

## **Views and Estimates of the Committee on Financial Services on Matters to be Set Forth in the Concurrent Resolution on the Budget for Fiscal Year 2012**

Pursuant to clause 4(f) of rule X of the Rules of the House of Representatives, section 301(d) of the Congressional Budget Act of 1974, and section 425 of Senate Concurrent Resolution 13, 112<sup>th</sup> Congress, the Committee on Financial Services submits (1) its views and estimates on all matters within its jurisdiction or functions to be set forth in the concurrent resolution on the budget for fiscal year 2012; (2) an estimate of the budgetary impact of all legislation that the Committee expects to consider during the coming session; and (3) recommendations for improved governmental performance.

### **OUR NATION'S FISCAL CHALLENGE**

The non-partisan Congressional Budget Office (CBO) has reported that the Federal budget deficit will reach an all-time high of \$1.48 trillion in FY 2011. According to CBO's preliminary estimate, in February, the United States posted its largest monthly deficit in history -- \$223 billion. In light of these stark figures, it is not surprising that Ben Bernanke, the Chairman of the Federal Reserve Board, gave the following testimony to the Senate Budget Committee in January 2011: "[T]he federal government is on an unsustainable fiscal path. Yet, as a nation, we have done little to address this critical threat to our economy. Doing nothing will not be an option indefinitely; the longer we wait to act, the greater the risks and the more wrenching the inevitable changes to the budget will be."

The Committee finds that for those programs and agencies within its jurisdiction, the Administration's FY 2012 budget proposal fails to impose the spending discipline necessary to put this nation's finances in order. Just as ordinary Americans must live within their means, so must their government. Those who serve the American people must learn to do more with less. Because the resources of the American people and their government are not infinite, government officials must allocate those scarce resources wisely to fewer programs. The decision to cut spending is not an easy one. But it is necessary. And it will result in a more resilient economy and stronger nation for future generations of Americans. Because the Administration has failed to make these difficult choices, the Committee cannot, as a general matter, support the requests contained in the Administration's budget for fiscal year 2012.

### **SECURITIES AND EXCHANGE COMMISSION**

In its budget for FY 2012, the Administration has requested more than \$1.407 billion for the Securities and Exchange Commission (SEC), an increase of \$264 million over the SEC's FY 2011 spending authority. The Administration has requested an increase in the number of SEC personnel to 4,827 positions (4,460 full time employees), an increase of 780 positions (612 full time employees) over FY 2011 levels.

It is well-documented that prior to 2009, the SEC failed to adequately fulfill its mission in the run-up to the financial crisis—including its failure to adequately supervise the nation's largest investment banks, which resulted in the bailout of Bear Stearns and the collapse of Lehman Brothers and the ensuing financial panic; its failure to supervise

the credit rating agencies that bestowed AAA ratings on securities that later proved to be no better than junk; and its failure to ensure that issuers made adequate disclosures about securities constructed from poorly underwritten mortgages that were bound to fail. In addition, subsequent to the financial crisis, the SEC's inability to detect the Madoff and Stanford Ponzi schemes cast further doubt on its capability to supervise the institutions under its regulatory mandate. In light of those failures, the Committee cannot support the Administration's funding and staffing requests for the SEC until the current SEC Chairman and management has shown concrete progress in correcting past failures and implementing clear and verifiable plans for fulfilling the additional responsibilities the Commission has been granted.

Section 967 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) mandated that the SEC hire "an independent consultant of high caliber and with expertise in organizational restructuring and the operations of capital markets to examine the internal operations, structure, funding, and the need for comprehensive reform of the SEC." The SEC retained the Boston Consulting Group and spent \$4.85 million for this study. Until the SEC and the Committee have reviewed the study, increasing the SEC's budget and staff resources would be premature. Until the SEC's failures are addressed, increasing the SEC's budget and adding employees will not ensure effective regulation. The Committee will monitor the SEC's efforts to address these failures, and it will hold the SEC accountable for its progress in both addressing its failures and using its resources to fulfill its statutory mandate.

Although the facilitation of capital formation is a critical part of the SEC's statutory mandate, the SEC's budget justification mentions this crucial task only in passing, and it has so far failed to establish the committee on small and emerging companies that was to advise the SEC on issues affecting small business in areas such as capital raising, corporate governance, and disclosure. Facilitating capital formation would spur economic growth and job creation, and it should be a key component of the SEC's agenda.

The SEC must also increase the number of examinations conducted of registered investment advisers. In recent years, the SEC averaged a 9% examination rate for investment advisers. In the justification for its budget request, the SEC estimates that it will examine 13% of investment advisers, 12% of investment companies and 46% of broker-dealers in FY 2012. While these estimates are an improvement over FY 2011, all three estimates are below FY 2008 levels, when the SEC's budget was less than approximately \$906 million. To protect investors and prevent future Madoff-like frauds, the SEC must increase the percentage of investment advisers examined each year. Given the alternatives that exist to improve investment adviser oversight, including the designation of self-regulatory organizations (subject to SEC oversight) to perform examinations, the Committee will consider the recommendations presented in the SEC staff study mandated by Section 914 of the Dodd-Frank Act, which requires the SEC to review "the need for enhanced examination and enforcement resources for investment advisers."

Recognizing the magnitude of past failures, as acknowledged in the Administration's budget request and affirmed in recent SEC testimony, the Committee will only consider whether additional funding is needed once the Commission has 'optimiz[ed] its available resources through implementing the initiatives recommended in' the study authorized by

Section 967 of the Dodd-Frank Act, which was presented to the Committee on March 10, 2011.

### **SECURITIES INVESTOR PROTECTION CORPORATION**

The Securities Investor Protection Corporation (SIPC) protects investors against losses that result from broker-dealer failures, thereby promoting investor confidence in the nation's securities markets. The Dodd-Frank Act increased the SIPC's line of credit with Treasury from \$1 billion to \$2.5 billion. In its budget request, the Administration asserted that SIPC will not use that \$2.5 billion line of credit, a claim that the Committee finds to be overly optimistic.

In 2008, SIPC was confronted with two unprecedented events: the liquidation of Lehman Brothers Holdings in September and the liquidation of Bernard L. Madoff Investment Securities in December. Although SIPC so far has handled these "hundred-year" events and successfully managed the Lehman liquidation, the Madoff proceeding continues to present SIPC with challenges that could call into question the sufficiency of the SIPC fund.

In February 2009, the SEC charged Robert Allen Stanford and three of his companies with orchestrating a multi-billion dollar fraud arising from a certificate of deposit (CD) program. Although SIPC has thus far declined to cover Stanford customers, they appealed SIPC's refusal to the SEC. If the SEC overrules SIPC and expands coverage to include banking products, products issued by a foreign entity, or products that investors have custody of but prove to be worth less than when the products were purchased, new claims could overwhelm the SIPC fund.

The Committee believes that budget projections for SIPC should be realistic and account for the possibility that broker-dealers can fail and that frauds can occur. If the SIPC protection limit is raised from \$500,000 to \$1 million as part of possible SIPC reforms, stress on the fund will be exacerbated. The Committee will not endorse legislative reforms that would require SIPC to borrow against or beyond its recently increased line of credit at Treasury, thereby placing additional significant burdens on American taxpayers.

### **PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD**

The Committee sees no reason for the Public Accounting Oversight Board (PCAOB) to be included in the Administration's FY 2012 budget. The PCAOB is a non-governmental, private-sector corporation that has no impact on the budget, and the numbers used in the Administration's budget are potentially misleading as they are only estimates of the PCAOB's expected revenues. The PCAOB is funded through registration fees and accounting support fees. Including the PCAOB in the budget thus gives the misleading impression that taxpayers are responsible for the PCAOB's funding. The Committee will closely examine the PCAOB's new authority arising from Title IX of the Dodd-Frank Act and the SEC's oversight of the PCAOB and its budget.

## **GOVERNMENT SPONSORED ENTERPRISES**

Amid mounting mortgage losses, deteriorating credit quality, and eroding capital positions, two Government Sponsored Enterprises (GSEs) – Fannie Mae and Freddie Mac – were placed into the Federal conservatorship of their regulator, the Federal Housing Finance Agency (FHFA) in September 2008. To date, Fannie Mae has tapped \$88 billion and Freddie Mac has used nearly \$64 billion in taxpayer funds, for a total of approximately \$150 billion (\$131 billion, net of dividends paid), making the GSE conservatorship by far the costliest of all the taxpayer bail-outs carried out over the past three years. Last October, the FHFA projected that the cumulative Fannie Mae and Freddie Mac draws on the Treasury range from \$221 billion to \$363 billion through 2013.

After Fannie Mae and Freddie Mac were placed in conservatorship, the Congressional Budget Office concluded that they should henceforth be included in the Federal budget to reflect their cost to the taxpayer. In its 2010 fiscal outlook, the CBO estimated that the 10 year cost of operating the companies will be \$370 billion. The Administration’s budget request, however, does not place the GSEs on-budget. The Office of Management and Budget (OMB) continues to treat Fannie Mae and Freddie Mac as “off budget,” and does not include their activities on the government’s balance sheet. The Committee strongly recommends that OMB be statutorily required to move Fannie Mae and Freddie Mac “on budget,” and to account for the losses they have sustained since they were placed in conservatorship in the same way as CBO calculates their losses. The Committee also recommends subjecting the two GSEs’ debt – used to finance their mortgage purchases – to the statutory debt limit. To allow time for the implementation of this new law, an effective date of 90 days after enactment should be set.

## **TROUBLED ASSET RELIEF PROGRAM**

Established in the fall of 2008 under the under the Emergency Economic Stabilization Act, the Troubled Asset Relief Program (TARP) was created as a temporary measure to address a crisis in the financial markets by making capital available to financial institutions. Those who voted for the Emergency Economic Stabilization Act did so with the assurance that the money appropriated for the program would be returned to the taxpayers when the crisis ended. Because financial institutions have repaid TARP funds and Treasury has received interest, fees, and warrants, TARP’s costs are now estimated to be far less than originally projected. The Administration, however, has used and continues to use TARP funds for programs unrelated to the financial crisis, using those funds for mortgage assistance programs that have failed to help homeowners and exposing the taxpayer to losses. The Committee recommends that TARP be immediately shut down and unused funds be returned to the taxpayers.

## **CONSUMER FINANCIAL PROTECTION BUREAU**

The Consumer Financial Protection Bureau (CFPB) is a federal agency created by the Dodd-Frank Act to regulate providers of credit and other consumer financial products and services. The Dodd-Frank Act confers upon the CFPB Director, who has yet to be

appointed by the President, a broad mandate that includes consumer protection functions transferred from seven different Federal agencies, and the authority to write rules, supervise compliance, and enforce all consumer protection laws and regulations other than those governing investment products regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

The Dodd-Frank Act housed the CFPB within the Federal Reserve Board as an “independent bureau,” but the Act makes clear that the CFPB is to be autonomous of the Federal Reserve in carrying out its mission. The CFPB director determines the agency’s budget, which is drawn from the Federal Reserve Board’s annual combined earnings, and capped at 12 percent of those earnings (which translates into approximately \$500 million for the last year for which data are available). This funding arrangement shields the CFPB from the appropriations process and undermines congressional oversight. In its FY 2012 budget, the Administration has requested \$329 million to fund the CFPB. The Committee views the Administration’s request as excessive, and intends to examine whether CFPB funding should be subject to the Congressional appropriations process to promote greater accountability and transparency.

### **EXPORT-IMPORT BANK OF THE UNITED STATES**

In its budget for FY 2012, the Administration has requested \$124.6 million for the Export-Import Bank. The Export-Import Bank provides export financing through its loan guarantee, insurance and lending programs, thereby helping American exporters compete in the global marketplace, which in turn creates jobs in the United States. Economists estimate that each \$1 billion in U.S. exports supports 7,000 U.S. jobs. Last year, the Export-Import Bank provided approximately \$24 billion in export financing.

By collecting fees from its users, the Export-Import Bank has become a self-sustaining organization and has returned \$3.4 billion to the Treasury since FY 2006. As a result, the appropriation for the Export-Import Bank is expected to be recouped, and the Bank is projected to return approximately \$213 million to the Treasury this year. The Committee supports the job-creating mission of the Export-Import Bank, and will focus its consideration of the Bank’s reauthorization on improving the Bank’s operations to better serve U.S. businesses and ensuring that the Bank maintains its fiscal soundness.

### **MULTILATERAL DEVELOPMENT BANKS**

The Administration has requested \$3.364 billion for Treasury’s international programs, an increase from the \$3.065 billion requested for FY 2011. The request includes funds for annual payments to multilateral development banks (MDBs); payments toward debt relief for many of the world’s poorest countries; payments to World Bank trust funds; and payments to multilateral environmental organizations. The MDBs provide concessional lending and grants to the world’s poorest countries and provide lending to middle-income and poorer credit-worthy countries to meet development needs. The MDBs have provided resources to member countries in the aftermath of natural disasters and have been counter-cyclical lenders during economic downturns, including the most recent recession and the attendant global contraction of credit.

The Committee urges Treasury to advocate that governments receiving assistance from the multilateral development institutions do not engage in gross violations of human rights, for example, the denial of freedom of religion, including the right to choose one's own religion, and physical persecution based on sexual orientation or gender identity.

Funding for the MDBs is based on pledges made to international organizations by the Treasury on behalf of the United States. These pledges are considered by Congress, which must decide whether to fund these pledges. Given the budget constraints facing the United States and this Committee's duty to do its part to right the nation's finances, the Committee intends to conduct thorough oversight of U.S. support for the MDBs. The Committee will examine the individual requests and seek to ensure the banks are using the resources effectively and consistent with the goals of the institution. Also, the Committee expects the Treasury to consult with the Committee prior to engaging in discussions on replenishment and capital increases and to protect the leadership role of the United States in these institutions.

### **INTERNATIONAL DEVELOPMENT ASSOCIATION**

The Administration has requested \$1.359 billion for the first of three annual payments to replenish the International Development Association (IDA), the World Bank facility that lends to 79 of the world's poorest countries. IDA's mission is to assist these countries in meeting basic health, infrastructure and development needs. Through its participation in IDA, the U.S. can leverage development assistance in the poorest regions of the world. IDA is also active in countries important to U.S. foreign policy, such as Afghanistan and Haiti.

The Committee believes IDA plays an important role in the global economy. IDA provides the world's poorest and least credit-worthy countries with access to capital, which permits these countries to build the credit record necessary to access private capital. The Committee also believes that the United States must retain its leadership role, which includes its ability to veto unwelcome changes to IDA's governing articles. The Committee intends to conduct oversight over any contribution made to IDA, including whether projects are being reviewed for effectiveness and whether the Bank is vigilant in its efforts to end corruption.

### **INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT**

The Administration has requested \$117.4 million for the first of five payments towards a general capital increase for the International Bank for Reconstruction and Development (IBRD). In response to requests from world leaders, the IBRD increased lending sharply at the onset of the economic crisis. In 2009, IBRD dramatically increased lending to \$39 billion, up from an average \$15 billion per year. Member nations have agreed to increase capital to avoid reducing lending in the near-term. The IBRD has been an important source of capital for middle-income and credit-worthy poorer countries during the economic crisis and has contributed to global economic stability. Given the fragile state of the global economic recovery, it is important for the IBRD to provide resources to member countries. It is also important for the United States to maintain its leadership role at the IBRD. The Administration's request comes as Congress and this Committee are

attempting to put this nation's fiscal policy on a sustainable path; therefore, the Committee will scrutinize the request and examine whether it effectively achieves U.S. objectives.

### **DEBT RELIEF**

The Administration has requested 174.5 million for debt relief, an increase of \$134.5 million from FY 2011, to satisfy arrears to the Multilateral Debt Relief Initiative (MDRI), which is part of IDA 15, and to fund additional debt relief in IDA16 and at the African Development Fund (AfDF). In 2005, the United States and other creditor nations agreed to forgive MDB debt for many of the world's poorest countries. The Committee supports the commitment made by creditor nations to break the "lend and forgive" cycle that has saddled the world's poorest countries with debt loads that cannot be repaid. The Committee urges Treasury to require that countries adopt economic reforms to qualify for multilateral debt relief.

### **ENVIRONMENTAL FUNDS AND CLIMATE FUNDS**

The Administration has requested \$749 million for payments to World Bank trust funds and the Global Environmental Facility (GEF). This request is in addition to a request of \$2.85 billion for payments to the MDBs to replenish concessional windows and increase capital. The overall request includes payments toward eight separate replenishments and capital increases, all of which are intended to increasing lending, concessional lending, and grant making capacity at the MDBs. The Committee notes that one of the MDBs' missions is to support the development of energy infrastructure in member countries, and the Strategic Climate Fund overlaps other environmental initiatives, including the GEF and the Tropical Forest Conservation Act.

The Committee therefore believes that the development of efficient energy infrastructure in developing nations is most effectively supported by directing resources to the MDBs. The Committee urges the Administration to use its leadership role in the MDBs to advance development plans that support efficient energy sources, including alternative energy sources where feasible and appropriate.

### **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

The Administration has requested an increase in the budget of the Department of Housing and Urban Development (HUD) of 1.6 percent over FY 2010, an increase of \$747 million that would result in a total HUD budget of \$47.8 billion for fiscal year 2012. HUD has proposed spending \$34.5 billion (72 percent of its budget) on three "Rental Assistance" programs: Tenant-Based Rental Assistance, Project-Based Rental Assistance, and Public Housing. HUD has proposed spending \$10.9 billion (23 percent of its budget) on "Capital Costs" for programs such as Community Development Block Grants (CDBG) and Public Housing Capital. The remaining \$2.4 billion (5 percent of its budget) is allocated to "Other Initiatives," such as Lead-Based Paint Hazard Reduction, Housing Counseling, Fair Housing and Equal Opportunity, and other programs.

Although the increase in HUD's budget for FY 2012 is smaller than increases in recent years, HUD's budget has consistently grown over the last decade and a half. The Congressional Research Service has reported that HUD's budget has expanded by more

than 50 percent from FY 2004 through FY 2010. The Office of Management and Budget has reported that the overall budget authority — funds appropriated by Congress — for all federal housing programs has grown from \$15.4 billion dollars in 1995 to \$53.8 billion in 2010, an increase of 249 percent. Overall outlays — payments made by federal agencies — on federal housing programs over the past decade have more than doubled in nominal dollars, from \$28.9 billion in 2000 to an estimated \$58.7 billion in 2010.

Notwithstanding this growth in HUD's budget and the sums spent on housing programs, the Administration's budget proposal includes several new housing programs to be administered by HUD. The Administration has requested \$250 million for the Choice Neighborhood program, \$200 million for the so-called Transforming Rental Assistance initiative, and \$1 billion for the never-before-funded Housing Trust Fund. In light of the record deficits the United States is now facing, the Committee believes that prudent fiscal policy requires the Administration to refrain from asking taxpayers to fund new government housing programs.

The constantly increasing discretionary spending in HUD's budget is also a source of concern to the Committee. As noted above, HUD's budget includes \$34.5 billion for Rental Assistance Programs, which represents 72 percent of HUD's budget request. This level of funding cannot be sustained. Congress has grappled with the program's cost and has tried to slow its growth relative to its proportion of the overall HUD budget. The Committee is concerned that unless the program is reformed, the funding that will be necessary to sustain the program will compromise other HUD programs, such as housing for the elderly, disabled and veterans.

In addition, a recent Government Accountability Office (GAO) study has raised questions concerning the extent to which HUD's economic development programs may duplicate those administered by other agencies. The GAO found that four different agencies — the Department of Commerce, the Department of Agriculture, the Small Business Administration, and HUD — administered 52 separate programs to fund "entrepreneurial efforts." Of these 52 programs, HUD funded twelve. The Committee will closely review HUD programs that overlap with those of other agencies to ensure that taxpayer funds are not wasted on duplicative programs.

### **NATIONAL HOUSING TRUST FUND**

Created by the Housing and Economic Recovery Act of 2008, the National Housing Trust Fund was originally to be funded by Fannie Mae and Freddie Mac. Given the GSEs' current status in conservatorship, they cannot fund the program. The Administration has therefore requested \$1 billion in funding. The Committee is concerned that the Trust Fund duplicates other Federal housing programs, such as the HOME Investment Partnership program, that provide grants to state and local governments to be used for increasing home ownership and affordable housing opportunities for low- and very low-income Americans.

### **FORECLOSURE MITIGATION PROGRAMS**

The Administration continues to implement foreclosure mitigation strategies that are of questionable utility and are costing taxpayers billions of dollars. Originally envisioned as a \$75 billion effort to help up to 9 million at-risk borrowers, the Making



Home Affordable initiative includes foreclosure prevention programs such as the Home Affordable Modification Program (HAMP), the Hardest Hit Fund, the Federal Housing Administration (FHA) Refinance Program, and the Emergency Homeowner Relief Fund. These programs, several of which derive their funding from the Troubled Asset Relief Program, have fallen far short of their stated objectives.

Some \$30 billion from the Troubled Asset Relief Program has been obligated to HAMP. Of the 1.49 million trial modifications started under HAMP, which was originally projected to assist some 3 to 4 million homeowners, only 539,493 have resulted in permanent modifications. The program has been roundly criticized by a wide range of independent government watchdogs, including the Special Inspector General for the TARP, who testified on March 2, 2011, before the Subcommittee on Insurance, Housing and Community Opportunity that “supporters of HAMP have little reason to hope that it will be anything more than it is today – a program that benefits only a small portion of distressed homeowners, offers others little more than false hope, and in certain cases causes more harm than good.” Accordingly, the Committee recommends that HAMP be terminated and all unobligated balances be returned to the taxpayer.

Although the 111<sup>th</sup> Congress appropriated \$1 billion for the Emergency Homeowner Relief Fund, the Committee is concerned that Congress has not received assurances that loans made from the Fund will be properly underwritten. The Committee is also concerned that the program’s almost 100 percent subsidy rate will translate into substantial losses for taxpayers. The Committee therefore recommends that the Emergency Homeowner Relief Fund be terminated.

In March 2010, the Administration announced a new FHA Refinance Program for homeowners who owed more on their homes than the home were worth. The program was to be funded with \$8 billion in TARP funds originally set aside for HAMP. Although the program began in September 2010, the Congressional Research Service has reported that the FHA had received only 182 applications as of January 2011, and that only 40 loans have been refinanced. The program is currently scheduled to continue until December 31, 2012. Instead of using TARP funds to bankroll a foreclosure mitigation program that has proven to be ineffective, the Committee recommends that the \$8 billion set aside for this program be returned to the taxpayer.

The Administration’s Neighborhood Stabilization Program (NSP) provides funding to state and local governments to acquire, develop, redevelop, or demolish foreclosed homes. Initially created as a one-time emergency assistance program, \$7 billion has been appropriated for the NSP in three rounds: \$4 billion 2008 as part of the Housing and Economic Recovery Act (NSP1); \$2 billion in 2009 as part of the Economic Stimulus; and \$1 billion in 2010 in the Dodd-Frank Act (NSP3). Significant questions remain about the oversight and efficiency of the program. HUD’s Inspector General has identified multiple misuses of NSP funds, and the GAO has questioned HUD’s ability to track the funds. HUD has been slow to allocate funds from NSP 1 and NSP 2, raising further concerns about the effectiveness of the NSP and the need for further funding. The Committee therefore recommends that all remaining NSP unobligated balances be rescinded and the program be terminated.

## **FEDERAL HOUSING ADMINISTRATION**

As private sector lenders withdrew from the mortgage market during the economic crisis, the Federal Housing Administration (FHA) increased its share of the market from less than 5 percent to over 30 percent. As the FHA's share of the market grew, however, increased delinquencies and foreclosures across the nation have negatively affected the FHA's financial standing. Late last year, an independent actuarial review showed that FHA's capital reserve ratio had dropped below the Congressionally-mandated threshold of 2 percent to 0.50 percent. If home prices do not recover, HUD may be forced to request an appropriation from Congress to shore up the FHA's finances. To protect the FHA's scarce capital, the Committee urges the Administration to be vigilant in its efforts to weed out mortgage originators who seek to use the FHA program as a dumping-ground for poorly or fraudulently underwritten loans.

The Committee commends HUD for announcing reforms that will strengthen the FHA's credit policies. The Administration has reported to Congress that it is exploring "ways to further reduce the risk exposure of FHA" by "giving FHA flexibility to adjust fees and programmatic parameters more nimbly than it can today." The Administration also noted that FHA "has already changed its policy to require that borrowers with lower FICO scores put down larger down payments," and that FHA will consider other options, such as "lowering the maximum loan-to-value ratio for qualifying mortgages more broadly." But to avoid putting the taxpayer at unnecessary and avoidable risk, the Committee recommends that FHA down payment requirements be increased to reflect the risk that its borrowers pose to the taxpayer.

The Committee is also concerned that the FHA lacks the capacity to properly oversee its single-family loan insurance portfolio. With the increase in loan limits and the recent changes in the FHA reverse mortgage program, the FHA must properly monitor its lenders and licensees to ensure that FHA programs are not being abused.

## **HOUSING COUNSELING**

The Administration has requested \$85 million for housing counseling, similar to FY 2010 enacted levels. The Committee will monitor federally-funded housing counseling programs — including state, local and nonprofit counseling programs — to assess their effectiveness at mitigating foreclosures and assisting consumers in avoiding predatory or abusive lending practices.

## **HOUSING PROGRAMS FOR THE ELDERLY AND DISABLED**

Section 202 — Supportive Housing for the Elderly — and Section 811 — Supportive Housing for Persons with Disabilities — are HUD programs that help make housing available for the elderly and disabled. The Administration has requested \$387 million for Section 202 programs, a decrease of \$130 million from FY 2010 enacted levels, and it has requested \$111 million for Section 811 programs, a decrease of \$53 million from FY 2010 enacted levels. The recently enacted Frank Melville Supportive Housing Investment Act (P.L. 111-374) will provide more flexibility to align Section 811 programs with other federal,

state, and local funding sources, allowing federal funds to be levered with other funds to make more housing available for the disabled. The Committee is aware that both the 202 and 811 programs have unexpended balances and it will review these programs to find ways to expend funds to better meet the needs of the elderly and disabled.

### **SECTION 8 VOUCHER PROGRAM**

The Administration has requested an increase in funding for the Section 8 housing choice voucher program, which serves more than 2.2 million low-income families. While changes to the voucher funding formula over the last decade have increased voucher usage and efficiency, comprehensive reform would increase the program's effectiveness. In 2007, OMB reported that "HUD does not track long-term performance outcome measures because the agency lacks a reporting mechanism to capture how program funds are used." OMB also found that the program's effectiveness remained unknown. The Committee will therefore work towards reforming Section 8. The Committee believes that the public is better served not by expanding Section 8 but by reforming it to allow public housing authorities to serve more people within existing funding levels. The waiting lists for Section 8 vouchers continue to grow, and given budget constraints, there are insufficient resources to serve all would-be applicants. The Committee believes that Section 8 recipients should be encouraged to move toward self-sufficiency so assistance can be provided to those applicants who have patiently waited for assistance, in some cases for almost ten years.

### **PROJECT-BASED SECTION 8**

The Administration has requested \$9.43 billion for Project-Based Rental Assistance, a substantial increase over FY 2010 levels. The Committee is concerned that most of this increase is attributable to program renewals. The Committee will examine the Administration's proposals for converting public housing units to long-term, project-based Section 8 contracts.

### **PUBLIC HOUSING**

The Administration has requested \$7.3 billion for the Public Housing Operating Fund and the Public Housing Capital Fund, which are to be combined and used for repair and maintenance of public housing units. The Committee remains concerned that the spend-out rates for this program are slow, and that new funding would worsen this problem. In light of the program's slow spend-out rates, the Committee will examine the reasons that these programs continue to have large unexpended balances. The Committee is also troubled by the overall performance of the Public Housing program. In the program's last comprehensive review in 2005, OMB designated the Public Housing program as non-performing, and gave the program a rating of "results not demonstrated," indicating that the program had either failed to develop acceptable performance goals or to collect data to assess its performance.

In its budget for FY 2012, the Administration eliminated funding for the HOPE VI program, which received \$200 million in fiscal year 2010. The Administration has proposed folding the HOPE VI program into its Choice Neighborhoods program, and has requested \$250 million for that program. The Committee remains concerned about the performance

of the Hope VI program, which has lagged for years. In the program's last comprehensive review in 2003, OMB rated the programs as ineffective. The Committee will continue to evaluate the HOPE VI program and it will consider the merits of the Choice Neighborhoods program. The Committee will also examine the prohibition of demolition-only grants, one-for-one replacement requirements, and tenant eligibility standards on housing availability.

### **McKINNEY-VENTO HOMELESS ASSISTANCE GRANTS**

The 111th Congress enacted the Homeless Emergency Assistance and Rapid Transition to Housing Act as part of P.L. 111-22, which changed the administration of McKinney-Vento Homeless Assistance Grants. These changes consolidated separate grant programs into one Continuum of Care Program, expanded the definition of a qualifying "Homeless Individual" and "Chronically Homeless Person," and added measures aimed at preventing homelessness. In connection with these changes, which became effective in late 2010, the Administration has proposed an increase in funding for Homeless Assistance Grants by more than \$500 million. The Committee will monitor these changes to ensure that they make the program more effective.

### **VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM**

The Administration has requested \$75 million for new Veterans Affairs Supportive Housing (VASH) vouchers, which will end homelessness for an estimated 11,538 of our nation's veterans. HUD-VASH combines tenant-based voucher assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers in local communities. PHAs awarded HUD-VASH vouchers develop partnerships with VA medical centers to help homeless veterans find permanent supportive housing. A recent report issued by HUD and the VA indicated that on a single night in January 2009, 75,609 veterans were homeless. The allocation of these vouchers is important to achieving the Administration's goal of ending homelessness among veterans.

### **COMMUNITY AND ECONOMIC DEVELOPMENT**

Cities and counties use flexible Community Development Block Grants (CDBG) to meet local development, infrastructure, and affordable housing needs. The Administration has requested \$3.8 billion for CDBG, making it HUD's fourth largest program. Concerns have been raised that some CDBG money is used to fund projects that reflect exclusively local priorities. In 2003, OMB designated the CDBG program as ineffective, indicating that the program had failed to use tax dollars effectively, attributable to a lack of clarity regarding the program's purpose or goals, poor management, or some other significant weakness. The Committee will examine how CDBG funds are used by recipients, as well as the program's history of slow spend-out rates to ensure that CDBG funds are spent appropriately. The Committee will also consider whether CDBG funds can be better targeted to benefit economically distressed communities.

### **RURAL HOUSING**

The Administration has requested \$1.437 billion for the rural housing Single Family Direct Loan program and \$24.395 billion for the rural housing Single Family Guaranteed

Loan program. These programs are administered by the Rural Housing Service, an agency in the Department of Agriculture (USDA). The Administration's request for the direct loan program is a decrease of \$1.226 billion from FY 2010 enacted levels, and its request for the guaranteed loan program is an increase of \$5.684 billion. In December 2010, the USDA Inspector General raised questions about the Rural Housing Service's ability to operate the loan guarantee program. The USDA Inspector General found that 33 percent of the Rural Housing Services single family guaranteed loan portfolio failed to meet the statutory requirements for income eligibility. The Committee therefore has serious concerns about the Administration's request to increase expenditures for the guaranteed loan program.

### **NATIONAL FLOOD INSURANCE PROGRAM**

According to the Government Accountability Office, the National Flood Insurance Program (NFIP) must be fundamentally reformed to stabilize its long-term finances. The NFIP owes \$19 billion to Treasury, which it borrowed to pay flood claims resulting from hurricanes in 2005. The GAO determined that because the NFIP is not actuarially sound, it is failing to collect sufficient premiums from policyholders to cover the costs of estimated future losses. Approximately 25 percent of the NFIP's policies are subsidized, and these are primarily for high-risk structures built before the flood plain regulations and flood risk mapping went into effect. Some policyholders are paying rates that may be 35 to 40 percent of actuarially-sound rates.

In recent years, both the House and Senate have passed broadly supported legislation that would have moved the NFIP closer to actuarially sound, risk-based pricing. To protect taxpayers from excessive and unwarranted exposure, Congress must move forward with comprehensive reforms to overhaul the NFIP that will increase the role of the private insurance sector in flood risk management.

## Minority Views

**The following represent the views of the Democratic Members of the Committee on the following issues consistent with the Concurrent Resolution on the Budget for Fiscal Year 2012.**

**March 17, 2011**

### **SECURITIES AND EXCHANGE COMMISSION**

U.S. and global capital markets have undergone momentous changes in the last decade as new investors have diversified capital sources, new market participants have transformed market structure, and new legislation has significantly broadened the responsibilities of the market's regulator, the Securities and Exchange Commission (SEC). Despite the rapidly growing and complicated environment, the SEC has had serious constraints on its budget in all but the last few years. As the majority has detailed, the SEC has experienced colossal failures leading up to the financial crisis. The majority has taken away the wrong lessons from these failures, however, stating that the SEC should somehow "fix" itself before it should receive any additional funding.

As detailed in a study of the SEC, done by the Boston Consulting Group (BCG) pursuant to section 967 of the Dodd-Frank Act (DFA), Congress faces a stark choice: we can either choose to provide adequate funding to the SEC, or we can substantially reduce its responsibilities, delegating most to industry self-regulatory organizations (SROs), organizations which have significant conflicts of interest when it comes to providing adequate oversight of the securities industry.

The study, which evaluated all aspects of the agency's operations, lays out the following choice:

"Given that the current context requires the SEC to make hard trade-offs in terms of mission critical activities, it is incumbent on Congress to carefully evaluate if these trade-offs are 'acceptable' given its own priorities. As it evaluates this, Congress should consider what it would take for the agency to fully implement all regulatory activities it would ideally undertake and to build out all key capabilities that will enhance its efficiency and effectiveness. . . . [S]enior management itself has identified several high-priority regulatory activities that cannot be implemented today even with the efficiencies described [elsewhere in the report], including the agency's demand for technology and expertise. . . . Based upon a very preliminary estimate, a range of an incremental \$200 to \$300 million may be required for the initiatives described in [this choice]." (pp 147)

"In the event that the funding environment does not change, an alternative option is for the SEC's role to be changed to fit the available budget . . . **this 'new SEC' would change from being an 'actor' that actively regulates markets and market participants to an 'overseer' that primarily monitors the regulatory actions of others to whom it has delegated regulatory activities.**" (emphasis added) (pp 150)

Elsewhere in the study, the results of not funding the SEC are made even more stark, stating that “the SEC should consider scaling back or stopping some **vital but lesser priority activities** to free up resources.” (emphasis added) (pp 78) As the study makes clear, the agency has itself already undertaken many initiatives to reform its activities and stretch its resources:

As is clear from the wide range of initiatives the agency has already undertaken, the SEC is on the path to using its resources better and investing in key capabilities. Some of these initiatives have been completed (e.g. reorganization of Enforcement) and are already delivering good results, while some continue to be implemented (e.g. reorganization of OCIE, the build out of RSFI, and the implementation of the new performance management system). Furthermore, concrete steps have been taken in other areas... The SEC’s senior management has taken steps to create greater collaboration and communication within their respective areas as well as across the agency . . . Having said this, there is more to do. There are mission critical activities that the SEC is not performing that force it to make intelligent but hard trade-offs. (pp75)

The situation in which the SEC finds itself is in part the product of many years of often inadequate funding. After significant increases in the early half of the last decade, the SEC was forced to reduce staff by 10 percent in 2006-7. Today, SEC staffing levels are just returning to 2005 levels, while its technology budget remains well below earlier levels.

Similarly, from 2005 to 2009, SEC’s investments in new or enhanced information technology systems declined 50 percent. During this period, trading volume more than doubled, with the value of the average daily trading volume nearly tripling. Moreover, technology also plays a much larger role in trading today than a decade ago. High frequency trading made up only 15 percent of trading volume in 2006, but now makes up 56 percent. In 2005, 70 percent of trading volume went through NYSE—today, the NYSE captures only 22 percent. Moreover, 80 alternative trading systems, or “dark pools,” are expected to account for 38 percent of equity volume. This fragmentation of capital markets can lead to poorer price discovery, difficulty of tracking market manipulation, and challenges in collecting market data, all challenges for the SEC to track and monitor without better technological resources.

The SEC’s 3,800 employees currently oversee approximately 35,000 entities -- including 11,450 investment advisers, 7,500 mutual funds, 5,000 broker-dealers, and more than 10,000 public companies. Since 2003, the number of investment advisers has grown by roughly 50 percent, and the funds they manage have increased nearly 55 percent, to \$33 trillion. While investment advisers have increased from FY 2005 by 32 percent to 11,450, assets under management have increased since FY 2005 by 60 percent to \$38 trillion. The size, complexity, and geographical diversity of the 5,400 broker-dealer operations have greatly expanded, with broker-dealer branch offices increasing from 95,000 in 2005 to 175,000. Today, there are nearly 7,500 mutual funds, in which 80 million Americans (or half of all households) invest. In addition, DFA requires new registration of approximately 1,000 municipal advisor firms, including up to 20,000 individual municipal advisors, and 85 swap repositories among others.

Despite the efficiencies gained and to be gained from consolidation, the BCG acknowledges that SEC's current budget cannot accommodate the breadth of its regulatory responsibilities. In particular, the BCG notes:

“that the benefits possible under current constraints are limited, considering the amount of investment required to build ... forward-looking capabilities.... Thus, the agency will still not be performing several regulatory activities that it deems necessary for its mission, nor will it have the ability to build out all the capabilities it needs to oversee the fast-changing markets (e.g., all of the technology skills and systems required to keep pace with increases in high-frequency trading). This results in clear risks that Congress should be aware of as it contemplates the ongoing role of, and the right resource allocation for, the agency.”(pp. 79)

The Minority therefore recommends adequate funding to support additional staffing to complete more investigations and inspections, and needed investments in technology for the SEC to meet both its pre-existing responsibilities as well as its new ones under the Dodd-Frank Act.

### **TROUBLED ASSET RELIEF PROGRAM**

In its discussion relating to the “Troubled Asset Relief Program”, the Majority opines that the Administration's use of TARP to provide assistance for homeowners is “unrelated to the financial crisis” and has not been effective, and recommends that TARP be shut down immediately and unused funds be returned to the taxpayers.

The Minority rejects the view that homeowner assistance is unrelated to the financial crisis or an inappropriate use of TARP funds. The Financial Crisis Inquiry Commission determined that the financial crisis resulted in large part from widespread abuses and failures in the mortgage lending and securitization process and resulted in unprecedented foreclosures associated with residential mortgage loans. The TARP legislation acknowledges the clear nexus between the financial crisis and foreclosures by (1) requiring the Treasury Secretary, when exercising his authority under TARP, to consider “the need to help families keep their homes and to stabilize communities” and (2) requiring each of the Treasury Secretary, the Federal Housing Finance Agency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System in specified cases to implement a plan that seeks to maximize assistance to homeowners and use its authority to encourage mortgage servicers to take advantage of the HOPE for Homeowners Program or other available foreclosure mitigation programs. See 12 USC 5213(3), 5219, and 5220. The Administration therefore appropriately has utilized some TARP funds to mitigate the devastating effects of the financial collapse on American homeowners.

The Minority also notes the statutory requirement in section 134 of the Emergency Economic Stabilization Act, which requires the President to submit a legislative proposal to recoup any TARP shortfalls from the financial industry to ensure that taxpayers do not bear any losses for the TARP program and that TARP does not add to the deficit or national debt, and the Minority reiterates its commitment to work for the enactment of such a bill. See 12 USC 5239.



## CONSUMER FINANCIAL PROTECTION BUREAU

The Majority asserts that the independent funding of the Consumer Financial Protection Bureau (CFPB) undermines congressional oversight and that the Administration's \$329 million request for Fiscal Year 2012 is excessive. We reject these assertions.

Congress expressly mandated that CFPB be separate and distinct from the appropriations process, which is the case with other federal banking regulators, to ensure that resources allocated to regulate the consumer financial markets would remain shielded from potential political influence and would have a steady, predictable level of funding. This funding mechanism is not without oversight, however. The CFPB is required to report to Congress each year regarding its budget, financial operating plans and forecasts, and its financial condition. Additionally, the Government Accountability Office will conduct an annual audit of the CFPB's expenditures and submit the report to Congress. We further note that the CFPB's funding is limited to a certain percentage of the operating expenses of the Federal Reserve System, and thus funding for CFPB does not derive from the General Treasury.

The Administration's request for \$329 million for CFPB is not excessive. The funding is needed to ensure the CFPB is a strong, independent bureau that will provide appropriate focus on consumer protection issues and will coordinate closely with safety and soundness regulators. The Minority supports the CFPB as it works to provide a level playing field in the consumer financial services sector and to promote the healthy flow of credit to consumers.

## NATIONAL HOUSING TRUST FUND

Created by the Housing and Economic Recovery Act of 2008 (P.L. 108-289), the National Housing Trust Fund was originally to be funded by Fannie Mae and Freddie Mac. However, the GSEs were placed into conservatorship before there was an opportunity to begin contributions to the Trust Fund. The Administration has therefore requested \$1 billion in funding. This program was designed to provide a permanent source of funding for the development, rehabilitation and preservation of affordable rental housing for extremely low and very low-income residents. Unlike other federal housing programs, such as the HOME Investment Partnership, 90 percent of funding must be used primarily for the production of affordable rental housing and 75 percent must be used exclusively for the benefit of extremely low-income households.

The need for a National Housing Trust Fund is great. The recent Department of Housing and Urban Development survey: *Worst Case Housing Needs 2009* reported the 7.1 million households (an increase of 20 percent in 2 years) experienced worst case housing needs in 2009. Worst case housing needs are defined as very low income renters (households earning 50 percent or less of the area median income) who either pay more than half of their income for rent or live in severely inadequate conditions or both). The survey also reports that there are only 60 adequate, affordable rental units available for every 100 very low-income renters, and only 32 units of adequate, affordable rental housing for every 100 extremely low-income renters (households who earn 30 percent or less of the

area median income). The Administration estimates that with a \$1 billion appropriation, the National Housing Trust Fund could produce approximately 36,000 affordable housing units and help to offset the harmful affects of budget cuts to other affordable housing programs.

## **NEIGHBORHOOD STABILIZATION PROGRAM**

At a time when local and state governments are facing increased costs due to foreclosed and abandoned properties, the Neighborhood Stabilization Program (NSP) has provided a critical source of funding to reduce the negative and costly effects of foreclosure. Because of NSP's success in helping state and local governments address high-foreclosure neighborhoods, the program has the support of over 50 organizations, including the U.S. Conference of Mayors, National League of Cities, and Enterprise Community Partners.

The Majority asserts that questions remain about NSP's oversight. The Department of Housing and Urban Development (HUD) has conducted extensive oversight of the NSP program and grantees. Assistant Secretary of Community Planning and Development Mercedes Marquez testified at the March 2, 2011 Subcommittee on Insurance, Housing and Community Opportunity hearing that such oversight includes monitoring, risk assessment, and auditing of NSP grantees as well as providing training and technical assistance to address grantee capacity issues.

The Minority rejects the view that NSP has not been effective. HUD estimates that from the total NSP appropriation of \$7 billion, 100,000 properties in the hardest-hit areas will be impacted. This number of properties makes up almost 20 percent of the real estate owned (REO) properties over the last 18 months in NSP-targeted areas. Grantees report that currently more than 36,000 properties are either under construction or rehab, a third of the overall estimate. Moreover, HUD estimates that NSP will support 93,000 jobs nationwide.

## **COMMUNITY AND ECONOMIC DEVELOPMENT**

The Minority continues to be concerned about cuts to the Community Development Block Grant (CDBG) program. The Administration's request cuts funding for CDBG block grants by \$284 million, from \$4.021 billion to \$3.737 billion, a 7.1 percent cut. In addition, the proposed 62 percent cut in H.R. 1, the Republican Continuing Resolution, would severely impact cities, counties, and states, which rely on the flexibility of the CDBG program to fund priority community and economic development needs, including affordable housing, improving blighted areas, and providing priority social services, with an emphasis on benefiting low- and moderate-income individuals. These cuts come at a time when states and localities are facing serious budget shortfalls, and are dealing with a housing foreclosure crisis and continued levels of high joblessness.

Benny Ford

Henry Decker

John

Wm. Lucy Clay

Ruben Hinoposa

A. J. Decker

Caroly M. McLaugh

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John Moore

Keith Ekin

Jim V. Gutting

Debra E. Watt

Michael E. Caper

Emmanuel

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