TRANSCRIPT OF THE FEDERAL RESERVE SYSTEM
CONSUMER ADVISORY COUNCIL

THURSDAY, MARCH 26, 2009

The Consumer Advisory Council met in Dining Room E in the Martin Building at 20th and C Streets, N.W., Washington, D.C., at 9:00 a.m., Edna Sawady, Chair, presiding.

Members present:
Edna Sawady, Chair
Michael Calhoun, Vice Chair
Paula Bryant-Ellis
Alan Cameron
John Carey
Patricia Garcia Duarte
Kathleen Engel
Joseph Falk
Betsy Flynn
Louise Gissendaner
Ira Goldstein
Greta Harris
Patricia Hasson
Thomas James
Kirsten Keefe
Lorenzo Littles
Saurabh Narain
Andres Navarrete
Jim Park
Ronald Phillips
Kevin Rhein
Cooke Sunoo
Jennifer Tescher
Stergios Theologides
Mary Tingerthal
Linda Tinney
Luz Urrutia

Others present:
Benjamin Bernanke, Chairman, Board of Governors
Elizabeth Duke, Member, Board of Governors
Daniel Tarullo, Member, Board of Governors
Sandra Braunstein, Director, Division of Consumer and Community Affairs

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(9:07 a.m.)

MS. SAWADY: Good morning, everyone. I'd like to open our meeting by welcoming everyone. Before we begin, I'd like to take a minute to acknowledge the Governors in attendance today. Chairman Ben Bernanke, Governor Betsy Duke, and in a little while, we will be joined by Governor Daniel Tarullo. Governor Duke is the new chair of the Board's Committee on Consumer and Community Affairs, and Governor Tarullo recently joined the Board of Governors. On behalf of the Council, we would like to thank you for your time in joining us here today and for your support overall.

I will also like to note that this is the first meeting for ten new members, whom I'd like to acknowledge briefly.

Paula Bryant-Ellis, BOK Financial Corporation, Tulsa, Oklahoma.

John Carey, Citi Cards, Long Island City, New York.

Betsy Flynn, Community Financial Services Bank in Benton, Kentucky.

Patricia Garcia Duarte, Neighborhood Housing Services of Phoenix, Arizona.

Ira Goldstein, The Reinvestment Fund, Philadelphia, Pennsylvania.

Kirsten Keefe, Empire Justice Center, Albany, New York.

Larry Litton, who is not in attendance today. He's from Litton Loan Servicing in Houston, Texas.

Andres Navarrete, Capital One Financial Corporation, McLean, Virginia.

Jim Park, New Vista Asset Management, San Diego, California.

And Mary Tingerthal, Housing Partnership Network in St. Paul, Minnesota.

We look forward to your active involvement and thank you all for being here.

MS. SAWADY: The first item on our agenda deals with foreclosures. We are continuing to see widespread payment problems in every category of home mortgages, with rising delinquencies and foreclosures nationwide. In addition to the challenge of a weakening macroeconomic environment, homeowners are also facing reduced home equity and tighter mortgage credit. These conditions have impaired borrowers' ability to refinance their mortgages in order to cope with job loss, unexpected expenses, and other adverse life events.

Yesterday, members discussed various issues related to foreclosures and the efforts to prevent them, including the administration's Making Home Affordable Program and other loan-modification initiatives. So at this point, I'd like to turn it over to Patty, Patty Hasson, to lead the discussion. Where is Patty?

MS. HASSON: Good morning. We did have a great presentation yesterday by Dave Buchholz, who talked a great deal about the Making Home Affordable Program, and then it led to a lively discussion around it. So I'd like to lead it off with Mike, who I know has some comments surrounding the Making Home Affordable Program and his concerns.

MR. CALHOUN: Yes. As many of you know, I'm officially with the Center for Responsible Lending, but we're an affiliate and I come out of the work of Self-Help. We have a substantial portfolio that we've been working through modifications on. Several concerns we have -- we were, first of all, very supportive of the Treasury plan, but have concerns in a couple regards.

The first one would be that it still does not produce and encourage lots of principal reductions, and we believe that that is still, as Chairman Bernanke said more than a year ago, is going to be critical for putting a floor under the housing market and stabilizing these loans. I think the numbers are that about one in five borrowers are underwater right now, and that's expected to go up to 40 percent of families with mortgages will be underwater in the next several years.

And then regarding the specifics of the program itself, based on our experiences, the 31 percent debt-to-income -- while it's more aggressive, for example, than the 38 percent debt-to-income used for IndyMac -- it is still problematic for borrowers, particularly at the low end of the income scale. The 31 percent debt-to-income is a lot different for someone who makes $150,000 a year versus someone who makes $35,000 a year.

Our numbers show that about half of our borrowers in default in our portfolio are performing very well. It's all 30-year fixed, fully documented loans, although to subprime borrowers. More than half already have a debt-to-income front-end ratio below 31 percent at the time that they're in default. So we need to have some additional accommodation and realize that a lot of those families won't be reached with just the 31 percent target number and screen. Thank you.

MS. HASSON: Terry? I don't know if you want to give the perspective, then, from the servicers?

MR. THEOLOGIDES: Sure. Thank you, Patty.

Yes, loan servicers are generally supportive as well of the program and are mobilizing to implement it. There are calls every few days, either with the GSEs or Treasury. I think the positive elements, certainly, that folks are embracing are the uniformity and consistency and clarity that facilitates implementation. It also facilitates being able to seek the assistance of outside vendors, being able to load-balance. Some servicers that may have capacity may seek to be able to take on some of the modifications from places that are struggling with their capacity.

We think the 31 percent, by and large, is a pretty good measure. I agree with Mike that there are going to be homeowners who can't get to 31 percent. I think, at least anecdotally, while servicers wouldn't be required to perform modifications if it happened that the income wasn't there, I think, by and large, they'll still pursue a net-present-value analysis even at the lower income. In some situations, modifications may still be pursued and feasible, even though they wouldn't qualify for the special incentives that exist under the program.

In terms of the challenges and concerns, the industry is still awaiting the net-present-value model, the forms of agreements, and we'll have to sprint to then mobilize to implement once those are available. Concerns also still exist about the prospect of litigation and the fact that some investor agreements still do preclude modifications. So I think a safe harbor is something that servicers are still interested in seeing pursued.

The operational challenges and the heightened expectations that the program has created, while good in terms of being able to reach more people, also present operational challenges. But the uniformity, I think, is a big arrow in the quiver of industry to be able to address those challenges more efficiently.

There's also some concern -- people are waiting to see what data fields will be required. If there's a substantially increased list of data fields, that may also create some operational impediments and timing issues. So, again, I think folks are inclined to proceed with the program but are waiting to see some of the details that will be released over the coming weeks.

MS. HASSON: Okay. Anybody else want to have any -- I've never seen this group be shy. Patricia, do you want to talk a little bit about the housing counseling?

MS. DUARTE: Yes. Good morning, everyone.

One of the other concerns that we have in our community is it just seems that predators never take a break. Now they are doing some beautiful advertising -- the infomercials, English and Spanish. I want to call, and I don't need help. They are very good, and we're concerned because we are seeing more and more families that pay $1,600, $2,000 because they believed that this new group was going to help them. Because they were paying a fee, they feel a sense that maybe they're going to get there quicker. The truth is that nobody can guarantee anything.

In the nonprofit sector, we manage expectations very clearly up front. Sometimes families don't want to hear that. But the reality is that we have to let the public know that no one can guarantee, and an infomercial that tells them that they're going to be able to save their home is a red flag, so more outreach.

In the nonprofit sector, we are very limited with resources, and we're very grateful for what has come our way through the National Foreclosure Mitigation Counseling Program. That funding provided us the ability to hire people, to train people. We're trying to catch up because the demand has grown and it keeps growing. We just need to get more resources to let people know not to pay for something that they can get for free and help them better understand to filter through the legitimate organizations that provide free services.

MS. BRAUNSTEIN: Can I say something on that?

MS. DUARTE: Sure.

MS. BRAUNSTEIN: Yes, we've been hearing a lot about these scams, and we've been very concerned about this at the Federal Reserve, so one of the things that we've done is we launched a website a few weeks back specifically around foreclosure scams. We have five tips out there for people to avoid scams and some of them -- it's kind of under the rubric of "it shouldn't hurt to get help." Basically, if people are asking you to pay for it, you don't have to do that. There's ways to get it. We have the 800 number for HUD out there to find out where your local HUD-certified counselors are.

The other thing we're doing to try and get the word out -- because we know that it's hard to get people in the public to go to the Fed's website -- is we're trying to figure out more innovative ways to reach the public. I think it's next week, we will be in movie theaters in markets around the country, especially the markets that are hardest-hit with foreclosures. You know when you go to the movies and they show those ads while you're sitting there waiting for the movie to start? We purchased time there, and we're going to have ads about foreclosure scams and direct people to the website where we have these tips for avoiding being scammed.

So that's one way we think we'll reach a market that would not necessarily go to our website. We're still trying to think of other approaches. We're certainly open to ideas and would like to hear from you if there are ways we can get this message out because it is bad enough that people are in trouble, let alone that they get scammed on top of it. So we're very concerned about this.

MR. CAREY: A lot of this stuff is at the state level, and it sort of struck me that it's a perfect opportunity for state attorneys general to really put a harsh spotlight on some of these practices. Very similar to this is these debt consolidators who charge enormous fees, and ultimately the consumer breaks, can't manage the payment plan that has come up. The debt consolidator has gotten their fee, and the risk is left with the consumer or the individual lender.

There's just a lot of what I would describe as fraud out there, and there's not a lot of transparency around it. All you've got to do is watch late-night television and you can see it every night. It's alarming.

MR. RHEIN: Sandy, does the Fed try to police that at all? I mean, to be watching for these infomercials and checking them out?

MS. BRAUNSTEIN: Well, we have heard about some specific ones, especially we've heard about the ones that are like copycat websites where they change one little thing and it's a mirror, almost, of the HOPE NOW website, for example. We have contacted the FTC. We don't regulate that stuff, but we have reported it when we become aware of them.

MS. HASSON: We were actually contacted by an editor of a Philadelphia paper that still is in business that wants to do a story and wanted us to actually take the calls or get the information. And for us, part of it is, yes, I want to do it. It's an overload on the calls that we're already getting trying to help people in foreclosure, so I think that would be a great resource to be able to send people -- while we can send them to attorneys general, etc.

We often get requests from the media, do you have people that have gone through this? We see -- the people that go through that don't come to us later. They're already embarrassed. It's like, I got taken advantage of. I'm already in foreclosure. It's hard enough to reach out, and now I've given $2,000 to somebody else. I've gotten scammed again. At that point, they're giving up. So that's one reason we're considering doing this and trying to figure out a way to get this information.

So I would encourage, if there is another way within the Federal Reserve that we can get that information then to you or to have the resource, it would be a great way.

MS. KEEFE: I think that servicers could actually be really instrumental in this way. I think if you can get to folks who are behind before any -- in the case of judicial foreclosure states -- before any action has been filed, the filing of a foreclosure is really what starts and initiates a lot of the direct-mail solicitation to homeowners of these foreclosure rescue scams. In New York this past year, we just got a 90-day notice, so the servicers are sending all homeowners a 90-day notice with the names of housing counseling agencies that are HUD-approved in the geographic region of the homeowner. So I think that that's -- it's getting the right information at a really key time to the homeowners and before they get the onslaught of the other mail.

I just want to also say in regards to the federal program, I too am very supportive, like Mike is, of the new program. I think it's going to require a tremendous amount of resources. I think a lot of people still will not be able to obtain a loan modification either because they're so underwater on their homes and/or the 31 percent just does not leave enough residual income.

People are going to need assistance through this whole process. They're going to need to go to housing counselors. They're going to need to see lawyers and have their loans evaluated. We really need more resources to the legitimate nonprofit, HUD-approved housing counseling agencies as well as to legal services to give folks an opportunity to have their loans reviewed.

They're also going to have to have the loan modifications reviewed unless there's great oversight on what the servicers are including in terms of releasing of future claims or past claims, arbitration clauses, any other provisions that are in these loan modifications. People might be asked to be releasing significant legal claims, and if they don't have the opportunity to have their loan reviewed, it's impossible to ask them -- well, it's not impossible -- they do it. It's not right to ask people to release their claims if you're not also giving them the opportunity to meet with a lawyer.

MS. HASSON: Kevin?

MR. RHEIN: One other point just that can really slow down the process is, what do we do about second mortgages? I know there's some discussion going underway, but we really haven't come out with anything yet that starts to address the role of the second mortgage in this. Maybe it's a national modification program where there are first and seconds involved. A lot of discussion, but I think there's currently still some roadblocks, particularly with the investor community and the second mortgage providers. I think whatever the Fed can do to try to help break through that and create a more comprehensive program would make a big difference.

MS. HASSON: Mike?

MR. CALHOUN: Kevin gave me my introduction to put in the plug that the second mortgage problem and the whole Gordian knot of the securitization process frustrating modifications is the reason that we at the Center for Responsible Lending have supported a carefully constructed bankruptcy component to the modification process -- that it offers an incentive for the modifications under the Treasury program. It brings the second mortgage holders to the table, and if not, provides a mechanism to resolve that problem. It, by no means, is meant as a cure-all. There is no silver bullet for this crisis. But I think if done carefully, it can be a really critical and perhaps essential component of this loan-modification program.

I would note that we had a discussion last night with Governor Duke. There have been efforts, for example, in the latest versions of legislation to address problems like the bankruptcy loss-allocation provisions. The rating agencies have reviewed that language and have said that they don't believe it would require any re-rating of the higher-tranche securities. That had been a concern, I know, for a number of banks. That seems to have been alleviated, at least for a number of the banks that we have been talking with. So I just wanted to mention that as part of this landscape.

MS. HASSON: Joe?

MR. FALK: I don't want to set a troubling precedent in Kirsten's first meeting, but I have to agree with her.

I want to tell you the story about Marilyn, to drill down to real people who are in trouble. Marilyn is 70 years old. She's got an 84-year-old husband who is a World War II veteran and is sick and got into one of these pay-option ARM, neg-am, difficult loans. Her home value has dropped in half, and she comes to my office and she cries. Now, what do we tell Marilyn? Who is going to try to give her a sense that someone is going to listen to her -- and whether it's the housing counselors or it's, maybe, a role for the state regulators -- or some other role. There has to be someone that people can go to, that they can sit down and say -- that they can trust is not going to lead them astray.

A mid-level manager in the firm that I work with -- she's the head of catering. Shauna came to me with her story, and my answer was about personal responsibility. She owes the money. She can afford to pay. You're supposed to pay.

And not everybody is going to access housing counselors. There's got to be a way that appropriate funding can take place that people can feel that there's not a for-profit angle here someplace. They're not going to be told to stop making payments so that they can pay $2,500 for a scam operator. Some way of real people sitting down with someone and giving them solutions.

The modification program, as announced, is a wonderful start, but it's complicated. It's, you know, 31 percent, and it's down to 2 percent interest with the potential of a balloon. These are people that are scared and hurt right now and that really, candidly, is above -- given their sense of heightened alarm, that's awfully complicated for them to understand with the sense that they're probably going to get in trouble again. So if there's some way to create some level of funding for real people to sit with real people without a profit incentive, I think that would go a long way to addressing some real individual concerns. Every consumer has an individual story of how they got into their mess. Having someone caring with concern that does not have a profit motive to sit down with these people, I think, would go a long way.

MS. HASSON: To that, I just want to add -- I think one of the provisions in there is that with over 55 percent debt-to-income, you have to say you will go to a counseling agency. I think that that's one area where it really missed the boat. I believe, if you think of the unintended consequences, which our industry folks like to use, of the bankruptcy legislation was individuals go to their bankruptcy attorney and then they come for counseling.

One of the unintended consequences of this is they're going go to their servicer, who’s looking at their mortgage and trying to get their mortgage paid back and not the whole picture. And the people that we're seeing, they've got a lot of other problems. It's not just their mortgage. I believe servicers will do the right thing, and they want to get paid back. But a good example might be somebody who has some retirement funds left. We're going to tell them, don't use your retirement funds to get out of this. If you're somebody at a servicer, they may say, well, you know, and I've heard it because we work with others that are trying to convince people to use other assets to do this.

So we're looking at it holistically. We're trying to find the best solutions for that person, and we're packaging the whole thing. We're not just looking strictly at the mortgage. And if you send them first to loan servicers, the unintended consequences are going to be that these people will be short-term and then we're going to say later, oh, the program didn't work.

MR. NAVARRETE: I wanted to just follow up on one point that Mike made and would agree that there's a role for bankruptcy reform in this debate, but just want to be certain that we see that or continue to see it as really a last resort for consumers, not a first line of defense. It shouldn't be a substitute for putting in a program, much like the administration has proposed, on loan modification and to legislative and additional regulatory efforts to removing impediments to loan modifications. That is always going to be the more sensible approach, I think, across the board and to quell some of the long-term consequences to individual credit ratings that a rush to bankruptcy could create.

So I would agree with you there, but just want to make sure that the policy focus remains on making loan modifications as available and expeditious as possible.

MS. HASSON: Ira?

MR. GOLDSTEIN: Good morning. I think among the many lessons that we've learned about this wave of foreclosures is that we really have been hampered in our ability to respond to it in part because there's been a lack of comprehensive, objective, even information about the nature and scope and location of the problem. I would say that that's the case both with respect to foreclosures and with the extent to which folks are in delinquency problems. I can't tell you how many state banking regulators and mayors and others like that who will call our organization and tell us, where are the foreclosures in our community? How dense are they? How many of them are there? What's happening?

And we're really left at the whim of secondary data providers whose data really are, in some places, of good quality and in other places of lesser quality. So I think it would be a terrible shame to come out of this crisis, if you will, without having changed the way we collect information about this problem so that the next time -- before it becomes a tidal wave -- we're able to see it coming and begin to address it.

MS. HASSON: Betsy?

MS. FLYNN: Yes. I am a community banker, and we community bankers will be happy to help get the word out about that it shouldn't hurt to get help. But additionally, we are getting a lot of customers back that had gone with mortgage companies who may have good income, the value of their home isn't that bad, but they just need to refinance, and as you said, look at their entire financial picture to help them with their cash flow.

But we're having a problem right now that if we make a loan to a person that has the ability to repay and their credit score is below 640, it automatically goes into a subprime bucket. The examiners really, really give us a hard time on this. We do make some of those because we have confidence in that customer repaying and we feel like we are providing a valuable service to our community, but that is something that the people that are doing mortgages really need to have addressed. A 640 credit score used to be very acceptable, and we would make mortgage loans down to a 600 credit score, but now that's a subprime loan.

MS. HASSON: Kirsten, do you have --

MS. KEEFE: The only thing that I would like to add is that as favorable as I think the new program is, I really want to reiterate what Mike said in that we do need the judicial loan modifications and also I think we need to keep looking at other resolutions. My biggest fear is that everybody is going to say, okay, we did something, check, and move on. When I look at my state of New York -- and I'm working on a statewide basis -- people's situations are so different in Queens versus Buffalo versus Rochester. I think a lot of people are going to fall outside of that, again, aren't going to see the help that they really need through the new program.

And I think the bankruptcy reform is absolutely critical. I also want to sort of highlight that, again, as we're talking about bankruptcy reform and they're talking now about limiting it to just subprime, we've done an informal survey in New York. About 50 percent of the foreclosures that housing counseling agencies and legal services are seeing do not involve a subprime or nontraditional home loan, which in New York is defined as a payment-option loan. The foreclosures are involving just life circumstances, which is far different than a year ago. So I think it's really critical to keep in mind that this is no longer a subprime issue. I think the Credit Suisse report did a great job highlighting the impact that unemployment has had and other economic conditions on folks.

But I just want to keep pushing us to keep looking for more solutions, including bankruptcy reform, including court-mediated resolution programs, and to continue to work on this.

MS. HASSON: Ron?

MR. PHILLIPS: Just a comment or two on the situation in a more rural environment. From the state of Maine, as an example, maybe some of the good news might be that the counseling networks that we represent, as well as the interface with legal services, is getting more sophisticated in handling the increasing load of customers, clients, families coming to them that are in trouble.

The uptick in Maine follows the country. I mean, 8,600 people, families are delinquent and on the brink of or in foreclosure. That's such a small number compared to the urban concentrations, and yet they're scattered about 33,000 square miles -- some of them concentrated in Lewiston or Rockland, Maine, if you know that area, or there might be one house and one family in Alna, a population of 400 or 500. So that's how it breaks out.

Nevertheless, this state is trying to deal with the foreclosure process. It needs the funding streams to rationalize and better support the counseling networks, which are overloaded, so that point has been made and ought to be further supported. But in terms of the foreclosure process, Maine has a relatively good one, I am told, in terms of the process, but it needs improvement.

One example is that we have presently a bill before the state legislature, which we hope will pass, that will improve this process and create the opportunity for the courts to require a mediation of the mortgage issue before they would allow the foreclosure clock to begin ticking. This is similar to the

Philadelphia model and others that are going on. I think these are good pieces to the process to get to the point about judicial intervention and loan modifications. This is without bankruptcy reform on the federal level, but hopefully that will take place and further empower the courts because our attorneys -- both at the legal services as well as the network of volunteers throughout the state -- argue that three-quarters of their cases could be solved if they just had this federal reform of the bankruptcy laws.

But that legislation hopefully will go through and represents some of the positive things that it may then open the door for the affordable loan-modification program that is coming out now. It may be an incentive to make that work, even though it is a complicated problem, and provide a tool for the mediation process to go through.

MS. HASSON: Alan?

MR. CAMERON: Patty, I agree that judicial mortgage modification might be an important part of the picture, but it is a way of balancing the risk of loss of this economy, and all that loss shouldn't be put on the lender. Therefore, if we're going to do this, and it appears that Congress is moving in this direction, we need to make sure that there are specific and reasonable limitations, such as -- somebody mentioned focusing on subprime. I think we have to focus on subprime or at least the subprime time period from January 2007 forward.

There has to be some method of recapture if the property is sold after the cram-down, at a higher value, of course. There has to be some limit in terms of qualification of the borrower. I don't think it's appropriate for investors, for instance, to be eligible for that cram-down relief.

Otherwise, I agree that this is just one step in what has been a challenging equation for the Board, and I know that I support those who say that the [Making Home Affordable Program] is a great first step. Although, as we saw in the article written by Alan White, a former member of this Council, that the greater you allow a principal reduction, the less you're going to lose in the long run on a foreclosure. And so I would urge both the Board and lenders to consider, in appropriate circumstances, a greater principal reduction in order to avoid those overall losses and to keep people in their homes.

MS. HASSON: I will add a couple other points. I was happy to see that people did not have to be delinquent to get into some of these programs. I think that was a very good provision. As we've seen, a lot of people already know circumstances are happening, and why put them into that bucket. So that was a very good provision.

And not to be beat a dead horse, but I think Mike brought this up yesterday, which is, after five years, somebody who's been at 2 percent -- all of a sudden, it's going to be payment shock again. So I hope we're thinking ahead. Again, it's critical why somebody needs to go sit with -- whether it's a housing counselor, community legal service-type entity -- to have that discussion.

On another note, we recently did a survey with a University of Pennsylvania physician, and a large majority of the people that came through would meet the definition for clinical depression. If you put it in that context – that somebody going through a foreclosure meets that definition -- I think we all know that when you're depressed, you don't act rationally. Again, giving people those resources would be a great asset. It gets you thinking about what are the impacts not only beyond here, but to our health-care system, as we start to think about what some of these individuals are going through.

Terry?

MR. THEOLOGIDES: Just one other thought. The servicing industry, I think, was heartened to see the balance in the Treasury program about really focusing on those in need, including those that are pre-default but are facing challenges. Because in this environment, even with that balanced message that came out from the administration, servicers did see a spike in calls from people who really aren't facing affordability issues, but are very insistent that they want one of those government modifications.

I think that while principal write-down was reflected as a tool to use, it was not an end in and of itself. What servicers and what the administration plan seems to focus on is sustainability. If a homeowner can be put into a payment that they can afford for the longer term at their income and if that's still a better outcome for the owner of that loan than the alternatives, preserving that seems to be the right end, if they've reached that point. Principal write-downs may be necessary to sort of reach that point, but in many cases it won't be.

I think that while data is still somewhat limited and there's a lot of anecdotes, what we find when we look at our redefault rates is the big determinant is not whether there was a principal write-down or not. It's whether that modified payment was affordable. The modifications that tend to fail usually had an affordability element or an additional deterioration in the income of the homeowner. It was not a, yes, they could afford it, but they didn't have enough skin in the game because they were too underwater.

There are situations like that where that makes a difference, but I think the industry thought the appropriate ranking and waterfall of that decision was reflected well and would try to deter the system being clogged up with mods in situations where homeownership preservation really wasn't an issue. It was somebody looking to just improve cash flow in general.

MS. HASSON: Tom?

MR. JAMES: Sure. I just wanted to touch on the conversation before on what is being called pretty much among law enforcement in states foreclosure rescue scams and, again, the serious need to get the message out that those scams are scams, for the most part, that there are cost-free avenues for getting help to people who are in trouble. We need to pour resources in that area.

Then, to the extent that the Fed has police and regulatory authority, there is no way that state law enforcement is going to be able to handle the onslaught of four to eight million people who are being inundated with advertising for up-front, paid-for services for loss mitigation and debt consolidation. So there's a real need to have a prohibition, really, on the charge of up-front fees in that area and to really ban that practice so that consumers are in a position to judge whether or not the services were delivered before they pay.

MS. HASSON: Joe?

MR. FALK: I really do see a role for state regulators and state consumer protection folks. There is such a need for people to get an answer to a question, if they have a question. There are hundreds and hundreds of complaints going into the state attorney general's office in Florida. I presume it's the same around the country.

And if there's a role to play, these state regulators, attorneys general, commissioners of financial institutions, banking commissioners at the state level, that could add resources here or get the word out, whether it's the press or paid advertising -- some way of getting the word out that up-front, pay-for-play services are really not in their interest, unless appropriately reviewed, I think would go a long way.

What is the role of state regulators today? In Florida, as an example, we've gone from over 80,000 licensed mortgage brokers to a little over 20,000. There has been a similar reduction in licensed lenders all across the financial services industry. And so it seems to me that there may be resources at the state regulatory bodies that, since the industry has contracted and consolidated, that resources are there now that can help.

MS. HASSON: Cooke?

MR. SUNOO: Yes, I think, Joe, you're absolutely right, and Tom, at the state level. But I think on every level, if you think about the whole situation, what got us into the mess is the lack of prudent or educated consumer populations. We all bought the bad loans, and we all went to hell on them.

I think that the solution to it also has to deal with an educated population, and whether that comes from the housing counselor, from the attorney general, from consumer advocacy groups, I think we have to realize that we cannot limit the energy and the focus that we put on the education of the consumers in this whole situation. The billions of dollars, the trillions of dollars that we're going to be putting into the cure is very important. But if we're going to systemically just cure -- and if we look at the systemic problem as one of an uninformed or poorly educated, financially, public -- than we have to look at the importance of that on every level.

I think that one of the most trusted sources that most folks have comes back down to their local-level communities. We all know that all of our community organizations are just inundated, overflowing, without the resources to handle the increased loads. Faith-based counseling centers equally –

just very, very important pieces in this element. The idea of speaking to people with their own languages, their own languages being a community-based language but also being the non-English languages -- Spanish, of course, but also all the myriad of different languages that are spoken in this country. We've got to get down to that level, because it's at that level where the problem started, and it's that level where the problem needs to be solved with extraordinary resources.

MS. HASSON: Does anybody else want to -- I mean, we can move on to the next topic unless anybody wants to have a final say? Terry?

MR. THEOLOGIDES: Maybe a segue into the next topic is just one other topic we discussed a little bit yesterday, Patty, and that's the concerns -- and I know Tom expressed them and others in some of the materials we looked at -- about the huge volume of properties that are in foreclosure or that are vacant or that are in the process of being foreclosed upon.

I think one of the tensions we discussed is trying to balance the desire to make sure there is a process that will elicit the opportunity for a workout, whether it's through the mediations or other mechanisms, but at the same time recognize that there is going to be, in this economy, a population that is not going to have the wherewithal to remain in the home. I think the administration's plan acknowledges that.

As servicers, we're concerned that piling on process in situations where there may not be an incremental benefit of that process might just postpone the inevitable. During that period, oftentimes the properties are vacant or are in deterioration, which adds to the potential for code violations. And resources, I think, that maybe could be better deployed in helping people get a new start, end up being absorbed and swallowed into a more onerous process in many of the states that's well-intended but needs to be judiciously pursued so that it's not length and process for process's sake, but rather is really focused on calling the potential for solutions and finding every possible solution.

Again, we thought that the focus in the administration's plan, even on things like short sales, which may accelerate an exit from the home but also mitigate the impact on a neighborhood and on an individual homeowner, was again something that we need to be very thoughtful about -- that delaying foreclosure isn't always the answer.

MS. HASSON: Okay. Joe, you've sparked a new controversy.

MR. FALK: No controversy, but everybody is very depressed this morning, and I wanted to deliver a little bit of good news. People around the country that I speak to are seeing signs of good news, and spring is coming. These programs, the modification program, the $8,000 homeowner tax credit -- my folks are telling me that real success is starting to be seen on the street, in the communities. There are now people that are looking to speculate and to get into homeownership.

Responsible speculators are getting into the market, seeing the bottom to this market, and together with all the other programs that we've seen, reduced interest rates -- and again, it's not perfect -- the modification programs, the reduction in new construction. All of those factors put together, my folks are telling me that good times are coming.

MS. HASSON: Who wants to follow that up? Mary?

MS. TINGERTHAL: Going back to Terry's point just a little bit on servicers. One of the things we talked about yesterday is the incredible complexity of actors that are engaged because of the massive number of loans that were securitized. We're now dealing not just with an FHA, for example, like we were the last time we had a lot of vacant properties in this country, but we're dealing with a myriad of investors and trustees and servicers that literally stretch around the globe.

That prompted for us a couple of thoughts. One is, we were a little surprised to see that in the administration's plan there was really not a discussion about potential safe harbor language that Congress could adopt for servicers -- that if they were to perform modifications within certain parameters, if they were to promote the transfer of vacant properties within the terms of safe harbor, that they would not have to fear litigation.

As much as we like the cooperation of servicers and really stepping up, there is still the fear of investor lawsuits. I think the Governors very well know that there are lawsuits that have been filed, both regarding modifications and regarding the transfer of REO properties. So I would just say I think that still needs to be on the agenda and is something that could begin to have the servicers not have to spend hours and weeks in meetings deciding, with their corporate counsel, whether they're going to be sued if they take a particular action.

MS. HASSON: Kevin?

MR. RHEIN: At the risk of getting more controversial, I just want to throw out the whole notion of bankruptcy reform and cram-down and stuff like that. And a little bit to Joe's point, there's a lot of good things happening, and I think we run the risk of throwing so many things and so much change and the unintended consequences you'll often hear me talk about of some of the change.

But just this whole thing of foreclosure scams, I mean, all these things going on -- I think we sometimes maybe need to pause and let's give something a chance to work. We haven't even defined what the NPV values are. We don't know what this is, so to start to talk about bankruptcy modification and cram-down when, in fact, we haven't even gone and let some of these loans play out at the 31 percent LTV and hopefully some relief around seconds and things like that. I just think if you start to change too much, you don't know what really worked and sometimes you go too far and then you've got to bring things back the other way.

So we are not necessarily advocates of bankruptcy cram-down in situations where modification might have worked.

MS. KEEFE: Can I just say -- be the voice of doom and gloom, although I do have the voice of doom and gloom this morning. You know, I love your attitude, Joe, and I'm so happy to be your acquaintance.

Every other week, I'm on a call with over 100 people across New York state that are direct service providers to homeowners. It is gloom and doom out there. People are losing their houses. I'm working with the housing counselors and the legal services folks that are having to tell people, you know, we have to wait more, or you just can't afford the house, or whatever. It is not that cheery. We have been waiting, right. Voluntary loan modifications, obviously, have not been working. We need to act now. You know, I appreciate sort of wanting to take time to work this out, but we need drastic measures.

I really think it's wonderful that the administration moved so quickly to put this new program in place. It's extremely innovative. I don't think it's going to solve all the problems, and I think we need to act quickly with other resolutions.

But we have been waiting. We've been living with this crisis. Some of us have been living with it for a decade. More recently, though, all of us have been living with it for two years. We cannot wait anymore. We need to put out as many tools as we can until we really stop this flood of foreclosures happening. We're not going to stabilize the housing market and we're not going to start to bring the economy back. We need to put everything on the table as quickly as possible and help people because people are losing their houses.

MS. HASSON: Jim?

MR. PARK: Thank you. I think there are clearly a lot of efforts underway to sort of stem the tide of foreclosures, as I think everyone's been talking about. The trajectory of foreclosures clearly will change, but it will not stop. I think Terry kind of mentioned this, and I think all of us recognize that reality. Clearly, of the 4.5 million homes that are going to be sold this year, transactions that are going to happen this year, half of it will be distressed sales. So I think the reality is that's going to be around for awhile, and we have to figure out a way to kind of manage it correctly and properly in the years ahead.

In fact, in many markets, REOs and short sales represent a majority of real estate transactions right now and will for the next year or more. I think there's a lot of things that we can do as advocates and as service providers and servicers to make sure that this disposition process happens in an orderly way and in a way that's going to support the community over the long haul.

There are a couple things, I think -- we talked about a lot of the sort of dollars and funds that are being thrown at foreclosure prevention, and I think there are certain things that can be done that don't necessarily have to cost money. I think it really has to come down to the servicers' willingness to pursue a specific strategy when it comes to the disposition of REOs and even short sales over the long haul.

One is to kind of focus on owner-occupants. The other is to be very mindful of the valuations that are placed on these REOs because, as you know, when you have thousands and thousands of REOs in your inventory and you're just dumping it into the market, that's going to become the new floor for the next seller who wants to sell the home, and it's just going to keep spiraling down. For us to really stabilize the market, we have to think through that strategy very carefully.

In fact, not to plug my friend over there, Terry, but with Saxon, we've been in partnership on an effort to sell to owner-occupants. About 80, 90 percent of all of our sales on REOs are going to owner-occupants, and we think that's going to fundamentally change the dynamics of that market over the long haul. I think we should encourage and we should really hold servicers accountable for doing things like that so that we can begin to effect change with 2 plus million homes that are going to be sold in this manner over the next year.

MS. HASSON: Mike?

MR. CALHOUN: If I can follow up on the comments about the timing of these efforts -- and I don't think Shanna is here -- so the timing of these efforts has already had a profound fair housing impact and a profound disparate impact against minority households. If you look at the waves of foreclosures, the first wave has been predominantly the subprime loans, and now we're catching up with the Alt-As, and the primes are coming in. Probably the option ARMs are resetting towards the end of that.

But the projections are that subprime foreclosures will largely be completed by the end of this year. When you put the overlay of the demographics of those -- that half of all African-American home loans for recent years have been subprime loans -- the rating agencies uniformly predict that almost half of those homeowners with those loans will lose their houses in this immediate housing crisis for both African-American and Latino homes.

So just the fact that the efforts to date have been less successful than we desired has already meant a profound loss of a generation of wealth-building that many of the organizations here, both nonprofit and lender and industry, have participated in. So I would say that, given that as we sit here, the subprime foreclosures are marching onward and foreclosures themselves are marching onward. There were 300,000 foreclosures initiated in December. We're well past half a million in this year already. One fundamental concern we have, in fact, about the Treasury program is that it does not offer enough additional incentives to reach those subprime borrowers before they are lost, and they're going to be lost very quickly.

MS. HASSON: Andy?

MR. NAVARRETE: Kevin, I think you succeeded in probably creating a little controversy.

MR. RHEIN: I usually do.

MR. NAVARRETE: Nice work there, but I wanted to follow up on Kirsten's point because, Kirsten, I absolutely share your view of some of the gloom and doom elements and certainly the urgency that consumers are feeling in this space. That said, to perhaps paraphrase our President, the problem wasn't created in a day and can't be solved overnight. What I worry about is that some of these solutions -- that sense of desperation drives consumers to embrace the kinds of foreclosure scams and, you know, we can solve this problem for you immediately, that aren't in their long-term best interests.

Part of that is that bankruptcy can fall into that same category. As a member of the bar, I'll disparage my own profession for a moment here and say that there a number of people who are quite entrepreneurial in this space and will encourage people to view bankruptcy as a fix-it-quick solution. That customer then wakes up in seven to ten years and still sees a sub-600 credit score because it stays on your credit report for over a decade. So it may have provided some immediate sense of relief, but the long-term consequences for that consumer are profound, very negative. When they're employed and trying to get back on their feet, they will find themselves in the situation where they probably regret that decision.

So in the various roles that we play within the industry, it's our job, I think, as being slightly more knowledgeable and perhaps slightly more sophisticated than the average consumer to work together to steer people toward solutions that both work in the short term and in long term. I think we can really help do that in a way that doesn't necessarily put people in bad long-term positions.

MS. KEEFE: So if you were to fully fund legal services, then they couldn't do the Chapter 13s and you would avoid that problem.

MR. NAVARRETE: To tell you the truth, I mean, if all of this were occurring in legal services, I would think that we probably would have a better shot at ending up with some balanced solutions. It's, again, the more entrepreneurial members of the bar. Every time we have touched bankruptcy and reformed it in some manner, we have seen a dramatic spike in bankruptcy filings. Bankruptcy lawyers market as aggressively as a lot of these other folks that you're concerned about. They do it on late-night television and so people can be convinced to take actions that, again, aren't in their long-term best interest.

MS. HASSON: Okay. We're going to have to move on to the next topic, Joe. Sorry.

MS. SAWADY: Thanks, Joe, but you'll have an opportunity because we're moving to a very related topic. Thanks for many sobering thoughts on this topic, a bit of good news, and a call for continued urgent intervention, so we have a really good mix of everything.

We are moving on to the very related topic of neighborhood and community stabilization. While foreclosures cause significant distress for the families that lose their homes, the effects of foreclosures extend beyond these immediate households to the surrounding community, particularly into areas where foreclosures are concentrated. For example, clusters of vacant properties can foster vandalism and crime. We have heard a lot of these stories today, and studies have shown that they lead to lower house prices throughout the neighborhood.

Yesterday, members of the Housing and Community Development Committee discussed strategies and challenges in the effort to stabilize communities affected by foreclosures, including the implementation of the Neighborhood Stabilization Program. We are back to Patty. Patty is the committee Chair for the Housing and Community Development Committee, and she'll take us through this one too.

MS. HASSON: Thank you. For those of you who started the year I did, I don't know if you remember Stella Adams's comment at one of these meetings about the amorphous gas bubble. I actually wanted to go back to the minutes and find that, because I always remember that. In the context right now, the bubble has burst. What we're left with is this REO problem, this foreclosure problem.

I think we all saw a great informative presentation yesterday from Mary [Tingerthal] about the Neighborhood Stabilization Program. What really came out of it for us was a good discussion around valuations, around data, the foreclosure issue in particular for renters, we touched on, and the impact to renters, and ended it talking about economic development. So we're going to end on a positive note, Joe.

With that, I'm going to lead off with the valuations and, Mary, if you want to briefly touch on the Neighborhood Stabilization Program and then how it impacts valuations, that would be great.

MS. TINGERTHAL: Yes, thank you very much. As I've listened to the comments here, particularly those about how long we've been working at this, I recalled a meeting that I attended in September of 2007 with then-Treasury Secretary Paulson just prior to the announcement of the HOPE NOW Alliance.

There were several of us representing counseling organizations and community development organizations who said at that time, this is a very important thing to do, but you need to realize that there will also be an impact on neighborhoods from those properties where foreclosure prevention will not work. Those include not only those borrowers who cannot bring themselves back off the brink as a result of foreclosure mitigation, but also those properties that in the lead-up to the bubble were purchased by investor-owners who really had no stake in the community and for whom it was really quite easy to walk away. In many of our communities, particularly a lot of new construction in Florida and in the Southwest, that often represented 40, 50 percent of a particular neighborhood.

So we spoke early about the devastating impact of REO property, vacant property on our neighborhoods, and particularly on the decision-making of homeowners who are thinking that they need to go through the hard work of foreclosure mitigation for their loan. Because if they're sitting there saying, well, I'm really going to have to tighten my belt, I'm going to have to cut back on things in order to keep this house, and if they're looking out their window and they see vacant houses across the street, vacant houses next door, crime rising, their motivation to say, do I really want to save this house, that comes into question.

I think the point that we talked about yesterday is the inextricable link between foreclosure prevention and neighborhood stabilization. They really are two parts of a whole. And it's with that thought that the National Community Stabilization Trust came together as an idea about a year ago. It involves five of the largest community development organizations in the country. NeighborWorks [America] -- and I know, Governor Duke, that you now sit on their board -- Enterprise Community Partners, the Local Initiatives Support Corporation, the Housing Partnership Network, and the National Urban League came together and said, we are hearing from our affiliates and our local offices in hundreds of communities across the country that they need tools with which to address the issues of neighborhood stabilization and vacant properties.

That coalition, which formed about this time last year, really helped, I think, to raise the visibility of neighborhood stabilization as an important factor and also to help with the passage of the Neighborhood Stabilization Program last summer.

In many ways, we have come a long way since then, in some positive but also a lot of very negative ways. Based on estimates from RealtyTrac, we now have over a million vacant properties standing in our communities around the country. The Neighborhood Stabilization Program, even with all deliberate speed that HUD has been able to bring to bear, those dollars are really just beginning to hit our neighborhoods now and be able to be effective.

So what the National Community Stabilization Trust has done is it most importantly opened a dialogue between communities and localities who are wanting to buy properties in a targeted way and try to have an impact in bringing some of those hard-hit neighborhoods back across the tipping point – so they will be neighborhoods where people want to stay and really want to fight to keep their homes -- and the servicers who, as I mentioned earlier, are caught in a web of pooling and servicing agreements that they have to enforce, have to operate under, in doing their diligence to act the best they can on behalf of investors.

We've tried to understand both sides of that. We've brought in mortgage banking experts to understand the pressures that REO departments are under and try to create a space where there can be a clearinghouse where servicers can list addresses of properties for sale, communities can purchase those properties and, most importantly, to do it in a way that properties can be purchased early after they've been foreclosed at an appropriate discount price.

We've spent a lot of time with the Appraisal Institute, understanding what some of the issues are of appraisal in a down market and have adopted a process very similar to the net present value process that is being utilized in the program we discussed earlier and really promotes, among the servicers, transferring properties early to localities who will step up in a very short period of time and purchase properties so that they don't sit on the market for a long period of time.

So at the heart, the National Community Stabilization Trust is a clearinghouse between servicers and communities to try to get the vacant properties inventory dealt with in a more rapid manner. As the Neighborhood Stabilization Program dollars hit the street starting around April 1, we hope to be operating in at least 100 of the communities around the country that will have neighborhood stabilization dollars.

To talk a little bit about the point that Jim made about valuation -- we've heard from local officials, from realtors, from community activists around the country, that we must be careful as we dispose of vacant properties to try to avoid the downward spiral of property values. One of the things we've adopted as a principle within the Trust is to take a two-step process in recording the value at which properties are transferred. It's not very complicated, but in most cases it's not done and it results in the kind of downward spiral that Jim described.

In our process, what we do is record whatever the documented market value is, whether that's certified by an appraisal or a broker's price opinion. We then reflect an appropriate discount as a seller concession. So we record both numbers and then finally the transfer price as a reduction of the seller discount from the appraised value. In this way -- at least theoretically, the appraisers tell us -- they have a public record that they can go back to and say, okay, I understand that the transfer price was really a result of seller concessions, and they can then make the adjustments on the appraisal. Seems like a small step, but if it were adopted across the industry it could really have a positive impact. Thank you, Patty.

MS. HASSON: Jim?

MR. PARK: Thank you. Let me just piggyback on Mary's comment a little bit here. In a lot of markets right now, you are -- and maybe it's the case in Joe's market -- the sales activities have actually increased. Unfortunately, typically, that means that home prices will go up. That's not the case. In many cases, sales volumes are going up, and home prices are going down at the same time. A lot of that has to do with the fact that the bulk of those transactions happened to be REOs and short sales, which are driving these prices down even further.

So I think part of it is the bulk. And clearly in neighborhood stabilization efforts, the Trust is going to play a very important role in some key markets. But if you think about the volume of REOs that are being controlled, it's really going to fall on the lenders and the servicers to do the right thing, I think, when it comes to valuation. There is a servicer that had an internal policy where they would reduce their REO listing price by 10 percent every month. So if there was no activity, no movement in the sale, they would just reduce it by 10 percent. There's no market determination of that 10 percent reduction.

They just wanted to sell it, get it off their books as fast as possible. I think things like that will clearly further create downward pressure on price, particularly when short sales and REOs are becoming the bulk of the transactions in many of the markets.

So I think we have to just keep an eye on this, make sure that we are vigilant in making sure people aren't abusing the valuation process as they sell REOs, because I think for the next few years, that's going to be the thing that drives the market more than anything else.

MS. HASSON: Joe?

MR. FALK: The question is, when are we going to hit the bottom? I would posit with this group that the bottom of the real estate market will be defined when we have transactions to measure it. The problem over the last six or eight months is that there were no transactions or very few transactions. Because there is an increase in absolute economic activity and there are people who are actually purchasing homes, even at lower prices, you start to see the bottoming of the market. We may not be there yet, clearly not there in the falling condominium prices in Miami. But there clearly is evidence that while prices are continuing to decline, economic activity is rising, which I believe is the beginning of finding some reasonable bottom of the market.

MS. HASSON: Saurabh?

MR. NARAIN: We spent a lot of time talking about housing and consumers. One of the things about community stabilization is about small businesses. When people actually start losing houses, they stop going to restaurants, they stop traveling, so small businesses are suffering.

Obviously, the Treasury and the government, the regulators spend a lot of time in containing the issues associated with foreclosures and so on. Our effort has been to -- our thing is that we also need to look at agents of economic development in local communities, which are actually bringing about change and stabilizing the communities. One of the agents of change is the CDFI community in the U.S., ranging from banks to nonprofits to credit unions and other sectors. I would urge us to sort of think about ways in which we can support the CDFI community.

In my mind, there are three or four ways in which we can do that. One of the things we talked earlier is about sharing of information. Community banks are there around the country -- there are about 8,300 of them -- so why don't we use the community bank network to share information. Sandy, I was very delighted at the out-of-the-box thinking of providing information through theaters. It's really fantastic, but can we actually use the community bank network for sharing that information?

We at the CDFI Coalition, where both Ron Phillips and myself are on the board, had proposed that the CDFI community get a significant portion, significant support from the fiscal stimulus and the TARP funds. We are again pleased that some support has been provided both to increase the capital ratios for the CDFI banks, which have suffered because of delinquencies arriving not because they did the wrong thing but because, you know, markets are bad. So both in terms of increasing capital, but also the third thing is to help in managing the delinquencies in the CDFIs, particularly those that are not subprime-related. So in my mind, we should sort of push, incentivize the CDFI community to do more of what they've done best in the last ten years.

MS. HASSON: Ron?

MR. PHILLIPS: I just want to build on what Saurabh said and appreciate that he raised this issue of what's going on at the community base in terms of small business and economic development and job retention and creation. I think, to Joe's point, in terms of the bottom, from our experience there does seem to be a little bit of light now in terms of business interest in borrowing, retaining their jobs, some market adjustments.

We just financed a company in Maine called Maine Cottage Furniture, so Google that and buy some of their furniture. It's a green company. But the financing was a refinancing in part, and quite a significant refinancing, to retain 28 jobs, but also looking down the road a year or two to actually create ten more jobs. That's the type of activity that goes on at the CDFI community lending level. Now, that project was also done in partnership with a community bank. To Saurabh's point, there seems to be a lot of vitality at the community bank level in local and regional markets compared to what we hear in the larger news releases and so forth.

We also know that the community banks were not part of the predatory lending, mortgage market breakdown. I think I read a statistic somewhere that maybe 6 percent of those types of subprime loans were made through that process, so there's a better screening device there.

So just to come back to the CDFI and the whole relationship to the TARP program or stimulus funds. We did a survey connected to the CDFI Coalition, which was maybe not the most scientific, but we did go after a number of how much capital could we use, since all the banks or the big banks are talking about a lot of capital. How much could we use to infuse into our communities and our balance sheets to make us even stronger to do these kinds of projects, like I just mentioned with Maine Cottage Furniture?

We came up with a number of $4 billion, if you remember, Saurabh. None of that type of capital has yet been defined through TARP or any of these things. But if that were a possibility, we would certainly step up to want to access those kinds of funds and help move that light forward that Joe was talking about.

MR. NARAIN: We got the beginning of that. We got $100 million. Hopefully we can get more.

MR. PHILLIPS: We did get $100 million out of the stimulus. It's double the CDFI funding or appropriation that we've experienced, which is great. So that is some good news and a good step forward.

MS. HASSON: Greta?

MS. HARRIS: Yes, I wanted to continue to support what Saurabh and Ron were saying. I work at a national intermediary that's also a CDFI, and our customer base is community development and economic development nonprofits across the country.

Typically, we would do about $150 to $200 million a year of early-end lending to help stimulate residential, commercial, and community facility development. Historically, over our 30 years or so of being in business, we've seen about a 1 percent, maybe 2 percent delinquency rate. Now, part of that is because we would restructure and restructure and restructure loans when needed because we wouldn't be supporting these types of development activities unless we thought that they were going to be bringing value to the community.

Currently, we're seeing delinquency rates in the 12 percent to 15 percent range, which is unprecedented for us organizationally, because our on-the-ground partners who are working in low-mod communities, both urban and rural, are under a lot of economic stress that we've been talking about. The situation is exacerbated because of the market-value declines in these areas, the concentration of foreclosures in an unequal way in many of the neighborhoods where these groups are working, and in some cases, historical banking partners who have been willing to go and invest in these communities in some cases don't exist anymore or are cutting off their lines of credit to be able to continue with work.

Just one example of why these organizations and access to capital and trying to strengthen these on-the-ground groups, this network of over 4,000 nonprofits across the country. Greater Miami Neighborhoods was a nationally renowned organization for many years, and about a year ago, they imploded. While there is business triage in every industry from time to time and that happens, the ripple effect in multiple markets is severe. They had a residential inventory of somewhere over 4,000 affordable housing units. Several regional and national intermediaries have scrambled to try to take over the inventory so that we didn't see a loss of quality rental housing – 4,000 units going away -- or to help out the ripple effect in communities where these properties are located.

So we would encourage access to capital to the CDFIs and others who would be the first line of defense in trying to stimulate economic activities in neighborhoods that haven't always had equal access to opportunities. When America has a cold, the neighborhoods where CDFIs, CDCs, and economic development organizations work have pneumonia, and we're seeing that right now. We would welcome the opportunity of additional financial support to do the work to make the economy start working again.

MS. HASSON: Kathleen and then Cooke?

MR. SUNOO: Just let me tag on to what Greta said, in that the CDFIs, also the community loan funds, nonprofit loan funds are all very stimulating elements in our communities. In the state of California in a recent period where employers of 50 or more employees had lost something like 400,000 jobs -- in that same time period, enterprises of 5 or less employees had added 300,000 jobs. There's a lot of bang for the buck, and it starts at that level.

The pressure on the CDFIs, on the community loan funds is significant because of the economy, but it's also significant because we're seeing that a lot of previous bank borrowers are not being able to get credit from their traditional sources and are now turning to the CDFIs and to the loan funds. That's really crushing us and not allowing us then to help our traditional market of those microenterprises.

I think one of the reasons for the success of the CDFIs clearly is that in the CDFI realm, there's a lot of coaching, a lot of counseling that's going on with those businesses because there's a real community base to what makes them work and what makes them successful.

MS. HASSON: Okay. Louise, did you want to -- and then we'll go to Kathleen because we're going to segue to Kathleen and then talk about foreclosures in Cleveland in particular.

MS. GISSENDANER: Okay, well, I guess I might be helping her to segue because certainly didn't want to lose the momentum of the Neighborhood Stabilization Program and what that's really going to mean for some of the communities.

I do know that Cleveland is going to be one of the areas where the dollars are going to be extremely helpful. While it's not going to help us resolve many of our issues, many of you know that we've been toiling in the vineyards for a while as it relates to predatory lending, having been really hard-hit -- our community having been really hard-hit with predatory lending. We have neighborhood after neighborhood after neighborhood that has huge abandonment of housing, vacant housing, particularly in high-minority neighborhoods, where it's just extremely depressing.

The one important point to be made here is that Cleveland is an interesting community because we were ready, absolutely ready and poised, when these dollars came down the pipe to help us to really revamp our neighborhoods. One of the things for us is we've looked at, number one, our population, because our population has been driven down quite a bit. So in taking a real inventory, do we need as many houses as we've had? Can we create more green space? Can we do more land-banking? Can we bring more industry in? How can we really put all of these community development and economic development pieces and parts together to make such a huge, huge difference?

So we are looking forward to having those dollars to be able to really change the effects that we've experienced over the last few years as it relates to that. That program, while it hasn't started yet with the dollars, we do believe that it's going to make a big difference in what we're going to see, particularly in the Cleveland market over the next few years.

MS. HASSON: Kathleen?

MS. ENGEL: I feel like now I'm being kind of Debbie Downer because there have been a lot of hopeful things people have been saying and certainly the marriage of some nice policies coming out of administration, the good work of the Fed, of the CDFIs, the banks, the good work that servicers like Terry are doing. But Cleveland continues to have a really serious problem -- and I know that Cleveland isn't alone -- and that has to do with the failure of banks to maintain the property that's in their REO portfolios.

Cleveland has a very active housing court judge. Some of you may have read in the materials the article about Judge Pianka. He's kind of one-man force to reckon with in Cleveland, and he can't get the banks into court to take care of housing code violations. He can drag in the slum landlords and he can fine them and cite them. I'm not sure if he can jail them, but he can certainly get them to comply with the law.

But when it comes to a bank, he can't get them in. They don't show up at court when they're issued with a subpoena. He was trying to try them in absentia. If they didn't show up, he'd still hold the trial and he'd impose a sanction against them, and now the Court of Appeals has told him that he's not playing by the rules. His feeling is that they aren't playing by the rules. You can't arrest a corporation.

So what ends up happening is people are working hard to try to stabilize neighborhoods. The people in the neighborhood who remain as homeowners are trying to keep their houses up, but the value of their homes and even the safety of their homes is being driven down by the fact that they're surrounded by bank-owned properties that aren't being maintained.

In a similar vein, when the banks initiate foreclosure proceedings, in many situations they've decided not to go through with the final sale or with the recording of the deed. So the borrowers move out because they're being foreclosed upon -- better to move out on your own than have the sheriff throw your stuff out into the front yard -- but then the foreclosure sale never goes through and the deed is never recorded. So the borrower, the original homeowner, is getting all the housing code violation notices. They're going into the housing court and saying, I don't even own this property anymore. The housing court is saying, but yes, you do. And they say, no, no, no, the bank foreclosed. Then the housing court will call the bank and they'll say, no, we didn't go through with the sale. We withdrew it and there's no deed filed.

And these are what are now known as “toxic titles” in Cleveland, and there the properties sit. The borrowers have left. The banks are not completing the foreclosure sale, and nobody's taking responsibility for them.

What is deeply concerning is that Cleveland is about to get this very significant and, I think, well-deserved infusion of money, but we need to get the banks to come along and take responsibility for the property. I think this particularly should be of concern to the Federal Reserve Board because it's certainly unfair to borrowers. It's unfair to the other people in the neighborhood. And it doesn't bode well for the reputation of the banks to have them being the ones who are holding back the great value that the neighborhood stabilization dollars can bring to communities.

MS. HASSON: Betsy?

MS. FLYNN: I would hazard a guess that many of those lenders are not banks, that they were not regulated under our bank regulators. I do take a little bit of exception when anyone talks about financing, they always talk about the banks. As Ron said a few minutes ago, our community banks were not a part of this mess. In community banking -- and this is nationwide, and it holds true in our area -- our loans have grown 10 percent, our deposits have grown 10 percent in the last year, and yes, our delinquencies are up some but they are still very manageable.

MS. ENGEL: In the materials for today, you'll see that one of the cases that went up to the Court of Appeals involved Washington Mutual, which was tried in absentia and appealed it saying, you don't get to try me if I'm not there and I'm not going to show up. So this is definitely happening by regulated lenders.

MS. FLYNN: Washington Mutual was a savings bank, which is regulated differently than commercial banks.

MS. ENGEL: Well, yes. Yes.

MS. HASSON: Greta?

MS. HARRIS: I just wanted to support Kathleen that we're seeing an uptick in community policing activities for those neighbors who did nothing wrong, who have paid their mortgages, didn't have subprime loans, and they're watching the values of their homes just plummet.

One of the biggest indicators of crime are vacant and abandoned properties, so we're seeing people start to, if the houses aren't secured, to break in, take out appliances, wiring, anything that has value, HVAC equipment. Squatters are starting to now be an issue in some communities. So being able to get whoever is responsible for the property to secure it at a minimum and hopefully keep the grass down and, I guess in California, to empty out the pool so you don't have mosquito issues. It sounds, in the big scheme of things, somewhat trivial. But if you're the homeowner who's having to live next to those troubled properties, it's just heartbreaking. You're already seeing your assets go down, but then to also live with this.

We also have colleagues who live in Detroit who have made the difficult but necessary decision to walk away from their homes where on their block there were, out of maybe 20 houses, 15 of them are abandoned. She and her husband had to make the decision whether or not to stay because it became a safety issue with their small children. So it's very real. I do support Joe's attitude that I think there are opportunities. There will be silver linings going forward. But right now, it is a tough road to walk down.

MS. HASSON: Patricia and then Kirsten.

MS. DUARTE: I have two points. First, one of the things that we do through our counseling effort is we strongly advise the families to stay in the property until the foreclosure happens if that's going to be the only decision. We encourage them to also save because moving out is expensive.

But regarding NSP, we are very happy that the program requires counseling and education, and we're ramping up. We're already receiving a lot of calls -- about 50 calls a day as of last week -- in anticipation of the Neighborhood Stabilization Program. Some jurisdictions are going to help cover some of the counseling costs, but it's only for the actual person that buys. So we know if history repeats, we're going to counsel maybe ten families to get one homeowner. Our challenge in the nonprofit sector is going to be to identify additional resources to help us cover for all the counseling and the education of those nine families that are not ready or maybe homeownership is not the right thing for them.

So it's a balance. The demand for our services is going to be higher. It's already very high because of all the foreclosure intervention that we're doing. Our primary business in the past has been the creation of homeowners, so we're really excited for the Neighborhood Stabilization Program. But we're very concerned that adequate funding may not be there to help us create homeowners.

MS. HASSON: Kirsten?

MS. KEEFE: I just also wanted to support what Kathleen was saying is happening in Cleveland. We have certainly seen that across New York, and we have been starting to talk with our state legislature about what state laws can be put in place to deal with this issue of the houses being abandoned, either before a title has been transferred to the bank's name or even after the title has been transferred to the bank's name. It's very difficult to come up with ideal legislation. There really isn't ideal legislation at the state level. And then there's sort of the additional problem of how far our laws are going to go if the banks that are holding these are Washington Mutual and are nationally chartered and whether or not the state can even sort of impose regulations on them to maintain these properties afterwards.

We've also had a brief conversation at this point with our state attorney general's office. In New York, I think, we have regulators that are arguably as aggressive as any state's, and they certainly know as well as any other state the limitations that they now have to really go after some of the nationally chartered banks to deal with this problem.

So I agree that it really needs to be somehow elevated to a federal level, and also the lenders really need to come to the table on this and recognize what they are doing as a second harm. Not only have they gone in and given these bad loans and displaced people in the first place, but then sort of the salt on the wound in terms of leaving these properties distressed.

MS. HASSON: Ira, did you earlier --?

GOVERNOR DUKE: I'd just be interested to know what you would see as a legislative or regulatory solution to this? Particularly in that window when title hasn't transferred, it strikes me as it might be difficult -- you don't want to set a time limit where a foreclosure must happen once it's been instituted, but at the same time, you want to make sure that at some point the title does transfer.

And then the second piece would be, what happens after the title has been transferred?

MS. KEEFE: On the state level, what we're looking at -- and again, the limitations are that it won't be applicable to all banks -- but we're looking at mandatory maintenance. If the property is not owner-occupied, particularly if it's an investment property or if the owner has left the property, then the bank has to come in and maintain that property and make repairs or else board it up until such time that it's disposed, either to a third party or otherwise.

GOVERNOR DUKE: Okay, but that would be after foreclosure, right, or before foreclosure? That's what I'm having a hard time is --

MS. KEEFE: Well, it's actually before the title is transferred, and so we're looking at -- the state legislation that we're looking at in New York is that it's before a title has actually been transferred.

We are a judicial foreclosure state, and the foreclosure initiates, and then it's -- you know, it can be a year, if not longer, in New York until the property actually goes to sale and might be transferred, either reverted back to the bank or sold to a third party. And it's actually before that transfer of title that our state legislature is looking at a law to impose a duty on the mortgagee to go in and maintain the property, either board it up or otherwise make repairs and maintain it if it's not owner-occupied.

MS. FLYNN: Governor Duke, I'm wondering if perhaps there could be legal action taken against the lien holder if they don't maintain the property. And like in the case of Cleveland -- I served on the city council in our area for years, and we would fine the people that wouldn't maintain their property. If the title has not been transferred because the lien holder won't transfer it, it looks to me like that's where the legal action should go.

MS. ENGEL: The problem is you can't do that because they don't show up at court and you can't try somebody if they aren't there, so they just don't show up at court. So that's what they tried to do, and the fines were vacated by the Court of Appeals.

MS. FLYNN: I've always thought if you didn't go when you were subpoenaed that that was contempt of court.

MS. ENGEL: Come to Cleveland. But I think in response to Governor Duke's question, another point is that -- this is a little bit of a back-end approach. I'd like to try to think of a more front-end approach. One is that when borrowers, say, get hit with housing code violations and they say, oh no, I was hit with this foreclosure notice, I moved out, or in the best cases, you know, I gave them back the property, they just didn't record the deed, to have something in place that sort of forces that recording so that then there is something on record.

I was just talking with somebody from the Cleveland Fed yesterday who said there's a law in Pennsylvania that says you have to record a deed. So something along those lines so that when it comes to the attention of the housing court judge, then that can start a process. It's still a little bit late, but at least it would get somebody on record as holding that deed.

And then I think the second thing has to do with how do you get the banks to come into the courtroom. And that is, in part, a question of potentially changing the laws of procedure of state courts. That's a long and cumbersome process, and I don't even know if it would be successful because they're corporations and things like that.

So I think that the absolutely best solution is top-down, which would be a message from the regulators that you have to show up at court. You want us to come in and say you're safe and sound and a good-citizen institution, then you show up at court when you get issued with a summons, and you have to play by the same rules as everybody else.

MR. RHEIN: I do just want to emphasize that without legal rights it's hard for a servicer to go in and do anything. I'm very sympathetic to this, and I know if it's abandoned that gives you some rights to say it's abandoned. You can go in without the transfer title. So this is a problem. I mean, the servicers can only do what they can legally do, so I don't know what the solution is. But for many – in the case of Wells Fargo, it's not that we wouldn't want to go in. It's just, can we go in, necessarily?

MS. HASSON: Well, I see lots of hands up, but it's quarter of, so I don't know if we want to go into our break. I'll defer to Edna.

MS. SAWADY: Well, I just saw Tom, and Tom is from the attorney general's office in Illinois, and he was really trying for a long time, so why don't you take the last?

MR. JAMES: Okay. Just before I left, there was -- we're on the tail end of our legislative session, and a bill went into the hopper addressing specifically this problem. I haven't had time to really judge the merits of it, but essentially what it would do is require that -- we're a judicial foreclosure state -- that the lien holder would be required to file a notice of the foreclosure with the local governmental entity in the jurisdiction. So they'd be on notice that there was a distressed property.

And from that point forward, to the extent that the municipality has to deliver police, health, safety, maintenance services to that property, that becomes, essentially, a charge against the property, or a lien that will have to be cleared when the property is liquidated. It has some interesting aspects. One is that it certainly goes to that net present value equation and changes it. It forces the lending institution or the holder of the interest to internalize the costs of foreclosure instead of externalizing them to the community.

So I think that's one way to go. It does fundamentally change, I think, the mathematics in the equation. It doesn't mean that the bank or whoever else happens to hold a lien has to be responsive, so it's an alternative, or it appears to be.

MS. HASSON: Kathleen, I'll let you, and then I'm going to close it out.

MS. ENGEL: Okay, I'm going to be really quick. In Cleveland, one of the things that some of the CDCs have been doing is, if a house has been really neglected, they go in and file a public nuisance action and then the court will appoint them as the receiver because the title owner, whether it's a bank or a borrower, doesn't show up. When they get appointed as receiver, they abate the nuisance, clean up the property, and then they have a priority lien ahead of everybody else when the property sells. So that's another way to internalize it, but it takes a lot of work, a lot of staff, a lot of people. But it's been incredibly successful.

MS. SAWADY: Well, I'd like to echo Kathleen. It takes a lot of work, but we're all on it. And thanks to everyone for a great discussion. We'll take a few minutes break. Please be back by 11:00. Thank you.

(Whereupon, the above-entitled matter went off the record at 10:51 a.m. and resumed at 11:03 a.m.)

MS. SAWADY: Okay, so for all of us who survived the first day and a half, we are continuing with availability and quality of credit, another hot topic really tightly connected to everything that's going on right now. We'll be discussing issues related to the availability and quality of credit, particularly for households and small businesses. Needless to say, the disruption of various credit markets, which has led to the reduced availability and increased cost of credit for consumers and businesses, is a significant factor in the ongoing financial crisis. Yesterday, members discussed measures that aim to restore the flow of critically important credit as well as the current state of lending, including the types and quality of credit products and terms that are available to consumers.

I'd like to hand the mike over to Tom James. Tom is the chair of the Consumer Credit Committee. Thanks, Tom.

MR. JAMES: Thank you. Good morning, everyone. We spoke at length on this yesterday. Unfortunately, I wasn't able to get to everyone's comment, and for that reason, I wanted to start with the people I couldn't get to yesterday. Then hopefully we'll have a lively discussion that will eventually include everybody.

So, John, I'm going to kick it to you and let you open the discussion.

MR. CAREY: Glad to do it. It's great to pick on a credit card issuer, so I'm going to jump right in. Let me see if I can kind of talk a little bit about the environment, what's going on, and what's happening, how issuers are responding, and some of the potential outcomes, and some of the issues and problems that I think come from that. And then I'm sure that that will spur on a lot of vigorous discussion.

In background, in essence, there wasn't a major credit card issuer who made any money in the last quarter of 2008. That's driven by, I think, largely two things. One is significant funding challenges. The dislocation of the funding markets made the ability to borrow money in order for us to lend money very, very expensive. Significantly, at some point, it was as much as 450 basis points more than what we'd seen previously above LIBOR.

The second piece is loan losses. Customers that were terrific customers two years ago, a year and a half ago, where the industry was seeing about a 4 ½, 5 percent loan loss rate, a lot of them are facing financial difficulty driven largely by, initially, by the real estate crisis, but now has migrated into what I'd describe as a more typical economic downturn through rising unemployment. In a prime credit card business, there's generally a one-to-one ratio between loan losses and the unemployment rate. So as unemployment goes up, so do loan losses.

So what do issuers do to respond? We reduce head count. We reduce marketing. We write fewer loans. It's a higher hurdle to get a credit card than it was earlier. For existing customers, people who are inactive, we reduce lines. We may close accounts, or for people who pose high risk, we may close accounts. We may reduce lines. To sort of respond to loan losses, a lot of the industry has developed a number of programs, where we help customers that were facing financial difficulty, but sort of later in the cycle, and most issuers have moved those programs up, actually even to the pre-delinquent stage for specific circumstances.

There's a significant industry-wide effort around "Help With My Credit" to try to get people to engage with their lender or, if not with their lender, with a nonprofit credit counseling agency, because the ability of issuers to help consumers who are really, truly facing financial difficulty -- that door closes pretty hard after a couple months, because there are just very few things that issuers can really do to help consumers get back on their feet.

The industry is engaged in repricing. Basically, in order to find a way to help consumers, the cost of credit ends up being more expensive, not only because of loan losses, but also because of the funding issues.

So there are a number of things, a number of factors, that are worth talking about, and I think that there are some concerns that we need to consider.

And I think number one is, in this current environment, because of the reputation risk, a lot of issuers are exiting the near-prime business. It gets thrown into what is known as subprime. People flinch at the high rates. Large franchises are not interested in having their brand dragged through the mud. And access to credit gets contracted in that people don't have the same kind of availability that they've had before, frankly, because I think what's happened over time is that subprime has become code for predatory when, in fact, they're very different meanings. And that's a problem, because we've got to figure out where they're going to get access to credit in the future by regulated institutions, and I'm not sure that I have an answer to that.

The other one is lower lines. I've heard this from my good friends in the consumer advocacy groups, that one of the factors that Fair Isaac uses when they create the credit score is credit availability. If you had, for example, only one credit card, and you had a $5,000 balance, but you had a $10,000 line, and the bank said, look, we view you to be high risk so we're going to move you down to $5,500 or $6,000, then literally 40 percent of their credit availability would go away. Based on my understanding of Fair Isaac, that has an impact on the credit score.

Now, is the customer any different than they were the day before? No, I don't think so. And so there's a lot of conversation and a lot of push -- and I totally support this -- to say, is there something else that Fair Isaac can use that is as reliable as this factor so that we don't compromise the reliability of the score, but at the same time we don't adversely impact people simply because the issuer or the lender did the prudent thing to reduce its exposure.

I think that, frankly, that is the only solution. A couple of people have said to me, well, you have to keep those lines open. I think that's a difficult thing to do, particularly when you've seen literally the doubling of loan losses occur over an 18-month period and not seeing an end to the economic downturn driven by unemployment. Issuers really do need to basically protect the safety and soundness of the institution.

Huge customer dissatisfaction -- nobody likes to be repriced. I don't like to be repriced. People see the fact that the prime rate is low, and they can't basically understand why issuers' costs, borrowing costs, are higher and their credit costs are higher. Those are difficult conversations to have, and I have them daily. So that's, in essence, the environment where we see lending.

Against this backdrop is the uncertainty of future legislation. The Fed has announced its rule changes. The industry is busy trying to figure out what the new business model is going to be. There's a lot of energy up on Capitol Hill to, I guess, in essence, trump the Fed rules, which creates tremendous uncertainty in the industry and an inability to plan and create a business model that is going to be sustainable over a period of time.

And it will be a very exciting time to see how the industry evolves over time and what the size of available credit will be in the marketplace. If you listen to people like Meredith Whitney, she would say that there's a potential contraction of credit of over $2 trillion as a result of some of the changes that are happening out there. Perhaps that's a good thing. But as people are looking for liquidity during a difficult economic climate, I think it only makes those hurdles more difficult.

I threw a lot out there so people could throw rocks at me, and I hope we get the conversation started.

MR. JAMES: Linda, do you have a rock?

MS. TINNEY: Well, not a rock, but I have a comment. John talked about contracting credit and the credit card industry, and I would suggest that there's a bigger growing problem among consumers that we really need to be thinking of solutions for.

In a recent report, at the current economic unemployment rate, foreclosures over the next four years will exceed nine million. Now if you add to that short sales, bankruptcies, what John's talking about, what would we project that we might have in the way of people whose credit scores have tanked? I don't know -- twenty, thirty million? It's a pretty scary thought.

But with these credit scores, think about it. People and families in our communities are not going to be able to -- it's going to become increasingly difficult for them to rent, to get insurance, their job search may be impacted because credit scores are looked at for all these things. And so people and their families and the communities are going to be really seriously impacted.

And I would suggest that it is a rather long-term issue, because anybody who goes through one of these things that I just described -- bankruptcy, foreclosure, et cetera -- is going to be out of the conventional credit market for anywhere from three to seven, maybe even beyond, years. During that period of time, they're going to be seriously impacted in getting a job, finding a place to rent, because they won't be able to buy. In addition, they're only going to be able to access pretty high-cost credit, if they can get it at all.

I hope we all work on this in the future, going into the next meeting, so that we can talk about what we can do, what adjustments we can make. Are there ways we can help educate people and develop some products that might facilitate bringing these people who are in such a difficult situation back into the normal credit markets at an earlier stage? Thank you.

MR. JAMES: Luz?

MS. URRUTIA: The impact is happening at consumers, and it's also happening at small business levels.

We commend the Fed and the other regulators for putting out so many plans so quickly. The challenge is the implementation of these plans and the impact, and how quickly it could happen. But we would like to encourage the Fed and other regulators and accounting to consider practices and guidelines that were very effective when they were created, that worked for many years, but that now have become true roadblocks for financial institutions and lenders to be able to provide capital so that our communities, consumers, and small businesses can grow effectively.

These are capital ratios that banks are required to keep, meet, or exceed fixed minimum standards in order to be considered sound and safe. In these times, we know that capital for financial institutions is very hard to access, and so the way that banks protect that capital is by stopping lending activity even to creditworthy borrowers, both consumers and small businesses.

Also, the financial examination policies need to be more flexible. We see it every day in community banks where examiners are coming in and are causing write-downs or classifications of performing assets due to collateral value without any regard to the income or the cash flow of that borrower, where they're requiring banks to put assets on nonaccrual that are perfectly performing and have never been late, where they're exercising their own judgment about the value of those assets, overlooking appraisal values. All of that is causing banks to take more losses and therefore reduce capital, which shuts them down from further lending.

Another area that I think is important to be looked at -- and I know it's been talked about a lot -- is the accounting standards. Other than temporary impairment, either, you know, allow banks to keep assets at the value on the books at which they are until they realize that sale and they experience the loss, or allow banks to take those losses over a period of time as opposed to right there and then.

As important and as many measures and actions as practitioners and banks are taking to help communities, the regulatory side of this, bringing it all together and loosening up for a period of time on these regulations, I think, would have a very positive impact on the industry and the community.

MR. JAMES: Patricia?

MS. HASSON: I am going to throw a little pebble, I guess. I think in this environment -- I hear you, John -- my concern is I'm still seeing practices, and I told this story this morning of a woman, 3.9 percent rate, balance-transfer offer. She takes the offer, she's paying the minimum payment. The minimum payment is increased to 5 percent, so she calls and they say, well, you're more risky now. So she said, well, I can't afford this, and they said, okay, if you pay 7.99, we'll put you back to your minimum payment of 2 percent. And I forgot to add this morning, they also added a $10 service charge to her statement.

So in the midst of everything happening, I didn't think I'd be bringing back these stories to this committee. I think those practices really hurt the credibility of what you're trying to say on the other side. And, you know, that's one example of others that we continue to see.

MR. CAREY: Just to be clear, it isn't a Citi product?

MS. HASSON: No, it is not a Citi product, and in fact, it's nobody at this table, so you can all rest easy. But there are others.

And I think the second piece is, in this environment with the debt-management plan and what's happening with credit card debt -- you know, when I came to CCCS ten years ago, the plan was actually better than it is today, and the environment is so much worse. And that just makes no fundamental sense. There are regulations that are impeding banks from some of it, and I agree. But there are proposals out there, and I think we really need to come together. To think that people can pay back credit card debt that has probably tripled in the time that I've been there in three to five years and not give people some relief in this environment is just adding more burden and leading, ultimately, to more foreclosures.

MR. JAMES: Jennifer?

MS. TESCHER: I think it's important to remember that not everyone in American society overleveraged themselves in the last few years. Many people did, but there are 50 million consumers who have thin or no credit files in the first place, can't get scored, and that means, in general, can't get traditional credit of any kind. And that situation is made even worse in the current environment, because credit standards are tightening and what banks are requiring by way of a credit score to get any credit is increasing at the same time that the typical credit score of the average consumer is dramatically declining, as we've heard from other comments.

I think it's important that we want to get the quality right, for sure, but I don't think it has to be a tradeoff, this access versus quality. I think we need both. I think that for us to decide that we think that the quality of what's out there now isn't good enough and so we should curtail access -- I'm not sure that we should be making that decision for consumers who are finding themselves in particularly difficult straits. So I think we really need to focus both on access and quality.

John gave a great sort of state of the universe, but there's even a broader landscape, really, to put this in a broader frame, which is, if you think about the last 20 years of consumer finance, the options for consumers have dramatically decreased. All the big banks bought up all the consumer finance companies, and those companies are essentially now gone. Most recently, HSBC said they're getting out of the old Household business, right?

And there's part of us that probably says, good thing, we didn't like some of those products. But, you know, there are a lot less access points now and a lot less products on the market, particularly if you don't have home equity. Who else is making signature loans anymore for $500? No one does that business anymore. That business has gone away.

So I do think that, as we're thinking about moving forward and thinking about regulatory reform, regulatory restructuring and, frankly, a wholesale restructuring of the financial services industry, I really think we have to think a little bit out of the box and start over and say, okay, what are the products that we think are important, and how are they best going to be provided?

I do want to end my comments on a little bit of a positive note, since Joe was so popular with his positivism. Before the bubble burst, there was a tremendous amount of innovation going on around generating alternative sources of data for analyzing consumers who don't have a traditional credit file. This innovation continues today, and there's now a cottage industry of companies that are both gathering and analyzing data that doesn't typically show up in your credit file -- utility data, data that's generated from nonprofit lenders who are doing small business lending in the community but are too small to report to the credit bureaus. Rental payment data, as an example, is another one. A number of very large lenders in this country are beginning to experiment with using that data to good effect.

I think that this is worth further examination and study by the Fed and other regulators, because I do think there's some reputational risk issues associated with using this data. There's also some concern around regulatory risk and having regulators be able to look at this data and say, you know, FICO isn't going to be the only standard anymore. We have to think more broadly about this given the current situation of Americans. I think it would be really helpful in continuing to further the innovation that's already occurring.

MR. JAMES: Joe?

MR. FALK: John's comments, I think, accurately reflected what's going on in industry, and I would point everybody to the Chairman's speech on March 10, in part where he talked about the countercyclicality of some of these financial services.

When the credit card industry -- and you can analogize this to the broader financial services industry as well -- if in a time of stress, the credit card industry reduces balances, increases interest rates, increases payments at a time when there's stress, then all you're going to do is exacerbate the cyclical nature of our economic cycles.

And so while it's counterintuitive, if we could find a way, from a regulatory perspective, to say to members of industry, now is not the time to increase monthly payments to consumers and their related interest rates, because in the long term it exacerbates the cyclical problems that the economy is feeling, but also it's self-defeating in the long run because you're going to write off more balances. If we can find a way to implement in the macro sense the countercyclical nature of some of these business practices, then arguably we can once again have less of a problem in the cyclical nature of our economy.

MR. JAMES: Ron?

MR. PHILLIPS: There was a rather popular book out a year or so ago. I can't remember the author's name. Is it called the Black Swan? I guess some people might know about it, know about it in more detail than I do, but it's an interesting metaphor for our inability to absolutely understand what the next bubble bursting might be or what the impact might be. The credit card industry and its importance to this country and to consumers and to families, including my own family -- it's been an exceptional innovation. At the same time, the accumulation of debt through it and the different variations and nuances of it have set us in a position where this may be very definitely something that we'll have to work our way through and out of in the future.

And my contribution here would be, the extent to which credit cards have been used by or are being used by small businesses in these times, and even prior to these times, as a way to support their businesses and finance their businesses. There's been, I'm sure, some very positive stories, but there are also some painful ones. We do a lot of counseling in my organization. Something like 2,000 small businesses a year work with our eight counselors who have MBAs and CPAs and also have operating experience. We're seeing an incredible number now of businesses coming who have been slightly shut down with some access to credit, but now using their credit cards to bridge their businesses, but also now not in great shape to service those credit cards and the debt and the high rates paid on them. So we're put in a position as a CDFI, by the way, to, if we can do it, refinance them and take out the best we can in some agreed negotiation, the kind of debt they're carrying.

Now the question of the use of credit cards for financing a small business, as I say, could be positive, but can also accumulate to some very negative types of calculations. As high as 20 percent of the employment in a state like Maine, which is largely rural, can be through self-employment. I think probably about an average of 10 percent to 12 percent of the 600,000 people in covered employment in Maine are self-employed and would be the type of business relying on credit cards to help finance their business. Based on some research we've done, about 70 percent of a small business's financing needs is done through family, friends, and credit cards before they go to a bank or have a relationship with a bank, which is really where you want to get them at some point.

All of this is to set the stage that we're going to need to look more closely through more research, I think, on what the credit card dependency is now in terms of small business, of both job retention and potentially creation, and try to incorporate that into our understanding of what we do next with this “black swan,” if it indeed is a “black swan.”

MR. JAMES: Cooke?

MR. SUNOO: I just wanted to add to Ron's comment about credit cards being such a vital part of very small, small businesses getting started.

The other financing source that we have found is that something like 40 percent of businesses across the board where the owners have any home equity have used that home equity as their primary source of financing for their small businesses. In the Asian community, we find that that number approximately doubles, so that 80 percent of those homeowners that have any kind of equity have been using their HELOCS to finance their businesses. We've also found the companion piece in the Asian community, where our foreclosure rates are at a level at or above the foreclosure rates in general. So when you compound that -- and the rate of entrepreneurship is way higher in our communities than they are in others -- so when you combine all those things, all you see is not a spiral, but just a downward drop.

And then the alternative that comes up is, as Ron suggested and others, the credit card as a source of financing for businesses. What we've done is we've actually taken a large number of our clients, and interestingly, the state of Maine and the county of Los Angeles, but we also see something like 2,500 clients a year, and that makes Los Angeles and Maine the same. I don't know.

MR. PHILLIPS: Some of our clients are about 200 miles apart.

MR. SUNOO: Some of our clients are 200 miles apart as well.

But we've actually taken a large number of our clients just out of the financial market. What we've done is we've structured what usually we're referring to as the "Uncle Harry" and saying, put together your business plan, underwrite your business loan, but go to Uncle Harry, and give Uncle Harry an interest rate. Give him a guarantee, quote, guaranteed 5 percent return on the loan. And by the way, Uncle Harry can't get 5 percent on the market anywhere else, so why not do good by doing good? It kind of works in the short term, but it's kind of a stupid thing.

You know, it was really interesting to listen to John speak about the issues I was going to raise, and that is that all those problems are there, and they're very real. But they look very different from a consumer side when your credit card is all of a sudden maxed out where it hadn't been before, where you are a good credit risk and a good customer, and from no fault of your own sales and businesses, your ability to finance your business has just dropped off the edge. As I said earlier, these are the guys that are providing the jobs and consequently are going to be laying people off in great numbers that are then going to affect the entire economy. Thank you.

MR. PHILLIPS: Can I just say, Tom, just to conclude, just to finish my contribution is that yesterday we talked at the special issues session about a subset of this group to look at small business access to credit issues. I think this might be an area that we could look at, so I just wanted to --

MR. JAMES: I agree. I think Jim, Ira, Andy have comments, but I want to hand over to Kathleen at this point because I do want to get to quality as well as access issues.

MS. ENGEL: Do you want to tell your roofer story first, though, because I think that's a really valuable piece of what's happening with small business.

MR. JAMES: As an attorney, right, never pass up the chance to tell a war story. About seven or eight years ago -- among the things I do is I supervise a storefront office on the South Side of Chicago, which is in Barack Obama's neighborhood, which has about a million African-Americans from predominantly low and moderate income.

But we had occasion, essentially, to bust a payday and title loan outfit that was threatening people with our prosecution of their deadbeats on the bounced check statute, so we came after them. In going through their books, I noticed that they were singlehandedly financing a good portion of the roofing industry on the South Side. The roofers would come in and pledge their truck as collateral for a $3,000 loan, run out, buy shingles and tar with it, race over -- they were against the clock because their loan was running at 574 percent -- and throw on the roof, run back to the title company with the payment, and that was their access to credit and that was the quality of their credit. So that's the story.

MS. ENGEL: I just think stories like that are really helpful. So I wanted to just talk for a minute about how all these different market forces can lead to problematic products. We have a situation now where we have really high demand for credit. Supply is low and, certainly, lenders don't want to take on any more risk at this point. All of that can lead to a risk of, certainly, at least to higher prices, and it also can lead to, I think, abuse of products and that we need to be alert to those.

The two that are on my mind right now are, one, are the refund anticipation loans. These are products that are done through tax-preparation places, usually partnered with some type of a lender, and they are a flat-rate tax preparation fee. So it's not risk-based pricing. You come in, you pay the fee, you get your loan documents prepared, and you get an advance on the refund that you're going to get. The price range for putting together a tax return is about $62 to about $110, $115. The APR on these is as much as 500 percent. If you were to take out a ten-day loan on a $300 return with these fees, the APR would be 500 percent. And all that you're getting is the money that you would have gotten anyway in ten days.

A study done by Treasury found that 85 percent of borrowers would be willing to wait that long to get their refund. So this is not that people are desperate to get the money right away. They'd be willing to wait. They just don't understand that they could get it by going through a different avenue, using the VITA services at their local library or something like that.

One of the most disturbing things is that two-thirds of the refund anticipation loan customers are recipients of Earned Income Tax Credits, so this is really just a subsidy from the government to the lenders who are financing these loans.

There has been some movement in these products. Both HSBC, which is the funder for the H&R Block services, and JPMorgan Chase have actually had a rate reduction, which is terrific, and I don't want to just be -- there's good news out there too, although there's still a lot of problems with their products. There are two smaller banks, Santa Barbara Bank & Trust and Republic Bank and Trust, that charge much higher rates and they go through a company -- I think it's called Jackson Hewitt -- are the loans that they finance.

But there's a new concern in the market, which is that you can get an additional discount if you take your refund anticipation loan with a debit card as opposed to getting cash or something. H&R Block uses this debit card to track how you spend money, and then they sell the information because they can figure -- you know, they have fancy algorithms -- they figure out how much risk you like to take on and where you like to spend your money and then the cycle continues. So that's one product that has me pretty concerned.

The other one is the bank payday lending, where most of the bank payday lending products -- I know of at least three banks that have them -- state that the APR is 120 percent, which actually is not a bad APR, if you think about it, given the operational cost and things like that. The problem is that the true APR can be closer to 500 percent depending on how long you hold the loan. It goes back to discussions that we had yesterday about thinking about APR both in terms of loan term, interest rate.

So these payday loans are, I think, going to be more and more appealing to borrowers who need to generate short-term money, and do we really want to have the banking industry financing, providing credit either through the RALs or through the payday loans at APRs of 500 percent?

MS. TINGERTHAL: I want to take the conversation at this point for just a couple minutes back up to about 50,000 feet. We've just heard a lot of examples, very real examples, of how businesses and individuals are making the best of a bad credit situation. I want to take the Governors, particularly, to your focus on restoring faith in securitization of assets. I want to applaud what I think has been just exceptional leadership of the Federal Reserve in saying that unless we can restore confidence in securitization, we will have a very hard time restoring the availability of credit.

The reason I want to comment on that is I know that you have to have thought long and hard about where do you focus your attention and how can you really move the needle on securitization, and I think that's great and some of the things you've done are very important. But as you think about those very large-scale issues, I wanted to call to your attention three things that you may not think of as consumer issues that are affected by non-functioning or poorly functioning securitization markets. There are just three examples. I'm sure there are many more, but I do want to call these to your attention.

The first really goes to small business, and that is the SBA 504 program really is nothing more than a securitization program. It has been hugely successful and allows those small businesses that have a chance to grow a little bit beyond where Cooke and Ron are doing their financing and really effectively use the assets of the company to do borrowing. But even in that program, which has a long track record of good loan performance, spreads on those products have gone out by 100 to 200 basis points even though there is a federal agency guarantee on those products. Those unseen and largely unanticipated consequences of a securitization market that's really not functioning very well.

Another sort of niche market that I'm sure, because of the small numbers that are involved, you may have said, well, gee, we just can't spend any time there, is the market for affordable multifamily debt. I think you've heard in testimony and other places that the Low-Income Housing Tax Credit, which is a market that has developed over the last 20 years and has been extraordinarily successful in drawing private capital into equity investments in multifamily housing, has essentially become our most important tool for developing affordable rental housing. It doesn't get talked about very much in a consumer credit forum because it's really a commercial loan product, but what I want to point out is that it absolutely has an impact on the very consumers that we're talking about in this Council.

Even though it's a very, very small piece of the market, I really ask the Governors to really talk with your staff about whether there is some role that the Federal Reserve may be able to take through TALF or through TARP to really restore that market during a time when banks and the GSEs really have no appetite for tax credits and other investors have really moved away from that market, to see if there's a temporary bridge that you can help to provide to restore that market.

The organization I'm with represents a lot of nonprofit organizations that build, develop, and manage affordable rental housing. When we surveyed them in December of last year, they had that horrible word we've used, shovel-ready projects, that were not able to move forward because financing was not available of over 20,000 new units of affordable housing at a time when we're seeing the ranks of homeowners shrink and the ranks of renters, particularly those needing affordable housing, grow.

The final comment I want to make is with regard to both the loan modifications and the REO properties that reside within REMIC trusts that have really been at the heart of mortgage securitization for single-family mortgages. It's a pretty nerdy issue that hasn't been taken up as part of the overall modification effort. If there were some relief from the IRS, your colleagues at Treasury, to be able to buy certain loans within certain parameters out of securitization trusts without triggering negative consequences for the investors, it could really give us the opportunity to do more of the modifications to loans before loans get seriously delinquent. But there's a reluctance to move because there will be negative tax consequences if those loans are literally bought out of those trusts.

So I apologize if I've dipped into some obscure corners of the capital markets, but I wanted to leave those thoughts with you.

MS. ENGEL: Mary, can you also talk about the concerns you raised yesterday about some of the transitional products? I think that relates to this discussion.

MR. JAMES: We've got only a couple minutes and we want to get two more folks in.

MS. TINGERTHAL: Very, very quickly. As we're working in neighborhoods to sell rehabilitated properties to new homeowners, we're finding those same homeowners with impaired FICO scores -- they're employed, they can make a mortgage payment -- who cannot qualify for a traditional mortgage. One of the things we need to wrestle with are what I lump together as transitional lending products -- things like lease-purchase mortgages, things like contracts for deed. In the hands of the right lenders, they can be powerful tools. But I'm fearful that some of those products on the books of our lenders, especially our community lenders, under a safety and soundness examination may not fare very well. I just want to underscore the importance of them in this environment.

MR. JAMES: Ira?

MR. GOLDSTEIN: I want to go back a moment to the irony of John and Patty, both of their stories, and that is, on the one hand somebody is more risky -- something happened that prompted them to be more risky so their price went up. In actuality, that probably made them more risky. It's very much like the concept in medicine of iatrogenic risk. You go to the hospital, you get sick. It's that same kind of thing.

I think that it's particularly ironic and particularly problematic because it really does tie to issues intimately related to risk-based pricing. By risk-based pricing, what you're doing is essentially covering yourself but creating systemic risk. I'm sure if Patty dug into the credit file of that person, she would find that they were probably also going to be delinquent on their utilities and delinquent on their property taxes and delinquent on all those other things, which then start this cascade of problems.

So I think that in the context that Joe referenced the Chairman's speech -- and I think there was another piece of the Chairman's speech that was really very important to this -- and that is, your institution's risk gets covered when you up that price because you're then able to price in the additional risk, but it creates systemic risk. So the question is, as you start to think about systemic risk and the way you examine things, I think it's not just a matter of the aggregation of individual institutional risks, but to see what happens when one thing creates this cascade of effects across others.

MR. JAMES: Edna? Is it possible -- I think I've got Kevin and Andres.

MS. SAWADY: Please, quickly.

MR. NAVARRETE: Two quick things. I think it's incredibly important to continue to focus on credit card practices and highlighting some of those concerns, but I think we have to remember that the dialogue here has shifted dramatically. I mean, this group has often -- one of its key purposes is to facilitate solutions. There's a 1,700-page solution that the Board has developed and so probably time for Congress and regulators to start thinking about other more pressing problems to solve. I think that this has been, obviously, a very, very big change for the industry.

Second is responding to Mary and some of her points about securitization. I think most folks know that about half of credit cards are tied to long-term securitization funding. The other half are tied to prime rates. For those customers, about half of our portfolio have actually seen their rates decline over the last year by 400 basis points -- not coincidentally, the exact amount that the prime rate has come down. So there are a lot of people who are benefitting from that short-term funding. But for the securitization side of it, that pricing is based on risk. It's not based on short-term rates, and so that has gone up considerably as we've seen both unemployment and losses rise.

At the same time that we and the regulators are focused on programs like the Capital Purchase Program and TALF to try to unfreeze the securitization markets, one thing to remember is that there needs to be very tight coordination with FASB because they are now about to implement into this year FAS 140, which would push all of these assets back on balance sheet, which would have profound capital impacts and profound funding impacts. We need to make sure that those policy goals are aligned.

MR. JAMES: Kevin?

MR. RHEIN: John, I thought you did a great job of laying out the environment. I just want to call a little more attention to specifically what's going on here and so understanding practices. I think the first thing is banks don't want TARP money, if that's not intuitively clear from the bonus discussions and recognition events and everything else. We would love nothing more than to pay back the government and get out of having the government fund us.

You may or may not be aware there's a stress test that's going on, so the regulators have created an economic scenario. They are trying to project losses for 2009, 2010 and they're going to try to then assess, in a bad scenario, do you have enough capital to be able to get through this? If you don't, you're going to have to go get more capital. If you can't raise it in the outside market, the government is going to give you more TARP money to deal with this.

So clearly, capital is king, and my caution here -- and several of you gave examples of the roofer and stuff like that -- as you are taking away the ability to internally generate capital, which is through profits, and when we reduce credit lines, we have to maintain capital for contingent liabilities of those capital lines. As you make it more and more difficult for banks to be profitable, then you're going to cause less credit availability and you're going to drive more people to even worse providers. I just caution us, as we are thinking about these things and all these different practices, is this the time and the environment where you want to be trying to do that when we're trying to get the banks back to health, generally?

MR. JAMES: Thank you.

MS. SAWADY: Well, we're moving on to proposed rules regarding overdraft services. In this final portion of the discussion, we will discuss the proposed amendments to Regulation E, which would provide consumers with certain choices relating to the use of overdraft services and the assessment of overdraft fees. The proposed rules would prohibit financial institutions from imposing a fee for paying an overdraft for an ATM or a one-time debit card transaction unless the consumer is given notice of the right to opt out of the institution's overdraft service and chooses not to do so. As an alternative approach, the proposal would require a consumer's affirmative consent or an opt-in before such overdrafts would be paid by the financial institution and a fee imposed on the consumer's account for that service. In addition, the proposal would generally prohibit financial institutions from assessing an overdraft fee if the overdraft was triggered by a debit hold that exceeded the actual amount of the transaction.

In short, we all refer to it as the opt-in, opt-out discussion. Yesterday, members of the Depository and Delivery Systems Committee discussed the proposal, and I'd like to call on Luz Urrutia, who is the chair of this committee, to lead this discussion.

MS. URRUTIA: Thank you, Edna. First, we do want to commend the Board's staff for doing an absolutely outstanding job and listening to the comments that we've had over several sessions in the past and issuing the proposed rules under Reg E instead of the FTC Act, as well as limiting the scope of the proposal to ATM withdrawals and one-time debit transactions.

As Edna was saying, this rule has had a lot of passion and a lot of healthy discussion within our committee. Given that Kevin Rhein has absolutely no opinions about the subject, I would like to turn it over to him to discuss both the approach of opt-out and opt-in as well as do any of these approaches present any unique opportunities, challenges, or costs that the other approach would not present.

MR. RHEIN: Great, thanks. Mike and I like to square off on this one. I did see you had a hand-out. If I had known, we might have been able to get a hand-out in the book as well, but duly noted there.

We believe an opt-out is the appropriate approach on this for a couple different reasons. First off, we have millions of customers, existing bank customers, with DDA (demand deposit) accounts, and obviously the debit card has become an absolute key access device to people's accounts. More and more transactions are occurring electronically, and we would worry very much about any change in practice that suddenly said you have to affirmatively opt in to trying to take advantage of a practice that you have had before.

Some of the operational implications of that is, if that occurred, I think the customer disruption at the point of sale, being denied when perhaps they might have been approved, would be extreme. The banks would get all sorts of calls into their call centers with extremely unhappy customers. We just think this would be very operationally difficult.

We feel as though customers have ample opportunity to understand the overdraft charges that they're getting. There's been some revisions to Reg DD that are going to require showing accumulation of overdraft fees, so there certainly would be an opportunity at that point to be able to opt out of it.

The other thing is, I think a lot of the fury around this started to become the Starbucks or the McDonald's coffee purchase and how much of debit transactions are really occurring in that particular space. I'm sure the Fed could get from Visa or MasterCard exactly what are the number of transactions. We talked yesterday about the dollar size and really what's most relevant is the number of transactions across the different merchant category codes. In our business and Wells Fargo, the highest categories of usage of the debit card are in retail, in supermarkets, and at gasoline stations. In all those different categories, if you did not in some cases allow a customer to go over their line, you may be denying a fairly vital service to somebody.

So we would certainly argue that an opt-out gives somebody the ability to control, yet avoids a lot of the operational issues.

MS. URRUTIA: Thanks, Kevin. Alan?

MR. CAMERON: Thanks, Luz. I'm going to take a middle ground, but first I do want to share your comment about the approach the Board has taken in this regulation and the careful attention that has been paid by the Board to both the views of consumers and industry.

The credit union movement would like to suggest that there be a middle ground, a hybrid approach to this with an opt-in approach being taken for current accounts and an opt-out approach for new accounts. Excuse me? Did I get it backwards? I'm sorry. I mean, an opt-out approach for current accounts and opt-in approach for new accounts as of a date certain. Such a rule, in our belief, balances the interest of both consumers and industry.

Existing account holders have an established relationship with their institutions and, for the most part, understand what to expect from that institution. An opt-out choice with the notices that are required as a part of that requirement should provide adequate protection for this group. Furthermore, this eases what would be a very expensive and challenging burden -- and some would say an impossible burden -- for institutions to gain affirmative consent from all of their existing account holders.

Furthermore, by requiring opt-in for all new accounts opened after a specific date, which we urge to be at least a year from the date the final rule is adopted, the Board will set the stage for all accounts to be subject to opt-in over time. This will provide benefits for both consumers and industry as it happens. Thank you.

MS. URRUTIA: Mike?

MR. CALHOUN: I think, first, it's worth noting that the burgeoning overdraft loan program is a recent phenomenon and a rather dramatic shift from how these transactions were handled just a few years ago. For checks, they used to be tied to low-cost lines of credit, where they would be covered but at a fraction of the cost of the current overdraft programs. Just four years ago, 80 percent of banks declined debit card transactions when they would exceed the balance and there was no fee imposed. Now, that's slipped almost, so about 80 percent have overdraft programs.

This focus is on the debit and ATM transactions, which are the largest and the fastest-growing portion of overdraft fees. Total overdraft fees were over $17 billion last year. We're talking about a lot of money.

In the debit area, debit charges, the average fee was $34, and the average transaction was $20. I think Kathleen Engel made a good point that we probably should pull out the median number -- and we will try and get that number for you soon -- because large debit transactions would artificially inflate that average number there.

In terms of opt-in/opt-out, we've done a number of professional surveys and we know of no others that contradict these. Consumers overwhelmingly, more than 80 percent, want a choice of whether debit cards are covered, and they overwhelmingly do not want them covered. They want the transaction declined. More than 80 percent responded that they wanted it declined. Most consumers have other options if it is declined. Almost all consumers who have debit cards also have credit cards for that instance that Kevin suggested, where they really wanted to go through with the transaction notwithstanding the decline.

I think it's also important to note the behavioral economic research on the impact of which default rule is chosen. One of the most classic examples is cited of Scandinavian countries side by side where one has automatic opt-in for organ-donor participation and the adjacent one has opt-out, and you get about a flip. If it's automatic, you get about a 90 percent participation. If it's opt-in, you get about a 10 percent participation rate. So the default makes a big difference.

Here, an important factor is, given the industry profitability of this program, the industry is highly motivated to get those opt-ins. If an opt-in rule is chosen, there is no risk that industry will say, oh, we won't bother providing this information to consumers. In fact, they'll be highly motivated and will have the information to provide.

At our discussions yesterday, it was suggested that the high volume of fees generated by these programs in some way justifies that they be continued without any significant reform that would reduce those fees or even that they would justify charging a recurring fee to any account holder who did choose not to participate in the bounce protection. I think those are striking proposals, particularly when you take into context that the FDIC did a comprehensive survey of overdraft fees. One of their findings was that for low-income account holders, the ones we're trying to bring into the system, 7 ½ percent of those account holders had 20 or more bounce fees per year, for a cost in excess of $1,600 per account. That reflects a lot just the math of these programs, that it's those high-repeat users that generate a tremendous amount of the fees.

I have concerns that the proposed rule in either option could inadvertently legitimize these practices and encourage a race to the bottom. Do we really want to have our banks competing to see which is the most successful at maximizing bounce-fee revenue? If you look at -- and we've cited in our fact sheet examples that are on the Web, I believe, still today, they were two weeks ago -- where the companies who market these programs promise a 200 percent increase in the bank's fee revenue if they will take one of these no-bounce programs, convert from the traditional programs.

Maybe one of the more striking quotes was, one satisfied client reported that if I had two more products like the no-bounce program, I could quit making loans altogether. The fee income increase has been great. The companies will even do it on a contingency basis, with no risk to the bank. We will simply take a percentage cut of your increased fee revenue.

So I think perhaps the most important take-away from this is the very limited scope of the current proposal. It does not even provide an opt-in/opt-out option on checks. It, in essence, provides for a procedural hurdle to these programs continuing to operate as they are at present and continuing to grow at a rapid rate at present.

Conspicuously absent is any kind of baseline substantive reform. It's ironic that the FDIC told the payday lenders, you cannot use a national or state insured bank charter to do payday lending if you're going to issue more than six loans a year per borrower. That's not accidental coverage -- that's becoming an extraordinarily high-cost, revolving line of credit, so we won't allow that. But we are perhaps encouraging what have been our flagship institutions to do this under a different name and at, actually, a higher cost under the no-bounce program.

So just, quickly, three conclusions. One, we strongly favor for the current proposal the opt-in requirement, that there be an affirmative indication that the consumer wants to participate in this expensive program. There should be no penalty for borrowers who choose not to participate, so the account should be apples to apples. Finally, most importantly, this proposed regulation should be the beginning and not the end of regulatory efforts in this area. The most critical need is for, again, some substantive baseline protections like we have done in the almost identical situation of payday lending by insured depository institutions.

MS. URRUTIA: John?

MR. CAREY: I have a couple comments. This is a fascinating topic. I join others in saying that I think that Fed took a great deal of effort and time to come up with something that balances both the concerns of banks as well as the concerns of consumers.

There are different business models. For example, by coincidence, the institution that I work for doesn't offer consumers a product where they can go and use their debit card -- if they don't have money in the bank, simply, the transaction doesn't get honored. The question will be whether that's a more competitive model than a different business model that basically says, we're going to offer you -- and we charge the customer in exchange for that -- we charge them a monthly fee, so that we don't offer free checking.

Other banks make decisions that, look, we're going to offer you free checking. We're going to give you all of the tools that you need to manage your credit. We can give you alerts. We can give you SMS texts, e-mail texts, however you want to receive information, but when you go overdraft, we're going to charge you a fee. That's just essentially the business model that the people have chosen.

Now, there's a couple things about customer satisfaction. I know a little bit more about credit cards than I know about demand checking accounts, but the single largest point of dissatisfaction with credit cards is the failure of the transaction to go through. It's a huge driver of dissatisfaction. You're out at dinner. You put your card down, it doesn't work, and the waiter comes back and asks you to either pay with cash or start washing dishes.

Part of the problem with technology is that -- and Kevin and I talked about this a little, but he says it may be too complicated to talk about -- but the way it works is that transactions go in and out of a checking account all day long. Some do. Some actually batch at the end of the day. So what may appear on a customer's account at a particular moment in time is that they are so-called overdrawn or have no available funds, where at the end of the day when all the batch processing is done, they in fact do.

So someone will go in there, believing that they have money in their account, and they will be denied at point of sale, only to find out at the end of the day when they call their bank and say, you denied my transaction, and right there, say, well, the funds are in the account. We don't know how that happened. So we have a huge moment of customer dissatisfaction.

I just want to finish up and again sort of stress the point that there are the tools available to consumers. Everything the consumer wants to have is right in front of them, and we think it's a tremendous service. Again, consumers don't like it. I urge them to come to Citi as opposed to do their banking --

MR. RHEIN: I think the Governor had a question.

GOVERNOR TARULLO: Yes, I have a couple questions. Kevin, you sort of wryly referred to this fact sheet before. Are there specific factual assertions in there with which you take issue?

MR. RHEIN: You know, it's obviously the research they have conducted. I don't know the extent -- you know, how tight the research was, how the questions were asked. For example, you could ask, do you want your transaction denied in a generic sense, and they might say yes. If you were to say, you have no gas in your car and you want your transaction denied, you can't get gas. You might get a whole different answer.

GOVERNOR TARULLO: But just kind of eyeballing it, given what you know of the industry, those first three bullet points at the top, which are not -- those are seemingly objective rather than focus group or survey-based. Do those seem about right to you? Do those seem wildly out of kilter?

MR. RHEIN: The quick fact side? $17.5 billion?

GOVERNOR TARULLO: Yes.

MR. RHEIN: I don't know whether that is all overdrafts, so if you are including returned checks --

MR. CALHOUN: It does.

MR. RHEIN: It does. So you're talking apples and oranges here. We're now talking about a narrower scope, which relates to the debit and ATM overdraft --

GOVERNOR TARULLO: The second bullet point says that's about half. Does that seem -- ?

MR. RHEIN: I couldn't answer that. I don't know the answer to that.

GOVERNOR TARULLO: Okay, maybe someone could explain to me what the costs would be, just for example, of programming ATMs so that if someone punches the button for withdrawal and their account doesn't have sufficient funds to cover it, that there's a message on the screen saying, at present your account does not have funds adequate to cover this withdrawal. If you proceed, we will charge you -- we'll give you the money, but we'll charge you X. Do you want to cancel or do you want to go ahead?

MS. URRUTIA: Well, I think there's a fact here that says that there's only 11 percent of ATM machines that warn consumers if there is no money in the account. It's easy to do it when it's your on-us ATMs. But when you're using somebody else's ATM with your card, that becomes a lot more of a challenge.

I want to raise the fact here -- it says that 16 percent of people who overdraft pay 71 percent of the overdraft fees. So we're trying to address a population that seems to be 16 percent and throw out the baby with the bath water. There are alternatives that consumers who continuously overdraw their account have that banks can implement. For example, accounts with special features, i.e., if you are a continuous overdrafter, then we're going to move you out of an account that has this ability and we're going to put you in an account that has no ability to overdraft, zero standing limits at ATMs and point of sale.

Also, stored-value cards or prepaid cards, which is a mechanism that a number of consumers are using now, and the number one reason they cite as to why they use it is because they can manage their finances. It does not let them overdraft.

So trying at times to put the burden on the banks to manage the individual's financial affairs is something that we need to think differently about. An individual that can handle a bank account deserves a bank account, and they need to make choices about whether or not they want to overdraft. For an individual that does not have that ability, then there are alternative products that can be given to that individual to help them better manage their finances.

GOVERNOR TARULLO: I'm sorry, could you explain a bit more, maybe concretize a bit, what the challenges are if it's a network rather than bank-specific ATM message?

MS. URRUTIA: Well, I am certainly not the operational person.

MR. RHEIN: Yes, I think it probably would be better to actually get people that run their networks into this. But generally speaking, I think, if you're at somebody else's ATM, it's going to go back and look for the balance, and there's only a limited number of fields that it can provide. So you're not going to have that message content that's going to come back and do all of that prompting that exists when somebody is at their own ATMs.

We at Wells -- probably Citi, my guess would be BofA -- I think most of the large banks do exactly what you're proposing at their own ATMs. It's technically not feasible today to do it at others' ATMs, and it's not feasible today at the point of sale.

MS. URRUTIA: And most community banks do it at their own ATMs too?

MR. RHEIN: That would be my guess.

MS. URRUTIA: Yes?

MS. FLYNN: That is true.

MS. HARRIS: I'm just curious. I travel -- 130 planes last year alone -- and I constantly use financial institutional ATMs in different places that don't represent my home bank. Whenever I go in to withdraw money, there's a message that comes up that says it's a $2, $3 -- in some cases, $4 -- charge if I go forward.

MR. RHEIN: Yes.

MS. HARRIS: Why isn't that the same technology for what we're talking about right now?

MR. RHEIN: There's different charges that accrue when you use what's called an off-us ATM. There often will be a charge that the account-holding bank will charge, and then there's a surcharge from the ATM provider. The prompt that you're getting is from the ATM provider itself. You're not getting that separate prompt as to what is your institution going to charge you. It's just that surcharge fee.

MS. FLYNN: It's the ATM network clearing provider that you're getting that prompt from.

MS. SAWADY: I'd like just to acknowledge Governor Tarullo's question and also Kevin's suggestion that we bring in somebody from the networks. We're going to add it to the list of things that we would like to do on an ongoing basis.

MR. RHEIN: Go ahead.

MS. KEEFE: I just have a hard time sort of seeing these insufficient funds fee programs as services for account holders. In New York, we had the great race to the bottom. We had a $20 banking reg limit on insufficient fees, and then once the OCC preemption reg came in, the nationally chartered -- well, those who weren't nationally chartered and could, ran out and got their national charters -- and then they brought in these programs. I saw the marketing materials, which were pretty amazing, about how it's not about deterring the customer from overdrafting. It's about making profits for the bank.

The banking department in New York state had a hearing that I went and testified at. And the lending institutions, the state-chartered lending institutions, showed up, and they didn't present it as we want to also be able to provide these services for our clients. They said we need parity because the nationally chartered banks are making a lot more money on these programs than we're able to make because we're still restricted by the $20 limit.

So I really feel like -- and your comment at the end of the last segment before we segued into this was about the need for banks to increase profits, to increase capital, to better support lending, and I'm all for that. At the same time, to be looking for insufficient fee programs as a way to make profits -- which I really think these programs are profit-driven, they're not to provide a service to the account holders -- is just targeting the wrong people. It's targeting the same people that banks and other lending institutions are trying to make profits off of through refund anticipation loans, that other financial institutions are trying to make profits off of through title loans and payday loans.

I think we need to be very vigilant about protecting the 17 percent of society, and it's even greater than that, and their limited, finite resources. The other 69 percent of their income, after you modify their loan down to a 31 percent, we need to really protect that amount of income. It's this same population that's just being targeted time and again and who we're looking to make profits off of. I just think it's incredibly problematic.

MS. URRUTIA: Jennifer?

MS. TESCHER: I want to build on what Luz was saying because she actually was referring to some research that my organization recently conducted that's going to be put out in the next couple weeks where we've done both the national survey and sort of Ph.D.-led, very deep interviews, all with consumers who are using prepaid debit cards, the vast majority of whom have been bank account customers in the past.

When asked why they don't have an account anymore, either from their own doing or being uninvited by the bank to have an account, as Luz said, overdraft and NSF was the biggest reason. This notion of being able to have control over expense was very critical. But I think it's really important to note that in these deep interviews, consumers were pissed at the banks, but also took personal responsibility. I think it's really important to remember that this is not an either/or. This is a both -- that banks have a responsibility to offer products and services that consumers can understand, and consumers have a responsibility to manage those products appropriately and to take personal responsibility for their own financial actions.

Some of the things that Luz said about things banks could do, I completely agree with that. But I also think that banks sometimes make it more difficult than it needs to be to help consumers find that right product or that right avenue when they've made a mistake or when they end up in the wrong account. I'll go back to what Joe has said so many times in past meetings, cautioning the mortgage industry, the mortgage broker industry. Your reputation, banks, could not be lower at this moment in this country. If we ultimately want to sort of dig out of this hole, rebuild trust in the system, and have consumers feel like they have a partner in managing their finances, regardless of whether we choose opt-in or opt-out, regardless of some of the detailed changes we're going to make here in overdraft, I think we really need to be thinking differently about the kind of relationship that we're trying to build with consumers and the messages that we're sending in some of the conversations and positions that I've heard today.

MS. HASSON: I just want to kind of echo what Mike said and some of what Jennifer was saying. The work that we're doing -- in fact, next week we're getting ready to kick off with Treasury and the city controller for “Bank on Philadelphia,” trying to get people who were unbanked to move to bank accounts. I've got to tell you, I do it with hesitation because of these fees.

When you think about the $1,600 -- we will partner with the Volunteer Income Tax Assistance sites, and the average Earned Income Tax Credit -- and don't quote me because I don't do that for a living -- but it's roughly $3,200 or thereabouts -- if half of that is going to bank overdraft fees, it's ironic. I mean, to use your words earlier, on one hand we're trying to help these individuals to live a basic form of life and then we're taking it in overdraft fees. I think we really have to be careful with those practices.

MS. URRUTIA: Kathleen?

MS. ENGEL: I just want to respond to the discussion of personal choice and personal responsibility because I think we've learned the limitations of choice and the doctrine of personal responsibility over the last ten years. That rhetoric really doesn't move me at all. As I mentioned yesterday, we don't want to get caught up with this idea that people are making the most efficient decisions because they're rational and have full information.

First of all, we know that people are not rational. The whole field of behavioral economics has grown up in the last ten years and taught us a lot about the biases that people bring to decision-making. They also don't have full information. Even when borrowers do have full information, the products that exist today are extraordinarily complex. So the mixture of the behavioral biases and the complex products makes it impossible, really, for people to make decisions in their best interest, or for most people to.

I don't know if anybody ever saw that “60 Minutes,” I think it was, interviews with Harvard law students where they gave them their credit card contracts and asked them what they meant. None of them -- I have no idea. These are the smartest, most elite kids in the country and they couldn't figure it out. Here we're talking about what we're going to charge people who are recipients of the Earned Income Tax Credit to be able to have a bank account.

So I'm not a big fan of paternalism, but I think that's really what we're wrestling around right now is how paternalistic is the Fed going to be in light of what we've learned about consumers and learned about the products that are in the marketplace.

MS. URRUTIA: Joe?

MR. FALK: I see us in a very unusual moment in time. When I think that both industry and consumer advocates and others -- state regulators, federal, local, state -- I see a moment where interests are becoming aligned. That creates, in my view, a moment of opportunity. It seems to me now is maybe a leadership moment where someone, whether it be the Fed, whether it be the White House or others, will bring together these varied groups and interests and try to find a more enlightened way of coming out of some of these problems.

We have thrown a tremendous amount of money at some of the problems that we've seen in the last six months. But money is not the only answer. Maybe it's the Bar Association working to try to find a solution for outliers. Maybe it's the mortgage industry understanding the great challenges for reputation. Maybe it's the banking industry that says, you know what, we can find a better, more enlightened way of coming to terms with these problems of serving the underserved in a more responsible and enlightened way. So it seems to me that now is a moment where leadership would matter by bringing together enlightened interests to find a better way.

MS. URRUTIA: Thanks. Mike?

MR. CALHOUN: Just briefly, and this goes back to our last conversation where we ran out of time. We are obviously dealing with a critically ill economic patient here, and that clearly colors how we look at this. But I think it's important to remember how that patient got so ill. There seems to be considerable evidence that we did not have transparent, sustainable lending, and that's why we're in this unbelievable crisis. It would seem like the primary lesson we would take out of that, as we view decisions about regulations going forward, is we would want to encourage transparent, sustainable practices. The current overdraft program does not seem to meet either of those tests.

It's really striking -- the Center for Responsible Lending does work in the states as much as we do at the federal level. We battle with the payday lenders in a lot of the states. Their number one argument that they make these days is that payday lending is better than overdraft programs, and it is. The cost is lower. The loan duration is longer. The APR -- if you calculate APRs on these overdrafts, you routinely go over 1,000 percent because they take the money out, typically with the next deposit in a couple days. This is a fee of $35, $34 to borrow $20 -- for two days is the typical range of how long the funds are out.

It just is striking to me, again, that our flagship financial institutions are engaging in practices that are hard to demonstrate are better than what most people regard as our most suspect financial providers.

MS. URRUTIA: We have a few minutes. Briefly, one other question to pose out there is, under what circumstances, if any, should financial institutions be allowed to change the terms, conditions, and features of accounts that do not allow overdrafts? Should there be a different pricing mechanism for accounts that are no-overdraft versus accounts that have overdrafts?

I'm going to briefly comment on that to say that banks today have a variety of accounts. The problem is that 80 percent of the people have been put into free checking accounts. Obviously, when there are no fees and they're free and, in this case, balances are minimal, it poses a challenge to the organization because if we offer, as banks, accounts, there has to be at least some recovery of cost and some profit that is made.

So back to your point, Mike, earlier, charging fees -- the fees that we're talking about charging for an account that would not allow overdrafts are minimal fees, significantly lower than what the consumer is paying today in overdraft, yet gives them the ability to be part of the banking system and gives them the ability to keep their money in a safe place while allowing the bank to cover costs and make a profit.

MR. CALHOUN: Well, I would note the FDIC report shows that about 75 -- I think their statistic was 75 percent -- of the account holders do not have any overdraft charges in the previous year they surveyed. It just seems that that subsidization is going the wrong way, that we're subsidizing the more well-off depositors and account holders by charging very expensive fees to the least-well-off account holders. I would just suggest if a fee is needed to balance it out, that it just be a uniform fee against all account holders, including those 75 percent who have bounce protection who aren't going to generate any bounce fees.

MS. URRUTIA: Betsy?

MS. FLYNN: I made the point yesterday that banks have deposits in order to have money to lend. For most banks, about 30 percent of their deposits are demand checking accounts. We have to have those demand checking accounts. You cannot get the higher-balance checking accounts if you're going to charge those folks a fee. That's just not -- you just can't do it competitively wise.

I know that our bank, I feel like, does not take advantage of our overdraft customers. As a matter of fact, we would be fine if they took their business elsewhere, but we do offer many types of overdraft protection. It can be that they can have them transferred from another account, access a credit card, activate a line of credit, and Jennifer, we do have $500 signature loans. Lots of banks do.

But there are a lot of ways to address that, again, if the consumer won't take responsibility for the fact that they should know how much money they have.

MS. URRUTIA: Okay, we're out of time. Maybe one last question? Okay, thank you.

MS. SAWADY: Well, thank you everyone for a really great discussion. As many of you know, during these sessions, we also like to listen to one of our Council members talk about their organization. It's an opportunity for us to all know the Council members a little bit better.

Patty Hasson, who is not tired after leading us through the two first topics of the morning, is now going to return to the podium with a brief presentation. Patty is the president of the Consumer Credit Counseling Service of Delaware Valley. In this role, she provides vision and direction for the development and administration of agency initiatives, programs, policy formulation, legislative agenda, and public relations efforts. She is experienced in the banking industry, having managed a large credit card portfolio.

Patty has worked with the Philadelphia Reserve Bank's Payment Cards Center and is a visible leader in the Philadelphia business and community development arena. She has participated on the Pennsylvania Governor's Task Force for Working Families as well as the PNC Bank Community Advisory Committee. She also has been part of the small business board of the Greater Philadelphia Chamber of Commerce. The Philadelphia Business Journal and the National Association of Women Business Owners honored her with the 2006 Woman of Distinction Award.

Thank you, Patty, for not having more awards because it was a long list.

MS. HASSON: Consumer Credit Counseling Service of Delaware Valley is a multifaceted agency. As you know, most consumer credit counseling services started with budget and credit counseling. We've been around for 43 years. We have 15 offices right now. We're based in Philadelphia, the main office, and we're in all of the surrounding counties. We've now migrated more into southern New Jersey. We've had an office in Camden County for a number of years. We've now moved into Salem County, primarily due to the housing crisis.

In addition, the offices that we are opening right now are primarily, again, due to this housing and credit crisis. We actually partner a lot with Catholic social services and other community agencies who allow us an office in their building, so it keeps our costs down and allows us to be in the community to do that one-on-one counseling.

Our mission is to positively impact human lives and communities through comprehensive consumer credit education counseling, asset building, and debt-reduction programs without regard to economic status. We never lose sight of positively impacting the lives and communities.

We're a member of the National Foundation for Credit Counseling. We are accredited. We are HUD-approved, Pennsylvania Housing and Finance Agency-approved, and the Office of Housing and Community Development in Philadelphia. We're also a member of the Better Business Bureau, which is very important in our line of work.

Our core programs are credit and budget counseling, as I mentioned, credit report counseling -- trying to help people to understand their credit report, what it means, and how they can improve it. Debt reduction and management, which is the debt-management plan that we partner with creditors and finance companies on, housing counseling, financial counseling, education, bankruptcy counseling and education. We contribute to the communities through all of those things -- increased financial literacy, homeownership, savings, asset building, and financial independence.

Here's what I really want to say. Last year, we helped 28,000 first-time callers. We get calls beyond this housing crisis. We get calls like, my car's about to be repossessed, what do I do? I give our customer service staff the utmost respect with the calls that they have to deal with, you know, not coming from, quote, the financial services industry.

We had 17,400 sessions, which is an increase of 40 percent over 2007. We now have 35 full-time counselors. I'd like to emphasize that right now, about 50 percent of our counseling is still in person, which is a little unusual in our industry. We're actually doing a program with Radian Mortgage Insurance, which is a nationwide program and that is over the phone. If we took those numbers out, we would actually be at like 61 percent in person. As you can see, there are 324 educational workshops and another 43 educational events reaching almost 7,500 people.

The first quarter of 2009, we're actually averaging 500 calls per day. A really frightening statistic is in one day we had 700 phone calls.

MR. RHEIN: Patty, that's 35 counselors?

MS. HASSON: Thirty-five counselors and customer support staff. They're not answering. We have about ten right now and we're looking for more, if you know anybody who is looking for a job in Philadelphia.

I put this up. I know it seems pretty intuitive and people probably laugh, like why she is she walking those of us on the Consumer Advisory Council through a budget session, but there's a big difference. This is what we do. We start -- whether it's over the phone, in person, or online -- we analyze your income first. We talk to you about your income. We talk about ways you can increase your income. Then we talk about your living expenses. Then we talk about your debt.

A lot of the industry people out there and the for-profit credit counselors, they start with your debt. And they go, how can we help you get out of debt? And it's wrong. You've got to start at the beginning, and this is what makes us and many other consumer credit counseling service organizations very different. We do that full analysis. We give the right recommendations. We develop that budget, and we create a specific action plan, so every client that leaves our office has an action plan with steps.

Because we're in the community, a lot of times our steps might be, you need to connect with the Angel Food Network. Here's the number. Here's a great resource to get some additional food resources. Here's the Earned Income Tax Credit, VITA sites -- you need to go to them and get your taxes done for free. And so, while there are a lot of national models out there and there's a lot of need, so I understand the need for them, even the project we're doing with Radian. When you're in that community, you know where to refer people. You know what programs are there. You just have a much greater sense of that community.

And counselors, it's funny, when you sit in on sessions, they'll say, where are you shopping? And they'll go, oh, I go to Acme -- and I won't pick on Acme -- but go to Acme. And they'll go, well, you should be going to ShopRite. These are the better deals at ShopRite. They go to that level, and it makes a difference in people's incomes. They have that conversation over their expenses about where to make those cuts that really and truly can help them to the road to financial stability.

The debt-management plan, I think we talked about. Right now, we put three to five years, I think that's been there forever. It's really five years. We try to help consumers pay back their unsecured debt to creditors. I'll put a plug in again. I think there really is more work that needs to be done, and that’s something that maybe, again, the Fed can assist with.

We do credit report counseling, which I mentioned, which is they tri-merge credit report with scores and we talk to people about how to improve their scores. We do not do the work for them. We teach them how to get in touch with the credit reporting agencies and the tools they need to actually improve their credit.

Housing -- we actually counseled 8,700 clients in 2008. No surprise to anybody here. Delinquency and default was our biggest. Pre-purchase, there was a drop. Reverse mortgage counseling, again, a large increase, and something that we are tending to see even more of now. As seniors are losing value in their investments and are taking on more debt and medical costs, we're definitely seeing an upswing in reverse mortgage counseling. It's something that I think we should all be looking at.

We're participating in a five-year study with the Federal Reserve Bank of Philadelphia. We answered an RFP. The study is designed to measure the effectiveness of education alone versus education and one-on-one counseling. We recruited over 900 first-time homeowners and when I -- that's an example of one of the ads we used to recruit those individuals. I thank the Philadelphia Federal Reserve for that support because we also learned a great deal about advertising in a really tough environment because we launched this in the first quarter of 2007. We thought, oh, we'll finish this in the first quarter of 2008. No problem. Well, as everybody kind of knows, things got crazy, a little different, so it took a little longer than we anticipated. The Philadelphia Federal Reserve and Abt Associates out of Cambridge, Massachusetts, who's compiling the data, stuck with us.

As you can see, in March of 2007 to March of 2008, we enrolled 50 percent. In April to October, we enrolled the remaining 50 percent. One of the things we did is we partnered with the NBC affiliate who we have a very good relationship with and we offered workshops on site at the studio. People want to go see a TV studio, but it also drove people who wanted to buy homes. Whatever it takes. So the enrollment continued. We also partnered with employers. I think that there has to be a lot more work with employers in this country to really engage them into understanding that financially secure employees make better employees.

So both of those factors led to closing out the recruitment in October of 2008. We are continuing the post-analysis because we still need to complete the one-on-one counseling for those who are in the control group. And they will follow them, Abt Associates, for the next five years, and we'll be working with them to see the results.

I'm happy to talk about this study at lunch. I think one of the things that was very difficult for all of us in the nonprofit world, and our biggest concession with the Philly Fed, was they really wanted a control group and a treatment group. We said, we can't not give anybody services. It's just not in our nature. That is why we chose the education alone, where people got a two-hour class, versus the one-on-one and the education.

Another program that we're in right now is Saving Homes, Saving Neighborhoods. It's a three-year collaboration. We were actually approached by the Oak Foundation in Geneva, Switzerland, who brought a couple partners in Philadelphia together for a really interesting collaborative. Ira Goldstein is one of our partners at The Reinvestment Fund, the Greater Philadelphia Urban Affairs Coalition, and Community Legal Services, of which Kirsten was once a member.

In the research phase, TRF has gathered a lot of data and has helped us to identify two high-impact neighborhoods where foreclosures are not overtaking the neighborhood, but they're on the brink. We can make a difference and use the tools through data-driven analysis and the same kind of tools that the predatory lenders use to identify who might be at risk and send out community outreach workers through the Greater Philadelphia Urban Affairs Coalition. They're hiring people who are from the community. They're doing the door hangings. They're doing at the police stations, with the churches. You name it and they're going to be out there canvassing those neighborhoods to connect them to our resource workers. We call them resource workers because they're not mortgage brokers, Joe. We're not taking over your job.

MR. FALK: No jobs left.

MS. HASSON: We are just trying to connect them with appropriate financial services in some cases, CRA-type loans that still exist. That's tough to do, but they still do exist. And help people who are in pre-foreclosure. We're really trying to target those people earlier in the process, although we will help anybody.

But what we're also trying to do is change the message -- that you don't need to go to those bad guys, those people who are going to charge you $2,000 to save your home. We're in your neighborhood. You don't need to go to them.

You're thinking about that neighborhood and you live in that neighborhood and you're renting? We've got the counselor here who can do pre-purchase counseling. In fact, our first session, believe it or not, was for pre-purchase counseling, which has just gotten kicked off and so we're anxious to move it along and go through the two neighborhoods.

And Community Legal Services is a partner of ours, so that if people are so far along in foreclosure, they have a resource to go to. And they can also identify trends if we start to see the same people popping up.

I know I'm running out of time, so I'll quickly go through our client outcomes or what you think. Here's a smattering of our programs and workshops.

The Clean Credit Can Change Communities is, again, understanding your credit report and following it up with one-on-one credit report counseling -- critical in today's world.

Philadelphia Saves -- this is the sixth year to date. We have 4,800 people who have signed up as Philadelphia savers, 2,600 elementary students – 2,000, we read books to over the last two weeks, and we have more to go. It was called Less Than Zero. Ask me about it at lunch. It was one of the greatest things we've ever done. It was fun. We also, which is up here – there's something about the Savvy Saver workshop. We had 276 moms and their teens come to an event to talk about saving.

I had to throw that in because we are the world championship Philadelphia Phillies, and we brought the Phillie Phanatic to an event with the kids and it was great. And he is green, so --

The Women's Financial Education Program -- we have 419 women who have enrolled to date. We kicked this off January a year ago. That gives you some indication of how popular this program has become. I've said it before, but in this environment, if I can see any positive, Joe, to leave you on a positive. Women are coming to this event because they're saying, I want to get my act together. They're not in financial trouble. They're saying, I want to start to do things right.

We have 50 classes offered – we've created a community model where we're out in the community. They take ten hours of financial education. They get recognized at an annual luncheon. Citibank was our beginning supporter of this program. The classes, as you can see, include a variety of things, and some of the things we're expanding on are writing a will, insurance. It's not just the basics. That was the kick-off event.

I talked about our youth initiatives. The one in particular I just want to mention, as I close out -- we actually partnered with Bryn Mawr College and the students started it at Bryn Mawr College. They approached us. They wanted to create a class for financial education. We created the class with them. They actually get a credit now and have gotten it as a credit class. It's in the sports department, but we're okay with that. It's one of the highest-attended classes that they have, so I think that's pretty amazing. We're starting to expand that more with other colleges.

And there's a little bit there, which is in your package -- we're very much focused on program quality. I don't want to lose sight of that. Knowledge gain is very important to us, but behavior change is what really gets our juices going. We want to make sure that people just aren't learning about their credit reports. We want people to fix their credit reports. We want them to move into the financial mainstream, to not pay overdraft fees if they decide to get those bank accounts, to do all of the positive things to be financially secure. Thank you.

MS. SAWADY: Thanks, Patty. I'd like to applaud you on such a huge breadth of wonderful, wonderful programs.

Now, I'd like to call upon our committee chairs to provide a brief report on the work that was accomplished yesterday that was not covered earlier this morning. As a sign of the times, all of the items discussed by the Housing and Community Development Committee were covered this morning, so, Patty, you are saved from this. I'll go directly to the Consumer Credit Committee Chair, Tom James.

MR. JAMES: Yes, and this is very brief too. We essentially covered disclosures that are proposed at this point, both in student loans and in home-secured credit that are second liens on property. At this point, there are proposed disclosures. We had a presentation by staff in both contexts, were shown the disclosures, and went through some of the thought process that's going into the disclosures. There's considerable amount of testing that's going on to test the effectiveness of the disclosures. That's ongoing. We're going to be updated on that at our next meeting, so that's about where we are.

MS. SAWADY: Great. Thank you. Depository and Delivery Systems Committee. Luz?

MS. URRUTIA: We started the very early stages of the discussion of mobile financial services, which basically covers the ability to deliver financial services through a mobile device, funds transfer, mobile payments, mobile banking, account balance, account management. We talked about how the Fed is planning to conduct a survey, which we looked at and reviewed, amongst a small group of financial institutions and the issues that were raised relative to security disclosures, what would be needed, privacy, customer privacy, and the belief that the current regulations that apply for financial services would apply to mobile banking. This is just an alternative delivery mechanism. We should be hearing more from the Fed for the next meeting on the results of the survey, as well as being able to see if this is a subject of discussion that we expand upon.

MS. SAWADY: Great. I wanted to mention that this year, we have started a new committee, the Special Issues Working Group of this Council, and it's chaired by Mike Calhoun.

MR. CALHOUN: Just real quickly, this is a new committee with sort of a different structure and some new procedures. We hope the Governors will let us know how we can be most useful. The idea is to provide a forum to bring all the varied expertise here to take on issues that may not be immediately on a regulatory calendar or the like.

Some of the things we were looking at are possibilities of particular aspects of CRA reform, the RAL loan issues. There were a couple of topics today that may be suitable for this. How do you maintain homes that are in foreclosure and deal with this title issue. Also, questions about the small-business loan access.

The idea is that through conference calls or other mechanisms, we can do some work between the meetings. Traditionally, there really has been no activity of the Council at all other than right before the meetings to plan for an upcoming meeting. So if there are issues you would like us to look at, we would be happy to facilitate that if you'll contact Edna or Louise or me, that would be great.

MS. SAWADY: Okay, we are at the end of a very informative, interesting, and a little tiring morning. In closing, I'd like to thank everyone for their participation today and for a very lively discussion. As always, it has been great to have you all here. We'll now adjourn. Council members, please remain here for a group picture and then we'll move to lunch, will be served in Dining Room L just down the hall on the left.

Thanks to everyone.

(Whereupon, the meeting adjourned at 12:55 p.m.)