to many conservatives, a financial services authority in England, that the current compensation structure is not only leading to too much money, but to a perverse incentive. Namely, if you're the head of the company, you can take a risk, and if the risk pays off, you make money. And if the risk doesn't pay off, you go home to dinner, but you don't lose any money. It's heads I win, tails I break even. And we, I think, should say, if you want to participate in this, we want you to show us that you've got rules that don't allow that incentive structure to function. We can't totally control the amount. And that would include not compensating people for failure and excessive golden parachutes.

And people say, oh, well, that will kill the whole program. Are they telling us that the financial leaders of this country, who clearly welcomed this, who said it's necessary, who understand why it's necessary and who would get some near-term benefit for their own institutions, as well as for the whole economy, will boycott it if it's going to cost them a few million of the many millions they have? I would be hesitant to impute that degree of lack of public spiritedness to them, but the conservatives, it seems to me, are denigrating these people far more than some of my radical friends would. And I hope that's not the case.

Even more important, we've been frustrated that we have not been able to diminish foreclosures as much as we would like. We've tried in a variety of ways. We will be writing into this – and I talked to Senator Dodd about it yesterday, we're going to try to write this bill simultaneously, frankly, so we don't have to go back and forth. And the staff of the Committees on Banking and Financial Services, we share this view; Senator Dodd was one of the first to raise it with Bernanke and Paulson. We're going to be buying up a lot of mortgage paper. We want to make sure that this is done in a way that maximizes our ability to reduce the number of foreclosures.

Frankly, between Fannie Mae and Freddie Mac, now run by the federal government, and the mortgage paper we'll be acquiring here, and Sheila Bair, excellent regulator at the FDIC running Indy Mac, we should now be able to substantially reduce foreclosures, both as a social matter for individuals and for the cities that suffer, but also for the macroeconomic situation, because everybody's knows, until you begin to reduce the terrible problems in the housing market, you can't solve this.

And people have said, are you trying to stop housing prices from dropping? No, not ultimately and not if they are done in a reasonable way. So the crisis is not whether we want to stop housing prices from dropping, but the pace at which it happens. I would like to lose 20 pounds, but not by Sunday. (Laughter.) How soon you do things becomes a factor in what happens. So we will be writing into this bill a requirement that we maximize the leverage we acquire through this to reduce the number of foreclosures. We'll have a hearing on Wednesday; we'll have one on Thursday with Fannie Mae and Freddie Mac to try and make them work together.

One last point I want to address for this group. One of the great – oh, by the way – we've had, as I said, series of experiments, regulation versus un-regulation: regulated mortgage originators, very few bad sub-prime loans; un-regulated, a lot. AIG: Regulated insurance companies were very prosperous. So what do they do? They took the profits generated by the regulated insurance companies and got into all the exotica, all the highly leveraged derivatives of collateralized debt obligations, words that nobody knew what they – they didn't mean anything 15 years ago. They took the profits from these highly regulated nuts-and-bolts insurance companies and put them into exotic instruments and the exotic instruments went so bad that we now have to sell off the regulated entities to generate enough money to pay off the debts incurred by the highly un-regulated.

In the financial field, what have we got? A pattern of the more regulated institutions, the commercial banks, being urged to buy up the under-regulated institutions, the investment banks. You have Bear Stearns bought out by J.P. Morgan/Chase. Barclays finally buys up much of Lehman, and then you have the Bank of America in its march to the sea – (laughter) – buying up Merrill Lynch. I told the people at Bank of America I think their goal is to be changing their name to The Only Bank in America. (Laughter.) But in this case, I'm glad they did that. Look, I – people say, I had some of my friends on the left say, don't let Bank of America buy out Countrywide and I was very glad Bank of America bought out Countrywide. You know, why are you for Bank of America buying out Countrywide? I said, I'd be for Syria buying out Countrywide – (laughter) – but, in this case, I think Bank of America is being very responsible and we're going to see some benefit.

But the better regulated institutions have outperformed the unregulated. The kickback has been, oh no, it's all the fault of – you know what they blame it on? Come on, somebody must know what they're going to – CRA, Community Reinvestment Act, or as one very knowledgeable TV interlocutor said to me today, the Community Redevelopment Act – (laughter) – the existence of which she had only recently been informed. (Laughter.) And, in fact, that is simply untrue.

In the first place, the CRA was adopted in 1977. How could it be that what, 20, nearly 30 years and never caused any problems? Of course, it was the sub-prime loans, unregulated sub-prime loans that caused the problem. In fact, if you look at institutions covered by CRA, they didn't make the mortgage loans that got us in trouble. The mortgage loans that got us in trouble were originated by non-CRA entities. Now, some of the CRA entities did make the mistake of buying up what they shouldn't have bought, but they weren't the ones who caused this problem. So this blaming it on the CRA makes no sense either chronologically or analytically.

Just to summarize, I'll throw this open. A lack of sensible regulation got us to the point where the private sector made so many bad decisions – they make a lot of good decisions; they do a lot of good – but they made so many bad decisions that they have clogged their arteries and it is now necessary for us to come in and fix it. But it can only be done in the context of our promising ourselves that we will not allow it to recur and that we – and there's a lot of people – from the taxpayer's standpoint, you know, this is not just a benefit for Wall Street. People's 401(k)s are at risk; people's mutual funds are at risk. The American people will be the main victims.

And people will say, well, you're bailing out Wall Street. Look, let's be clear, if we get a complete collapse here, the heads of these companies have enough money to live on for the rest of their lives and their children's lives. It's the people living day-to-day on their salaries and month-to-month on their salaries who will be the victims if we do not intervene, because it is the flow of credit to them and the flow of activity to them that gets cut off.

But even with that, since there will be a lot of benefit for some of the entities in the short term, we get some public benefit in return. We did that when we passed the overall bill on Fannie and Freddie. We're determined to do this here primarily in the area of reducing foreclosures. Now, I'll be glad to respond if you have any questions or comments.

(Applause.)

Q: Hi, Ruth Suswine (ph), with Consumer Action. I'm wondering whatever federal fix you end up coming up with, do you think there will be a sufficient consequence to the primary problem-makers, the lenders?

REP. FRANK: To the who?

Q: The primary problem-makers here, lenders, the servicers.

REP. FRANK: Well, it's a two-step thing. We will have to respond now to take some of the bad debt off people's hands so we can get people back in the business again of extending credit. And we hope to do this in a way – by the way, if this is done right, you'll see a big number at first, hundreds of billions. That will by no means be the total cost to the taxpayers. We will be buying up assets that will have some value. I think it is the case that given the depressed psychology in the market today, there are assets out there that are, in fact, worth more than you could pay, you could get for them tomorrow. We're the only ones, the federal government, that can buy them in bulk and hold them so they can maybe recover and then also sell them in a measured way. We don't have to dump them all at once with that cyclical effect. So we do that.

But that's not going to cure anything. The cure will come one, from what Ben Bernanke has done and we will follow up and say no more fly-alones, no more lending people more money than they can afford on houses that aren't worth what they are paying for them. And secondly, we will have – and it's probably the Federal Reserve, that will be a major concern for us, there has to be a regulator over the investment banks and hedge funds and private equity that limit their risk-taking.

Essentially, it's a very simple human nature thing, once you've substituted securitization for a direct lender-borrower relationship, once most of the loans were being made by people who did not have any worry about whether they would personally be repaid because they sold them, risk constraints dissolved and we were told that we had various substitutes, the rating agencies, quantitative models, diversification. They haven't worked. And there's going to have to be some kind of – just as with the banks there are, yes, private sector constraints, but there are bank examiners and bank rules that keep a bank from taking too much risk. We've got to do – too many risks, we've got to do the same thing with regard to any of the private investment operations by private, I mean, non-banks, they could be public companies.

Q: Yes, Charles Lowry (ph), with the Center for Responsible Lending. With the passage of the recent law in the end of July and the October 1st start date and that being said, it seems that that response may be insufficient, Congressman. How will you layer in a new response based upon new legislation?

REP. FRANK: Well, what we're doing now is – that's the silver lining in this cloud, as I said. Part of the problem has been, one, the split between servicers and owners and is it enough of an incentive. We're not going to own a lot of this stuff. I mean, the federal government will now – we're moving – two things will happen. First of all, the takeover of Fannie and Freddie. And one of the, again, arguments in favor of that was, Fannie and Freddie, when they were still in private hands, were moving in the wrong direction. They were raising fees and cutting back on what they bought. We are now – believe me, they'll move in the right direction, because frankly the shareholders are out of the picture and they've got the public responsibility now temporarily in charge.

And for instance, you know, Sheila Bair tells us at Indy Mac she's got some stuff where the other services should work with them to have them do it right, but even more now, we are about to, through this new bill, buy up a lot of mortgage paper. And we are intent on writing the bill so that it is bought in ways that give us the power to do the adjustments. So we believe now between Fannie Mae and Freddie Mac and this bill, we're going to be able to move from the jawboning stage to us, the federal government, being the owner and we'll reduce these foreclosures.

Q: Hi, from National Council, La Raza. In the new bill, there's going to be any rule set up for folks that are pre-purchase folks that – just like any rules like the CRA, things that are going on for Latino homeownership because of all the rules that got very strict, a lot of our folks don't have credit scores and things like that.

REP. FRANK: We're trying to do that and we have people who can talk about it. That's the FHA. One of the things that happened recently with the privatizers was the substantial diminution of the role of the FHA. Between 2002 and 2007, FHA originations got cut by two-thirds. And instead people were going off to these private sub-prime bad deals. We are pumping up FHA. FHA will now be available for people with lower credit scores in a variety of ways. So that's the fundamental answer there, which is to try and make the FHA the route for people.

And the FHA rules, part of the bill that we passed which we called FHA Modernization, there was a part about the FHA being used to help undo bad mortgages in the past, but there is also a part that's got FHA modernization that should make the FHA much more friendly. And I was pleased to see that the new secretary of HUD, who I have found to be a pretty responsive guy, Secretary Preston, was briefing us and was very proudly waving the chart that shows a quadrupling of FHA originations and – (inaudible) – activity in the last quarter. So the fundamental answer there was the FHA. I think we have time for one more.

Q: Hi, Mr. Frank, I'm Susanna Montezemolo with AARP. Thank you for your remarks and also for your leadership on passing the housing bill earlier this year. Note that I think one of the challenges of that bill is that there wasn't anything that was mandatory on industry to modify loans so as you move forward on new legislation, which we're looking forward to working with you on, I'm wondering if there are any opportunities to weave in the bankruptcy fix that I know the Senate voted on and unfortunately rejected earlier this year that would have allowed bankruptcy judges to restructure primary mortgage debt.

REP. FRANK: Two things. As I said, the good news is that we are going to own these mortgages. So I mean, and we intend to maximize that. Yeah, that came up; Senator Schumer raised it at the meeting we had yesterday with the leadership and some others. I would like to see it. I was a co-sponsor. I am skeptical that we have the votes, but we'll see. That's the issue. But on the other hand, as I said, we are going to do maximum – take maximum advantage of the fact that we will be the owner.

As you mentioned when you mentioned the bill, one other relevant fact at AARP, one of the best parts of that bill was the extent to which we improved and expanded the reverse mortgage situation. And that has worked very well. I know The New York Times had a story about the problems, but the problems were not with reverse mortgages, but with the people who would get reverse mortgages for people who were 82 years old and then sell them at 20-year annuity, which was of limited use for them.

So one of the things we did in the bill working with the AARP was to say that if you are the one that sells the reverse mortgage, you cannot then be the investment advisor and sell the investment package. Beyond that, there had been an annual cap on these which make no sense, it's a product that's worked very well in this situation, and we took the cap off and in return put a cap on the fees that can be charged by the people who process them. So for a lot of older people, one of the things this bill did was to significantly enhance the role that reverse mortgages will play for older people. Of course, to the extent that they do that, it may diminish to some extent the fight over the inheritance tax, but that's okay. (Laughter.) It's their money and their entitled. Thank you all.

(Applause.)

MR. BARR: I think that formally concludes our event. I want to thank again Chairman Frank for his remarks and all our panelists and moderators for their efforts today. It's been an extraordinary day. I've learned a ton. I know that all of us will be going back in our own respective ways and working on this issue very intensely over the coming months. So thank you all for being here.

(Applause.)

(END)