

**PAY FOR PERFORMANCE: SHOULD FANNIE AND
FREDDIE EXECUTIVES BE RECEIVING MILLIONS
IN BONUSES?**

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

NOVEMBER 16, 2011

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**PAY FOR PERFORMANCE: SHOULD FANNIE
AND FREDDIE EXECUTIVES BE RECEIVING
MILLIONS IN BONUSES?**

WEDNESDAY, NOVEMBER 16, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Darrell E. Issa (chairman of the committee) presiding.

Present: Representatives Issa, Burton, Mica, Platts, McHenry, Walberg, Lankford, Amash, Buerkle, DesJarlais, Guinta, Farenthold, Cummings, Towns, Maloney, Norton, Kucinich, Tierney, Clay, Connolly, Quigley, Davis, Welch, Murphy, and Speier.

Staff present: Alexia Ardolina, staff assistant; Kurt Bardella, senior policy advisor; Michael R. Bebeau and Gwen D'Luzansky, assistant clerks; Robert Borden, general counsel; Molly Boyd, parliamentarian; Lawrence J. Brady, staff director; David Brewer, counsel; Katelyn E. Christ, research analyst; John Cuaderes, deputy staff director; Adam P. Fromm, director of Member services and floor operations; Linda Good, chief clerk; Ryan M. Hambleton, professional staff member; Frederick Hill, director of communications and senior policy advisor; Christopher Hixon, deputy chief counsel, oversight; Mark D. Marin, director of oversight; Rebecca Watkins, press secretary; Peter Warren, legislative policy director; Jeff Wease, deputy CIO; Kevin Corbin, minority deputy clerk; Ashley Etienne, minority director of communications; Jennifer Hoffman, minority press secretary; Carla Hultberg, minority chief clerk; Paul Kincaid, minority press secretary; Adam Koshkin, minority staff assistant; Lucinda Lessley, minority policy director; Leah Perry, minority chief oversight counsel; and Dave Rapallo, minority staff director.

Chairman ISSA. Good morning. The committee will come to order.

The Oversight Committee's mission statement is that we exist to secure two fundamental principles: first, Americans have a right to know the money Washington takes from them is well spent; and, second, Americans deserve an efficient, effective Government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights.

Our solemn responsibility is to hold Government accountable to taxpayers, because taxpayers have a right to know what they get from the Government. We will work tirelessly in partnership with

citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy. This is our mission statement.

Go ahead and roll the President.

[Videotape played.]

Chairman ISSA. I now recognize myself for an opening statement.

In March 2009, reports revealed that after receiving \$170 billion taxpayer-funded bailout, AIG executives had awarded \$121 million in bonuses to top executives. As we have just seen, President Obama called this obscene and shameful. He believed the taxpayers should be paid back in full before millions of dollars in bonuses were paid out.

Freddie and Fannie have become de facto arms of the Government and have received \$169 billion from the Treasury Department. To this day, they still owe approximately \$141 billion. Despite this outstanding balance, Freddie and Fannie's top six executives received \$35 million in compensation. Of that, \$12.79 million were bonuses awarded to Freddie and Fannie's top 10 executives. They have even gone as far as to pay someone a \$1.7 million signing bonus. We certainly understand that signing bonus could be partially because they left compensation elsewhere, but we also understand that there are plenty of talented people looking for jobs off Wall Street here today.

The signing bonus was given with no correlation to performance, but simply a recruiting tool financed by the American taxpayers. These bonuses have come just as Freddie and Fannie have asked for an additional \$13 billion in handouts from the taxpayers. This as they reported a third quarter loss of more than \$10 billion. So I think we all understand that we are not paying bonuses for profit.

Bonuses, under current law, to be tax deductible, in excess of \$1 million compensation, must be tied to performance. Our committee has asked for and received scant documents about performance required. None of the documents received to date would have qualified, when I was on the board of a public company, for a due diligence by the compensation committee. Vague assertions of what one needs to do that can be met simply because you were there does not pass the sniff test.

We are here today to ask simple questions on behalf of the American taxpayers, who are footing the bill for Freddie and Fannie.

Do you agree with President Obama's sentiments that bonuses should not be paid out to anyone until the American people have been paid back in full?

Do you believe in the concept of pay for performance?

Do you believe your performance warrants this type of bonus?

Should you profit while the taxpayer is paying the bill?

Are there any measurable standards to even evaluate the performance within the documents we have received or do you have other documents we have been denied pursuant to our request?

Are you any closer to unwinding Freddie and Fannie than you were 3 years ago?

Are these bonuses being awarded for the efforts to minimize losses to taxpayers or are they payouts to—I won't read the rest of that. Are they in fact payouts for other reasons? And if so, whose

agenda are they on? Are they on the American taxpayers' agenda or are they political agendas that you are using taxpayer dollars to achieve?

Let me make it clear. This committee believes that 2008 law requires you to minimize losses to the taxpayers. Business as usual of simply taking more money from the taxpayers or underwritten by the taxpayers fully and causing an agenda of getting more people into homes they cannot afford in fact has not been authorized by Congress.

I now recognize the ranking member for his opening statement.
[The prepared statement of Chairman Darrell E. Issa follows:]

Mr. CUMMINGS. Thank you very much, Mr. Chairman, for calling today's hearing and thank you for agreeing to my request to invite Mr. DeMarco. Mr. DeMarco and I have been engaged in a series of high level meetings over the past several months. Some of these meetings have been heated, but others have been very constructive. I appreciate his willingness to appear before us today and I look forward to our continuing discussions.

Executive compensation is a worthwhile topic for this committee to address. In my opinion, we should examine not only the compensation of executives at Fannie Mae and Freddie Mac, but also at Wall Street firms that put the short-term financial interests of their executives ahead of the long-term interests of company shareholders and the public.

In reviewing the compensation packages of Fannie Mae and Freddie Mac executives, we will have tough questions for our witnesses about how they can claim credit and receive bonuses for achieving performance goals they had nothing to do with, such as supposedly increasing affordability in a housing market that has been tanking for several years. More importantly, we will examine why FHFA, Fannie Mae, and Freddie Mac have done so little to fulfill the key goal of assisting homeowners in need.

In 2008, Congress passed the Emergency Economic Stabilization Act and the President signed it on October 3, 2008. The act states clearly that among other objectives, FHFA, Fannie Mae, and Freddie Mac shall implement a plan that seeks to maximize assistance to homeowners. Chairman Issa and I do not agree on much, but we do agree that, to date, efforts to assist homeowners have been woefully inadequate.

The Home Affordable Modification Program, HAMP, was supposed to help up to 4 million homeowners modify their loans, but to date it has helped fewer than 800,000. The Home Affordable Refinance Program, HARP, was supposed to help up to 5 million borrowers refinance at lower rates, but fewer than 900,000 have refinanced to date.

Where Chairman Issa and I part ways, however, is how we respond to this problem. The chairman and other Republicans, and even Republican Presidential candidates, believe we should stop assisting homeowners, abandon efforts to address the housing crisis, and allow millions of additional foreclosures so we can simply hit bottom.

I come from a fundamentally different place. I believe that we must redouble our efforts. We need to buckle down and do the hard work necessary to develop solutions that will address this crisis effectively, comprehensively, efficiently, and definitively.

It is too easy to throw up our hands and blame this entire crisis on individual homeowners who took out loans they could not afford. Those individuals are certainly out there, but there are many more who did absolutely nothing wrong; they paid their mortgages faithfully every month, but now they are under water through no fault of their own. They owe more on their houses than they are worth, and they cannot sell their homes and they cannot move to a new city for a new job. They are in limbo, along with our entire economy.

The foreclosure crisis does not affect only the individual foreclosed upon; it reduces the value of homes across entire neighborhoods; it lowers taxes, tax revenues for whole municipalities, resulting in the loss of more jobs; it degrades multiple levels of commerce across the country; and it affects each and every one of us, whether we want to admit it or not.

Addressing the housing crisis is the key to our economic recovery as a Nation. Mark Zandi, the chief economist at Moody's Analytics, agrees. He has stated that housing is ground zero for the economy's problems, high unemployment, and loss of jobs.

As Federal Reserve Chairman Ben Bernanke recently testified, it will be almost impossible to resolve our economic situation when people are losing their homes at the rate they are losing them.

Mr. Chairman, let me conclude by returning to the subject of today's hearing. In 2008, Congress and the President passed the law directing the FHFA, Fannie Mae, and Freddie Mac to maximize assistance to homeowners. This has not happened. I believe that we are mired in a culture of mediocrity, and nobody should be receiving million dollar bonuses by claiming it has.

With that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

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Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Hearing on "Pay for Performance and Executive Compensation at Fannie Mae and Freddie Mac"

November 16, 2011

Thank you, Mr. Chairman, for calling today's hearing. Thank you also for agreeing to my request to invite Mr. DeMarco. Mr. DeMarco and I have been engaged in a series of high-level meetings over the past several months. Some of these meetings have been heated, but others have been very constructive. I appreciate his willingness to appear before us today, and I look forward to continuing our discussions.

Executive compensation is a worthwhile topic for this Committee to address. In my opinion, we should examine not only the compensation of executives at Fannie Mae and Freddie Mac, but also at Wall Street firms that put the short-term financial interests of their executives ahead of the long-term interests of company shareholders and the public.

In reviewing the compensation packages of Fannie and Freddie executives, we will have tough questions for our witnesses about how they can claim credit—and receive bonuses—for achieving performance goals they had nothing to do with, such as supposedly increasing "affordability" in a housing market that has been tanking for several years.

More importantly, we will examine why FHFA, Fannie Mae, and Freddie Mac have done so little to fulfill the key goal of assisting homeowners in need. In 2008, Congress passed the Emergency Economic Stabilization Act, and the President signed it on October 3, 2008. The Act states clearly that, among other objectives, FHFA, Fannie Mae, and Freddie Mac "shall implement a plan that seeks to maximize assistance for homeowners."

Chairman Issa and I do not agree on much, but we do agree that, to date, efforts to assist homeowners have been woefully inadequate.

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I come from a fundamentally different place. I believe we must re-double our efforts. We need to buckle down and do the hard work necessary to develop solutions that will address this crisis effectively, comprehensively, and definitively.

It is too easy to throw up our hands and blame this entire crisis on individual homeowners who took out loans they could not afford. Those individuals are certainly out there, but there are many more who did absolutely nothing wrong. They paid their mortgages faithfully every month, but now they are underwater through no fault of their own. They owe more than their houses are worth, they cannot sell their homes, and they cannot move to a new city for a new job. They are in limbo, along with our entire economy.

The foreclosure crisis does not affect only the individuals foreclosed on. It reduces the value of homes across entire neighborhoods. It lowers tax revenues for whole municipalities, resulting in the loss of more jobs. It degrades multiple levels of commerce across the country. And it affects each and every one of us, whether we want to admit it or not.

Addressing the housing crisis is the key to our economic recovery as a nation. Mark Zandi, the Chief Economist at Moody's Analytics, agrees. He has stated that housing is "ground zero for the economy's problems, high unemployment, and lost jobs."

As Federal Reserve Chairman Ben Bernanke recently testified, it will be "almost impossible to resolve our economic situation when people are losing their houses at the rate they are losing them."

Mr. Chairman, let me conclude by returning to the subject of today's hearing. In 2008, Congress and the President passed a law directing FHFA, Fannie Mae, and Freddie Mac to "maximize assistance for homeowners." This has not happened. And nobody should be receiving million-dollar bonuses by claiming it has.

Thank you.

Chairman ISSA. I thank the gentleman.

All Members will have 5 days to include their opening statements and additional extraneous remarks.

We now recognize our first panel of witnesses. Mr. Michael J. Williams is president and chief executive officer of Fannie Mae; Mr. Charles E. Haldeman, Jr., is chief executive officer of Freddie Mac; and Mr. Edward DeMarco is Acting Director of the Federal Housing Finance Agency.

Pursuant to the rules of the committee, I would ask you all to rise to take the oath. Please raise your right hands.

[Witnesses sworn.]

Chairman ISSA. Let the record indicate all witnesses answered in the affirmative.

Please be seated.

I won't have the heaviest gavel in the world today, but I will tell you that when the green light comes on you go; yellow light goes on, try to summarize; and don't let the red be on too long before you conclude.

With that, I recognize Mr. Williams for 5 minutes.

STATEMENTS OF MICHAEL J. WILLIAMS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, FANNIE MAE; CHARLES E. "ED" HALDEMAN, JR., CHIEF EXECUTIVE OFFICER, FREDDIE MAC; AND EDWARD J. DEMARCO, ACTING DIRECTOR, FEDERAL HOUSING FINANCE AGENCY

STATEMENT OF MICHAEL J. WILLIAMS

Mr. WILLIAMS. Chairman Issa, Ranking Minority Member Cummings, members of the committee, I appreciate the opportunity to speak with you today about the important work that Fannie Mae is undertaking and the compensation program that was put in place for this executive team.

Fannie Mae has a dedicated team of talented professionals working to carry out the critical work that the company plays in the housing finance market. We have immense responsibilities. The complexity of the challenges we confront each day requires deep experience and expertise and seasoned leaders.

The executive management team in place today is different than the team that ran the company prior to conservatorship. We are working to fix the company and achieve the goals of conservatorship. Our employees are committed to Fannie Mae's mission to provide funding to the market, help struggling homeowners, and reduce losses on loans originated prior to 2009.

Fannie Mae is the largest source of funding for the U.S. housing market. Since January 2009, with the support of the Federal Government, the company has provided more than \$2 trillion of funding to the market. The funding has enabled nearly 6 million households to refinance into safer, lower cost mortgages. We have helped approximately 1.7 million homeowners purchase a home and we have provided financing for nearly 1 million units of quality affordable rental housing.

Fannie Mae is also acquiring new loans with appropriately conservative underwriting standards to promote sustainable home ownership. The mortgages purchased or guaranteed since 2009

have strong credit quality and are performing well. The new loans account for almost 50 percent of the loans owned or guaranteed by Fannie Mae. These will be a valuable asset that we expect will reduce taxpayers losses.

Every day Fannie Mae employees work to mitigate losses on the company's 2005 through 2008 book of business. This book is significantly affected by continued weakness in the housing and mortgage markets, which remain under pressure from high levels of unemployment and prolonged decline in home prices.

For distressed homeowners, home retention solutions keep families in their homes. We expect this will reduce Fannie Mae's credit losses over the long term. Since 2009, Fannie Mae employees have helped approximately 1 million homeowners avoid foreclosure through modifications and other work-out solutions.

Unfortunately, foreclosures are not always avoidable. When foreclosure is the only option, we help stabilize communities by properly maintaining and improving properties we acquire, and selling them to new owners, giving preference to families who will live in them.

Our employees believe in our mission and we are proud of the work we are doing to serve the housing market. However, there is great uncertainty for this company and its employees. As we know, there will be GSE reform, but we don't know when or what form it will take. This uncertainty makes it very difficult to attract and retain employees with highly specialized skills and experience.

This is particularly true as other financial institutions can offer long-term career opportunities and, in many cases, substantially more compensation. Attrition at our company this year has already doubled our historical experience. If we are to continue to provide the stability our housing finance system needs and protect the taxpayers' investment in our company, we must retain and recruit qualified executives and employees.

As CEO, I am responsible for ensuring that we effectively manage the resources we have received. To accomplish this, we have employed talented professionals. These employees effectively manage 18 million loans.

In 2009, FHFA worked with our leadership, Fannie Mae's board, and the Treasury Department to develop a compensation program for the company. Under this structure, compensation has been substantially reduced from pre-conservatorship levels. Target total compensation for our executive management is down 50 percent or more from levels prior to conservatorship, and we have reduced our senior managers at the company by 30 percent.

In closing, I am proud of our team and of their dedication to our important work serving the Nation's housing market. Our ability to attract and retain top talent remains a critical priority as we continue to strengthen our business and deliver value to American taxpayers.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Williams follows:]

**Testimony of Michael J. Williams
President and Chief Executive Officer
Fannie Mae**

**U.S. House of Representatives Committee on Oversight and Government Reform
November 16, 2011**

Chairman Issa, Ranking Member Cummings, Members of the Committee, I appreciate the opportunity to speak with you today about the important work that Fannie Mae is undertaking and the compensation program that was put in place for this executive team.

We have immense responsibilities; the complexity of the challenges before us requires deep experience, expertise, and seasoned leaders. The executive management team in place today is different than the team that ran the company prior to conservatorship. The chief financial officer, chief risk officer, general counsel, chief information officer, and head of the credit organization are all new to the company. These leaders came to Fannie Mae to strengthen the company and support the housing finance market. Many other officers are new to their positions. We are working to fix the company and achieve the goals of conservatorship.

Our employees are committed to Fannie Mae's mission to provide funding to the market, help struggling homeowners, and reduce losses on loans originated prior to 2009. We are also committed to protecting the taxpayers' substantial investment in the company.

Fannie Mae is the largest source of funding for the U.S. mortgage market. We are over 40 percent of the single family market and nearly 35 percent of the multifamily market. Since January 2009, with the support of the federal government, the company has provided more than

\$2 trillion of funding to the mortgage market, which has enabled nearly 6 million households to refinance into safer, lower cost mortgages. We have helped approximately 1.7 million homeowners purchase a home, and we have provided financing for nearly 1 million units of quality, affordable rental housing.

Fannie Mae is also acquiring new loans, with appropriately conservative underwriting standards, to promote sustainable homeownership. The mortgages purchased or guaranteed since 2009 have strong credit quality and are performing well. We currently expect that these loans will be profitable over their lifetime, meaning we expect the fee income on these loans will exceed the company's credit losses and administrative costs for them. These new loans account for almost 50 percent of the loans currently owned or guaranteed by Fannie Mae, and will be a valuable asset that we expect will reduce taxpayer losses.

The substantial majority of the company's credit losses are attributable to single-family loans purchased or guaranteed from 2005 through 2008. Every day, Fannie Mae employees work to reduce losses on this book of business and limit taxpayer exposure. The performance of the 2005-2008 book of business is significantly affected by continued weakness in the housing and mortgage markets, which remain under pressure from high levels of unemployment, under-employment, and the prolonged decline in home prices. To manage this book of business, Fannie Mae built one of the nation's largest foreclosure prevention operations. We work directly with distressed homeowners through a network of 12 Fannie Mae Mortgage Help Centers in hardest hit communities across the country to supplement the work of our lenders. In addition to our brick-and-mortar efforts, we also offer innovative online tools such as KnowYourOptions.com and WaysHome to help homeowners find the right solution when they experience difficulties. For distressed homeowners, home retention solutions, such as loan

modifications, keep families in their homes. Over the long term, we expect this will reduce Fannie Mae's credit losses. In the past two years, Fannie Mae employees have helped approximately 1 million homeowners avoid foreclosure through modifications and other workout solutions. Unfortunately, foreclosures are not always avoidable. When foreclosure is the only option, we help stabilize communities by properly maintaining and improving the properties we acquire, and selling them to new owners, giving preference to families who will live in them.

The 2005-2008 book of business is becoming a smaller percentage of the company's overall business, having decreased from 39 percent as of December 31, 2010 to 33 percent as of September 30, 2011. These loss mitigation efforts have also allowed Fannie Mae to reduce the single-family serious delinquency rate by almost 30 percent from its peak in February 2010. While our serious delinquency rate compares favorably to other prime loans originated during the housing boom that were not purchased by Fannie Mae, we are working to further reduce the risk in this set of loans.

Fannie Mae is also undertaking a number of initiatives that we believe will strengthen the industry for the long term. For example, we are developing new tools and standards to ensure greater visibility into the quality of the loans that are delivered into the secondary market. This loan quality initiative will reduce the risk for the lender, the investor, the borrower, and ultimately the taxpayer.

Another key aspect of our strategy to strengthen the industry is improving servicing standards and execution. In June 2011, with the Federal Housing Finance Agency (FHFA) and Freddie Mac, we developed new standards for mortgage servicers. The new servicing standards are designed to result in earlier, more frequent, and more effective contact with borrowers to avoid foreclosures and mitigate losses.

As CEO, I am responsible for ensuring that we effectively manage the resources we have received. To accomplish this, we must – and do – employ talented professionals. These employees are charged with managing 18 million home loans effectively.

Our employees believe in our mission and are proud of the work they do to deliver value to the housing market. However, there is great uncertainty for the company and its employees as we know there will be GSE reform, but we don't know what form it will take and when.

This uncertainty makes it very difficult to attract and retain employees with highly specialized skills, expertise, and experience. Other financial institutions can offer long-term career opportunities, and in many cases, substantially more compensation. The attrition at our company this year is already double our historical experience. If we are to continue to provide the stability that our housing finance system needs and protect the taxpayers' investment in our company, we must retain and recruit qualified executives and employees. Our ability to attract and keep this talent is essential to rebuilding the housing market, which is necessary to get our country on the road to recovery.

When Fannie Mae was placed into conservatorship in September 2008, Secretary Paulson and Director Lockhart stressed the critical need for the company to continue to effectively manage its book of business. Acting FHFA Director DeMarco has also noted that it remains imperative that Fannie Mae and Freddie Mac attract and retain "talented, capable executives" with the specialized, technical expertise needed to operate Fannie Mae's day-to-day operations and to oversee the trillions of dollars in assets traded in global financial markets. I agree completely with these statements.

In addition, the Fannie Mae Charter Act authorizes our Board of Directors to pay compensation that is “reasonable and comparable with compensation for employment in other similar businesses involving similar duties . . . without regard to Federal civil service and classification laws.”

While we need to compensate our executives and employees to ensure that we have – and keep – the leadership we need to continue our progress, we understand that we also need to prudently manage the company’s expenses. Accordingly, under the current compensation structure, compensation is down substantially from pre-conservatorship levels. Aggregate target total compensation for our executive management is down 50 percent or more from target total compensation levels prior to conservatorship. We have also reduced senior managers at the company by 30 percent.

In 2009, FHFA worked with our leadership, Fannie Mae’s Board of Directors, and the Treasury Department to develop a compensation program for the company. In developing the program, FHFA also consulted with Kenneth Feinberg, Special Master for TARP Executive Compensation.

Fannie Mae’s resulting compensation plan for senior officers is structured to pay for performance, which reflects general principles of good corporate governance. It is consistent with the Congressionally mandated requirement in Fannie Mae’s Charter Act that a significant portion of the compensation of senior officers be based on the performance of the company. A substantial portion of this pay is deferred, encouraging executives to make decisions that will benefit the company over the long term.

The Board of Directors and FHFA determine the company's goals and measure corporate performance against goals they establish each year. The management team does not set the goals for the company. The goals that are set by the Board and FHFA are challenging. For example, the team is charged with providing significant funding to the market while implementing stronger underwriting standards and limiting losses on the legacy book of business, all in a very difficult economic environment. Associated with each high-level goal is a set of more detailed sub-goals and metrics. At the beginning of each year, the Board and FHFA determine whether the company has met its goals for the previous year.

Detailed information on the compensation paid to senior officers and the Board's measurement of performance against goals is transparent and reported in the company's annual report filed with the SEC. We also provide an annual report to Congress on our compensation.

In closing, I am proud of our team and of their dedication to our important work serving the nation's housing market. We are addressing the challenges of the past while building a strong foundation for the future. Our ability to attract and retain top talent remains a critical priority as we continue to strengthen our business and deliver value to American taxpayers.

Thank you and I look forward to your questions.

Chairman ISSA. Thank you, Mr. Williams.
Mr. Haldeman.

STATEMENT OF CHARLES E. "ED" HALDEMAN, JR.

Mr. HALDEMAN. Chairman Issa, Ranking Member Cummings, and members of this committee, thank you for inviting me to appear today. My name is Ed Haldeman and I am CEO of Freddie Mac. I joined Freddie Mac in August 2009, almost a year after the company was placed into conservatorship by the Federal Housing Finance Agency. I welcome the opportunity to be here today to address your questions and concerns about compensation for our executive team.

Let me begin by saying I understand why this hearing is necessary. I understand why the American people are outraged about executive compensation in general. I understand totally why Congress and the American people are outraged about executive compensation at companies that have received Federal support, including Fannie and Freddie.

We have 9 percent unemployment in our country and there are millions of families at risk of losing their homes. I understand the outrage.

How, then, do I reconcile the compensation system at Freddie Mac, given the suffering that so many families are living with? Let me see if I can explain the dilemma I face.

My number one objective, since taking the job in the summer of 2009, was to keep the company functioning. I concluded that there would be more families hurt, and the pain would last longer, if there was a breakdown at Freddie Mac. So my focus was on keeping the machinery functioning well in order to do two things: first, provide liquidity to the housing market and, second, help to implement programs that would keep more of our struggling families in their homes.

With this guiding philosophy, it seemed to me that gradual change would be preferable to radical change in the operations of the company. So here is the strategy we followed with regard to compensation and overall corporate expenses.

First, we eliminated some senior executive positions. For example, we no longer have a chief operating officer, which was the second highest paid position in our company.

Second, we consolidated some senior executive positions, which allowed us to reduce the number of senior executives. For example, we consolidated the credit and enterprise risk functions at the company.

Third, when a senior executive leaves the company, we try hard in every instance to bring in a new executive at a lower compensation than their predecessor. As a result, the 15 highest paid people at our company today receive about the same compensation as the top 15 received a decade ago.

Another way to look at the reduction in executive compensation is the reduction from peak levels. The compensation of our senior team is down 40 percent from peak levels pre-conservatorship.

While we have sought to achieve major reductions in executive compensation without disrupting the functions of the company, we have put a big emphasis on bringing down overall expenses at our

company. Our overall general and administrative spending in the past year is down more than \$120 million as compared to our spending levels of 2009.

Let me summarize. I understand the reason for this hearing. I understand the outrage. We have significantly reduced executive compensation and overall spending at Freddie Mac, but we have tried to do it in a way that does not risk disrupting the functioning of the company. My belief is that disrupting the functioning of the company would put those families who are suffering at even greater risk of deeper and more prolonged difficulty.

Thank you again for this opportunity to testify, and I look forward to addressing your questions.

[The prepared statement of Mr. Haldeman follows:]

Chairman Issa, Ranking Member Cummings, and members of this Committee, thank you for inviting me to appear today. I am Ed Haldeman, Chief Executive Officer of Freddie Mac. I joined Freddie Mac in August 2009, almost a year after the company was placed into conservatorship by the Federal Housing Finance Agency (FHFA). I joined Freddie Mac from Putnam Investments, where I served as President and CEO for several years beginning in 2003. I have been a financial services professional for more than 35 years.

I welcome the opportunity to address your questions and concerns about compensation for our executive team – which, to be clear at the outset, is not the same team that directed Freddie Mac’s operations prior to conservatorship. I want to provide the Committee all the facts as you consider this important issue.

Our nation is now in the fourth year of recession, with nearly one in ten Americans still out of work. Millions of families have lost their homes, and millions more remain at risk of foreclosure. Given the widespread economic hardship facing so many in our nation, I fully understand why the American people are upset about executive compensation in general, particularly about the levels of pay at companies that have received substantial financial support from the federal government during the past few years, including Freddie Mac and Fannie Mae.

At the same time, my number one objective since becoming CEO in August 2009 has been to keep the company functioning and able to carry out our housing mission. When the Freddie Mac board of directors and FHFA Director asked me to accept the CEO role, they emphasized that it was absolutely critical that we keep the machinery of the company running smoothly in order to support the recovery of the mortgage market and the national economy. FHFA and Treasury were particularly concerned about our ability to fulfill our mission if we could not attract and retain competent and experienced executives and employees – a very real and legitimate concern given the current status of Freddie Mac and its highly uncertain future.

It was clear that if Freddie Mac suffered an exodus of our most highly experienced and talented employees, our ability to fulfill our top two objectives under conservatorship -- making sure mortgage funds remained available and helping financially stressed families avoid foreclosure – would be greatly hindered. Failure to achieve these objectives would undermine market stability and cause harm to more families for a longer period of time.

So we focused on stabilizing the company, giving particular attention to developing a compensation program that would strike a proper balance between retaining talented executives and employees while recognizing the market expectations for an enterprise receiving substantial federal financial support to ensure our continued existence. As discussed below, our compensation program was developed in coordination with FHFA (and with Treasury’s input and review) in the months following our placement into conservatorship. Its purpose was, and continues to be, to attract and retain qualified professionals who are critical to our continued ability to support the mortgage market

while policymakers determine long-term reform, including the future of Freddie Mac. While we must offer competitive compensation, we have taken several measures to reduce overall compensation levels, including reducing the number of executive positions, reducing compensation levels for the executive management team absent a substantial increase in operating responsibilities, and paying newly hired executives at lower levels than their predecessors. The result is that we have reduced compensation for the top 10 percent of our management team by approximately 40 percent since entering conservatorship.

I also want to highlight for the Committee's attention the dedication and work of our employees under conservatorship. Our employees have endured several major management changes in a short time, lost nearly all of the value of their personal holdings of Freddie Mac stock,¹ lost any assurance of a long-term career with the company, and have been working under the burden of continuing public condemnation of the company.

These people, it is important to note, did not make the business decisions that led to conservatorship.

At the same time, they have been asked by policymakers to stay on the job and put their considerable skills to work to help stabilize the housing market, continue to make mortgage credit available when no other sources of liquidity were available, and, very importantly, help at-risk families avoid foreclosure. To the credit of our new leadership team and our employees, they have performed admirably to meet these expectations. They remained focused on the company's vital housing mission and have done everything that has been asked of them. They have kept the machinery running smoothly.

To illustrate a few of our achievements, since the beginning of 2009, Freddie Mac has

- Provided more than \$1.1 trillion to finance homeownership and rental housing for more than 5.5 million American families.
- Enabled 3.8 million homeowners to take advantage of record low interest rates and refinance into lower cost mortgages.
- Helped approximately 575,000 financially stressed families avoid foreclosure -- and we continue working every day to help many thousands more at-risk borrowers.

For these and many other reasons, I am proud of the work our employees are doing for our nation.

It is fully appropriate for policymakers to consider how we should be compensated for the work we are doing. As discussed below, I believe that question would be best

¹ Equity-based compensation comprised a significant portion of many employees' overall compensation in the years before conservatorship. Employee holdings of Freddie Mac stock often were set aside as savings for retirement or college funds for their children.

addressed as part of comprehensive reform of the GSEs and the housing finance system. However, I believe it would be entirely counterproductive to dramatically revise compensation absent that reform, which would amount to changing the rules on our people midstream. It would make it that much harder for us to retain the people we have and attract qualified people to replace them during this time of transition to a new mortgage finance system. Without sufficient competent and experienced employees, our ability to continue supporting the mortgage market and the broader economic recovery would be impaired, which in turn would expose taxpayers to additional future losses.

Freddie Mac is a different company under conservatorship

The Freddie Mac of today is not the company that existed pre-conservatorship. The Treasury Department, FHFA and we have made a number of changes that address the very concerns underlying this hearing.

First, when Freddie Mac was placed into conservatorship, FHFA removed the top executives it deemed most responsible for the company's failure. I was not here – I am, in fact, the third CEO since conservatorship began – so I am not passing judgment on the previous executive team. However, as FHFA Acting Director Edward DeMarco recently said in a letter to U.S. Senators, these individuals “left the companies, and no severance or golden parachutes were permitted.”²

Second, we have virtually an entirely new senior management team in place. We have a new CEO, chief financial officer; head of our single family business unit, head of our multifamily business unit, head of our investments business unit, interim general counsel, chief risk officer, chief compliance officer, head of human resources, and chief information officer. All of these people are either new to Freddie Mac or in new roles since conservatorship. In fact, 14 of our 18 management committee members have turned over since my tenure began. Some of this turnover resulted from voluntary departures – an indication of the difficulties we face in retaining qualified top executives given the company's current status and uncertain future. We also have many new employees since being placed into conservatorship, who, like the longer-term employees, embrace our housing mission. This is a new team, with a new focus.

Third, we have cut compensation levels for the top 10 percent of our management by 40 percent since conservatorship. I know that many of you feel strongly that we should be paying less than we did pre-conservatorship. Let me assure you, we are. We not only cut total executive compensation levels significantly, we seek to pay less compensation to newly hired executives than their predecessors made. We also have reduced and consolidated positions where appropriate. For example, we no longer have a chief operating officer, and we combined the chief credit officer and chief enterprise risk officer functions.

² Letter from FHFA Acting Director Edward DeMarco to U.S. Senators, November 10, 2011 (“DeMarco letter”)

As a result, the 15 highest paid people at Freddie Mac today as a group receive less compensation than the top 15 received a decade ago. Moreover, most of the compensation paid to executives today is deferred and based on a combination of individual and corporate performance. Most of what is being characterized as “bonuses” for executives is in fact deferred base pay from prior periods of service.

With regard to my own compensation, it is set by a committee of independent members of our Board of Directors, in consultation with and subject to FHFA’s approval, without my involvement or input. When I came aboard as Freddie Mac’s CEO in August 2009, neither the level of my compensation nor its structure had yet been finalized. I was on the job four months before my compensation was fully determined in December 2009.

Fourth, we have cut annual general and administrative expenses by more than \$120 million since 2009. We have sought to cut expenses wherever possible to reduce administrative costs, support our conservator’s duty to conserve and preserve the company’s assets, and be good stewards of taxpayer dollars.

Finally, and perhaps most important for taxpayers, we have substantially improved the credit quality of our book of business since entering conservatorship. On the whole, the mortgages we guarantee today are of higher credit quality with lower loan-to-value ratios than the mortgages we guaranteed prior to conservatorship. While we continue to face losses from the pre-conservatorship book of business, our revenues on current business exceed our credit expenses. Moreover, our overall book, including our pre-conservatorship assets, is of a significantly higher quality than the market at large and far better than the subprime market. For example, the primary market’s serious delinquency rate on first lien single-family mortgages is 7.85 percent, and the subprime market’s serious delinquency rate is over 26 percent. Freddie Mac’s single-family serious delinquency rate, in contrast, is 3.51 percent.³

Freddie Mac compensates appropriately under conservatorship

After Freddie Mac was placed into conservatorship, our senior management and Board of Directors worked with FHFA to revise our executive compensation policies to ensure we had an appropriate structure in place. These policies have been in place since 2009 and were approved by FHFA, which retains ultimate decisionmaking authority, after extensive consultation with Treasury. Compensation for our top executives, including myself, is reported publicly each year in our SEC Form 10-K disclosure, and, as required by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, a report on overall executive compensation is provided to the Senate Banking Committee and House Financial Services Committee annually.

³ Overall market and subprime data as of June 30, 2011 from the National Delinquency Survey of the Mortgage Bankers Association. Freddie Mac data as of September 30, 2011. Serious delinquency is defined as three monthly payments or more past due.

Pursuant to best practices adopted by the Compensation Committee of the Board of Directors (“the Compensation Committee”), we have implemented a well-documented and governed process that guides the executive compensation review and decision process:

- The Compensation Committee consists of independent directors approved by FHFA, with no management representation. It determines Target Total Direct Compensation (“Target TDC”) levels for top executives by reviewing compensation data for comparable positions and receiving guidance from its independent compensation consultant.
- Compensation data comes from the Comparator Group, which consists of companies that are either in a similar line of business or are otherwise comparable for purposes of recruiting and retaining individuals with the requisite skills and capabilities to effectively manage and run our business. The Compensation Committee, with the aid of its compensation consultant, selects companies to include in the Comparator Group each year. The current Comparator Group includes 19 companies.
- In establishing Target TDC levels for our top executives, the Compensation Committee uses as a guideline the market median, or 50th percentile, of the total direct compensation paid to comparable positions at Comparator Group companies. However, to comply with a December 16, 2010 FHFA directive requiring the company to maintain individual salaries and wage rates at 2010 levels for 2011, absent a promotion or a significant change in responsibilities, the Compensation Committee set Target TDC levels for 2011 at or below Target TDC levels for 2010.

The Compensation Committee presents its recommendations to FHFA, which are subject to review and approval by FHFA, in consultation with Treasury. As stated above, this process has led to a 40 percent reduction in compensation since conservatorship for the top 10 percent of our management team, and our top 15 executives today receive less compensation as a group than the top 15 received a decade ago.

Freddie Mac faces significant challenges in attracting and retaining employees

We are finding it increasingly difficult to retain critical employees and attract people with the skills and experience we need. We cannot offer equity-based compensation, which is both common in our industry and provides a key incentive for employees to stay with the company. Given our current status, we cannot offer the prospects of even medium-term employment, much less long-term. And continued public condemnation of our company and its employees creates yet another obstacle to hiring and retaining the talent we need.

Because Freddie Mac is a monoline company buying and guaranteeing home mortgages, our business may seem simple. But in reality, we are operating a very complex enterprise engaged in a wide array of business activities, and on a very large scale. Successfully carrying out these activities requires employees with specialized skills and experience.

To fund our mortgage purchases – more than \$250 billion during the first nine months of 2011 – Freddie Mac creates a variety of capital markets securitization structures and issues thousands of single class and multiclass mortgage-backed securities each year. Highly experienced and talented personnel are needed to carry out the mortgage securitization process; manage operational, interest rate, prepayment and other risks relating to mortgage securitization and investment; and manage business dealings with hedging counterparties and the firms with which we conduct securitization business.

Freddie Mac works with more than 2,000 single-family mortgage sellers and servicers throughout the nation in the day-to-day operation of our business. Our single-family business units are responsible for the development, negotiation and implementation of contracts that outline specific terms for the loans Freddie Mac will purchase. They also monitor and enforce our standard underwriting requirements and seller/servicer compliance with representations and warranties. On the multifamily side of our business, we have a separate team operating under a completely different business model, which requires property-specific underwriting, different securities market executions and specialized loss mitigation efforts.

We also employ an extensive “back office” of operations and servicing professionals who manage the nearly 12 million home mortgages we own or guarantee. On a monthly basis, we process more than 14 million servicing transactions, most of which are borrower payments our servicers have passed through to us, which we in turn pass through to investors in our securities. Given the enormous volume and scale of these transactions, we need employees skilled in processing, managing, monitoring and providing technology support to this critical process.

To help at-risk borrowers avoid losing their homes to foreclosure, we have developed a team of professionals experienced in working with not only the broad spectrum of foreclosure alternatives (including loan modifications, short sales, and other related types of workouts), but also in coordinating efforts with servicers and working with borrowers directly. Similarly, we have a team highly experienced in managing, marketing, and selling foreclosed properties.

Finally, we have teams of professionals in information technology, accounting, financial analysis and modeling, legal support, compliance and various other areas of the company whose specialized expertise is vital to the everyday management of our business.

We have to attract and retain the type of talent that can perform all of these functions on a par with their counterparts in banking and securities firms. To do otherwise would put the enterprise, the mortgage market and taxpayers’ dollars at risk. Even in midst of the recession, there is a lot of demand for the skills of our employees, and we already have lost many of them. Voluntary attrition rates for high performing employees have risen markedly since we were placed into conservatorship.

Attracting qualified senior executives is particularly hard. Under conservatorship, we remain an SEC-registered company and thus are subject to all SEC disclosure regulations

and Sarbanes-Oxley requirements. Like executives at any large public company, Freddie Mac executives face significant potential liability arising from these and other sources. Additionally, we operate in an environment today in which virtually every business decision is closely scrutinized and subject to public criticism. Many executives are unwilling to accept these risks for less than what they could earn elsewhere.

In my view, cutting compensation at this time would only exacerbate these problems by driving away even more employees. This would greatly reduce the value of taxpayer investment in our company. It also would place at significant risk our ability to manage \$2.2 trillion in mortgage assets taxpayers are supporting, to continue providing liquidity and support to the mortgage market, and to continue improving our operations and reducing costs and credit losses. It would needlessly destabilize the company, endanger the progress we have made, and expose taxpayers to further losses.

Taxpayer support

Much of the concern underlying the compensation discussion arises from the financial support Freddie Mac receives from Treasury. For this reason, I would like to explain what we do with those funds.

Freddie Mac uses taxpayer funds to support the nation

Freddie Mac uses the support we receive to keep the mortgage market stable, liquid and affordable and to help families avoid foreclosure.

Since the start of 2009, our single family employees and our multifamily employees have worked to provide more than \$1.1 trillion in mortgage liquidity, financing housing for nearly 5.5 million families. Together with the employees of Fannie Mae, our employees help provide two-thirds of mortgage funding today.

Also since the start of 2009, Freddie Mac has helped approximately 575,000 families avoid foreclosure. We have worked with servicers to improve their performance and provide greater assistance to borrowers. Our outreach team has traveled to hundreds of events around the country and sat across the table from thousands of families, helping them understand their options and, where possible, keep their homes.

We know the hardships families face, the confusion and the fear. Our people work with families who are suffering -- disempowered by lost jobs, a crushing debt burden and a process that is often unfamiliar to them. Our people work with them every day -- thousands each year -- trying to find some alternative to foreclosure. We also work with you, members of Congress and your staff members, who are also trying to help those families. I know there is so much more that Freddie Mac and everyone in the industry must do, but I am proud of the focus and determination of those employees.

Also since the beginning of 2009, we have enabled 3.8 million homeowners to take advantage of record low interest rates and refinance into lower cost mortgages. Recent

changes to the Home Affordable Refinance Program will enable us to help even more borrowers refinance into lower cost loans – including many with underwater loans.

Misconceptions about taxpayer support

Former Treasury Secretary Henry Paulson stated that the decision by the Bush Administration to place Freddie Mac and Fannie Mae into conservatorship “wasn’t a bailout... [the companies’] common and preferred shareholders were being wiped out.”⁴ Our private shareholders have not received any of the funds the company has received to date from the Treasury, their equity investments in Freddie Mac have fallen to less than one percent of previous values, and they have lost their shareholder rights in the company.

Other companies received federal support to enable them to emerge as viable companies. Freddie Mac, in contrast, receives support only to enable our continued operations until a new secondary market can take our place.

Let me be clear: I am not criticizing this decision, which was made at the highest levels during a time of crisis. Moreover, I want to emphasize our appreciation for the support we have received. I raise the issue to make clear that the funds we receive are not used to enrich private shareholders.

Compensation should be modified in connection with broader secondary mortgage market reform

When I took this job over two years ago, it was my sincere hope that by this time, all of us would know what the mortgage market of the future would look like and I could help guide Freddie Mac through the transition. No one is more disappointed than I am that we are not there yet.

It is fully appropriate to revisit the GSE compensation structure in connection with broader reform. As Acting Director DeMarco said in his letter to Senators, “[taking] action to provide a clear path forward to end the conservatorships and reduce the taxpayer exposure to the mortgage market. . . is the only way to truly resolve this matter.”⁵

It would be counterproductive, however, to dramatically revise compensation absent broader secondary mortgage market reform. While there is much disagreement over how to reform the housing finance system, there is one thing that all sides in the debate seem to agree upon: regardless of the new secondary market we create, there has to be a smooth transition from the status quo to that future state if we are to properly support the housing market and economy as they recover. Dramatically changing compensation now

⁴ Henry M. Paulson, Jr., *On The Brink: Inside the Race to Stop the Collapse of the Global Financial System*, Hachette Book Group, New York, 2010, pg. 14.

⁵ DeMarco letter, pg. 2.

would directly undermine our ability to achieve this objective. In particular, legislatively forcing employees to forfeit compensation they had earned in prior years but had not yet been paid under the vesting terms of our compensation program will simply compel them to leave the company.

As Acting Director DeMarco recently wrote to Senators, FHFA needs “to ensure that the companies have people with the skills needed to manage the credit and interest rate risks of \$5 trillion worth of mortgage assets and \$1 trillion of annual new business that the American taxpayer is supporting.”⁶

Conclusion

In closing, let me reiterate that I understand the concerns underlying this Committee’s hearing today, and I understand the anger and profound concerns expressed by many policymakers and taxpayers. Under conservatorship, we have significantly reduced executive compensation and overall administrative spending. But we have done it in a way that does not disrupt the functioning of our company. We have a new senior management team supported by an outstanding group of employees. Together, they are keeping borrowers in their homes, creating a quality book of new business, and keeping the housing market liquid and stable during an economic crisis. We continue to be effective stewards of taxpayer support by using that support to fulfill our mission.

I ask this Committee and Congress to avoid taking actions that are likely to significantly disrupt our company, place at risk the progress we have made, and quite possibly delay the housing market and economic recovery we all want to see.

Thank you for giving me this opportunity to testify today.

⁶ DeMarco letter, pg. 2.

Chairman ISSA. Thank you.
Mr. DeMarco.

STATEMENT OF EDWARD J. DEMARCO

Mr. DEMARCO. Chairman Issa, Ranking Member Cummings, members of the committee, I am pleased to be here today to discuss the Federal Housing Finance Agency's oversight of the executive compensation structure for Fannie Mae and Freddie Mac, or the Enterprises, as I will refer to them.

My written statement explains how the Enterprises' executive compensation program supports the statutory mandates of the Enterprises in conservatorship; how it was developed and how it is structured.

In the few minutes I have, I would like to focus on two matters. First, Fannie Mae and Freddie Mac have been in conservatorship for more than 3 years. Draws from the Treasury now exceed \$180 billion, reflecting the losses from mortgages originated during the years leading up to conservatorship. Minimizing those losses as much as possible, while maximizing assistance to homeowners, is a key focus of FHFA and the Enterprises.

Since conservatorship, the Enterprises have completed more than 1.9 million foreclosure prevention actions, including nearly 1 million permanent loan modifications.

While in conservatorship, we are also seeking to ensure the country continues to have a reliable supply of mortgage finance. The Enterprises have guaranteed roughly three out of four conforming mortgages since conservatorship.

While we await congressional action on the future of housing finance, FHFA has initiated several projects to prepare for the future system of housing finance. These include standards for mortgage servicing, reconsideration of mortgage service and compensation, and establishing loan level disclosure for mortgage-backed securities.

Second, I recognize that there is a great deal of concern today with the executive compensation at the Enterprises. I would like to make just three observations here.

First, the executives most responsible for the poor business decisions that led the Enterprises into conservatorship and that led to these taxpayer losses are long gone from the companies.

Second, the best way to address concerns with executive compensation is action by Congress to restructure the Nation's housing finance system and dissolve the conservatorships. Conservatorship is not designed to be a multi-year holding state.

Third, as conservator, I need to ensure that the Enterprises have people with the skills needed to manage \$5 trillion worth of mortgage assets and \$1 trillion of annual new business that the American taxpayer is supporting. Others may believe that this sort of talent is easily and quickly hired at compensation far below that of competing private firms, but I do not. Bottom line, this is a question of judgment, judgment exercised by balancing the need to limit compensation as much as possible, while ensuring stable, continuous operations at the Enterprises in support of America's housing finance system.

It has been FHFA's judgment that taxpayers, who are providing financial support to the Enterprises and their guarantees on \$5 trillion of mortgages, would not be better off if we provoke a rapid turnover of senior management by further slashing compensation. Indeed, such pay cuts would increase the risk of higher losses in the future. Executive compensation was already reduced by 40 percent, on average, when the compensation program was put into place.

I would also note the continued employment in an Enterprise risks substantial career uncertainty. By working at Fannie Mae and Freddie Mac, your work comes under a much higher degree of scrutiny and criticism that exists at other private firms. Executives who have spent a career developing their reputations risk tarnish to their reputations under the highly charged environment in which these companies operate today. This is true regardless of how well they perform their duties or how great a financial sacrifice they may have made by forsaking other private sector opportunities in order to assist the country's housing finance system.

There has been intense criticism launched at corporate executives not even employed by the companies when the bad loans leading to the majority of today's losses were booked; people who arrived after conservatorship to try and make things better. I am trying to encourage these people to stay and continue to mitigate losses and keep the current infrastructure of the country's housing finance system operating.

To repeat myself on one point, the only way to finally resolve this question is for Congress to act to end the conservatorships and chart a new course for the country's housing finance system.

Mr. Chairman, thank you again for this opportunity, and I look forward to responding to the committee's questions.

[The prepared statement of Mr. DeMarco follows:]

**Statement of Edward J. DeMarco,
Acting Director
Federal Housing Finance Agency
Before the U.S. House of Representatives
Committee on Oversight and Government Reform**

November 16, 2011

Chairman Issa, Ranking Member Cummings, and members of the Committee, I am pleased to be invited here today to discuss the Federal Housing Finance Agency's (FHFA) oversight of the executive compensation structure for Fannie Mae and Freddie Mac, (the Enterprises). In my testimony, I will explain how the Enterprises' executive compensation program supports the statutory mandates of the Enterprises in conservatorship, how it was developed, and how it is structured.

INTRODUCTION

It may be useful for me to begin with a brief overview of what it means for Fannie Mae and Freddie Mac to be in conservatorship and what legal responsibilities FHFA operates under as Conservator.

The determination to place Fannie Mae and Freddie Mac, or the Enterprises as I will refer to them, in conservatorship, was made as the financial crisis of the autumn of 2008 was taking shape. At that time, the private mortgage securitization market had already vanished, house prices were declining rapidly, and the Enterprises' eroding financial condition and inability to access capital markets threatened a collapse of the country's housing finance system. FHFA, with financial support from and substantial consultation with the Treasury Department, placed the Enterprises into conservatorship on September 6, 2008.

Conservatorship, along with financial support from Treasury, permitted the government to take greater management control of the Enterprises and give investors in the Enterprises' debt and mortgage-backed securities confidence that the Enterprises would have the financial capacity to honor their financial obligations. The alternative, receivership, was rejected at the time, in part because such action would have placed greater limits on the timing and approach for the Congress and the incoming Administration to analyze and respond to the problems confronted by the Enterprises and the country's housing finance system. At the time, Treasury Secretary Paulson referred to conservatorship as a "time-out" to allow markets to continue to function while policymakers considered and acted on a permanent resolution. More than three years later, we are still waiting for that resolution.

As Conservator, FHFA stands in the place of each company's shareholders, boards, and management, with the responsibility to "preserve and conserve the assets and property" of the companies. The statute also charges the conservator with the responsibility to place the

companies in “a sound and solvent condition.” At the time the conservatorships were established, FHFA was less than six weeks old as an agency, and had fewer than 400 employees. To accomplish these responsibilities, FHFA made the practical judgment that the most effective means to carry out these functions was to replace the boards and senior management, and then delegate to new boards and management day-to-day responsibility. Since then, reconstituted boards of directors have worked with FHFA to define the operational goals in conservatorship and to support FHFA in its work to guide and oversee management in fulfilling these goals. Likewise, the new CEOs and executive officers have worked with FHFA to these same ends.

As Conservator and regulator, FHFA has three principal mandates set forth in law that direct and motivate FHFA’s activities and decisions involving the Enterprises.

First, as I have noted, FHFA has a statutory responsibility as Conservator of the Enterprises to “take such action as may be necessary to put the regulated entity in a sound and solvent condition; and appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.” As FHFA has stated on numerous occasions, with taxpayers providing the capital supporting the Enterprises’ operations, this “preserve and conserve” mandate directs us to minimize losses on behalf of taxpayers.

Second, even though the Enterprises are in conservatorship, without further statutory changes they have the same mission and obligations as they did prior to being placed into conservatorship. FHFA has a statutory responsibility to ensure the Enterprises “operate in a safe and sound manner” and that “the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets.” We typically refer to this requirement as “supporting a stable and liquid mortgage market.”

Third, under the Emergency Economic Stabilization Act of 2008, FHFA has a statutory responsibility to “implement a plan that seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer to take advantage of . . . available programs to minimize foreclosures.”

These three mandates form the basis for how FHFA views its responsibilities as Conservator of the Enterprises. In view of the critical and substantial resource requirements of conserving assets and restoring financial health, combined with a recognition that the Enterprises operate today only with the support of taxpayers, FHFA has focused the Enterprises on their existing core business, including minimizing credit losses. This means that FHFA is not permitting the Enterprises to offer new products or enter new lines of business. Their operations are focused on their core business activities and loss mitigation. This type of limitation on new business activities is consistent with the standard regulatory approach for addressing companies that are financially troubled. And it is even more pertinent for the Enterprises given their uncertain future and reliance on taxpayer funds.

As a final introductory comment, the Enterprises’ equity holders retain an economic claim on the companies but that claim is subordinate to taxpayer claims. As a practical matter, taxpayers are not likely to be repaid in full, so Enterprise stock lower in priority is not likely to have any value.

Prior to conservatorship, much executive compensation, and indeed some staff compensation, was in the form of company stock, so the value of such compensation has essentially vanished. Finally, the company leaders most responsible for the business decisions that led to the Enterprises ending up in conservatorship had either left the company before conservatorship, at the time of the conservatorship, or shortly thereafter. The boards of directors were also replaced.

Thus, the leadership working at the Enterprises today is not the same as those chiefly responsible for the business decisions that led to conservatorship and that continue to drive the financial results. Moreover, they are there to further the goals of conservatorship and ensure the country has a functioning secondary mortgage market while lawmakers deliberate the future structure for housing finance. The boards, executives, and staff have been and are working with FHFA in its efforts to minimize taxpayer losses, provide stability and liquidity to the market, and maximize assistance to homeowners to avoid foreclosure. They do so knowing that the long-term outlook is that neither Enterprise will continue to exist, at least in its current form, in the future.

EXECUTIVE COMPENSATION

You have asked me to address executive compensation for Fannie Mae and Freddie Mac executives. At the outset let me state that the best way to address concerns with executive compensation is action by Congress to restructure the nation's housing finance system and dissolve the conservatorships. In the absence of that resolution, FHFA will continue to evaluate the appropriateness of executive compensation at the Enterprises given their ongoing activities.

Before getting into the details, I would like to begin by sharing my own frustration with compensation issues in conservatorship. Nothing like this has been done before – placing two of the largest private financial institutions in the world into government conservatorship and then overseeing their operations in that state for multiple years. Determining appropriate compensation in this situation is vexing. As a career-long federal employee, I, too, perceive the compensation agreements as large. I also share the frustration of many that past leaders of these companies received enormous compensation pre-conservatorship. Yet, while frustration with the past business decisions of Fannie Mae and Freddie Mac leadership, past policy failures, and the resulting enormous taxpayer costs is understandable – and I share it – it cannot distract us from the task at hand.

As Conservator, I need to ensure that the companies have people with the skills needed to manage the credit and interest rate risks of \$5 trillion worth of mortgage assets and \$1 trillion of annual new business that the American taxpayer is supporting. I have concluded that it would be irresponsible of me to risk this enormous contingent taxpayer liability with a rapid turnover of management and staff, replaced with people lacking the institutional, technical, operational, and risk management knowledge requisite to the running of corporations with thousands of employees and more than \$2 trillion in financial obligations each. That conclusion is further buttressed by the realization that, from an Enterprise executive's or staff's point of view, continued employment at an Enterprise risks substantial job and career uncertainty. The public scrutiny and criticism is often harsh, and almost everyone expects the Enterprises to cease to

exist, at least in their current form, in the future. At the same time, the taxpayer is backing Enterprise financial commitments that have 30-year lives, and we will need expert management of those guarantees for years to come. Given the amount of money at risk here, small mistakes can easily be amplified to losses far greater than the compensation paid to Enterprise executives.

In short, as Congress considers executive compensation at the Enterprises, the basic fact is that despite the large amounts of government support provided to the Enterprises they remain private companies with uncertain futures, not government agencies. They employ thousands of people. We cannot maintain operational effectiveness while suddenly treating them as ongoing government agencies – something they are not. Major changes to compensation, for executives or staff, cannot be done safely and soundly in a short period of time and attempting to do so would pose substantial risk to the mortgage market and a greater risk of loss to taxpayers. In the next section, I will review the history of how FHFA established the executive compensation program operating today, and describe the details of that program and how it has been working. I will then conclude with a few thoughts on the program going forward and the role Congress might play to bring this difficult matter to an end.

Initial Conservatorship Decisions

During FHFA's intense preparations for placing the Enterprises into conservatorship, we received some valuable insights from discussions we had with the Federal Deposit Insurance Corporation (FDIC). The FDIC's experience in bank failure resolutions, including conservatorships, supported our view that achieving the goals of conservatorship depended on retaining capable and knowledgeable staff. At the same time we sought to no longer employ those executives most responsible for the conditions leading to our action. As a part of our planning process, we hired Hay Group, a well-respected executive compensation consultant, to help us design a plan to encourage the best employees to stay, while not rewarding poor performance.

In placing the Enterprises into conservatorship, our foremost concern was that their troubled condition was leading them to withdraw their services from housing finance markets at a time when they were greatly needed. Their combined market share in 2008 was more than double what it had been two years earlier, as most other participants went out of business or sought to avoid new risk exposure to the mortgage market. For the sake of our country's economy and especially its housing sector, it was and remains essential that the Enterprises continue to bring liquidity, stability, and affordability to the mortgage market. Furthermore, the Enterprises' enormous size, including more than \$5 trillion of mortgage credit risk, and taxpayer exposure to that risk in the face of rapidly deteriorating housing markets, made it imperative that the Enterprises strengthen their management in the areas of risk control and loss mitigation. In addition, it was and remains imperative that the Enterprises attract and retain the particular and specialized skills needed to manage these activities.

To address these concerns, FHFA discussed our retention approach in some detail with both new Chief Executive Officers (CEOs) on the day before their new jobs officially began. Both CEOs agreed with our view of the importance of such a plan, and over the next few weeks worked with

us, Treasury, and Hay Group to customize plans for their respective institutions. Payments under the plans were virtually the only non-salary compensation for Enterprise employees for the 2008 performance year, as no bonuses were paid for that year at either Enterprise.

At the inception of the conservatorships, we also announced that the incumbent CEOs would be leaving after a brief transition period. They received no severance payments. In prohibiting such payments, we relied in large part on the golden parachute provisions in the Housing and Recovery Act of 2008 (HERA). In addition, because most of their remuneration had been in the form of Enterprise stock, roughly two-thirds of their previously reported pay during their tenures as CEOs vanished with the collapse in the market prices of their shares. The golden parachute provisions were also helpful in other cases, as ultimately, five of the six Fannie Mae executives that were highest paid before the conservatorships and the top four Freddie Mac executives left in one fashion or another during the first months of conservatorship, but none of them received severance or other golden parachute payments. They also saw a substantial reduction in the value of their past compensation due to the collapse in their company's stock price. While I know all the attention today is on executive pay, I'd like to add that many of the more than 11,000 rank and file employees at the Enterprises also had large portions of their life savings in Enterprise stock and suffered accordingly.

New Compensation Structure

FHFA's development of a new compensation structure for senior Enterprise executives for 2009 and beyond was delayed, first by our appointment of new boards of directors at the Enterprises, with new compensation committees, then by the departure of the CEOs hired at the start of the conservatorships.

Additionally, FHFA had agreed, under the Senior Preferred Stock Purchase Agreements that control financial support to the Enterprises, to consult with Treasury about new compensation arrangements with executive officers at the Enterprises. We wanted to consider fully the approach being developed at the Treasury for institutions receiving exceptional assistance from the Troubled Assets Relief Program (TARP). After Kenneth Feinberg was appointed Special Master for TARP Executive Compensation, Treasury asked us to consult with him, and we began to discuss how we could adapt to the Enterprises the approach he was developing for TARP institutions.

In making that adaptation, a major consideration was that compensating Enterprise executives with company stock would be ineffective because of the questionable value of such stock. Further, large grants of low-priced stock could provide substantial incentives for executives to seek and take large risks. Accordingly, all components of executive compensation at the Enterprises are in cash.

Another consideration was and remains the uncertain future of the Enterprises as continuing entities, which is in the hands of Congress and beyond the control of Enterprise executives. It is generally best to focus management's incentives toward its institution's performance over the long-run rather than just the near-term. In the case of the Enterprises, that is nearly impossible.

Therefore, compensation for current work does not depend on results more than two years out. To encourage talent to stay put, FHFA made deferred payments generally dependent on an executive's continued employment at the Enterprise. We also made half of the deferred pay subject to adjustment based on corporate performance to partially simulate the effect of corporate performance on the corporate shares paid to executives at TARP firms for their deferred pay. That allows for reductions in deferred salary if the Enterprise's goals, as set by the Board with increasing input from FHFA, are not met. As I will explain further below, corporate performance in this context is tied to the goals of conservatorship.

FHFA also looked to existing practice elsewhere to determine the appropriate levels of total target compensation for the most senior positions. We considered data from consultants to both Enterprises, data received earlier from our own consultant, and the reported plans of TARP-assisted firms. It was important to set pay at levels sufficient to compete for quality talent because the Enterprises had many key vacancies to fill, potential departures to avoid, and pay has been a significant issue in some cases. That need was, as it must be, balanced by our efforts to keep the cost to taxpayers as low as we possibly could.

Based on review of past compensation, the market comparables identified by outside pay consultants, discussions with each board of directors, recent experience in recruiting CEOs, and consultation with the Treasury Department, FHFA settled on a target of \$6 million a year for each CEO, \$3.5 million for the Chief Financial Officers (CFOs), and less than \$3 million for Executive Vice Presidents and below. That amount rolls back Enterprise CEO pay to pre-2000 levels. It is less than half of target pay for Enterprise CEOs before the conservatorships. For all executive officers, Fannie Mae and Freddie Mac have reduced target pay by an average of 40 percent.

The basic compensation structure for senior executives at both Enterprises, as at institutions receiving exceptional TARP assistance, comprises three elements: base salary, a performance-based incentive opportunity, and deferred salary. Salary scales have been sharply reduced from pre-conservatorship levels at both Enterprises. As at the TARP-assisted firms, base salaries generally are capped at \$500,000 with a few exceptions. Before the conservatorships, the two Enterprises had 16 officers earning base salaries higher than that amount, now there are only four.

Both Enterprises' charter acts, which remain operational in conservatorship, require that "a significant portion" of executive compensation be tied to corporate performance. Consistent with that requirement, while also following the approach taken for TARP-assisted firms, target incentive pay for the Enterprises is limited to a third of overall compensation. Payment is based on Enterprise performance, as measured by scorecards developed by each Enterprise subject to FHFA approval, and individual performance. In reviewing scorecards, we are particularly sensitive to ensuring that executives are not given incentives to take inappropriate risks. Our special examinations of accounting failures at each Enterprise in 2003-2006 revealed that badly-constructed compensation incentives contributed significantly to excessive focus on near-term earnings reports to the serious detriment of the Enterprises.

Accordingly, FHFA has required a much broader focus that emphasizes remediation of operational and risk management weaknesses, loss mitigation, and mission achievement. For 2009, I approved for each Enterprise funding of incentive payment pools at 90 percent of aggregate targets. For 2010, I again approved Fannie Mae funding of its pool at 90 percent, and I approved funding of Freddie Mac's pool at 95 percent. Individual executives could receive more or less, as long as the aggregate did not exceed the pool amount. Both Enterprises made substantial progress in loss mitigation and risk management, while meeting the challenges of implementing Treasury's Making Home Affordable Programs. However, the boards of both Enterprises, with my encouragement, recognized that those successes needed to be tempered by consideration of the sizable contributions of taxpayers needed to offset Enterprise losses, which occurred despite the generally strong efforts of the executives. Next year's goals will emphasize not only loss mitigation and progress on REO disposition, but improvements that will benefit mortgage market functioning, whatever new structure Congress may ultimately decide on, such as improved servicing standards, improved securities disclosures, the Uniform Mortgage Data Program, and development of risk-sharing pilots.

The remaining portion of compensation is deferred salary, which is paid with a one-year lag to executives still working for their Enterprise at that time. For the highest paid executives, deferred salary is the largest component of their compensation. As noted earlier, deferred salary motivates retention. An executive that voluntarily departs forfeits their deferred but not-yet-paid salary. Any exceptions require FHFA approval, in consultation with the Treasury. Starting with payments made in 2011, the amounts are adjusted up or down, based on each Enterprise's performance on its deferred salary scorecard. I approved a 10 percent deduction for Fannie Mae and a 12 percent deduction for Freddie Mac.

The revised compensation structure was designed to align pay with taxpayer interests. Deferred salary and incentive pay for all executive officers are subject to claw backs by the Enterprises in the event of gross misconduct, gross negligence, conviction of a felony, or erroneous performance metrics. The structure also adopts and in some respects expands on reforms advanced by the Special Master for firms receiving exceptional TARP assistance. This structure, established in 2009, and the annual targeted compensation amounts for executive officers remain in place today. Whenever Congress acts to direct how and when the conservatorships end and to decide the ultimate resolution of the companies, these executive positions, and the compensation program, are subject to change or elimination.

News reports have described \$12.8 million of 2010 pay as "bonuses." That number is the sum of \$7.5 million in deferred salary and \$5.3 million in target incentive opportunity payments.

Turnover and Compensation under the Program

Both Enterprises have experienced some increase in turnover. Freddie Mac's voluntary turnover rate over the past two quarters has averaged more than 13 percent compared to its five-year average of 8 ½ percent. Fannie Mae's has risen to about an 11 percent annual rate so far this year after averaging a bit above six percent over the preceding three years. Among officers at Fannie Mae, more than 11 percent have left so far this year. Five of Freddie Mac's 16 executive

officers have left voluntarily since the beginning of the year. Both Enterprises have experienced some difficulty filling vacancies from outside, as candidates have expressed concern about the Enterprises' future and the lack of any remuneration in the form of equity.

Compensation in the Near-Term

At the present, my plan for executive compensation is to continue to seek opportunities for gradual reductions, particularly when executives leave. This approach is consistent with the Administration's notion of a gradual wind down. I also believe it important for FHFA to continue to assess the corporate scorecards used to improve the alignment between the scorecards and the goals of conservatorship.

I have recently spoken publicly of my goal to bring greater private capital participation into the Enterprises' mortgage purchases so that the taxpayer is not the sole source of support. And I have spoken of my goal to continue a gradual program of guarantee fee increases by the Enterprises so that their pricing better reflects that one would expect from a purely private company operating with its own capital at risk. I believe the executive compensation program in place today would be enhanced by more tightly aligning corporate goals with the successful achievement of these recently established conservatorship goals. Likewise, I believe we should be striving to simplify and shrink the operations at each Enterprise, and should award successful steps toward those ends.

Executive Compensation – Concluding Thoughts

I am grateful for this opportunity to explain the program that is in place today, its rationale and its features. I hope that this explanation has cleared up some misunderstandings and placed the matter in a different light. I would like to close with a few final thoughts, respectfully submitted for your consideration.

I believe that commitments already made by the government through the compensation already awarded by FHFA should be respected, whether lawmakers completely agree with the judgments FHFA made or not. Changing compensation going forward, thereby allowing Enterprise employees to make an informed choice about their continued employment, is fair. Changing what has already been promised and earned is not.

Some have suggested that we should have no trouble maintaining adequate staffing at far smaller pay levels, pointing to outstanding cabinet members who serve or have served with distinction on government pay scales. I have serious doubts about taking this approach to the management of the Enterprises. People come to work for the government for a variety of reasons. The opportunity to serve our country is important for many of us. Some especially desire the relative job security of the career service, others the policymaking roles and the stature that comes with temporarily filling high-ranking jobs. If you want to influence the determination of our nation's financial and economic policies, a job in the government may well be what you want, despite better pay offers elsewhere. But if you are working at an Enterprise in conservatorship, you have less say in the direction or outcome of your company than in normal businesses. And one of our

first rules of conservatorship is that company employees may not lobby or participate in the policymaking process to decide the future of housing finance. At the same time, by working at Fannie Mae or Freddie Mac your work comes under a much higher degree of scrutiny and criticism, and with a lot less job security than comes with working for any other private firm engaged in housing finance. Executives who have spent a career developing their reputations risk tarnish to those reputations under the highly-charged environment in which these companies operate today, regardless of how well they perform their duties or how great a financial sacrifice they make forsaking other private sector opportunities to assist the country's housing finance system.

I do not question that, despite these drawbacks, some might be willing to sign up at Fannie Mae or Freddie Mac for relatively little pay, and I am committed to finding capable people willing to do so. But I have not seen, even in this marketplace, that people with the right skills to run these two companies, as they exist today with all the uncertainty involved and the negative atmosphere, are easy to find.

But even if it could be done, and I think it might be possible if the missions and operations of the Enterprises were sufficiently streamlined, it would require a careful transition over time. The people who are there now did not choose government jobs. A sudden and sharp change in pay would certainly risk a substantial exodus of talent, the best leaving first in many instances. The Enterprises likely would suffer a rapidly growing vacancy list and replacements with lesser skills and no experience in their specific jobs. A significant increase in safety and soundness risks and in costly operational failures would, in my opinion, be highly likely. Thus, sharp and sudden pay cuts should not be expected to lower taxpayer costs, but rather to raise them. Because of the huge size of these institutions, the potential consequences of any increases in risk are magnified. Additional losses amounting to just one basis point on their \$5 trillion of assets and liabilities would translate to \$500 million, nearly 40 times the "bonuses" that have received so much attention.

Should the risks I fear materialize, FHFA might well be forced to limit the Enterprises' business activities. Such cut backs likely would drive much larger business volumes to FHA and Ginnie Mae, potentially straining their capacities. Some of the business the Enterprises would be unable to undertake might simply not occur, with potential disruption in housing markets and the economy.

No one wants that. Whether you prefer that the secondary mortgage market be a purely governmental or a predominately private sector activity, we need to have an orderly transition, not a sudden shock. The best way to accomplish that is for lawmakers and the Administration to decide on the future structure of housing finance, especially as it regards the secondary mortgage market. Then we could have a final resolution of Fannie Mae and Freddie Mac in conservatorship, which would resolve the compensation issue once and for all.

Mr. Chairman, thank you again for this opportunity. I have tried to provide the Committee with a clear view of the critical issues associated with the Enterprises' executive compensation structure. I look forward to responding to the Committee's questions.

Chairman ISSA. Thank you, Mr. DeMarco.

I now ask unanimous consent that the salaries of the U.S. Government officials, various officials, going from the President of the United States and Vice President down to yourself, Mr. DeMarco, Mr. Haldeman, and Mr. Williams, be admitted in the record. Without objection, so ordered.

[The information referred to follows:]

Salaries of United States Government Officials

President of the United States	\$400,000
Vice President of the United States	\$230,700
Speaker of the House	\$223,500
President Pro Tempore of the Senate	\$193,400
Rank-and-File Member of the House and the Senate	\$174,000
Chief Justice of the United States	\$223,500
Secretary of the Treasury	\$199,700
Chairman of the Federal Reserve	\$199,700
Chairman of the Securities and Exchange Commission	\$165,300
President of Ginnie Mae	\$155,500
Acting Director of the Federal Housing Finance Agency	\$239,555
President and Chief Executive Officer of Fannie Mae	\$3,270,000
Chief Executive Officer of Freddie Mac	\$3,200,000

Chairman ISSA. Additionally, I would ask unanimous consent that the article of yesterday in Bloomberg Newsweek, entitled Uncle Sam Is A Reluctant Landlord of Foreclosed Homes, be placed in the record. Without objection, so ordered.
[The information referred to follows:]

Uncle Sam is a reluctant landlord of foreclosed homes

Washington has issued a plea to the public for ideas on how to get rid of houses

By Lorraine Woellert and Clea Benson

**Bloomberg
Businessweek**

updated 9/5/2011 11:12:37 AM ET

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For sale or rent by distressed owner: 248,000 homes. That's how many residential properties the U.S. government now has in its possession, the result of record numbers of people defaulting on government-backed mortgages. Washington is sitting on nearly a third of the nation's 800,000 repossessed houses, making the U.S. taxpayer the largest owner of foreclosed properties. With even more homes moving toward default, Fannie Mae, Freddie Mac and the Federal Housing Administration are looking for a way to unload them without swamping the already depressed real estate market.

Trouble is, they haven't figured out how to do that. The government admitted as much in August, when Fannie, Freddie and FHA issued a joint plea to the public for ideas about how to solve the problem. (Give it your best shot: You have until Sept. 15 to email ideas to reo.rfi@fhfa.gov.) "They're stuck," says Karen Shaw Petrou, managing partner of Federal Financial Analytics, a Washington-based consultant that advises banks and other clients on government policy. "They don't know what to do."

[Bloomberg Businessweek: To sell mansions, owners turn to auctions](#)

Since the 2008 financial collapse, the government has spent billions of dollars trying to extricate borrowers from high-cost loans, aid delinquent homeowners and stabilize neighborhoods. The results have been disappointing. The Obama Administration's signature loan-modification program has helped about 657,000 homeowners — far

short of its goal of 3 to 4 million. The program was a victim of its complexity and its inability to cope with overwhelming demand. Many families hit hardest by the housing downturn are concentrated in states that are having the most difficulty recovering from the recession, including Florida, Ohio and Nevada.

The government's call for ideas is a sign it is deluged with repossessions, commonly known as real-estate-owned properties or REO. "It's almost like having the captain of the Titanic go on the public address system and say, 'Does anybody have an idea?'" says Mark Wiseman, a former director of Cleveland's foreclosure-prevention program. "It's not a confidence builder."

Fannie Mae, Freddie Mac and FHA made progress in the first half of this year, reducing their combined backlog from 295,000 single-family homes in December to about 248,000 in June, according to the Housing and Urban Development Dept. The nation's total number of repossessions also fell during that period, from nearly 981,000 to about 817,500. The government's share has remained steady at about 30 percent. In coming months, however, as lenders and the courts clear up the "robo-signing" scandal that slowed new disclosures, the number of government-owned properties will likely grow. More than a fifth of the 3.65 million homes for sale at the end of July were foreclosures, according to RealtyTrac, a housing data provider.

Bloomberg Businessweek: Banks overwhelmed by mortgage refinancing after job cuts

"It isn't necessarily our preference that FHA is going to itself continue to hold these properties," says FHA Acting Commissioner Carol Galante. "We want to move homes through the system so we can recover." The agency has to be careful as it goes, she says. "If you're putting too much through that system you are helping to drive down prices." That's especially true in regions congested with government properties.

Shielding the market from a flood of government homes might be good for property values and the economy. It's not such a great deal for taxpayers, who bear the costs when government-guaranteed loans go bad and who pay for maintenance on vacant homes the feds take over. One idea the Administration is exploring: allowing Fannie, Freddie and FHA to keep an ownership stake in the properties by converting them to rentals in partnership with private investors. When the market recovers, the government

would sell the homes for more than they could get now and not risk glutting the market. Structured properly, such joint ventures could reduce the impact of foreclosures on struggling neighborhoods.

It's not at all clear whether that would work on a large scale. The government would have to spend money to bring the rental properties — many of them old and dilapidated — to code; pay still more to insure the rentals; and build a bureaucracy to manage and maintain them. Even if they do all that, there might not be people willing to move in. In parts of Cleveland and Detroit, for example, some houses are stripped and vandalized the minute they're vacant. "Some of the neighborhoods, you can't move into," says Wiseman. "There are so many empty houses, it's just not safe."

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[Bloomberg Businessweek: U.S. ZIP codes with the biggest houses](#)

In places like that, it's sometimes difficult to convince people to stay in their houses. Freddie Mac allows occupants of foreclosed homes to remain on a month-to-month lease until the house is sold. Few do, says spokesman Brad German. "People prefer to take cash for keys and move on."

The bottom line: The government, struggling to figure out what to do with 248,000 foreclosed homes it took over, has issued a plea to the public for ideas.

Chairman ISSA. Last, and definitely not least, I would ask that the committee report be placed in the record. Without objection, so ordered.

[The information referred to follows:]

U.S. House of Representatives
Committee on Oversight and Government Reform
Darrell Issa (CA-49), Chairman



**GOVERNMENT-SPONSORED MOGULS: EXECUTIVE
COMPENSATION AT FANNIE MAE AND FREDDIE MAC**

Staff Report
U.S. House of Representatives
112th Congress
November 16, 2011

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I. EXECUTIVE SUMMARY

Congress established Fannie Mae in 1934 to increase liquidity in the national mortgage market.¹ Initially created as a government agency, Fannie Mae was privatized and designated as a “government-sponsored enterprise” (GSE) in 1968.² Fannie’s congressionally-chartered competitor, Freddie Mac, followed in 1970, and with the implicit backing of the United States government, the two GSEs began to dominate the secondary mortgage market.³ Starting with the Clinton Administration, the federal government pressured Fannie and Freddie (“the Enterprises”) to lower underwriting standards, particularly down payment requirements, which resulted in higher leverage and decreased equity.⁴ Borrowers flocked to these affordable housing initiatives, and home prices began to skyrocket as borrowers took on riskier mortgages, causing an enormous housing bubble.⁵

When the bubble burst in 2007, Fannie and Freddie began to lose billions of dollars of investments in mortgage-backed securities (MBS) guarantees.⁶ In September 2008, the Federal Housing Finance Agency (FHFA) took Fannie and Freddie into conservatorship as a result of mounting losses stemming from the financial crisis.⁷ The Enterprises became de facto government entities, funded by preferred stock purchase agreements from the Department of the Treasury (Treasury).⁸ Today, the Enterprises remain a multi-billion-dollar drag on the federal government’s finances. Since they entered conservatorship, Treasury has provided \$169 billion to Fannie and Freddie – and the payouts are scheduled to continue with no end in sight.⁹ According to recent FHFA projections, by the end of 2014, Treasury assistance to the Enterprises will total \$220 billion to \$311 billion.¹⁰

Since the Enterprises have become government-funded entities, lavish payment packages have been doled out to their senior executives, and taxpayers have been footing the bill. In 2009 and 2010, the Enterprises’ top six officers were given a total of more than \$35 million in compensation.¹¹ Of that amount, a total of \$17 million in compensation was given to the CEOs of the Enterprises.¹² Additional bonus installments for 2010 may still be forthcoming,¹³ and the

¹ H. Comm. on Oversight and Gov’t Reform, *The Role of Government Affordable Housing Policy in Creating the Global Financial Crisis of 2008*, at 2-3 (updated May 2010) (minority staff report) [hereinafter “Committee Report”].

² *Id.* at 3.

³ *Id.* at 3-5.

⁴ *Id.* at 5-12.

⁵ *Id.* at 12.

⁶ Fed. Housing Finance Agency Office of Inspector General, *Evaluation of Federal Housing Finance Agency’s Oversight of Fannie Mae’s and Freddie Mac’s Executive Compensation Programs* 7 (Mar. 31, 2011) [hereinafter “FHFA OIG Report”].

⁷ *Id.*

⁸ Fed. Housing Finance Agency, *Projections of the Enterprises’ Financial Performance* (Oct. 2011), available at <http://www.fhfa.gov/webfiles/22738/GSEProjF.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ FHFA OIG Report, *supra* note 6, at 12.

¹² *Id.*

¹³ See Josh Boak & Joseph Williams, *Fannie, Freddie Dole Out Big Bonuses*, Politico, Oct. 31, 2011.

two CEOs stand to make a total of \$12 million in 2011.¹⁴ In addition, an executive has been awarded a substantial signing bonus – \$1.7 million – upon joining the Fannie Mae.¹⁵ As these figures indicate, senior executives at Fannie Mae and Freddie Mac have become the highest compensated workers on the federal payroll – making as much as eight times more than the President of the United States.¹⁶ The executives even make more than their conservator, FHFA Acting Director Edward J. DeMarco.¹⁷

Such lucrative compensation packages may be appropriate for profitable companies in the private sector, but substantial questions exist whether they are appropriate for entities in taxpayer-funded conservatorship, especially those that are bleeding billions of dollars each quarter. In this context, it is important to remember that taxpayers – not corporate shareholders – are footing the bill for these lavish bonuses.

¹⁴ See Fannie Mae, 2010 Employee Compensation Statement, Michael J. Williams; Freddie Mac, 2010-2011 Performance Management and Compensation Statement, Charles Haldeman Jr., Chief Executive Officer.

¹⁵ See, e.g., Letter from Brian P. McQuaid, Fannie Mae, to Susan R. McFarland (June 14, 2011).

¹⁶ With a base salary of \$900,000 and bonus pay of \$2.3 million, Freddie Mac CEO Charles Haldeman made \$3.2 million in 2009. President Barack Obama makes only \$400,000 a year.

¹⁷ See Federal Employees, 2010, http://php.app.com/fed_employees10/search.php (search for “Edward DeMarco”).

II. INTRODUCTION

In March of 2009, reports surfaced revealed that after receiving a \$170 billion taxpayer-funded bailout, AIG executives had been awarded \$121 million in bonuses. Speaking from the East Room in the White House, President Obama responded angrily saying, “This is not just a matter of dollars and cents. It’s about our fundamental values...” and asked pointedly “how do they justify this outrage to the taxpayers who are keeping the company afloat?”¹⁸

In the aftermath of the financial crisis, President Obama would frequently reaffirm his commitment to taxpayers and assail Wall Street executives, who while receiving government funding, also received millions in compensation and bonuses. On January 14, 2010, the President declared, “My commitment is to the taxpayer. My commitment is to recover every single dime the American people are owed. And my determination to achieve this goal is only heightened when I see reports of massive profits and obscene bonuses at some of the very firms who owe their continued existence to the American people -- folks who have not been made whole, and who continue to face real hardship in this recession.”¹⁹ The President noted that “if these companies are in good enough shape to afford massive bonuses, they are surely in good enough shape to afford paying back every penny to taxpayers.”²⁰ Speaking about Wall Street bankers who accepted billions of dollars in bonuses, President Obama said, “at a time when most of these institutions were teetering on collapse and they are asking for taxpayers to help sustain them...that is the height of irresponsibility. It is shameful.”²¹

When the housing bubble burst, Fannie Mae and Freddie Mac were placed into a conservatorship status, establishing themselves as de facto government entities. Since entering this conservatorship status, Fannie and Freddie have received \$169 billion from the Treasury Department.²² By the end of 2014, Fannie and Freddie are expected to have received between \$220 billion to \$311 billion in assistance from the federal government.²³ Even though Fannie and Freddie have been subsidized by the federal government since the fall of 2008 and still owes taxpayers \$141 billion, their top six officers were given a total of more than \$35 million in total compensation in 2009 and 2010.²⁴ It has recently come to light that of that, \$12.79 million were bonuses awarded to Fannie and Freddie’s top ten executives.²⁵

In January of 2010, President Obama declared that, “we cannot go back to business as usual. And when we see reports of firms once again engaging in risky bets to reap quick rewards, when we see a return to compensation practices that seem not to reflect what the country has

¹⁸ Caitlin Taylor, *President Obama Says AIG Bonuses an “Outrage,” Violation of “Our Fundamental Values,”* ABCNEWS, Mar. 16, 2009.

¹⁹ President Barack Obama, Remarks by the President on the Financial Crisis Responsibility Fee (Jan. 14, 2010).

²⁰ *Id.*

²¹ President Barack Obama, Remarks by the President after Meeting with the Vice President and the Secretary of the Treasury (Jan. 29, 2009).

²² Fed. Housing Finance Agency, Projections of the Enterprises’ Financial Performance (Oct. 2011), available at <http://www.fhfa.gov/webfiles/22738/GSEProjF.pdf>.

²³ *Id.*

²⁴ FHFA OIG Report, *supra* note 6, at 12.

²⁵ Boak & Williams, *supra* note 13.

been through, all that looks like business as usual to me.”²⁶ Just two weeks ago, Fannie Mae asked Treasury for an additional \$7.8 billion in aid after reporting a third quarter loss of \$5.1 billion.²⁷ Freddie Mac asked for an additional \$6 billion after reporting a \$4.6 billion in net losses in its third quarter earnings.²⁸

Executive pay and bonuses at Freddie and Fannie appear to be just a continuation of the business-as-usual practices that governed them in previous years, even though the entity is now controlled by the federal government. Rather than coming under more oversight and accountability because of its government-owned status, Fannie and Freddie executives are actually benefitting from this unique status and are continuing to profit on the backs of the American taxpayers. The nexus between taxpayer dollars and executive compensation is direct and substantial. There is no sufficient standard in place to evaluate performance criteria. As reported by its Inspector General, oversight of compensation levels at Fannie and Freddie is “limited.”²⁹

As the Obama Administration openly and forcefully criticized private enterprises for accepting taxpayer assistance while paying executives bonuses, its defense of the bonuses now being paid to executives at Fannie Mae and Freddie Mac – who now report to the Obama Administration – creates the clear appearance of a double standard. Although the Administration’s rhetoric on executive compensation for companies who owe money to taxpayers has been tough in the past, the Administration appears to be in no hurry to change the existing dynamic of executives receiving millions in compensation while taxpayers continue to lose billions on the bad decisions of Fannie Mae and Freddie Mac.

III. FANNIE AND FREDDIE EXECS ARE REWARDED FOR MANAGING LOSSES

Government ownership of Fannie and Freddie has easily turned into “the most expensive bailout of the 2008 financial crisis.”³⁰ Since entering conservatorship, the Enterprises have taken \$169 billion from the Treasury and still owe taxpayers \$141 billion.³¹ Every quarter, the total continues to mount as the Enterprises keep posting net losses.³² Freddie recently asked Treasury for an additional \$6 billion after reporting \$4.6 billion in net losses in its third quarter earnings,³³ and Fannie requested an additional \$7.8 billion in aid after reported a third quarter loss of \$5.1 billion.³⁴ With FHFA’s projection that it will cost at least \$51 billion more to support the Enterprises through 2014,³⁵ the overall bill to the American taxpayers will not be cheap.

Yet, despite their sustained losses and their receipt of billions of dollars in taxpayer assistance, executives at the Enterprises continue to receive immense compensation packages.

²⁶ Remarks by the President on the Financial Crisis Responsibility Fee, *supra* note 19.

²⁷ Margaret Chadbourn, *Fannie Mae Taps \$7.8 Billion from Treasury, Loss Widens*, REUTERS (Nov. 8, 2011).

²⁸ Press Release, Freddie Mac, *Freddie Mac Reports Third Quarter 2011 Financial Results* (Nov. 3, 2011).

²⁹ FHFA OIG Report, *supra* note 6, at 18.

³⁰ Derek Kravitz, *Freddie Mac Reports Q3 Loss, Asks for \$6B in Aid*, MSNBC, Nov. 3, 2011.

³¹ Nick Timiraos, *Fannie, Freddie Bailout Costs Revised Lower*, WALL ST. J., Oct. 28, 2011.

³² See Chadbourn, *supra* note 27.

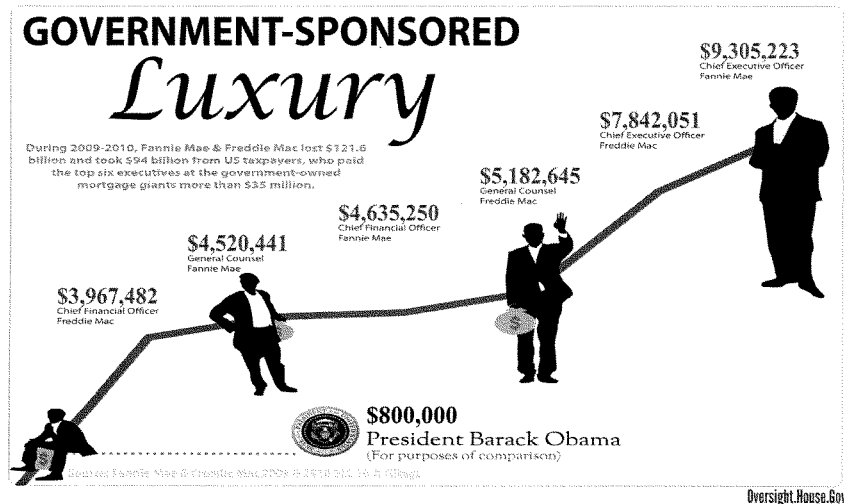
³³ Press Release, Freddie Mac, *Freddie Mac Reports Third Quarter 2011 Financial Results*, Nov. 3, 2011.

³⁴ Chadbourn, *supra* note 32.

³⁵ Timiraos, *supra* note 31.

As summarized by Representative Patrick McHenry, Chairman of the Subcommittee on TARP, Financial Services, and Bailouts of Public and Private Companies: “Fannie and Freddie executives are being paid millions to manage losses.”³⁶ The total approved compensation for the top six executives at Fannie and Freddie for 2009 and 2010 totaled more than \$35.4 million.³⁷ The Enterprises’ two CEOs received approximately \$17 million.³⁸ In 2010, Ed Haldeman, Freddie Mac’s CEO, received a base salary of \$900,000, and took home an additional \$2.3 million in bonus pay.³⁹ Haldeman stands to make as much as \$6 million in 2011.⁴⁰ Meanwhile, Michael Williams, Fannie Mae’s CEO, took home \$900,000 in base pay in 2010, along with an additional \$2.37 million in performance bonuses.⁴¹ Williams also may take home as much as \$6 million in 2011.⁴² One Fannie Mae executive, Susan McFarland, received a \$1.7 million signing bonus upon joining Fannie in June 2009.⁴³ In contrast, FHFA Acting Director Edward J. DeMarco—the Enterprises’ conservator—earns only \$239,555 a year.⁴⁴

The chart below summarizes the compensation for the top six executives at Fannie Mae and Freddie Mac in 2009 and 2010, the first two years after they were placed in conservatorship:



³⁶ Boak & Williams, *supra* note 13 (quote of Rep. Patrick McHenry).

³⁷ FHFA OIG Report, *supra* note 6, at 12.

³⁸ *Id.*

³⁹ Boak & Williams, *supra* note 13.

⁴⁰ Freddie Mac, 2010-2011 Performance Management and Compensation Statement, Charles Haldeman Jr., Chief Executive Officer.

⁴¹ *Id.*

⁴² Fannie Mae, 2010 Employee Compensation Statement, Michael J. Williams.

⁴³ See, e.g., Letter from Brian P. McQuaid, Fannie Mae, to Susan R. McFarland (June 14, 2011).

⁴⁴ Federal Employees, 2010, http://php.app.com/fed_employees10/search.php (search for “Edward DeMarco”).

Although these bonuses are 40 percent below pre-conservatorship levels, the bonuses are, in the words of FHFA Acting Director Edward DeMarco, still “a considerable amount of money.”⁴⁵ DeMarco has stated that the principal goal of these compensation structures is to create a system that provides the Enterprises’ executives with salaries that are sufficient to achieve the goals of the conservatorship, align executive decision-making with the long-term financial prospects of the Enterprises, and minimize costs to taxpayers.⁴⁶ However, because DeMarco’s assertion lacks independent verification,⁴⁷ taxpayers are left uncertain whether these high executive pay rates are truly necessary to retain talented individuals in these positions.

Astronomical compensation packages at Fannie and Freddie are nothing new. Executive pay at the Enterprises has been the subject of considerable controversy for years, even before they were placed into conservatorship. The following examples of compensation packages were given to previous Fannie and Freddie CEOs:

- James Johnson (Fannie Mae CEO, 1991-98) earned roughly \$100 million in pay over his time at the company.⁴⁸
- Franklin Raines (Fannie Mae CEO, 1999-05) earned more than \$90 million from 1998 to 2003.⁴⁹ Further, the Office of Federal Housing Enterprise Oversight (OFHEO) revealed in 2006 that some Fannie senior executives (including Raines and Johnson) manipulated accounting to bolster their pay from 1998 to 2004.⁵⁰
- Daniel Mudd (Fannie Mae CEO, 2005-08) earned \$12.2 million in base pay and bonuses while heading Fannie.⁵¹
- Leland C. Brendsel (Freddie Mac CEO 1987-03) took home more than \$28.4 million from 1993 to 2003.⁵²
- Richard Syron (Freddie Mac CEO, 2003-08) earned more than \$38 million in compensation while CEO.⁵³ Syron collected \$19.8 million of this pay in 2007 alone, the year before the Enterprise went into conservatorship.⁵⁴

⁴⁵ “*Compensation in the Financial Industry – Government Perspectives*”: *Hearing before the H. Comm. on Financial Services*, 111th Cong. (Feb. 25, 2010) (testimony of Edward DeMarco, Acting Director, Federal Housing Finance Agency).

⁴⁶ *Id.* (testimony of Edward DeMarco, Acting Director, Federal Housing Finance Agency).

⁴⁷ FHFA OIG Report, *supra* note 6, at 13-15.

⁴⁸ Gretchen Morgenson & Joshua Rosner, *Reckless Endangerment* 30 (2011).

⁴⁹ *Id.*

⁵⁰ *Report: Fannie Mae Manipulated Accounting*, ASSOC. PRESS, May 23, 2006.

⁵¹ Boak & Williams, *supra* note 13.

⁵² Eric Dash, *Few Stand to Gain on This Bailout, and Many Lose*, N.Y. TIMES, Sept. 7, 2008.

⁵³ Charles Duhigg, *At Freddie Mac, Chief Discarded Warning Signs*, N.Y. TIMES, Aug. 5, 2008.

⁵⁴ Boak & Williams, *supra* note 13.

These executives benefited from the Enterprises' unique status in the American financial sector. As government-sponsored enterprises, Fannie and Freddie functioned with certain implicit guarantees from the federal government. These guarantees resulted in large profits for the Enterprises, which they spent on large compensation packages for their executives.⁵⁵ Today, Fannie's and Freddie's executives continue to profit on the backs of American taxpayers. Now, however, the nexus between taxpayer dollars and Enterprise executive compensation is direct and substantial. As the Enterprises operate in a taxpayer-funded conservatorship, they must be cognizant that the bonuses they award to their executives come straight from the pockets of the American people.

IV. FANNIE AND FREDDIE EXECS BENEFIT FROM QUESTIONABLE METRICS AND PERVERSE INCENTIVES

Post-conservatorship compensation packages were adopted for executive officers at Fannie Mae and Freddie Mac in December 2009.⁵⁶ According to FHFA Acting Director Edward DeMarco, these new programs were necessary to attract and retain the kind of individuals who could carry out the goals of the conservatorship while minimizing losses to taxpayers.⁵⁷ In a press release dated December 24, 2009, FHFA provided details for the new executive compensation packages.⁵⁸ Because there is essentially no value in Enterprise stock, executive salary at the Enterprises is entirely cash-based and it consists of three elements: base salary, deferred salary and long-term incentive awards (LTIs).⁵⁹ Base salary is fixed, tied to seniority and paid annually.⁶⁰ Deferred Base Salary consists of a fixed portion and a performance-based portion, with deferral for up to 15 months.⁶¹ LTIs, which can also be deferred for up to 15 months, are strictly performance-based.⁶²

Along with these changes in pay, FHFA officials claim to have reined in so-called "golden parachutes" and instituted certain "clawback" provisions to retain salary in the event of misconduct or scandals.⁶³ Though overall compensation is down 40 percent from pre-conservatorship and FHFA has taken some steps to address executive pay, small-scale changes like these are insufficient to stem taxpayer-funded losses at Fannie and Freddie. Indeed, as FHFA's Office of Inspector General ("FHFA-OIG") concluded, the structure of executive compensation at the Enterprises "will likely continue to generate significant controversy."⁶⁴

⁵⁵ Committee Report, *supra* note 1, at 14.

⁵⁶ See, e.g., Fed. Nat'l Mortgage Assoc. Form 8-K, at 2 (2009) (filed December 24, 2009).

⁵⁷ "Compensation in the Financial Industry- Government Perspectives": Hearing before the H. Comm. on Financial Services, 111th Cong. (Feb. 25, 2010) (testimony of Edward DeMarco, Acting Director, Federal Housing Finance Agency).

⁵⁸ Press Release, Fed. Housing Finance Agency, Fannie Mae, Freddie Mac Executive Compensation Significantly Reduced from Pre-Conservatorship Levels (Dec. 24, 2009).

⁵⁹ *Id.*

⁶⁰ FHFA OIG Report, *supra* note 6, at 10.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* 11.

⁶⁴ FHFA OIG Report, *supra* note 6, at 21.

Bonuses for Fannie and Freddie Execs Are Based on Questionable Performance Goals

A key objective of the Enterprises' compensation programs "is to tie pay to performance."⁶⁵ Half of an executive's deferred pay depends on achievement of corporate goals and his or her LTI award is based entirely on performance of corporate and individual goals.⁶⁶ Fannie's 2009 corporate goals were to provide liquidity to the mortgage markets while protecting taxpayers and managing enterprise risk.⁶⁷ However, from what little has come to light about the metrics used to measure the achievement of broad goals like these, there is reason to believe that taxpayer money is being spent imprudently.

For instance, a portion of executive performance-based compensation at Fannie and Freddie is tied to hitting targets for the Home Affordable Modification Program (HAMP), a program established by the Obama Administration to help underwater borrowers avoid foreclosure through mortgage modification that has been called a "failure" by the Special Inspector General for the Troubled Asset Relief Program.⁶⁸ As the Committee previously found and highlighted, HAMP is plagued with structural problems, has dramatically fallen short of its goal to help 3-4 million distressed homeowners,⁶⁹ and has actually harmed homeowners in the process.⁷⁰ Taxpayers are paying millions to reward corporate compliance with this failed program: achievement of HAMP and related mortgage modification goals go into determining a significant share – 35 percent – of deferred bonus salary and, to a lesser extent, long-term incentives for Fannie and Freddie executives.⁷¹

Fannie and Freddie Execs Play a Role in Determining their Own Salaries

When FHFA established the Enterprises' overall executive compensation packages in 2009, it did not act alone. FHFA consulted with the Treasury Special Master for TARP Executive Compensation, Kenneth R. Feinberg, and outside compensation consultants hired by the Enterprises and FHFA.⁷² Additionally, senior executives from the Enterprises themselves were closely involved in the decision-making process.⁷³

⁶⁵ Fed. Nat'l Mortgage Assoc., Form 10-K, at 208 (2010).

⁶⁶ *Id.*

⁶⁷ Fed. Nat'l Mortgage Assoc., Form 10-K, at 212-14 (2009).

⁶⁸ Office of the Special Inspector General for the Troubled Asset Relief Program, Quarterly Report to Congress 10-11 (Jan. 26, 2011).

⁶⁹ The most recent information available from Treasury indicates that HAMP has only made 720,612 permanent modifications so far and a total of 902,565 additional modifications have actually been canceled to date. Fannie Mae, Making Home Affordable Program Performance Report through September 2011 (Nov. 2011).

⁷⁰ See H. Comm. on Oversight and Gov't Reform, Treasury Department's Mortgage Modification Programs: A Failure Prolonging the Economic Crisis (Feb. 25, 2010) (minority staff report).

⁷¹ Josh Boak & Joseph Williams, *Fannie, Freddie Dole out Big Bonuses*, POLITICO, Oct. 31, 2011.

⁷² FHFA OIG report, *supra* note 6, at 8.

⁷³ Fed. Nat'l Mortgage Assoc., Form 10-K, at 209 (2009) ("Our senior management, Compensation Committee and Board of Directors worked closely with FHFA in developing our 2009 executive compensation structure and total compensation target amounts for the named executives.")

It remains unclear what role executives at the Enterprises have played in determining their annual pay since, but their influence on the pay packages in the first place raises questions about the process by which executive compensation is set at the Enterprises. These annual targeted compensation processes will remain in place indefinitely, unless they are modified by FHFA. However, FHFA has shown no willingness to take action to change them.

Bonuses Are Based on Comparisons with Compensation at Profitable Private Companies, Not Comparable Government Entities

The Enterprises paid outside compensation consultants \$655,000 in 2008 and \$560,000 in 2009 to determine their own pay structure.⁷⁴ To arrive at salary levels, the consultants assisted the Enterprises in identifying compensation at “comparable” firms.⁷⁵ However, instead of looking to truly similar institutions like Ginnie Mae, FHFA, or the Federal Housing Administration (FHA), the institutions that the consultants identified – large banks and insurance companies like Bank of NY Mellon Co., MetLife, Inc. and Capital One Financial Co. – were anything but comparable to Fannie and Freddie.⁷⁶ If these private sector institutions were not profitable by themselves, as is presently the case with the Enterprises, instead of being handsomely rewarded with bonuses, their executives would likely be fired.

As established by the Federal Housing Enterprises Financial Safety and Soundness Act (the GSE Act), pay for Fannie and Freddie executives is modeled after executive compensation at “reasonable and comparable” businesses.⁷⁷ Yet, the GSE Act was written when the two Enterprises were not fully government-owned. The circumstances have changed. Pre-conservatorship pay packages may not be appropriate for the Enterprises’ post-conservatorship reality. Fannie and Freddie are now for all intents and purposes government-funded entities, and their executives are paid from the government coffers, not corporate profits.

Conservatorship Status Assists Fannie and Freddie Execs in Meeting Performance-based Criteria

To the extent that executive compensation is based on the Enterprises’ abilities to achieve certain defined objectives, their conservatorship status actually assists them in meeting performance-based criteria. For example, in 2009, the Federal Reserve purchased \$1.25 trillion in the Enterprises’ mortgage-backed securities (MBS).⁷⁸ That same year, Fannie Mae executive compensation was based partially on whether Fannie could issue 37.5 percent of all new MBS issuances. Fannie exceeded its goal, issuing 47 percent of all new MBS issuances. It is likely that Fannie could not have met this objective without the Federal Reserve’s purchase.⁷⁹

An open question remains whether Fannie and Freddie executives profit from the Enterprises’ conservatorship status. To date, FHFA has not developed a metric to determine

⁷⁴ *Id.*

⁷⁵ FHFA OIG Report, *supra* note 6, at 8-9.

⁷⁶ For a full list, see Fed. Nat’l Mortgage Assoc., Form 10 K, at 211 (2009).

⁷⁷ Federal Housing Enterprises Financial Safety and Soundness Act, Pub. L. 102-550 § 4518, 106 Stat. 3941 (1992).

⁷⁸ FHFA OIG Report, *supra* note 6, at 14.

⁷⁹ *Id.*

“whether discounts to the executives’ compensation should be applied as appropriate to compensate for executive performance data that may be overstated because of federal assistance.”⁸⁰ The longer it takes FHFA to act, the less confidence taxpayers will have in Enterprise executive compensation.

V. FHFA’S REGULATORY FAILURE ON ENTERPRISE EXECUTIVE COMPENSATION

Congress created the Federal Housing Finance Agency in July 2008 with the express purpose of actively regulating Fannie and Freddie.⁸¹ By all measures, FHFA has fallen short with respect to its examination and oversight of executive compensation at the Enterprises. In a report issued in March 2011, the FHFA Office of Inspector General (“FHFA-OIG”) criticized the agency’s supervision of executive compensation calculations at Fannie and Freddie.⁸² The report documented inadequacies in FHFA’s review and verification of Enterprise compensation levels, as well as a lack of transparency in the process.⁸³

FHFA-OIG found that FHFA is not adequately prepared to determine whether compensation packages are reasonable and sufficient to attract and retain talented executives.⁸⁴ According to FHFA-OIG, FHFA has not sufficiently articulated what differences exist between the Enterprises and other federal housing entities that explain why executives at the Enterprises deserve substantially more compensation.⁸⁵ FHFA-OIG did not take a position on what Enterprise compensation levels should be. Instead it stated that “FHFA should formally review the current situation to account for the disparate levels of compensation and render this issue transparent.”⁸⁶ In addition, FHFA-OIG claimed that FHFA has not assessed how the Enterprises’ status in conservatorship affects their ability to meet performance goals,⁸⁷ and that it has no objective metrics by which to determine how the Enterprises’ compensation levels affect the retention of key personnel.⁸⁸ These findings are unacceptable given the critical role that FHFA plays in safeguarding billions of taxpayer dollars.

FHFA Oversight Lacks “Key Controls”

FHFA-OIG found that FHFA’s executive compensation “oversight processes lack a number of key controls necessary to ensure their effectiveness.”⁸⁹ The report pointed to three main deficiencies. First, FHFA-OIG found that FHFA has no standard evaluation criteria with which to review the Enterprises’ proposed goals or measured performance of these goals. This type of “control tool” is “an integral part of an entity’s planning, implementing, reviewing, and

⁸⁰ *Id.*

⁸¹ See Housing and Economic Recovery Act of 2008, Pub. L. 110-289 § 1101, 122 Stat. 2654, 2661 (2008)

⁸² See FHFA OIG Report, *supra* note 6.

⁸³ *Id.* at 13-20.

⁸⁴ *Id.* at 13-15

⁸⁵ *Id.* at 13-14.

⁸⁶ *Id.* at 14.

⁸⁷ *Id.*

⁸⁸ *Id.* at 15.

⁸⁹ *Id.*

accountability for stewardship of government resources and achieving effective results.”⁹⁰ Yet, FHFA defers to the Enterprises’ own subjective metrics to set their goals and rate their performance. Before each calendar year, the Enterprises submit proposed corporate goals for review by FHFA. FHFA reviews these goals on an Enterprise-wide basis, but allows the Enterprises to decide which executives are responsible for implementing which goals. FHFA also allows the Enterprises to decide the total compensation for each executive.⁹¹ At the end of each calendar year, the Enterprises submit to FHFA self-assessments on how they performed against the corporate goals. FHFA reviews these self-assessments on an Enterprise-wide level only, not reviewing whether each executive met his or her individual goals.⁹² According to FHFA-OIG, these deficiencies “render[] FHFA unable to demonstrate that its oversight of Enterprise executive compensation is effective, consistent, and reliable.”⁹³

Second, FHFA-OIG found that FHFA’s review of Enterprise-recommended compensation levels is narrow and unverified. In the words of an FHFA official, FHFA’s review of individual executive compensation levels is “limited.”⁹⁴ FHFA delegates to the Enterprises the responsibility for setting executive compensation for each executive, and adopts the recommendations unless there is obvious reason not to. According to the report, FHFA only rejects an individual compensation figure if it is an “aberration” or an “outlier” in relation to figures from comparable financial firms.⁹⁵ FHFA does not independently verify or test the appropriateness of the compensation levels, contrary to accepted auditing procedures. FHFA does not verify the executive’s performance rating, recalculate the proposed compensation level, or determine whether the decision was in line with established procedures.⁹⁶ This “lack of testing and verification does not provide a reasonable basis for outside observers, such as FHFA-OIG, Congress, or taxpayers, to be assured that the Enterprises are, in fact, making individual compensation decisions consistent with policies and procedures.”⁹⁷

Finally, FHFA-OIG found that FHFA has no established documentation or record-keeping procedures for executive compensation decisions. Documents related to executive compensation are not stored on a consistent basis and are not readily available for review. Some documents are physically stored in FHFA employee offices while awaiting electronic filing, and some are electronically stored on FHFA email.⁹⁸

FHFA Oversight Lacks Transparency

FHFA-OIG also concluded that FHFA’s review of executive compensation levels is not sufficiently transparent to shareholders and the public.⁹⁹ FHFA-OIG recommended that FHFA conduct formal, written analyses of executive compensation at the Enterprises, comparable

⁹⁰ U.S. Gen. Accounting Office, Standards for Internal Control in the Federal Government 13 (Nov. 1999).

⁹¹ FHFA OIG Report, *supra* note 6, at 16.

⁹² *Id.* at 17.

⁹³ *Id.* at 17.

⁹⁴ *Id.* at 18.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 19.

⁹⁹ *Id.* at 19-20.

financial firms, and government entities. It recommended that FHFA publish the results and its review of the Enterprises' performance measures to "provide assurances that [executive] compensation is reasonable and justified."¹⁰⁰ FHFA-OIG also recommended that FHFA improve its website to include user-friendly information on Enterprise performance goals and compensation levels. FHFA-OIG suggested that the information include SEC filings, trend data, and analyses to ensure that the executive compensation levels are reasonable and earned.¹⁰¹

FHFA Is Not Serious about its Oversight of Enterprise Executive Compensation

Although FHFA acknowledged that some improvements could be made, it disagreed in part with each of the FHFA-OIG's recommendations.¹⁰² FHFA discounted an OIG suggestion for FHFA to clearly explain why Enterprise officers make more than other government housing officials, stating FHFA does "not believe that government pay levels are useful benchmarks for evaluating Enterprise pay."¹⁰³ FHFA also rejected an OIG recommendation to more closely supervise individual compensation levels, instead deferring "to the Board of Directors and senior management that we have hired to do this as a normal part of their jobs."¹⁰⁴ FHFA dismissed OIG calls for increased transparency of executive compensation, stating that while it agreed in principle, it "believe[s] that current SEC disclosures provide excellent information about executive pay at the Enterprises."¹⁰⁵ In summary, where Congress intended FHFA to be a zealous conservator of taxpayer money, the agency has become essentially a rubber stamp for executive compensation at Fannie and Freddie.

The deficiencies noted in the FHFA-OIG report are emblematic of FHFA's culture of inadequate supervision of Fannie and Freddie. In just the last few months alone, FHFA-OIG has highlighted delinquencies relating to FHFA's supervision of Fannie's Retained Attorney Networks (RAN),¹⁰⁶ Freddie's loan-review process,¹⁰⁷ and Fannie's operational risk management program.¹⁰⁸ As Fannie and Freddie losses continue to pile up, American taxpayers deserve an aggressive regulator of the Enterprises. The reports of the FHFA-OIG indicate that, at present, the jury is still out on whether FHFA can fulfill that role.

VI. A DOUBLE STANDARD ON EXECUTIVE COMPENSATION

For all its rhetoric on housing policy, the White House has demonstrated absentee leadership over Fannie and Freddie executive compensation. The Administration has selectively criticized executive compensation in the private sector but has not similarly criticized executive

¹⁰⁰ *Id.* at 20.

¹⁰¹ *Id.*

¹⁰² FHFA IG Report, *supra* note 6, at app. B.

¹⁰³ *Id.* at 2.

¹⁰⁴ *Id.* at 3.

¹⁰⁵ *Id.* at 3-4.

¹⁰⁶ Fed. Housing Finance Agency Office of Inspector General, FHFA's Oversight of Fannie Mae's Default-Related Legal Services (Sept. 30, 2011).

¹⁰⁷ Fed. Housing Finance Agency Office of Inspector General, Evaluation of the Federal Housing Finance Agency's Oversight of Freddie Mac's Repurchase Settlement with Bank of America (Sept. 27, 2011).

¹⁰⁸ Fed. Housing Finance Agency Office of Inspector General, Evaluation of FHFA's Oversight of Fannie Mae's Management of Operational Risk (Sept. 23, 2011).

compensation at the Enterprises. In 2009, President Obama called Wall Street bankers “fat cats,” saying that bankers “are drawing down \$10, \$20 million bonuses after America went through the worst economic year that it’s gone through in – in decades, and you guys caused the problem.”¹⁰⁹ That same year, however, the White House declined to comment when Fannie and Freddie employees received a total of \$210 million in bonuses.¹¹⁰ In January 2010, President Obama again criticized executive compensation at Wall Street firms as “massive profits and obscene bonuses at some of the very firms who owe their continued existence to the American people.”¹¹¹ Yet, the White House has remained “largely silent” on the bonuses given to executives at Fannie and Freddie.¹¹² White House Press Secretary Jay Carney dismissed any Administration concern over the compensation, saying “These entities are independent and therefore they are independent decisions. The White House is not involved, and nor should it be.”¹¹³

The Administration’s indifference to Enterprise executive compensation is striking given how forcefully the President decried similar compensation packages at private entities. It leaves the impression that the White House is disengaged from addressing the deficiencies of Fannie and Freddie. At a time when strong leadership of the Fannie and Freddie is sorely needed, the Administration has come up short. As the Enterprises continue to lose taxpayer money and the White House continues to dither, American taxpayers will continue to pay the price.

VII. CONCLUSION

As Fannie and Freddie enter year three of their conservatorship, little progress has been made to wind them down. The Enterprises continue to lose billions of dollars and continue to milk the American taxpayers for more and more financial support. Meanwhile, executives at Fannie and Freddie, influenced by perverse incentives and rewarded by questionable performance criteria, continue to receive enormous compensation packages. To make matters worse, the Enterprises’ conservator, FHFA, has shown little initiative to address these run-away executive compensation rates, and President Obama tacitly endorses them by turning a blind eye. This lack of oversight over executive compensation from the FHFA and the Administration reinforces why it is imperative for Congress to wean Fannie and Freddie off the government payrolls for good. Even FHFA, the Enterprises’ conservator, agrees that the controversy over executive compensation packages at Fannie and Freddie illustrates the need to “provide a clear path forward to end the conservatorships and reduce the taxpayer exposure to the mortgage market.”¹¹⁴ Three years and hundreds of billions of dollars later, the time has come to cut off these government-sponsored moguls.

¹⁰⁹ Elizabeth Williamson, *Obama Slams ‘Fat Cat’ Bankers*, WALL ST. J., Dec. 14, 2009.

¹¹⁰ Charles Duhigg, *Big Bonuses at Fannie and Freddie Draw Fire*, N.Y. TIMES, Apr. 3, 2009.

¹¹¹ *White House Bonus Hypocrisy*, Inv. Bus. Daily, Nov. 2, 2011.

¹¹² Boak & Williams, *supra* note 13.

¹¹³ *White House Bonus Hypocrisy*, *supra* note 111.

¹¹⁴ See Letter from Edward J. DeMarco, Acting Director, Fed. Housing Finance Agency, to United States Senators (Nov. 10, 2011).

Chairman ISSA. I now recognize myself for a first round of questioning.

Mr. WILLIAMS, you are a career employee, right? You came up through the ranks?

Mr. WILLIAMS. Right.

Chairman ISSA. And what did you make in 2002, if you recall?

Mr. WILLIAMS. What did I make in 2002? I don't know off the top of my head. I would have to follow up with you.

Chairman ISSA. Give me a year more than 5 years ago what you made.

Mr. WILLIAMS. Again, Congressman, off the top of my head, I don't have that.

Chairman ISSA. What was your starting pay when you came?

Mr. WILLIAMS. Congressman, I would imagine it was probably around \$115,000.

Chairman ISSA. Would you speak up a little, please?

Mr. WILLIAMS. Congressman, I would imagine it was around \$115,000 when I joined the company over 20 years ago.

Chairman ISSA. Okay. So 20 years ago you came with an organization that paid you \$15,000 right?

Mr. WILLIAMS. I came—

Chairman ISSA. \$115,000?

Mr. WILLIAMS. \$115,000.

Chairman ISSA. \$115,000. So they paid you more then than they paid Congressmen. That hasn't changed.

Mr. WILLIAMS. I would assume so.

Chairman ISSA. But less than the president; he was still making \$400,000 or \$200,000, perhaps, back then. Let's sort of go through the numbers. You don't remember what you made 10 years ago, but you remember roughly \$115,000 when you started. When did you first make over \$1 million? Everybody—let me rephrase that. I had the luxury of making over \$1 million. I exactly remember the year I made over a million dollars. I am sure you do. What year did you first have compensation, including bonus, that put you over a million dollars?

Mr. WILLIAMS. Congressman, I am not sure what year that was.

Chairman ISSA. So money is not that important to you?

Mr. WILLIAMS. No, money is important to all of us who are here today, sir, and it is important—

Chairman ISSA. Okay. But you are a career Government agency employee. GSE is a Government agency, effectively.

Mr. WILLIAMS. Congressman, I have been an employee at Fannie Mae for 20 years serving in a vast array of roles, beginning in technology all the way through to chief operating officer.

Chairman ISSA. Okay. Well, I don't want to beat a dead horse, but you came out at \$115,000 to an organization backed by the Government that had a pay scale. Did you ever have an expectation that you were going to make not just seven figures, but several of them, that you would make \$8 million or \$9 million every 2 years?

Mr. WILLIAMS. Congressman, I think we all hope to aspire to advance in our careers and advance our compensation as we do.

Chairman ISSA. Okay, but you made \$9.3 million the last 2 years, while the President made \$800,000. But you think that is okay?

Mr. WILLIAMS. Congressman, I have been brought in and asked to take on this role as CEO so that I can put in place a management team that can help achieve the goals of conservatorship, which is stabilize the company, provide liquidity to the market, and help struggling—

Chairman ISSA. Okay, but you are still losing money. You have taken \$90 billion and you are getting \$9 million a year.

Let me go on to Mr. Haldeman. Now, Bloomberg and other organizations were concerned when you came on board because you don't come with a background like Mr. Williams does. Basically, you are not qualified to run the organization, if one were to look at your historic resume. That was a concern. But you did come out of the private sector. Hopefully you remember. What did you make the last year you were at Putnam?

Mr. HALDEMAN. I don't recall.

Chairman ISSA. Did you make more than \$1 million?

Mr. HALDEMAN. Yes, I did.

Chairman ISSA. Was your compensation tied to performance?

Mr. HALDEMAN. Yes, it was.

Chairman ISSA. Was it tied tightly to performance, in which you could literally look at the yields of accounts or the profits of the organization in order to determine what your bonus would be?

Mr. HALDEMAN. It was tied to the performance of the funds, it was tied to the economic performance of the company, and I had equity participation, as well.

Chairman ISSA. Now, equity participation always assumes that the stock goes up, right?

Mr. HALDEMAN. It doesn't always, no. It happened to during my tenure at Putnam.

Chairman ISSA. So your options were worthless if your stock went down?

Mr. HALDEMAN. That would be correct.

Chairman ISSA. Okay. So at Freddie Mac has your stock gone up?

Mr. HALDEMAN. In my tenure it has not.

Chairman ISSA. Okay. I just want to make sure that \$7.8 million over the last 2 years is based on a company who is not worth more today. As a matter of fact, just for the record, if I were to look at the net profits for Fannie Mae from 2003 to 2010, I would find the net profits were a \$11 billion loss. At Freddie Mac I would find a \$72 billion net loss over that same period of nearly a decade.

So including the time before you came in, in which the books were being effectively cooked by taking in bad debt that was going to go bad, but in fact putting it on, there were paper profits of \$4 billion and \$5 billion, but over that period of time you are on an organization that certainly lost \$14 billion in 2010 and is going to lose equally or more this year. So that is the organization you are running for \$4 million a year, is that right?

Mr. HALDEMAN. Yes, we have lost money due to loans that were put on the books during the period 2005 to—

Chairman ISSA. Okay, my time has expired. I just want to get one last thing in for the record.

Mr. DeMarco, from what I can tell, your \$230,000 is all you get, right?

Mr. DEMARCO. Yes, sir. All I get is my salary.

Chairman ISSA. And you do stay for that menial amount of money, for some unknown reason, even though you could make money elsewhere?

Mr. DEMARCO. I am still here, Mr. Chairman.

Chairman ISSA. Thank you, Mr. DeMarco.

I recognize the ranking member.

Mr. CUMMINGS. Thank you very much.

I must tell you, Mr. Haldeman and Mr. Williams, you all come from a different world than the one I come from. If I had made a million, I sure would know when I made it, that is for sure.

Mr. DeMarco, I want to just go to performance, because as I listened to Mr. Williams and Mr. Haldeman, I don't remember hearing the word performance. I may have heard it, but I don't remember hearing it. You said in your testimony that part of compensation these executives receive is based on their performance. But with all due respect, their performance and yours, has been severely deficient, especially in the area of assisting homeowners.

In 2008, Congress and the President directed you to help homeowners in need. Congress passed the Emergency Economic Stabilization Act and the President signed it on October 3, 2008. The act states clearly that FHFA, Freddie Mac, and Fannie Mae "shall implement a plan that seeks to maximize assistance for homeowners."

In your testimony today you confirmed this is one of your three goals, did you not?

Mr. DEMARCO. I did.

Mr. CUMMINGS. But I have seen no plan to do this. What I have seen is an agency that basically has to be dragged to do its work by the Congress.

Let's look at performance. HAMP, the Home Affordable Modification Program, was supposed to help 3 to 4 million homeowners modify their loans. So far, it has helped fewer than 800,000, is that true?

Mr. DEMARCO. I believe that is correct for the HAMP program. It is not a correct reflection of the loan modification activity at Fannie Mae and Freddie Mac.

Mr. CUMMINGS. So with regard to HARP, the Home Affordable Refinance Program, that was supposed to help between 4 and 5 million borrowers refinance at lower rates. So far, fewer than 900,000 have been refinanced, is that right?

Mr. DEMARCO. There have been over 900,00 HARP refinances to date, and, as you know, Mr. Cummings, from the changes that we have made to that program recently, we are expecting an uptick in that of a meaningful amount.

Mr. CUMMINGS. Of course we are, but we are talking about what we have done to date. These gentlemen, they are making this money now. I am talking about today, so I am looking at performance now.

Mr. DeMarco, it was not until President Obama made an address to Congress on this topic that you started to revamp this program in a serious way. Let's look at FHFA—

Mr. DEMARCO. First, for the record, Mr. Cummings, I actually directed both companies to work with FHFA on a thorough reexamination of the HARP program several weeks before the President's address, so work was already underway.

Mr. CUMMINGS. Okay, but you could have started that a lot earlier, could you not?

Mr. DEMARCO. We did try it last winter and we made some changes and I regret that—well, I don't regret anything. What I would say is that we redoubled our efforts in August and I am pleased with the results.

Mr. CUMMINGS. Well, Mr. DeMarco, let me tell you, while you may not have any regrets, I have regrets. I have regrets for the people who are being put out of their houses and need help, and would like for the goals that were stated to be manifested, and that I do have regret about. And I understand your lack of regret and I am so sorry to hear you have no regrets, because I wish you could face some of the people who are out of their homes.

Mr. DEMARCO. Please don't take my words out of context, Mr. Cummings. I did not say that with regard to American homeowners. I believe that myself and everyone at FHFA and, frankly, the gentlemen to my right have been working very hard to provide assistance to American homeowners.

And with regard to the quotation from statute that you cited, it is quite right. I actually cite it myself frequently. But the full quotation includes that we were to undertake this maximizing assistance to homeowners in consideration of the net present value to the taxpayers, and I believe that that makes what we are doing in terms of providing relief to homeowners consistent with our mandate as conservator to preserve and conserve the assets and property of the company, and thereby minimize further losses to the taxpayers.

Mr. CUMMINGS. And the mandate is that you shall implement a plan that seeks to maximize assistance for homeowners and use this authority to encourage the servicers of the underlying mortgages in considering net present value to the taxpayer to take advantage of the Hope for Homeowners Program, is that not correct?

Mr. DEMARCO. That is it, sir. In fact, I think you raise an excellent point here and I think it is actually one of the key accomplishments we have had this summer, which is the Service and Alignment Initiative that FHFA organized with Fannie Mae and Freddie Mac to provide uniform mortgage servicing standards so that servicers would know how to effectively, efficiently, and timely respond to troubled borrowers.

And I think we learned from some of the difficulties of the last few years and we have put in place an identical set of servicing requirements that Fannie and Freddie each have for mortgage services so that the moment a borrower goes delinquent, the servicers now have clear instructions and positive incentives to make early and robust contact to borrowers to find out what their difficulty is.

We are placing a tremendous amount of emphasis on getting immediate contact with the borrower and trying to find an appro-

appropriate solution to their difficulty, because what we have learned is the faster we do that, the greater the likelihood of success. And I believe that our efforts in this way have been very much consistent with fulfilling the Issa mandate that you quite rightly cite.

Mr. CUMMINGS. Mr. Chairman, just real quick.

Chairman ISSA. I ask unanimous consent the gentleman have an additional minute.

Mr. CUMMINGS. Thank you very much.

Chairman ISSA. Without objection.

Mr. CUMMINGS. Thank you.

Mr. DeMarco, I have said this to you before. As I listen to your defense, and I do consider that defense, and rightfully so, I said to you and I begged you, do not mistake a comma for a period. We can get so caught up in saying what we have achieved that we fail to know that we can do better, and I think that is what troubles me and that is what troubles many Members of Congress. And I say it to you with all sincerity, I am not trying to hurt your feelings or anything like that, but I have to tell you I am talking about some people who are in pain, I mean big time. So I beg you do not mistake a comma for a period.

Mr. DEMARCO. I appreciate that, Mr. Cummings. I have benefited from our discussions the last couple months and I remain committed to making sure that Fannie Mae and Freddie Mac, in conservatorship, are doing all full, robust, and appropriate things to be able to help American homeowners that are troubled in their mortgages. And we will continue in that effort and I am taking under consideration all of the things that you have told me, sir, and I do believe that we share a deep concern for the number of American households that are troubled and we do share a desire to provide appropriate assistance to them, and we will continue to try to improve our efforts in that way, Mr. Cummings.

Mr. CUMMINGS. Thank you.

Thank you, Mr. Chairman, for your indulgence.

Chairman ISSA. No problem. Thank you.

I now ask unanimous consent that the entirety of the act, H.R. 3221, be placed in the record, and I particularly cite powers of the conservatorship, the agency may, as conservator, take such actions as may be necessary to regulate the entity in a sound and solvent condition and appropriately to carry out the business of the regulated entity and preserve and conserve the assets and properties of the regulated entity. I believe that is what the gentleman was referring to.

[The information referred to follows:]

One Hundred Tenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To provide needed housing reform and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Housing and Economic Recovery Act of 2008”.

(b) **TABLE OF CONTENT.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—HOUSING FINANCE REFORM

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

Sec. 1101. Establishment of the Federal Housing Finance Agency.
Sec. 1102. Duties and authorities of the Director.
Sec. 1103. Federal Housing Finance Oversight Board.
Sec. 1104. Authority to require reports by regulated entities.
Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.
Sec. 1106. Assessments.
Sec. 1107. Regulations and orders.
Sec. 1108. Prudential management and operations standards.
Sec. 1109. Review of and authority over enterprise assets and liabilities.
Sec. 1110. Risk-based capital requirements.
Sec. 1111. Minimum capital levels.
Sec. 1112. Registration under the securities laws.
Sec. 1113. Prohibition and withholding of executive compensation.
Sec. 1114. Limit on golden parachutes.
Sec. 1115. Reporting of fraudulent loans.
Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.
Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability.

Subtitle B—Improvement of Mission Supervision

Sec. 1121. Transfer of program approval and housing goal oversight.
Sec. 1122. Assumption by the Director of certain other HUD responsibilities.
Sec. 1123. Review of enterprise products.
Sec. 1124. Conforming loan limits.
Sec. 1125. Annual housing report.
Sec. 1126. Public use database.
Sec. 1127. Reporting of mortgage data.
Sec. 1128. Revision of housing goals.
Sec. 1129. Duty to serve underserved markets.
Sec. 1130. Monitoring and enforcing compliance with housing goals.

“(b) POWERS AND DUTIES OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

“(1) RULEMAKING AUTHORITY OF THE AGENCY.—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.

“(2) GENERAL POWERS.—

“(A) SUCCESSOR TO REGULATED ENTITY.—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

“(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

“(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

“(B) OPERATE THE REGULATED ENTITY.—The Agency may, as conservator or receiver—

“(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

“(ii) collect all obligations and money due the regulated entity;

“(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver;

“(iv) preserve and conserve the assets and property of the regulated entity; and

“(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Agency as conservator or receiver.

“(C) FUNCTIONS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF A REGULATED ENTITY.—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

“(D) POWERS AS CONSERVATOR.—The Agency may, as conservator, take such action as may be—

“(i) necessary to put the regulated entity in a sound and solvent condition; and

“(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

“(E) ADDITIONAL POWERS AS RECEIVER.—In any case in which the Agency is acting as receiver, the Agency shall place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity in such manner as the Agency deems appropriate, including through the sale of assets, the transfer of assets to a limited-life regulated entity established under subsection (i), or the exercise of any other rights or privileges granted to the Agency under this paragraph.

FIN

Chairman ISSA. With that, we recognize the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman.

And thank you, Mr. Williams, Haldeman, and DeMarco, for being here. I heard you state that you appreciate us inviting you. Thanks for your use of words there. I couldn't have said that myself. However, this is a duty we have to do.

Mr. DeMarco, the \$12.79 million in bonus pay for 10 executives that we are discussing today, bonuses that you approved, was for providing "liquidity, stability, and affordability to the housing market." My bankers, lenders, financial institutions back at home desire that, would agree with that, and would want that to continue, but in light of that, what benchmarks are Fannie and Freddie meeting that would allow such bonuses to kick in, especially in light of the taxpayer losses of approximately \$170 billion?

Mr. DEMARCO. So this is detailed in the annual securities filings of the two companies, but, as reported in my written statement, these losses that the taxpayers are absorbing are a result of business decisions made pre-conservatorship and mortgages that were originated pre-conservatorship, and one of the focal points for the executive compensation for the executives at Fannie and Freddie are their efforts to try to minimize losses on that book of business.

They can't undo mortgages that are made, but what they can do is that they can take aggressive actions to mitigate those losses through loan modifications and other foreclosure prevention activities, and I report monthly to the House Financial Services Committee and the Senate Banking Committee on the efforts that have been undertaken to that end and the array of things on which they are assessed and go to efforts to minimize losses, undertake homeowner assistance, ensure that there is ongoing liquidity in the market, and to be working with us on things such as the servicing improvements that I talked about in my exchange with Mr. Cummings.

Mr. WALBERG. But in light of all that continues on, in light of what Mr. Cummings mentioned also about his people, likewise in my State of Michigan, you stated your opposition yesterday to putting these executives on par with the Federal pay scale, a position that you continue to suggest today in comments, I believe. A legislative proposal that was passed out of the House Financial Services yesterday to do just that. Why do you oppose that so aggressively? Why do you oppose that and do you believe Federal agencies cannot perform their duties because they don't offer Wall Street size paychecks?

Mr. DEMARCO. I oppose it simply for the matter that I believe enacting that and immediately putting all the employees at Fannie and Freddie on a completely different pay scale is going to result in the taxpayer losses to Fannie and Freddie going up, not down. That is it, put simply. The chairman read the excerpt from the HERA legislation regarding conservatorship, and an important aspect of that, what he read, is that I am preserving and conserving the assets of a business entity. These remain business entities and they remain regulated entities; they are not Government agencies. If the Congress of the United States wants to take action to make them Government agencies, make the employees Government em-

ployees, that is a different story and legal structure than the one that I am being held responsible for overseeing today.

What I am being responsible for overseeing today, the way the law works today, Fannie Mae and Freddie Mac employees are not Government employees. These are not Government agencies, they remain private corporations undertaking trillions of dollars of business, participating in the marketplace. They continue to be subject not just to FHFA regulation; they continue to be subject to other laws and regulations that apply to similar private financial institutions, including—

Mr. WALBERG. I understand all of that, Mr. DeMarco.

Mr. DEMARCO [continuing]. The Securities and Exchange Commission rules and so forth.

Mr. WALBERG. I understand all of that; our citizens don't. We are in tough times and sometimes very difficult decisions have to be made, and if indeed there is public service, like you indicated, that you want to provide a service—and I think the two gentlemen seated next to you have indicated the same thing—there are challenges to be faced.

Mr. Haldeman, in October you announced that you would be stepping down from your position once a successor has been named.

Mr. HALDEMAN. That is correct.

Mr. WALBERG. Did compensation play any role in this decision?

Mr. HALDEMAN. No, it did not.

Mr. WALBERG. Mr. Williams, earlier this year you stated that you would leave it to the FHFA to determine what your appropriate compensation would be. If Mr. DeMarco changed course and decided that your compensation should be curtailed, would you be fine with that?

Mr. WILLIAMS. Congressman, I would evaluate my own personal options, but that would be the decision of the board and Director DeMarco.

Chairman ISSA. I thank the gentleman.

I now ask unanimous consent to enter into the record a study of 2011 compensation done by the Association of Corporate Counsel, Southern California Chapter, for 2011 and would note that in public companies the compensation in 2011 was approximately \$400,000 for general counsels. Well, the general counsels for Freddie Mac received 2.9 million and Fannie Mae received 2.6 million, more than four times the compensation that at least the Southern California Chapter of General Counsels believes is fair.

[The information referred to follows:]



The 2011 In House Counsel Compensation Survey

70

ACCA-SOCAL 2011 Compensation Survey Results

Overview. The Board of Directors of ACCA-SOCAL is proud to release the results of its 2011 Compensation Survey. There were over 295 members who took the survey ----- approximately 21% of all members in the Association. Over 133 respondents identified themselves as General Counsel, or nearly 33% of all respondents.

Why Was This Survey Conducted? This survey was designed to help empower our members. Our experience has been that many salary surveys of in-house counsel fail to properly survey geography, position, industry or factors relating to the actual functions of the in-house counsel within a company. Often such surveys are so broad or so general that it is difficult for in-house counsel to apply the data in a meaningful way to his/her situation. Most importantly, such surveys do not capture data that is specific to the Southern California region. The data of many salary surveys also consists of data reported by employers, as opposed to employees. Most in-house attorneys are "told" what they are paid by their HR departments or consultants, rather than "telling" those same parties what comparable attorneys are paid. Our survey hopes to present a different point of view. However, please note that ACCA-SoCal conducted no independent verification of the data reported by its members. Results of the survey should be used for reference purposes only, as another data point to assist you in your compensation and career planning.

How The Survey Was Conducted. The survey was conducted from January 31st to February 28, 2011. It was advertised to our members through email, our website and announcements at various events during the time period. The data was collected online from in-house attorney members from ACCA-SOCAL and is therefore geographically limited to those in-house attorneys who work in Southern California (specifically, Orange County in the south, Santa Barbara in the north and San Bernardino/Riverside in the East). Various distinguishing features of in-house employment – which can greatly impact compensation but are often poorly covered by commercial surveys ----- were also surveyed, including:

Budgetary Responsibility	Managing Other Attorneys	Corporate Secretary Responsibility
In-House Litigation	In-House Generalist	Company Revenue
Public vs. Private vs. Non Profit	Male vs. Female Pay	Signing Bonuses
Industry Sector Averages	Attorney Experience	In-House Experience
GC as manager	GC as solo attorney	Vacation and Other Benefits

Unless otherwise indicated, our analysis includes averages of the data submitted, not medians. Numbers in parenthesis next to a section or within a section indicate how many respondents answered the question with a dollar figure that was greater than zero. Generally, zero or no-answer responses or outlier responses (i.e. those indicating a "salary" of less than \$1,000, for example) at the extreme ends of ranges were excluded for purposes of computing averages.

Analysis

On average, in-house attorneys were paid a base salary of \$194,964 in 2010. In-house attorneys expect their base salary compensation will rise 4.6% in 2011, to an average salary of \$203,948. Approximately 77% of those who reported salary data also reported that they received a bonus in 2010. Of those who received a bonus, the average of \$68,553 was received and those in-house attorneys estimate their 2011 bonus will rise 6.6% in 2011 to an average bonus of \$73,390. Approximately 38% of respondents reported that they received non-cash equity incentives with an average value of \$95,070 in 2010 and expected value of \$103,405 in 2011.

The largest cross-section of respondents (173) described themselves as “non GCs who do not manage other attorneys”. For this group, in-house attorneys were paid an average base salary of \$173,235 in 2010 and expect their base salary to rise 4% in 2011, to \$180,351. Approximately 76% of this group also reported receiving a bonus in 2010. Of those who received a bonus, the average of \$43,838 was received and those in-house attorneys estimate their 2011 bonus will rise 2.1% in 2011 to \$44,744.

The second-largest group of respondents, General Counsel, reported an average 2010 base salary of \$223,418 in 2010. General Counsels expect their base salary compensation will rise 8.3% in 2011, to an average salary of \$241,952. Approximately 68% of General Counsel who reported salary data, also reported that they received a bonus in 2010. Of those who received a bonus, the average bonus was \$108,733 and General Counsels estimate their 2011 bonus will rise 8.4% in 2011 to an average of \$118,597. General Counsel compensation tends to be directly tied to the number of functions that a General Counsel performs for his/her company. For example, those GCs that manage other attorneys earned total cash compensation (base plus bonus) of 40% more than their counterparts who do not manage others. The highest paid GCs tend to be those from larger, profitable public companies who manage other attorneys, manage the legal budget and interact with a Board of Directors (i.e. he/she serves as a Corporate Secretary for the company).

Public Companies, on average, tend to pay their in-house attorneys 5-10% more than Private Companies. Generally, as might be expected, those with more experience command a higher average level of compensation and those at larger companies tend to make more than their counter-parts at smaller companies. Those who have experience as in-house attorneys typically make more than those who have comparable years of experience as a lawyer outside of the in-house environment. In-house attorneys who have multiple areas of responsibility (say,

those who manage others, have budgeting responsibility or serve as the Corporate Secretary for their companies) typically realize an average of 10% or more salary for each additional area of responsibility.

There remains great disparity among in-house compensation. Men continue to be paid more than women --- on average, men were paid a cash salary of 23% more than women in 2010 and while salaries as a whole will rise in 2011, the data indicates that the difference in pay between men and women will remain about the same. Men also continue to hold 60% of the General Counsel positions at companies. The highest paid industry sectors in 2010 include Real Estate, Automotive and Financial while Non-Profit, Consumer Products and Insurance paid lower on average, compared to other sectors.

The average age of in-house counsel is 44; 52% are Men and 77% described their ethnicity as White or Caucasian. Fifty-Five percent (55%) of ACCA_SoCal members reported working for companies with less than five attorneys -- 21% report being the sole in-house attorney for their company. Eighty-eight percent (88%) of respondents reported working for profitable companies; 53% public companies, 42% private and 5% non-profits. Fifty (50%) of ACCA_SoCal member respondents were at Los Angeles-based companies and 40% at Orange County companies. Eighty-three percent (83%) of survey respondents reported having at least ten years of experience practicing law and 48% reported having more than ten years of in-house experience.

From a quality of life and job-satisfaction standpoint, 81.4% of in-house counsel indicated that they do not have a clear career development path for upward growth and, 66% of members are not eligible to receive guaranteed severance benefits in the event of termination. Approximately 79% of in-house counsel reported that they receive more than three weeks of vacation/personal time off, with 41% receiving four weeks or more of personal time off. When asked if they had one aspect that they could change about their compensation plan, 64% of respondents answered "More Money" or "More Equity", while "More Flex Time and Telecommuting" received the second highest number of responses. Sixty-Three percent (63%) of respondents indicated that their company permits telecommuting and half of those members indicated that they telecommute 1-4 days per month.

The job market for in-house lawyers overall appears to be flat to contracting, with only 23.8% of respondents indicating their law departments will be growing in 2011. Nearly half of all respondents indicated that the resource used to secure their last in-house position was "Networking and Personal Connections."

The Data

1. Overall---Average Compensation of ACCA-SOCAL In House Attorneys

2010 Salary (259):	\$194,964
2010 Bonus (199):	\$68,553
2011 Salary (254):	\$203,948
2011 Bonus (198):	\$73,390

2. Segment Focus

Public vs. Private vs. Non Profit

Public Salary 2010 (133):	\$206,401
Public Salary 2011 (132):	\$214,114
Public Bonus 2010 (117)	\$63,422
Private Salary 2010 (108):	\$182,647
Private Salary 2011 (105)	\$191,613
Private Bonus 2010 (68)	\$70,268
Non-Profit Salary 2010 (14)	\$181,886
Non-Profit Salary 2011 (14)	\$196,807
Non-Profit Bonus 2010 (10)	\$29,478

Signing Bonus-YES (53): \$21,896

2010 Value of Non Cash Incentives Vesting (109 reported value): \$95,780

2011 Est Value of Non Cash Incentives Vesting (116 reported expected value): \$103,405

Experience as Attorney

	2010 Salary	2011 Salary
0-3 Years (6):	\$100,000	\$117,500
4-9 Years (38):	\$153,483	\$161,171
10-16 Years (92):	\$182,186	\$192,123
17-25 Years (75):	\$210,695	\$212,918
More than 25 Years (43):	\$249,281	\$253,904

Experience as In House Attorney:

	2010 Salary	2011 Salary
0-3 Years (42):	\$151,405	\$160,579
4-9 Years (89):	\$183,579	\$193,415
10-16 Years (71):	\$214,831	\$223,207
17-25 Years (39):	\$210,851	\$218,272
More than 25 Years (13):	\$244,223	\$248,923

Public and Private 2010 Company Revenue (and 2011 Salary)

\$0-\$50M (31):	\$180,913
\$50-\$100M (24):	\$193,458
\$100-250M (28):	\$198,457
\$250M-1B (54):	\$209,394
\$1B-5B (40):	\$220,904
>5B (64):	\$213,242

Non GC, manage other attorneys (45)

2010 Salary:	\$199,753
2010 Bonus (31)	\$58,815
2011 Salary	\$211,611
2011 Bonus:	\$60,360

Non GC, do not manage other attorneys (173)

2010 Salary (173):	\$173,235
2010 Bonus (131)	\$43,838
2011 Salary (168)	\$180,351
2011 Bonus (130)	\$44,744

Litigation Focused (20)

2010 Salary:	\$191,017
2011 Salary:	\$201,240

Transactional Focused (66)

2010 Salary:	\$179,676
2011 Salary:	\$187,190

3. General Counsel**Overall (116)**

2010 Salary:	\$223,418
2010 Bonus (79):	\$108,733
2011 Salary:	\$241,952
2011 Est. Bonus (79):	\$118,597

GC; Public Company (40)
 2010 Salary \$266,339
 2010 Bonus (32): \$104,338
 2011 Salary \$274,199
 2011 Est. Bonus \$100,601

GC; Private Company (67)
 2010 Salary \$204,274
 2010 Bonus \$100,699
 2011 Salary \$212,520
 2011 Bonus: \$111,837

GC; Non Profit (9)
 2010 Salary \$213,378
 2010 Bonus (6) \$33,297
 2011 Salary \$226,144
 2011 Bonus: \$38,297

GC; Manage Others (69)
 2010 Salary \$250,125
 2010 Bonus (52) \$142,703
 2011 Salary \$260,768
 2011 Bonus: \$147,534

GC; Do Not Manage Others (43)
 2010 Salary \$192,073
 2010 Bonus \$44,193

Chairman ISSA. With that, we go to—

Mr. DEMARCO. If I may, Mr. Chairman, I think that this is pretty important because of the theme of your hearing here regarding protecting the American taxpayer. So with regard to the legal departments of Fannie Mae and Freddie Mac, I would like to point out to the committee that Fannie Mae and Freddie Mac, with FHFA, FHFA taking the lead on this as conservator, has filed lawsuits against 18 of the biggest financial institutions in the country and even in the world to recover losses that we believe are the legal responsibility of others. This is part of our activity to protect the American taxpayer and to carry out our conservatorship responsibility.

But I will say, Mr. Chairman, that for us to be able to successfully execute on such complex litigation regarding complex financial transactions and securities, I need to have qualified and experienced counsel to be working with us on that. So I believe that this is an investment that we are making that is part of protecting the American taxpayer.

So these are the sorts of things that if we fundamentally and radically and immediately change the rules of the game with respect to how we perceive Fannie and Freddie, we may gain in terms of compensation, but I would like the committee to know that, from my perspective as conservator, I believe that we risk other things that could harm the American taxpayer. I know that that is—and to the Congressman's point over here, I understand that that is hard for the American people—

Chairman ISSA. I actually don't have any time, so I don't want to cut you off, and I know that there will be further dialog, so I certainly will seek time to have this dialog.

But at this time we recognize the gentleman from Ohio, Mr. Kucinich, for 5 minutes.

Mr. KUCINICH. Thank you very much, Mr. Chairman, and thanks for holding this hearing.

One of the things that is interesting about these hearings is that occasionally you get some insight into how people think in a broader sense about those they are supposed to serve, and I have to say that, of the witnesses, Mr. Haldeman was the only one who seemed to understand the concerns that the American people have about this issue that faces this committee today. So I want to thank you for that.

I also want to say that, in listening to the testimony, my concern is that there may not be enough sympathy for people who are losing their homes. And if there is a gap with tremendous pay being given to people at the top and we don't see enough sympathy for people who are losing their homes, that may mean that you just don't get it, you are too far removed.

Now, Mr. DeMarco, on November 1st your general counsel wrote a letter to Ranking Member Cummings. He disclosed that last year Fannie Mae and Freddie Mac imposed \$150 million in penalties against banks for not foreclosing on homeowners fast enough. According to your general counsel's letter, mortgage servicers were charged daily fees by Fannie Mae and Freddie Mac if they failed to process foreclosures within set deadlines. Here is what your general counsel wrote: "To date, the top 10 servicers account for the

bulk of the fees due. The total amount for all servicers after approving appeals and corrections is approximately \$150 million for 2010.” And this is stunning with all the abuses going on with robo-signing and the filing of false court documents, Fannie and Freddie were charging massive fees against banks that failed to expedite foreclosures.

Mr. DeMarco, were you aware of these penalties?

Mr. DEMARCO. I am aware of them, Congressman, and I can explain them. These penalties are a result of the failure of mortgage servicers to perform under their servicing contracts with Fannie Mae and Freddie Mac in a way that are driving up costs to the American taxpayer. The servicers are under contractual obligations to Fannie and Freddie to mitigate losses. In my exchange with Mr. Cummings earlier, I went into some detail about the effort we have undertaken to ensure that servicers are reaching out to troubled borrowers from the moment there is evidence they are in trouble.

Mr. KUCINICH. Well, wait a minute, though. There is a point here that you are missing, and that is there was an inspector general finding, you are familiar with it, that FHFA “directed Fannie May to impose compensatory fees against the servicers for violating foreclosure time line limits.” Now, is that true and did you actually direct Fannie or Freddie to impose those penalties in 2010?

Mr. DEMARCO. It is true, Congressman, because it is driving up the cost to the American taxpayer.

Mr. KUCINICH. So you were aware of the abuses going on, but you failed to address them in a timely manner? That is what the inspector general reported.

Mr. DEMARCO. With all due respect, Congressman, these are two different issues, and the compensatory fees that have been assessed have been done so with recognition and allowance for the delays in foreclosure processing either due to assisting the borrowers to try to find a foreclosure alternative or because of foreclosure delays that have been driven by things external to the servicers’ control.

Mr. KUCINICH. Well, this IG report concluded that “there were multiple indicators of foreclosure abuse risk prior to 2010 that could have led FHFA to identify and act earlier on the issue, including consumer complaints alleging improper foreclosures, contemporaneous media reports about foreclosure abuses by Fannie Mae’s law firms and public court filings in Florida and elsewhere highlighting such abuses.”

Now, Mr. DeMarco, if you were aware of these abuses, why would you order hundreds of millions of dollars in penalties to try to speed up the process even further? Why would you do that?

Mr. DEMARCO. I would like to again try to separate the abuses and the corrections that have been undertaken with regard to them with servicers not performing adequately in foreclosing on properties that have gone multiple years without any payment, because this is driving up the cost of the taxpayer. We are foreclosing on properties that have had no payments for 2, 3 years or more, and all this time the American taxpayer is funding those mortgages. And it is also damaging local communities and it is damaging housing markets to have these properties sitting there with no action being taken against them. Congressman, with all due respect, I believe that this is——

Mr. KUCINICH. Well, with all due respect to you, sir, the IG report talked about supporting first and now overloaded with the volume of foreclosures, documentation problems were evident, they said. You haven't disputed that.

Members of the committee, what you have here is a situation where they are focusing on accelerating foreclosures and diverting our constituents. I am from Cleveland. We have more foreclosures than in most areas.

Mr. MCHENRY [presiding]. The gentleman's time has expired. The gentleman's time has expired.

Mr. Walsh of Illinois is recognized for 5 minutes.

Mr. WALSH. Thank you, Mr. Chairman, and thank you for being with us here today.

A couple quick points and then an overall question. We talk in trillions, billions, and millions around here. We are \$15 trillion in debt. Fannie and Freddie have been subsidized to the tune of about \$170 billion the last 3 years. Executive compensation last year, in 2009 and 2010, was about \$35 million. Big numbers; they jump out.

Just quickly, two smaller numbers jumped out at me. Fannie and Freddie paid outside compensation consultants \$655,000 in 2008 and \$560,000 in 2009 to determine their own pay structure? We paid outside consultants that much money to determine the pay structure? Does that sound right, Mr. Williams and Mr. Haldeman? Does that sound excessive?

Mr. WILLIAMS. Congressman, the company and the board of directors hired compensation consultants to help them structure our compensation program format.

Mr. WALSH. A little closer.

Mr. WILLIAMS. Congressman, the board of directors hired compensation consultants to work with them to develop a compensation program at the request of FHFA, and they worked in partnership with FHFA and the Treasury Department to develop that compensation program.

Mr. WALSH. So \$655,000 in 1 year to help you determine your pay structure. Mr. Haldeman, does that sound excessive?

Mr. HALDEMAN. It sounds like a lot of money, but there are compensation consultants that are required for the board in addition to the company's compensation consultant. So I think that number would include four consultants, if I get it right, because I think you were pointing out for both Enterprises. So that would be four in total. But I agree it is a lot of money.

Mr. WALSH. And one other quick point on your testimony, Mr. Haldeman. You said that the 15 highest executives today are paid roughly the same as the top 5 a decade ago. I don't know that that is something to rave about. I mean, James Johnson, 1991 to 1998, earned \$100 million in pay with the company; Franklin Raines, we remember that name, 1999 to 2005, earned more than \$90 million from 1998 to 2003. Daniel Mudd earned \$12 million in 2005. I don't know that it furthers our topic here to compare what we are doing today with what executives made 15 years ago.

Mr. Haldeman, I appreciate the tone you took, that you understand the outrage, certainly, that Congress feels and, in theory and in practice, we reflect the outrage that is out there. But understand

something. Many Members of Congress came here because this country is broke. Big freshman class of Republican and Democrats, most of whom left probably much higher paying positions to come here and serve this country because this country is broke. I am not unusual, there are other Members like myself who came here and turned down my health benefits, turned down any pension benefits, because we all have to do something pretty quickly or we are going to be in a heap of trouble and future generations are going to be in a lot of trouble.

So I appreciate that you understand the outrage, but are you telling me that, unlike Congress and some other departments in Government, we are fundamentally not able to find people who need to do what they need to do at Fannie and Freddie for less than the amount of money in base pay and bonuses that we are paying folks? And, if so, do you understand how a lot of people might find that hard to believe?

Mr. HALDEMAN. First of all, I think all of us appreciate the public service of the entire Congress and realize that many have made a personal sacrifice to take on those roles, and I commend Acting Director DeMarco for the public service that he has given the country. And there are many examples of people who have done that.

The dilemma I face—maybe I can bring the numbers down a little bit in size. One of the important functions we perform at Freddie Mac is managing an investment portfolio. When I took over my job in August 2009, that investment portfolio was \$900 billion. We have brought it down continuously; it is now about \$680 billion in size. There are people who are managing that portfolio.

What I worry about is if they make a 1-percent mistake, that costs the taxpayer \$6.8 billion. If they make a one-tenth of 1 percent mistake, it is \$680 million. And the people that are required to effectively manage that money, that investment portfolio, and not make those mistakes are highly skilled, sophisticated, seasoned people that have many, many opportunities for high-paying jobs, and we need some of them at Freddie Mac to make sure we don't make those mistakes. That is the dilemma.

Mr. MCHENRY. The gentleman's time has expired.

Mr. WALSH. Thank you, Mr. Chairman.

Mr. MCHENRY. Mr. Tierney for 5 minutes.

Mr. TIERNEY. Thank you, Mr. Chairman.

Let me change tack here a little bit, if I can. Mr. DeMarco, I want to ask you about principal reductions. That will be no surprise to you, coming from our many previous discussions. But first I want to share with you some comments. Neil Barofsky, who is the former Special Inspector General for the TARP program, said "There needs to be a recognition that many borrowers will never make the required payments on their underwater mortgages; that the owners of these mortgages have already lost any meaningful chance of obtaining a full recovery of the outstanding principal. The sooner that this reality is recognized and addressed, the sooner a recovery can take hold. As such, an aggressive principal reduction program is necessary."

Alan Binder, the former Vice Chair of the Federal Reserve Act, said most economists see principal reductions as central to preventing foreclosures.

Ben Bernanke, the Federal Reserve Chairman, said in this environment principal reductions that restore some equity for the homeowner may be a relatively more effective means of avoiding delinquency and foreclosure.

Mark Zandi, chief economist for Moody's Analytics said a weaker than anticipated housing market poses a serious threat to the economic expansion. He suggests a policy step: one of the best odds of ending the housing crash quickly and definitively would have the Government facilitate loan modifications with substantial principal write-downs.

Now, when Congress passed the Emergency Economic Stabilization Act of 2008, we directed FHFA, Freddie, and Fannie to implement a plan that seeks to maximize a system for homeowners. We have been through the language on that, but it does talk about having the mortgage servicers and covering servicers to take advantage of programs to minimize foreclosures. There is nothing in the law that I see or that anybody else advises sees that prevents you from approving a program to reduce principal if it is in the taxpayers' interest.

Now, Fannie Mae's second quarter credit supplement says the average return to Fannie Mae this year on foreclosed properties is 55 percent of unpaid principal balance. So you are going to lose 45 percent of any foreclosed property. If that is the case, but you would only lose 5 percent, say, of a principal reduction program, why not reduce the principal and keep the borrower in his or her home?

Mr. DEMARCO. We have been through the analytics of the underwater borrowers of Fannie and Freddie and looked at the foreclosure alternative programs that are available, Mr. Tierney, and we have concluded that the use of a principal reduction within the context of a loan modification is not going to be the least cost approach for the taxpayer to allow this homeowner an opportunity to stay in their home.

We are using aggressive loan modification activities that include principal forbearance, which will zero out the interest rate charged on the underwater portion of the mortgage without forgiving the debt of the mortgage, and this is all designed to get the borrower into an affordable monthly payment so that they can continue in their home, and that has been the basic calculus that has guided this decision.

As I have said before, I do not believe that I have been appropriated taxpayer funds for the purpose of providing this more general support to the housing market. We are supposed to undertake our loss mitigation activities with regard to the cost to the taxpayer.

Mr. TIERNEY. But you have been empowered as conservators to have the fiduciary responsibility of maximizing the value of the taxpayers' assets, and if it is less costly to modify the principal, to modify the loan than it is to go to foreclosure, I would think you would be breaking that fiduciary responsibility. What you are telling me flies in the face of Neil Barofsky, Alan Binder, Ben Bernanke, Mark Zandi, and all these people. You just come up with a different idea. And maybe you would share with us your calcula-

tion so we can run it by some of these other people who see it quite differently than you do.

Several of the banks are already doing principal reductions right now. You have the example of Arquin, who has a program where the servicer reduces the loan to 95 percent of the homeowner's fair market value. The excess principal is forgiven over 3 years as long as the homeowner remains current. When the home is sold or refinanced, the borrower is required to pay 25 percent of the appreciated value and share that with Arquin. According to the company's CEO, shared appreciation modifications help homeowners avoid foreclosure and restore equity, providing a significant benefit to the customer, the economy, and the housing market.

They are not doing that to be nice, you know that. It is in their financial self-interest. And I still don't think you have made a compelling argument why it is not in Fannie Mae's and Freddie Mac's and the taxpayers' financial self-interest to do that. JPMorgan Chase is doing it, Allied Financial, Bank of America, Wells Fargo, they have reduced an average of \$51,000 off the balance of about 73,000 borrowers in 2009 and 2010. Is everybody else wrong, Mr. DeMarco, and FHFA is right in this?

Mr. DEMARCO. Congressman, I believe that the decisions that we have made with regard to principal forgiveness are consistent with our statutory mandate. I do believe that we are taking all due effort to provide assistance to homeowners and I do not believe I have been authorized to use taxpayer money for a general program of principal forgiveness.

Mr. TIERNEY. Mr. Chairman, if I can have unanimous consent for 30 more seconds.

Mr. DeMarco, I would like you to do two things for the committee, if you would.

Mr. DEMARCO. Okay.

Mr. TIERNEY. First, I would want you to identify anywhere in the statute that specifically prohibits you from developing principal reduction programs, because as I read the law you don't have the authority to do that. So if you would do that and then share that with the committee and me. Second, I would like you to submit whatever analysis you have done that shows why reducing the principal of some mortgages is worse for the U.S. taxpayer than foreclosure. If you would provide that analysis, because you talked about it, I would appreciate it. Would you do that for us?

Mr. DEMARCO. We can provide that information as you suggested, Congressman.

Mr. TIERNEY. Thank you.

Mr. MCHENRY. The gentleman's time has expired.

Mr. Farenthold from Texas.

Mr. FARENTHOLD. Thank you, Mr. Chairman.

Gentlemen, Mr. Williams, Mr. Haldeman, I would like to start my questions with you. First off, I want to commend you for being here. If I were taking a salary like you guys were in these times, I would be reluctant to be up and facing the people. I admire you for taking the heat on this.

But let me ask you a question. You compare your salaries, in justifying them, to those making and made in private sector companies. In those private sector companies very often the compensation

package is based on very specific design results in the performance of the company, but you basically serve at the pleasure of the shareholders through the board of directors. In Freddie and Fannie, you guys basically are serving the taxpayers. We have invested a whole lot of money in your company and, really, this committee and Congress is about the total level of oversight we have.

From what I have heard from people back home is a pretty consistent wow. Why are you taking this much money performing so poorly and having to come back. And I have heard today that you have said, well, it would be doing worse if we weren't doing what we do. So let me ask you this. Would you all invest in Freddie and Fannie? Would you put your own money in that and expect to see a return or to see it level out? And I guess we will start with Mr. Williams.

Mr. WILLIAMS. Congressman, let me start with a few points. First of all, as we have all—to your comments, the losses that we have been incurring are due to the loans that were booked prior to 2009. Second, the management team that we have brought in is a new management team to deal with the challenges that we are facing and the specific issues that we have been asked to serve as conservator: stabilize the company, to provide the necessary liquidity and support to the market, ensure there is adequate supply of affordable rental housing, and help distressed homeowners wherever we can.

Mr. FARENTHOLD. Okay, I understand, but you started in this company 20 years ago at, I think you testified earlier, well over \$100,000. So you have been there through this. Where were you kicking and screaming? Again, tell me if you were, because I don't know. Where were you kicking and screaming, say, hey, we are about to get in a lot of trouble?

Mr. WILLIAMS. Congressman, I am happy to discuss my role prior to conservatorship. In the years leading up to conservatorship, I served as chief operating officer of the company. I was responsible for managing our regulatory agreements that were put in place prior to conservatorship and making sure we achieved all the objectives under that; I was responsible for leading the company's efforts to restate our financial statements and get current with the SEC's filings, which we did all that; and I oversaw the company's areas such as technology, human resources, as well as our—

Mr. FARENTHOLD. But from an executive level, didn't you have to see some of this coming?

Mr. WILLIAMS. Congressman, in hindsight, I am sure we all wish that we could have made different decisions back in that time.

Mr. FARENTHOLD. All right. Well, let me just ask one more question. I think it would be fair to say that there are a lot of people who take jobs for less money than they would make in other jobs for reasons beyond compensation. Take the President. It doesn't pay all that well. The Supreme Court doesn't pay nearly what a good lawyer can make in the private sector. Certainly our teachers, who are underpaid throughout this country, take jobs for reasons beyond compensation. Vikram Pandit of Citigroup says he is not going to take any compensation until the company turns a profit.

Don't you think we could get qualified people to do your jobs and the jobs of those other senior executives without having to pay millions of dollars?

Mr. WILLIAMS. Congressman, I am happy to address that question because, first of all, as I noted, this is a new team. We have reduced executive compensation by 50 percent, we have reduced the number of senior executives by 30 percent. But I can tell you are these jobs competitive? Yes. In the course of 3 months I lost five senior vice presidents out of the company to financial services and other companies where I can assure you they were making more money and had better career prospects as a result. These are challenging jobs in challenging circumstances, and we need to pay and reward the people who are doing the jobs.

Mr. FARENTHOLD. I see that my time is about to expire, and I apologize for not getting to you, Mr. Haldeman. Thank you.

Mr. MCHENRY. Mr. Davis of Illinois is recognized for 5 minutes.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Mr. DeMarco, let me ask. When you announced these compensation packages in 2009, you issued a press release explaining that these million dollar salaries were necessary to "attract and retain the talent needed" for Fannie Mae and Freddie Mac to perform their roles. In a recent letter to Congress you wrote that you were also concerned about a rapid turnover of management and staff replaced with people lacking the institutional, technical, operational, and risk management knowledge requisite to the running of corporations with thousands of employees and more than \$2 trillion in financial obligations.

Let me ask what kind of analysis did you do prior to making these conclusions? Did you survey the current staff that was present? And do you have some kind of document that you could share with us that would demonstrate the potential effects of lower salaries on the work force, on the agencies, and ultimately on the homeowners who had mortgages to pay?

Mr. DEMARCO. Congressman, with regard to the announcements of the pay structure that took place in 2009, the background for that was developed over the course of time by my predecessor, and then when I became acting director I assumed completion of that work. It was done in consultation with other Government agencies; it was done in consultation with pay consultants; it was done in a lot of consultation with the Special Master for Compensation at the Treasury Department to assess what was the market like for compensation in troubled but large and complex financial institutions, and what was the right structure and balance to weigh between the need to have competent, skilled professionals running these complex financial institutions against market conditions at the time and the market opportunities that they had. That was all part of the determinations that went into the announcement in 2009.

Mr. DAVIS. Well, let me ask—

Mr. DEMARCO. Since then—

Mr. DAVIS. Let me just ask, because time is going to expire. Earlier this year the Inspector General for the Federal Housing Finance Agency issued a report evaluating your oversight of executive compensation at Fannie Mae and Freddie Mac. The IG report stated that "you never seriously considered" comparing compensa-

tion at Fannie and Freddie to compensation at other housing agencies. Is that true?

Mr. DEMARCO. We did not consider the FHA commission or the head of Ginnie Mae to be market comparables to private companies that operated with all the liabilities and responsibilities of a private company. We certainly, being Government employees, are well aware of the compensation that those executives have.

Mr. DAVIS. So you are saying that you did not make a comparative analysis of other housing agencies that might have some of the same responsibility, although certainly not as much and certainly not of exactly the same type.

Mr. DEMARCO. That is right, I am saying that we did not find that to be comparable to two private companies that were operating in the marketplace with all the legal responsibilities and liabilities of private, complex financial institutions.

Mr. DAVIS. Do you think that the Federal Housing Administration, Ginnie Mae, and other agencies, who seemingly were doing much better, did not take into consideration the same factors and the same market and the overall conditions of the economic climate?

Mr. DEMARCO. I am not sure I followed the question, but certainly Government employees have a completely different set of benefits and, frankly, personal liabilities, or lack thereof, when it comes to their engagement. And I do believe, and I have a great deal of respect for people who come into political positions in Government, they take a huge cut in compensation for the opportunity to be direct players in assisting the country and in guiding policy-making in the country. These are temporary positions that they fill before going back out into the private sector, and I do believe that the leadership of a company that has \$2 trillion worth of obligations needs to have competent people.

Mr. DAVIS. Bottom line, you think that the salaries are necessary and we couldn't do it any other way?

Mr. DEMARCO. I believe that what we have in place, sir, is what is the best to minimize the losses to the taxpayer in terms of the overall situation that we have as long as Fannie and Freddie are in conservatorship, and it is why I said in my written statement, oral remarks, I really wish that we could have the administration and the Congress of the United States get together and come up with legislation that would bring these conservatorships to an end and to build an appropriate housing finance system for the future.

Mr. DAVIS. Thank you very much, Mr. Chairman. I yield back.

Mr. MCHENRY. I thank my colleague.

Mr. Burton for 5 minutes.

Mr. BURTON. First of all, let me just say that the problem started in 1994, when you loosened up—and you weren't here, none of you were here—when we loosened up the underwriting standards. To give loans to people who cannot afford to make the payments is crazy. I was an underwriter for an insurance company for a long time and I know how that system works. You just don't do it. And it is not rocket science. The minute you give a loan to somebody who doesn't have the capability to make the payments, then you have created a mess that is inevitably going to end in disaster, and that is what you inherited.

Now, you, Mr. Williams, was there for 20 years. I don't know how you didn't see part of this, but, nevertheless, the problem was pretty apparent to somebody who has any idea how finances work.

Let me just ask a couple questions. You had an outside entity make a recommendation on compensation and then you, as conservator, Mr. DeMarco, made a recommendation to the board and that was pretty much approved. Is that the way it works?

Mr. DEMARCO. I had responsibility for the final decision, Mr. Burton.

Mr. BURTON. So you made the decision on compensation.

Mr. DEMARCO. Ultimately. This work was well underway before I became acting director, but ultimately, yes.

Mr. BURTON. I know, but you were the one. Well, we have talked a little bit about this before. For legal counsel for public companies—and I heard what you said about the expertise of these guys—the 2010 salary for public companies was averaging about \$266,000 and with a bonus it was about \$104,000, so it was around \$400,000. For a private company the salary was \$204,000 and the bonus was around \$100,000.

Now, under Freddie Mac, Robert Bostrom, the general counsel, got \$2.9 million in 2010 and Timothy Mayopoulos, the general counsel, got \$2.6 million in total compensation in 2010.

I understand that they had the expertise and I understand that they had to have a good staff in order to make sure that the litigation was processed and pursued in a very rapid way, but that just seems very excessive to me. And Mr. Williams and Mr. Haldeman, I am sure, are competent in many ways. I don't have the time nor the inclination to go into their qualifications, but when you look at the salaries and you realize the problems that the country faces, it is just excessive. I don't think anybody that looks at this would disagree with that.

And I am very disappointed. You talk about being very cognizant of the taxpayers' money. I am very disappointed that this kind of pay is being given, with the bonuses and everything, when it is far in excess of the private sector in most cases.

And you inherited a lot of the problem. Don't misunderstand. I understand that. And the underwriting was terrible before, and I don't know how in the world we are going to get out of this quagmire, but the fact of the matter is it is excessive and I think it needs to be corrected. We have to have competent people, we have to make sure we have competent people that can do the job, but I think that when you start giving these salaries out to these people, you have to make absolutely sure you are not being excessive.

Mr. DeMarco, I am sure you are trying to do the job to the best of your ability, but I hope you will try a little bit harder as long as you are the conservator. And if you have recommendations on what Congress can do to help deal with this problem, I sure would like to see it. I would like to see Fannie Mae and Freddie Mac be done away with and go back to the private market, where sound business principles are applied to make sure the qualified people are buying these houses, instead of trying to help everybody out, especially those who can't afford them. You just dig a bigger and bigger hole, and that is why this country is in the mess that it is right now.

Mr. Chairman, I yield back.

Mr. MCHENRY. From former chairman to former chairman, Mr. Towns is recognized for 5 minutes.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Let me begin by saying that I want you to help me be able to determine in terms of how you arrive at these bonuses. I know that, in education, if you are able to lower the dropout rate, teachers are able to improve the reading scores, have great retention in terms of students graduating on time or staying in school, and then based on that the teacher gets a bonus, which I think that makes sense. They have done something outstanding; now they are rewarded.

Tell me how you arrived at the bonuses, Mr. DeMarco.

Mr. DEMARCO. So FHFA, in consultation with the boards of directors of each company, developed corporate scorecards for each company outlining an array of areas of performance regarding minimizing losses to the taxpayer, remediating operational and risk management weaknesses of the company, and ensuring that the businesses operated effectively and efficiently.

So there was an array of items that were put into the corporate scorecard. These are then scored by management at the end of the year, reviewed by internal audits of the companies, then reviewed by the board of directors and finally by my staff in terms of assessing the performance, and that becomes the key input into the determination of these bonuses.

The structure for the employees' compensation, the executive compensation, has the following components: We set a target compensation for each executive that is aligned to be at or below the median of a comparable position in a comparable firm, and from that target compensation a third of it is set aside to be paid in the form of a target incentive opportunity, or what you all would refer to as a bonus, and that gets paid out over a 2-year period after the performance year.

Then the rest is salary. A portion of it is paid during the course of the year; the majority of it is held off as deferred salary to be paid the following year, and that is done for retention purposes. Furthermore, to incentivize performance there, a portion of that deferred salary is itself tied to the corporate performance, allowing for a reduction in the actual amount of deferred salary that is paid if performance doesn't measure up.

As is detailed in my written statement, in each of the years we have done these assessments, we have not awarded full amounts for either the deferred salary or for the target incentive opportunities; we have awarded less than the targeted amounts.

Mr. TOWNS. Let me just say that I notice, in terms of my good friend and colleague, Congressman Burton indicated in terms of what happened in terms of 1994, but I think there is one thing that we are not considering, is the fact that, in many families, one person has lost his or her job, and that has created a lot of problems along the way. And when I walk the streets in my district and I listen to the people that are losing their homes, and then you look at these salaries, one would say, wait a minute, why don't we take these salaries and save a whole block. And this is what you are

hearing from people back in the district that I represent in Brooklyn, New York.

Do you hear people talking about excessive salaries?

Mr. DEMARCO. I do. I get correspondence on this as well. I certainly hear from Members of Congress and so forth, and all I can say, Congressman, is I believe that we are trying to strike a difficult balance between ensuring that these multi-trillion dollar companies have the appropriate expertise running them and that we are keeping these salaries as low as possible, while ensuring that we have capable people and that the people that are there, from the CEOs on down, are focused on helping homeowners. We are very committed to trying to help troubled homeowners and to provide alternatives to them when they get in trouble.

Mr. TOWNS. But if we are not successful, I am not sure that we should—let me just ask one quick one before my time is expired. The IG report concluded that your agency failed to act on foreclosure abuse issues until the middle of 2010, even though there were multiple indicators prior to that time which would have led you to act earlier. Are you familiar with this report?

Mr. DEMARCO. I am.

Mr. TOWNS. Let me ask you about one of the foreclosure firms, the law firm of Steven J. Baums in New York. Over the past week, both Freddie Mac and Fannie Mae instructed servicers not to refer any new foreclosure cases to the firm. Why did Freddie and Fannie just now drop this law firm? Why did it take so long? I just want to find out as to why. Yes, please. Why did it take so long, Mr. Williams?

Mr. WILLIAMS. Congressman, we are constantly looking at our law firms and we find, when they are not performing or, in this case, I concur with your concern about their behavior, we take action as quickly as possible. It is also important for us to prudently move the cases so that we don't incur additional losses to the taxpayer.

Mr. TOWNS. That should be considered in your evaluation as well to determine whether the person gets that extra compensation. Thank you.

Mr. MCHENRY. I thank the former chairman.

Recognize Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman. I would yield back my time to the Chair.

Mr. MCHENRY. Well, thank you. I certainly appreciate the gentleman yielding.

Mr. DeMarco, I know you are familiar with the Office of Inspector General, but to Mr. Williams—because of your service in Government, Mr. DeMarco, I know you are very familiar with that process, but, Mr. Williams, Mr. Haldeman, are you both aware that Federal IGs have the right to request information and assistance from their regulated entities?

Mr. WILLIAMS. Yes, I am.

Mr. HALDEMAN. I am aware as well.

Mr. MCHENRY. Now, it was brought to the committee's attention that employees at the Enterprises have resisted document requests made by the FHFA Office of Inspector General, arguing that these

requests must go through the FHFA. Were you aware of this, Mr. Williams?

Mr. WILLIAMS. Congressman, we are fully cooperating with the IG on all matters and coordinating with FHFA.

Mr. HALDEMAN. It was my understanding that we were cooperating with any requests from the IG and coordinating it with our counterparts at FHFA.

Mr. MCHENRY. Okay. Will you both commit full compliance with all requests of information from the Office of Inspector General? Mr. Williams.

Mr. WILLIAMS. Congressman, we work with the IG cooperatively.

Mr. MCHENRY. Will you commit? It is a question. And I understand you want to give a different answer, but will you commit to providing the documents and information the Office of Inspector General requests of your entity?

Mr. WILLIAMS. We have been, Congressman, and will continue to do so.

Mr. MCHENRY. You will continue to do so. Is that correct?

Mr. WILLIAMS. That is correct.

Mr. MCHENRY. Thank you.

Mr. Haldeman.

Mr. HALDEMAN. Yes. The only caveat I would add is that we do coordinate that activity with our regulator, FHFA.

Mr. MCHENRY. Okay. So, to be clear, to you, Mr. DeMarco, so the oversight, Office of Inspector General, who is to oversee you, they must request from you, in order to request from the entities that you are regulating in order to get information.

Mr. DEMARCO. The IG's responsibility is to oversee the economy and efficiency and effectiveness of FHFA, and that is done to get the effect of some of FHFA's activities, they will request information from the regulated entities, and I believe we have worked out a very efficient process for dealing with that and I believe both companies have been responsive to the IG. But the IG's oversight is of FHFA and FHFA's oversight is of Fannie and Freddie.

Mr. MCHENRY. Right. But in order to get that information, for instance, the TARP oversight, Office of Inspector General requests information of the banks that got money, and they don't have to go to the Treasury in order to ask for that.

Mr. DEMARCO. Right. It is not being—I don't believe it is being passed through.

Mr. MCHENRY. Would you commit to letting the Office of Inspector General directly request of Fannie and Freddie the documents and information that they need?

Mr. DEMARCO. Pursuant to audits and evaluations being undertaken by the IG, certainly.

Mr. MCHENRY. Okay. Thank you.

With that, I would like to yield the balance of the time back to Dr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman, and thank you all for appearing before us today.

The title of our hearing today, as you well know, is Pay for Performance: Should Fannie and Freddie Executives Be Receiving Millions in Bonuses? With the little time we have, I will go to each of you and let you answer that question directly.

Mr. Williams.

Mr. WILLIAMS. Yes, Congressman. Should we be paid for performance? Yes, we should. And are we being evaluated on the performance of the executives? Yes, we are. And we have been given some very complex challenges to deal with in this market.

Mr. DESJARLAIS. Mr. Haldeman.

Mr. HALDEMAN. Yes, we should be paid based on performance. The difficulty is that, in contrast to my years in the private sector, where all the companies were profitable and it was easier to identify performance and tie it to profitability, much more difficult to tie pay to performance in the kind of situation we have at Freddie Mac, where there are so many embedded losses that we are dealing with that continue to come through the financial statements.

Mr. DESJARLAIS. Okay. And again the title Pay for Performance: Should Fannie and Freddie Executives Be Receiving Millions in Bonuses, Mr. DeMarco, let's address the millions in bonuses.

Mr. DEMARCO. I believe they should be being compensated at a market rate that allows FHFA's conservator to ensure that we can attract and retain suitable executives to run these companies.

Mr. DESJARLAIS. Thank you. I will have some more questions. I yield back.

Mr. MCHENRY. The gentleman's time has expired.

Mr. Clay for 5 minutes.

Mr. CLAY. Thank you, Mr. Chairman. Mr. Chairman, the witnesses have testified that part of their compensation is based on how Fannie and Freddie perform, but I have serious questions about some of their so-called achievements. Let me give you an example.

Fannie Mae's 10-K filing states that credit losses were actually lower than expected in 2010. It sounds like good news, however, the reason for these lower credit losses is that many servicers were caught up in the robo-signing scandal and were forced to halt their foreclosures during the fourth quarter of 2010.

Mr. DeMarco, how can you take credit for fewer losses if they resulted from the robo-signing scandal? And that is not a basis for bonus, is it?

Mr. DEMARCO. Congressman, the performance over the last year that was better than FHFA itself had projected in a published report in October 2010 is reflective only in part by delays in foreclosures; in fact, reflects that we have had better performance of underwater mortgages that had been projected, we have had a better performance of loan modifications and other foreclosure alternatives than had been projected. So, in fact, I think it is reflective of the fact that the steps that have been taken at these companies are actually bearing fruit and have resulted in performance that was better than was modeled and publicly reported in projections by FHFA last year.

Mr. CLAY. Okay, let me give you another example. Part of the executive compensation was based on this factor, whether Fannie Mae was able to issue at least 37.5 percent of all new mortgage backed security issuances. According to Fannie Mae, they exceeded this goal. However, as the IG pointed out, the main purchaser was the Government. In a report issued earlier this year, the IG said this, it seems unlikely that Fannie Mae could have commanded

such a large share of the market without the Federal Reserve purchase of its MBS.

Mr. DeMarco, you can't really take credit for meeting this goal if it was due to deliberate support from the Federal Reserve, can you?

Mr. DEMARCO. These were not coordinated actions, Congressman. The Federal Reserve's purchase of mortgage backed securities was designed to affect mortgage interest rates and rates in the marketplace. These are separate things.

Mr. CLAY. Okay, let me ask you about another example. One of the measures for determining performance bonuses for Freddie and Fannie executives was whether they provided more affordability to the housing market. They claim they met this goal, arguing that affordability has improved dramatically. Do you know why? Because housing prices have tanked.

Mr. DeMarco, are you seriously paying million dollar bonuses for achievements in this area?

Mr. DEMARCO. That particular element, sir, is reflective of the companies' responsibility for meeting various affordable housing goals. Without regard to the fact that they are in conservatorship, they remain subject to these kinds of responsibilities, and that is what they were being looked at, to make sure that in conservatorship they weren't stepping back from certain parts of the market, including those that are generally referred to as affordable housing sector in the marketplace. It was designed to make sure that they stayed active in purchasing mortgages in all parts of the marketplace.

Mr. CLAY. Okay, so that was the benchmark, affordability. But are you actually awarding bonuses because housing prices are continuing to plummet?

Mr. DEMARCO. No, sir.

Mr. CLAY. Okay, what is the benchmark, then?

Mr. DEMARCO. The benchmark is the housing goals that are in place and that we report on to the Congress.

Mr. CLAY. You know, I am mystified as to why these so-called achievements should entitle executives to million dollar bonuses, and they either had nothing to do with the actions of Fannie and Freddie or they appear to reward a continuing downward spiral in our housing market. I can't figure out which one it is. Can you help me?

Mr. DEMARCO. Congressman, I appreciate how difficult this is. Clearly, we are all affected by the conditions in the country's housing market and its economy. We are trying, as conservator of Fannie and Freddie, to ensure that those companies remain active in the marketplace so that the country has a functioning secondary mortgage market, to make sure that they are taking all appropriate action to assist borrowers in troubled mortgages, and that the \$5 trillion worth of mortgages that the American taxpayer is now supporting are being overseen and managed by competent professionals that can prudently manage the risk of such an enormous portfolio.

As I have said at the outset and in my written statement, it is not our goal to be keeping this going, and I really would welcome working with the Congress of the United States to get on with the

hard work of having finance reform so that we can bring the conservatorships themselves to an end, which would end this compensation issue and the much larger exposure to the taxpayer.

Mr. MCHENRY. The gentleman's time has expired.

I would encourage you to also work with the President on housing finance reform.

Dr. DesJarlais from Tennessee is recognized for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Mr. Williams, CEO of Fannie Mae, correct?

Mr. WILLIAMS. Correct.

Mr. DESJARLAIS. Okay. Do you think that Fannie Mae is a success, the enterprise is succeeding doing well?

Mr. WILLIAMS. Congressman, we have been given some very challenging goals, as I have articulated. We have needed to stabilize the company, to provide critical support to the marketplace as we have provided our liquidity and funding for both single-family and multi-family, while helping to reduce long-term credit losses and helping—

Mr. DESJARLAIS. Is it meeting your expectations as a CEO?

Mr. WILLIAMS. I think the team has done an extraordinary job under very difficult circumstances, sir.

Mr. DESJARLAIS. Okay.

And, Mr. Haldeman, as far as Freddie Mac, you are the CEO. Do you think it is a success? Are you proud of the company? Do you feel good about where you are going?

Mr. HALDEMAN. I would divide the company into two parts, and this is in part a reference to an earlier question of whether I would invest in Freddie Mac, and that is a relevant issue because I have been an investment person for most of my life. And if I could divide Freddie Mac into two parts, I would definitely invest in the company from 2009 on. I am incredibly proud of the work of our employees from 2009 on. We have a very, very high quality book. Our people are entirely committed to making sure we participate in responsible lending going forward.

Mr. DESJARLAIS. Okay. I mean, as CEOs, that is the answer I had hoped to hear, that you are both proud of your companies and you have high expectations for them. Since entering conservatorship, Fannie Mae and Freddie Mac, or the Enterprises, have taken \$169 billion from the Treasury and still owe taxpayers \$141 billion, so Government ownership of Fannie and Freddie is now the most expensive bailout of the 2008 financial crisis, which sets you on a different level than private sector companies who, if they are profitable, that is good; if they get big bonuses, that is fine; the taxpayers aren't paying for those, so they are not as concerned. But right now the taxpayers are paying for these and they are very concerned, and that is why we are having this hearing.

Mr. DeMarco, getting back to the beginning of the hearing when Chairman Issa was talking about salaries, according to reports, Mr. Williams and Mr. Haldeman made about \$4.7 million and \$5.1 million, respectively, last year, and I think Mr. Williams' base salary was \$900,000 and Mr. Haldeman was similar to that, so obviously big bonuses involved to reach that \$4.7 million and \$5.1 million. And as was mentioned several times, President Obama makes \$400,000, Members of Congress make \$174,000, and I think you

made about \$240,000. Do you think that the work that Mr. Williams and Mr. Haldeman warrants eight times as much pay as the President of the United States?

Mr. DEMARCO. As an economist, sir, I believe that what is perceived as the total compensation value and benefit of various positions goes beyond just the salary that is there, so I don't find it fruitful to measure the compensation of the President of the United States with those of CEOs of major corporations.

Mr. DESJARLAIS. Well, how about Members of Congress? Right now the disapproval rating for Congress is pretty high, and even though I think all of our colleagues here feel that we work very hard, I think people feel we get paid too much, and our deficit is \$14.3 trillion and rising. I think that if Congress felt that they should get a bonus because we are doing a good job right now, we would all be voted out of office, and should be, because clearly the deficit continues. You all owe the taxpayers \$141 billion, so when taxpayers are seeing millions of dollars in bonuses going to the executives, I understand their outrage, and, Mr. Haldeman, you said you understood that too.

So, Mr. DeMarco, as the conservator of Fannie and Freddie, you are nominally the boss of Mr. Williams and Mr. Haldeman. They can't do much without talking to you first. Do you think that their work is 10 times harder or 10 times more complex than yours and maybe Members of Congress? Is their salary difference justified?

Mr. DEMARCO. I don't think anyone is going to agree, including me, that anyone is working 10 times harder than I am right now, Congressman.

Mr. DESJARLAIS. Okay. Well, are they justified, then? I mean, should they be getting—

Mr. DEMARCO. I believe that given the framework that was put in place, they are justified, because the framework was designed in consultation with the Special Master of Treasury, looking at large financial institutions that operate as private companies, not as government agencies, to develop a compensation structure and amount. I believe that what we struck here was an appropriate balance cognizant of what the marketplace looks like.

Mr. DESJARLAIS. Well, again, bonuses should be based on performance, and clearly I think it is dubious that the performance is there to warrant million dollars of bonuses with that type of debt to the American taxpayers. I understand why they are upset. I am upset. But I do thank you all for appearing here.

Mr. DEMARCO. Thank you.

Mr. MCHENRY. Mrs. Maloney from New York is recognized for 5 minutes.

Mrs. MALONEY. Thank you.

I would like to continue on this line and ask about the bizarre situation with bonuses. When things are going well for a company, bonuses are awarded for positive performance. But when things are going poorly, we hear the argument today that bonuses are necessary for recruitment and retention. In other words, it always seems like a good time for an executive bonus.

When you announced, Mr. DeMarco, these new compensation packages in 2009, you issued a press release defending the high salaries, even though Fannie and Freddie were going into con-

servatorship after major losses, and they have continued to lose money. They have been bailed out to the tune of \$169 billion in taxpayers' money and I am told that Fannie has asked for an additional \$7.8 billion and Freddie for an additional \$6 billion.

And the compensation plan that I looked at—I agree with my friend on the other side of the aisle, but the compensation plan here that I have looked at both Fannie and Freddie, and I would like to put it in the record, consists of approximately \$6 million for each executive, and I would like to place that in the record. And your basic argument that you have given to both sides of the aisle today is that it is necessary to attract and retain talent.

So my question is is there ever a wrong time to award lucrative bonuses, Mr. DeMarco?

Mr. DEMARCO. There are, Congresswoman, and we have. When these companies were placed into conservatorship, all bonuses were eliminated at the company. We had a number of senior executives leave the company. There were no severance or golden parachute payments made to them. The folks that were most responsible for the companies ending up in conservatorship left without anything taken. In fact, the collapse of their stock price did much to reduce the value of compensation it earned prior.

The difficulty that we have at FHFA as conservator of Fannie and Freddie is that the country still needs to have a functioning secondary mortgage market. I have two GSEs here that needed Government assistance in order to continue to function in the marketplace. We replaced the leadership of those companies that led to the conservatorship, but now I have to be able to attract people in to run multi-trillion dollar companies knowing that there is going to be this flow of losses from business decisions they had nothing to do with.

Mrs. MALONEY. But let me say that a lot of your comments today sound very much like AIG. And I would like to place AIG's statement in defense of their bonuses in the record. In their statement they said that they had asked their employees who received retention payments or bonuses or stocks, or any type of pay in any form, of \$100,000 or more to return at least half of those payments. And I would like to put AIG's statement in the record, too.

And my question, Mr. DeMarco, did you at least do as much as AIG did? Will you ask executives at Fannie and Freddie to return half of their retention payments, their retention bonuses, their retention payments?

Mr. DEMARCO. I will not, Congresswoman. I believe that would be a breach of faith with the agreement that I have struck with the employees of these two companies. And I believe that trying to take such action at this point would be detrimental to the taxpayers' interest. I know how difficult this is and how frustrating it is, but I believe that to take such actions would not help the American taxpayer at this point and it would not help the country's housing market.

Mrs. MALONEY. Earlier, you spoke rather movingly about public service, about people who take a job to give back to the community, to help their country, and Fannie and Freddie are no longer answering to shareholders; they are answering to taxpayers. They are not only answering to taxpayers for their salary and the bonuses,

which I believe they don't deserve, but they are answering to the taxpayer for the continued bailout that continues for these two entities. So you are in a very different structure now, and I would say you should look for employees who want to give back to their country with their talent.

In fact, yesterday, as the chairman knows, we had a bill pass out of Financial Services that will treat AIG like every other Government agency and be on the pay scale of every other Government agency, and will not include bonuses. So Congress is acting to move in a way that is more appropriate for an agency that continues to be bailed out, is no longer answering to shareholders, but answering to the American taxpayer, and the American taxpayer, 14 million of them, are without jobs and struggling. It is hard for them to understand how executives get \$6 million in pay for a failing entity. Surely there are talented people that can handle these jobs and do it in a way and a pay scale appropriate with Government agencies.

I yield back. My time has expired. I have a lot more to say, but my time has expired.

Mr. MCHENRY. I thank my colleague.

Mr. DeMarco, I just want to take a moment. We are approaching the noon hour. We have a few more Members that want to ask questions, but I just want to take a moment of personal privilege and say thank you for serving as a human shield this morning. I know it has been tough, but we certainly thank you for your service.

With that, Mr. Gowdy, the subcommittee chairman, Mr. Gowdy, is recognized for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman.

Mr. Haldeman, why did the Enterprise enter a conservatorship?

Mr. HALDEMAN. The Enterprise entered a conservatorship in September 2008 because of the severe economic stress our company was under and, in the words of Secretary Paulson, felt a timeout was necessary.

Mr. GOWDY. Well, do you agree with Mr. DeMarco? Because in his testimony he said it was a series of poor business decisions that led to the conservatorship. Do you agree with that or disagree with that?

Mr. HALDEMAN. In my tenure at Freddie Mac, I have tried very hard to—

Mr. GOWDY. I am not asking about that. I am asking about decisions that led up to the entering of a conservatorship. It is a very simple question. Were there poor business decisions that led to that? The answer is obviously yes. I mean, we can have this exercise as long as you want to have it, but the answer has to be yes, right? Or else there wouldn't have been a conservatorship.

Mr. HALDEMAN. It is difficult for me to say that because I don't want to second-guess my predecessors.

Mr. GOWDY. Well, we are paying you a handsome salary because you are supposed to be an expert in the field. And you are not going to second-guess your predecessors?

Mr. HALDEMAN. Because it is very difficult to say what one would have done at that point in time given those circumstances and pressures that they were under.

Mr. GOWDY. So you can't think of a single poor business decision that was made prior to 2008?

Mr. HALDEMAN. I can talk about some decisions that were made that I hope I would do differently, but I would prefer not to characterize them as poor business decisions.

Mr. GOWDY. Well, Mr. DeMarco, it is your language, poor business decisions. What specifically did you mean by poor business decisions by his predecessors? He is obviously reluctant to go into that; hopefully you will not be as reluctant.

Mr. DEMARCO. Mr. Gowdy, both Fannie Mae and Freddie Mac reduced their underwriting standards, allowed much greater risk in terms of the mortgages they purchased, they reduced the guaranty fees, the insurance that they were charging for this, and they made investment in private label mortgage backed securities that while at the time were all rated by private credit rating agencies as AAA rated securities, clearly we have seen that there was substantial risk in those instruments. So these are business decisions made. The executives of those companies at the time can make these decisions—

Mr. GOWDY. During what time?

Mr. DEMARCO. This is largely occurring in the period from 2005 to the first half of 2008.

Mr. GOWDY. Who is Daniel Mudd?

Mr. DEMARCO. He was the CEO of Fannie Mae during this period.

Mr. GOWDY. What was his total compensation?

Mr. DEMARCO. I don't know off the top of my head, sir.

Mr. GOWDY. So you wouldn't disagree if it were \$12 million.

Mr. DEMARCO. That could be right.

Mr. GOWDY. How about Richard Syron?

Mr. DEMARCO. He was the CEO of Freddie Mac.

Mr. GOWDY. During what time period?

Mr. DEMARCO. I am not sure, but it ended at the time of conservatorship.

Mr. GOWDY. Exactly, 2003 to 2008. Now, what was his total compensation for that time?

Mr. DEMARCO. Again, I am sorry, sir, I don't know that.

Mr. GOWDY. Would you disagree with me if I told you it was more than \$38 million?

Mr. DEMARCO. I could believe that.

Mr. GOWDY. All right. So surely you can understand the frustration of taxpayers who were paying bonuses while the bus is driven through the gates of hell. And then you want us to pay bonuses while the people change the tires.

Mr. DEMARCO. I can certainly understand the frustration. This committee doesn't know me very well, but I have been a career civil servant my entire life and most of that career service has been in policy positions in which I have tried to advise policymakers, including numerous congresses, of the risks to the taxpayer in the Fannie Mae and Freddie Mac model.

It gives me no satisfaction or pleasure to be sitting here at conservator of these companies at this point, seeing the devastation to the American taxpayer that has resulted. When I spent the better part of my career trying to warn policymakers of the risks that

were inherent in the structure that was in place pre-conservatorship, and that is why I would like to end this hearing with the same plea that I began at the beginning. FHFA is ready to work with the Congress and the administration to bring these conservatorships to an end and to build a more robust, sound housing finance—

Mr. GOWDY. Well, I want to ask you about that. Who is James Johnson?

Mr. DEMARCO. James Johnson was the CEO of Fannie Mae prior to Dan Mudd, back in the 1990's.

Mr. GOWDY. And what was his total compensation during that time period?

Mr. DEMARCO. It was substantial, sir.

Mr. GOWDY. One hundred million dollars. Now, he had a good working relationship with Congress, right?

Mr. DEMARCO. Yes, he did.

Mr. GOWDY. Okay. Now, Franklin Raines, what was his total compensation?

Mr. DEMARCO. I don't know, sir.

Mr. GOWDY. Would you disagree if it were more than \$90 million?

Mr. DEMARCO. I would agree with that.

Mr. GOWDY. And he had a good working relationship with Congress. So sitting here simply saying that we need a better working relationship with Congress, one could argue that is what got us into this abyss.

Mr. DEMARCO. I am sorry, I don't recall saying having a better working relationship with Congress. I thought I said—

Mr. GOWDY. I have heard you mention the word Congress a half dozen times.

Mr. Chairman, if I could have 30 more seconds.

The graveyard is full of people who are waiting on Federal judgeships that never came, and I have heard the argument time and time again that we have to raise compensation levels for Federal judges so we can attract the right kind of people. And, yet, every time there is an opening there are 100 folks that are vying for it. They will take a tremendous cut in pay. I find it literally ironic that the total compensation for the U.S. Supreme Court justices is less than either of these two men made.

Thank you, Mr. Chairman.

Mr. MCHENRY. Mr. Connolly for 5 minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman.

And thank you to our witnesses for being here today. I know you would like to do nothing better than be here today before this committee.

Mr. DeMarco, if I understood your testimony, you make the argument that putting aside histrionics, putting aside public opinion, even putting aside the opinion here in the Congress, the problem, the challenge you face is that a substantial number of the mortgages of the United States are tied up in these two organizations and you have to find competent, highly qualified, skilled managers willing to manage a Freddie Mac and Fannie Mae and, therefore, you have to give a nod toward sort of what the marketplace offers

in terms of skilled managerial leadership and thus the compensation we are looking at.

Mr. DEMARCO. That is correct, Congressman.

Mr. CONNOLLY. Would you agree, though, that given the fact that these are GSEs, given the fact that the taxpayer has invested very heavily now directly in trying to straighten the ship of state for both Freddie and Fannie, that transparency rules might be a little different for these two organizations than for a private commercial entity on Wall Street?

Mr. DEMARCO. I think that there can be allowance for greater transparency, yes, sir.

Mr. CONNOLLY. Well, allowance for. As a public servant, as a fellow public servant, what, in your view, where is that line? I mean, presumably, that line is different than a private entity, a purely private entity on Wall Street. So what do we as policymakers here on the Hill and what, more importantly, does the public have a right to expect by way of transparency in compensation packages and policy?

Mr. DEMARCO. I believe these companies are continuing to operate as private companies, as SEC registrants, and the public is certainly entitled to have the same disclosures of the compensation of the executives of other firms, and that is done. Furthermore, we have detailed, the FHFA has detailed the executive compensation program and structure that is in place for these companies. But we go beyond that with respect to disclosure and we provide numerous reports to the Congress on the conservatorship operations both in terms of detailing the sources of losses that have led to these taxpayer draws and detailing the activities that are underway at both companies to assist homeowners.

Mr. CONNOLLY. Mr. DeMarco, you are familiar with the Inspector General report that was actually critical with the compensation system: "FHFA has neither developed written procedures to evaluate the Enterprises' recommended compensation," the Enterprises referring to Fannie and Freddie, "each year, nor required agency staff to verify and test the means by which the Enterprises calculate their recommended compensation levels."

Do you disagree with that finding?

Mr. DEMARCO. I am familiar with the finding and I can explain it. Yes, sir, I am familiar with it and we have agreed to take their recommended remediation that the IG had in its report.

Mr. CONNOLLY. So you are going to have written procedures.

Mr. DEMARCO. We will have written procedures.

Mr. CONNOLLY. When might we see such written procedures?

Mr. DEMARCO. I have assured the Inspector General we will have those in place by the end of this year, in time for the review of the coming year's performance.

Mr. CONNOLLY. Given the ostensible inadequacies identified by the IG, why wouldn't we have a little bit less confidence that the compensation programs, bonuses and other compensation, given the lack of transparency, lack of clear criteria and policies, lack of written policy, why should we have faith that that is just the ticket, that is what we need to make sure we are getting the right people to manage Fannie and Freddie?

Mr. DEMARCO. It is a fair question, Congressman, but the companies themselves have disclosed the scorecards and the ratings on them. What the IG was referring to is, within FHFA, the FHFA internal review process of these scorecards did not have written procedures as to how that should be done. The IG did not say we didn't have a process, it said we did not have one documented. And he is quite right about that and I believe that that is a proper control system, and we have agreed to put that in place.

With regard to the calculations themselves, this is the IG saying that well you have delegated to the companies to undertake normal day-to-day operations, including calculating pay, but we think with regard to these executives, you ought to send an FHFA examiner in there to re-check the calculations that have been done to determine the pay. We have agreed to do that.

Mr. CONNOLLY. One final question, Mr. Chairman.

This committee, Mr. Cummings specifically, on behalf of the minority, at least, requested copies of compensation agreements from your office. We received recently heavily redacted copies of documents. Is it your position that this committee is not entitled to see the actual unredacted compensation agreements involved with Fannie and Freddie?

Mr. DEMARCO. Sir, this has to do with distinguishing people who are named executive officers and those that are not, and it is trying to respect the privacy rights of those people. But we have provided the committee, I believe, with a great deal of information detailing the individual executives at the company and the compensation that is being paid.

Chairman ISSA [presiding]. Would the gentleman yield?

Mr. CONNOLLY. Of course, Mr. Chairman.

Chairman ISSA. Mr. DeMarco, the majority feels that you have been generally forthcoming, but we would ask would you be willing to provide all compensation packages that include bonuses with the names redacted, however, with, if you will, numbers that could be referenced when we are going through the skill set? So that the gentleman, although you are very right, we don't need to know the names of every individual, we want that respected, we would appreciate it if we could go to compensation levels far below our normal 10-K level, and I think that is what the gentleman would like to see.

Mr. CONNOLLY. Quite correct.

Mr. DEMARCO. We will provide that.

Chairman ISSA. Thank you.

Mr. CONNOLLY. I thank the Chair.

Chairman ISSA. You are very welcome.

We now recognize the gentlelady from New York, Ms. Buerkle, for 5 minutes.

Ms. BUERKLE. Thank you, Mr. Chairman.

And thank you to our panelists, in particular Mr. DeMarco, for being here and for lasting this long. I just have a few questions, mostly follow-up to some of the testimony that I have heard this morning.

You mentioned in your testimony, Mr. DeMarco, and my colleague, who has since left, from New York, talked about the need

to retain or the need to attract quality employees, so that was the justification for these incredible salaries and bonuses.

But then you talked about in many instances salaries, what we pay people, is almost irrelevant; maybe they have a passion for it, maybe they have an interest in it, maybe they are just interested in doing the greater good. So which is it? I mean, which one do you think should be the motivation here for these salaries?

Mr. DEMARCO. I believe those motivations are personal, and I think that I am looking at in terms of overseeing two companies with 12,000 people is I have to be concerned about that most of those people are concerned about what their compensation is.

But one other difference here that I think makes this sort of not just a clean this or that is that to work at Fannie Mae or Freddie Mac today leaves the employees, whether they are an executive or they are a secretary, with the fundamental risk of I don't know how long this company is going to be around and I don't know what I am working for long-term. And I think that that is also a very tricky thing for us as conservators, tricky for the two CEOs in trying to encourage people to stay engaged at their companies.

Ms. BUERKLE. Well, I would agree with that except for Fannie and Freddie have the ability and now we are talking about third quarter losses. They have now gone back to the Treasury and made huge requests for additional money. But anyway, I guess my thought is maybe we need to reconsider if it is performance. These third quarter losses should be a concern to everyone, and in particular the American taxpayer.

Mr. DEMARCO. Congresswoman, I certainly agree with that. If I may, I would say that, and this is in my written statement, that we are, for the next year, certainly looking again at the corporate scorecards and we are looking at the condition of the company, as well as the gradual shrinkage taking place at the company, and we are trying to reduce compensation. Every time a position comes open, we are making serious effort to be filling it at a lower compensation.

Ms. BUERKLE. Okay. Speaking of the corporate scorecard, you mentioned earlier you assess performance. What do you base that corporate scorecard on? Is that based on the HAMP program?

Mr. DEMARCO. That is only one component. And HAMP is reflective of the loan modifications generally, which is the critical loss mitigation activity taking place at Fannie and Freddie for the benefit of not just helping homeowners that are troubled in their mortgages, but also to the huge losses to the taxpayer on troubled mortgages. That is an important element to be assessed.

Ms. BUERKLE. I am sure, though, you are aware of the issues with HAMP, the HAMP program, that it is a failed program, and maybe that isn't what we should be basing the standard on what the Inspector General has brought out about that HAMP program.

Mr. DEMARCO. Yes, Congresswoman. I am aware that there is a lot of concern and criticism of the HAMP program, and certainly the number of HAMP modifications is not what the administration projected it initially would be.

But I would point out that Fannie Mae and Freddie Mac have not just undertaken HAMP modifications, but in fact they are going much further, and we have been collectively working on a ray

of loan modification opportunities for homeowners that go well beyond HAMP, which is why it has been reported HAMP has done whatever it is, 800,000 loan modifications. Fannie and Freddie alone have done just under 1 million permanent loan modifications, and the performance of those modifications has been quite good and it has led to a reduction in taxpayer losses. So we are trying to go beyond HAMP, go beyond the limits of HAMP, to offer homeowners a good opportunity respective of the taxpayer.

Ms. BUERKLE. And I would respectfully request that you provide—there must be a standard, compilations of all of these standards that you are using, and if you could submit that to the committee, I would appreciate that.

Mr. DEMARCO. Certainly, Congresswoman, we would be glad to do that.

Ms. BUERKLE. Now, in my few seconds that are left, many would argue that the housing market was the primary reason that there was such a financial crisis in 2008. So in response to that, the knee-jerk reaction was to pass Dodd-Frank, which we are hearing from our financial institutions, the community banks, banks in general what a difficult and onerous and regulatory, unreasonable bill this is.

And yet Fannie and Freddie are not included or covered by Dodd-Frank. Probably one of the biggest reasons that this whole crisis occurred was the housing market. Can anyone on the panel explain that to me? Why were Fannie and Freddie left out of the Dodd-Frank bill?

Mr. DEMARCO. I can't explain it, but I certainly, as conservator, point to some argument during the development and debate regarding Dodd-Frank. I believe the administration and the leadership that was pushing the Dodd-Frank legislation through felt like the housing market was too unstable and that they wanted a different vehicle to focus on housing finance. I say that not to be for it or agin it, just to say that there were certainly plenty in Congress that wanted to see Fannie and Freddie be part of the legislation. That is now how the legislative process worked out.

Ms. BUERKLE. Thank you very much, Mr. DeMarco.

I yield back, Mr. Chairman.

Chairman ISSA. I thank the gentlelady.

We now recognize the gentlelady from the District of Columbia, Ms. Holmes Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. I certainly appreciate this hearing.

Mr. DeMarco, in my own profession, that is to say, the profession before I came to the Congress, already had a bad name, I was a lawyer. And I must say I think that Fannie and Freddie have given home ownership a bad name. That is why I am interested in your oversight of your own lawyers.

I was particularly struck by the law firm, currently a major law firm, the Baum law firm, which a New York district court judge—and this is really unusual for a judge to—it may even be a call for someone to go before the ethics committee of the bar—talked about finding falsities contained in 5 paragraphs out of only 10 in an entire petition that the Baum firm had submitted. This was a foreclosure case. The case was *Federal Home Loan Mortgage Corpora-*

tion v. Raya. And the judge went on to say that the misrepresentation “of the material statement was outrageous and the firm has imputed the proper administration of justice.”

What struck me is that the judge said this was not the first time that the Baum firm had been unethical. How could a law firm operate on behalf of Fannie and Freddie after being sanctioned like that if this was not the first time?

Mr. DEMARCO. Congresswoman, forgive me, I am not familiar with the particular case that you are citing. I can report to you that both Fannie Mae and Freddie Mac have ceased doing new business with this particular law firm. When issues regarding it certainly came to our collective attention, each—

Ms. NORTON. Why was this law firm kept on after being sanctioned? Is this firm considered such an outstanding firm for Fannie and Freddie that you had to have its services?

Mr. DEMARCO. I can't speak to the timing here, Ms. Norton. I do know that when this information regarding the firm came to our attention—

Ms. NORTON. Are you following the conduct of the firms that you have—

Mr. DEMARCO. We have gone further than that, Congresswoman. FHFA just very recently directed Fannie Mae and Freddie Mac to begin the wind-down of their retained attorney networks, their list of law firms around the country that are used to process foreclosures. So this whole approach to doing business this way, and the direct engagement between Fannie Mae and Freddie Mac and individual law firms is on a path to cease. We are stopping this entire—

Ms. NORTON. That is good news. We understand that you have said that firms would now have to meet “certain minimum uniform criteria.” What are those criteria?

Mr. DEMARCO. Those are in the process of being developed.

Ms. NORTON. Well, could I ask that you submit to the chairman and the ranking member a draft of those criteria when they are completed? When will they be completed?

Mr. DEMARCO. I know that the work is actively going on. I can't tell you exactly, but I think over the next couple months we are looking to have this wrapped up. We are working not just with Fannie and Freddie on this, but we are working with the primary Federal banking agencies because the banking agencies, as you know, have been involved in oversight of what the banks, as mortgage servicers, have been doing in this area, and the law firm actually works for the mortgage servicers.

So we are trying to get alignment between the standards that we believe are appropriate here, get the bank regulators aligned with us on that so that there is uniformity in the mortgage market with regard to the performance expectations and standards for which we are going to hold law firms accountable. So this work is actively underway and what we are hoping for here is, rather than a disparate set of standards, that we can come to one set of standards in which there is going to be better accountability for law firms that are going foreclosure processing.

Ms. NORTON. The last thing that Freddie and Fannie need are law firms to drive them into further trouble than the American people already hold them accountable for. Thank you very much.

Chairman ISSA. Would the gentlelady yield?

Ms. NORTON. I would be glad to yield.

Chairman ISSA. I just want to understand. General counsels that you pay effectively over \$1,000 an hour, \$2.6 million and \$2.9 million, respectively, they are working to try to figure out how to manage outside law firms, but that is why we had to pay, instead of \$300,000 or \$400,000 for general counsel, we had to pay nearly \$3 million, right, so that they would not know better than this, but after the fact they would begin working on standards to do better?

Mr. DEMARCO. They had standards. They had standards written into the contract; they were not identical. And certainly with the foreclosure abuses that have been identified and the problems that just as few firms have done to tarnish an entire industry, we believe that we are taking appropriate action to try to remediate that.

And that as a matter of simplifying Fannie Mae and Freddie Mac and as part of the sort of gradual stepping back of the size and complexity of those companies, it was my judgment that the appropriate step to take was to not have Fannie and Freddie continue to maintain this separate relationship with individual law firms, but that that was better done and would get better execution on mortgage servicing if it was done all through the existing mortgage servicer.

Chairman ISSA. Well, I thank the gentlelady for yielding and I certainly share with you the concern that maybe they have reached a better conclusion, but it is interesting that it was Government officials who interceded, people who make less than a quarter of a million dollars a year because of the failure of multiple nearly \$3 million a year general counsels in this so-called private sector. I thank the lady for bringing this up.

Ms. NORTON. Mr. Chairman, and the draft that the gentleman has said would be submitted to you and the ranking member seems to me is important.

Chairman ISSA. We look forward to seeing it expeditiously.

We now recognize the chairman of the subcommittee, Patrick McHenry, the gentleman from Hickory, North Carolina.

Mr. MCHENRY. I thank the chairman.

Mr. DeMarco, has FHFA ever rejected a compensation package presented to you?

Mr. DEMARCO. Yes, we have had proposals made that we have said, no, that is not acceptable, let's go back and redo it.

Mr. MCHENRY. Would you be willing to submit that for the record once you can gather the documents?

Mr. DEMARCO. I will try to find something appropriate to submit for the record here, Congressman. These are done as proposals that are made from the board, and I look at them and I make determinations based upon the comparables and—

Mr. MCHENRY. I understand. I understand. So I would ask you, Mr. DeMarco, has the White House ever been in contact with you about compensation issues?

Mr. DEMARCO. We, under the senior preferred stock purchase agreement that provides the Treasury support to Fannie and

Freddie, part of that agreement is written into it that the FHFA shall consult with the Treasury Department on executive compensation. So this is done as a consultation. With every executive compensation package that I have to approve, it is sent to the Treasury Department for their review. We request a consultation with the Treasury on this. This area was obviously most active in 2009, when we were working with Ken Feinberg, who was the Special Master for Executive Compensation.

Mr. MCHENRY. Has the White House ever reached out to you?

Mr. DEMARCO. I have not had any conversation with the White House regarding executive compensation.

Mr. MCHENRY. Okay.

Mr. Haldeman, has the White House contacted you regarding executive compensation, your firm?

Mr. HALDEMAN. They have not contacted me in any way.

Mr. MCHENRY. Thank you. Has the Treasury?

Mr. HALDEMAN. No.

Mr. MCHENRY. Okay.

Mr. Williams, has the White House ever contacted you regarding executive compensation at your firm?

Mr. WILLIAMS. No, they have not, Congressman.

Mr. MCHENRY. Has the Treasury?

Mr. WILLIAMS. No, they have not.

Mr. MCHENRY. Okay.

Now, okay, this is interesting because there has been a hew and cry from the President in particular about executive compensation and it is somewhat strange to me that, in an area where he could exert influence, he has chosen not to.

Additionally, Mr. Williams, Mr. Haldeman, it has been mentioned in the press that part of your bonus compensation is tied to your relationship with the HAMP program, the Home Affordable Mortgage Program that the administration has put on, mortgage modifications. But it has been reported in Politico that 35 percent of your compensation is tied to what you connect and actually get modified through the HAMP program. Is that correct?

Mr. WILLIAMS. Congressman, we look at an array of goals under our total loss mitigation efforts, so we not only look at HAMP modifications, but also our own modifications, as well as short sales, deeds in lieu, and activities around our REO, including activities we have done to open up mortgage help centers in many districts and provide counseling to neighbors. So HAMP is one of many metrics that fit into the overall—

Mr. MCHENRY. But that is not—is that an individual metric or is mortgage modifications one of your metrics and HAMP is within that?

Mr. WILLIAMS. HAMP is one goal within a series of metrics that we are looking at.

Mr. MCHENRY. And what percentage of your bonus structure is tied to that?

Mr. WILLIAMS. Congressman, the board looks at the totality of our—

Mr. MCHENRY. I understand the board actually laid out these metrics for how you would be compensated. Beyond your normal

day-to-day compensation, if you hit these metrics, they would reward you financially. I understand the board created this.

Mr. WILLIAMS. Right.

Mr. MCHENRY. But you are aware of what those goals are, are you not?

Mr. WILLIAMS. Correct.

Mr. MCHENRY. Okay. So what percentage of your bonus compensation deals with mortgage modifications?

Mr. WILLIAMS. Congressman, that is what I was trying to say. The board evaluates my performance based on the totality of the scorecard. Our efforts in credit loss mitigation are an important component of that; they look at the totality of the scorecard.

Mr. MCHENRY. Mr. Chairman, I ask unanimous consent for an additional minute.

Chairman ISSA. Without objection.

Mr. MCHENRY. Thank you.

You are not answering my question, Mr. Williams. What percentage of your compensation is tied to mortgage modifications?

Mr. WILLIAMS. Congressman, I am answering your question. Our compensation, my compensation is tied to our performance against all the goals and objectives, and we are evaluated based—and I am evaluated based on how the company does against each of those metrics. The board doesn't assign a specific weighting to each individual metric.

Mr. MCHENRY. So it is more of a feeling, right? I mean, if you are laying out this metric, in your 2009 to 2010 10-K, goal number one is your performance to help in the housing recovery, including mortgage modifications. Goal number two, interestingly enough, is to protect taxpayers. This is your 10-K. Goal number three was to measure, manage, and reduce enterprise risk more effectively. Interesting order of how this is to be done with the intent that you repay the taxpayers.

So there is no weighting to this? So if you had zero mortgage modification, but you were able to save the taxpayers a few more dollars, you could get the same bonus that you currently get?

Mr. WILLIAMS. If I had not performed on all the goals, then I would be held accountable for that, Congressman.

Chairman ISSA. The Chair would like to inform the gentleman we are going to have a second round.

Mr. MCHENRY. Fantastic. This is very important and I ask unanimous consent to submit for the record the August 31st Politico article Fannie, Freddie Dole Out Big Bonuses.

Chairman ISSA. Without objection, so ordered.

Mr. MCHENRY. Thank you.

[The information referred to follows:]

POLITICO

Fannie, Freddie dole out big bonuses

By Josh Boak and Joseph Williams
October 31, 2011 11:32 PM EST

The Obama administration's efforts to fix the housing crisis may have fallen well short of helping millions of distressed mortgage holders, but they have led to seven-figure paydays for some top executives at troubled mortgage giants Fannie Mae and Freddie Mac.

The Federal Housing Finance Agency, the government regulator for Fannie and Freddie, approved \$12.79 million in bonus pay after 10 executives from the two government-sponsored corporations last year met modest performance targets tied to modifying mortgages in jeopardy of foreclosure.

The executives got the bonuses about two years after the federally backed mortgage giants received nearly \$170 billion in taxpayer bailouts — and despite pledges by FHFA, the office tasked with keeping them solvent, that it would adjust the level of CEO-level pay after critics slammed huge compensation packages paid out to former Fannie Mae CEO Franklin Raines and others.

Securities and Exchange Commission documents show that Ed Haldeman, who announced last week that he is stepping down as Freddie Mac's CEO, received a base salary of \$900,000 last year yet took home an additional \$2.3 million in bonus pay. Records show other Fannie and Freddie executives got similar Wall Street-style compensation packages; Fannie Mae CEO Michael Williams, for example, got \$2.37 million in performance bonuses.

Including Haldeman, the top five officers at Freddie banked a combined \$6.46 million in performance pay alone last year, though a second bonus installment for 2010 has yet to be reported to the SEC, according to agency records. Williams and others at Fannie pocketed \$6.33 million in incentives for what SEC records describe as meeting the primary goal of providing "liquidity, stability and affordability" to the national market.

"Freddie Mac has done a considerable amount on behalf of the American taxpayers to support the housing finance market since entering into conservatorship," Freddie spokesman Michael Cosgrove, told POLITICO on Monday. "We're providing mortgage funding and continuous liquidity to the market. Together with Fannie Mae, we've funded the large majority of the nation's residential loans. We're insisting on responsible lending."

A Fannie Mae spokesman said it is currently in a "quiet period" in advance of its third-quarter earnings report and declined to comment.

Most analysts believe the financial implosion of 2008 was fueled in part by Fannie Mae and Freddie Mac's zeal in promoting homeownership and their backing of risky loans. And critics say that the mortgage giants' deep backlog of repossessed homes, and their struggle through government conservatorship, is a staggering weight on a weak economy and puts even more downward pressure on home values.

"Fannie and Freddie executives are being paid millions to manage losses," Rep. Patrick McHenry (R-N.C.), a longtime critic of the administration's programs to rescue the housing market, told POLITICO. "By these same standards, I should be the starting forward for the Lakers. It's completely absurd."

"It is outrageous that senior executives at Fannie and Freddie are receiving multimillion-dollar compensation packages when they now rely on funding from U.S. taxpayers, many of whom face foreclosure or whose homes are underwater," Rep. Elijah Cummings of Maryland, who has led House Democrats in efforts to ease Fannie and Freddie's restrictions on restructuring loans or lowering payments for mortgage holders who owe more than their homes are worth, wrote in an email.

Compensation at Fannie and Freddie is, in fact, 40 percent below pre-government takeover levels, according to the FHFA, though those pay packages before conservatorship involved stock awards, while the current payments are exclusively cash. But compensation at both corporations, in particular Fannie Mae, has been a contentious issue since long before the 2008 financial meltdown, thanks to executives like Daniel Mudd, who earned \$12.2 million in base pay and bonuses while heading Fannie, and Richard Syron, Freddie's CEO, who pocketed \$19.8 million in total compensation the year before the organization went into conservatorship.

Both Fannie and Freddie have long argued that they have to offer Wall Street-size paychecks to compete for the best private-sector talent. House Financial Services Committee Chairman Spencer Bachus (R-Ala.) introduced a bill in April to place the executives on a government pay scale, but it has yet to move out of committee.

FHFA's acting director, Edward J. DeMarco, told Congress last year that the managers who were at the helms of the mortgage companies during the market collapse were dismissed but also argued that generous pay helps lure "experienced, qualified" executives able to manage upward of \$5 trillion in mortgage holdings amid market turmoil.

DeMarco told lawmakers he's concerned that suggestions to apply "a federal pay system to nonfederal employees" could put the companies in jeopardy of mismanagement and result in another taxpayer bailout. He said the compensation packages at Fannie and Freddie are part of the plan to return them to solvency while reducing costs to taxpayers.

A March report by FHFA's inspector general, however, found the agency "lacks key controls necessary to monitor" executive compensation, nor has it developed written procedures for evaluating those packages.

An FHFA representative said the agency is installing pay package recommendations outlined in the report. Currently, she wrote, the agency "carefully reviews all executive officer pay requests and considers suitability and comparability with market practice, after consulting with the Treasury Department in certain circumstances."

Since both companies' stock is worthless, bonuses are paid in cash, deferred bonuses and incentive pay rather than stock options. A key factor in determining those bonuses is how Fannie and Freddie performed in the loan modification program created by the administration, in addition to measures tied to financial and accounting objectives.

For example, Freddie Mac helped a mere 160,000 homeowners change their mortgages "in support" of the president's Home Affordable Modification Program and contacted only 45 percent of eligible borrowers, according to SEC filings. The company itself has modified 134,282 of its own loans since the start of the program. Those measures determined a significant share — 35 percent — of deferred bonus salary and, to a lesser extent, "target incentives" for Freddie executives.

Fannie, which was involved in modifying 400,000 mortgages last year, also assessed executive payments based in part on how it administered HAMP.

President Barack Obama in the past has derided Wall Street "fat cats" for raking in seven-figure bonuses even though their banks and finance companies needed billions of dollars in government bailouts just to stay in business. Yet the White House so far has remained largely silent about comparable bonuses at Fannie Mae and Freddie Mac.

The congressional criticism over compensation follows other charges that DeMarco has been unwilling to throw a lifeline to homeowners plunged underwater when the market collapsed.

The government-sponsored firms have essentially filled the vacuum caused by an exodus from private lenders. But critics want the FHFA to embrace "principal write-downs," in which lenders and, by extension, Fannie and Freddie, would have to forgive a significant portion of homeowners' outstanding mortgages; the move, they argue, would be a major step toward restoring housing market stability and boosting the economy but would force the two companies to accept red ink on their balance sheets.

DeMarco has resisted plans to modify troubled mortgages, insisting it wasn't part of his legal mandate to bring Fannie and Freddie to fiscal stability.

Both HAMP and a similar program, Home Affordable Refinance Program, were seen as having the potential to modify at least 3 million government-backed mortgages and refinance 4 million others. The results were disappointing, however: Just 1.7 million borrowers have been helped since the programs were launched two years ago.

Last week, the White House announced a plan to relax restrictions for the HARP refinance program, which lets homeowners in good standing refinance their mortgages at current rock-bottom interest rates. DeMarco, whom aides say had been studying a similar proposal, gave the plan his blessing — a rare point of agreement between him and the Obama administration.

CORRECTION: An earlier version of this story incorrectly described the process by which the federal government took over Fannie Mae and Freddie Mac. They were both placed in conservatorship under the supervision of the Federal Housing Finance Agency.

Chairman ISSA. We now will start our second round.

Oh, I am sorry. Jackie, I am getting new glasses, I promise. Before I recognize the gentlelady from California, it is the intent of the Chair to finish including a second round by 1 sharp. So if Members start showing up here, I assure you I will attempt to reach them all, but I will not keep you past 1. You have been very patient.

We now recognize the gentlelady, my friend from California, way far down there, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

Thank you, witnesses, for appearing here today. We have been talking about accountability and it is my understanding that Mr. DeMarco makes determinations on the salaries of the CEO of Fannie and Freddie based on performance. Would you agree with that, Mr DeMarco?

Mr. DEMARCO. Yes.

Ms. SPEIER. All right.

Let me ask you, Mr. Williams, at a Senate hearing yesterday it was disclosed that Fannie failed to contact nearly 60 percent of all borrowers for loan modifications. How would you score, how would you grade your performance on that?

Mr. WILLIAMS. Congresswoman, I am not specifically familiar with the fact, but what I will tell you is that we manage our servicers and our servicers are held responsible for reaching out to the borrowers. We have undertaken a number of efforts to ensure that our servicers are held accountable. We have increased our incentives—

Ms. SPEIER. All right, Mr. Williams, 60 percent is not accountable. So what I am asking you to do, and through the Chair, is go back and determine whether or not it is accurate to say that 60 percent of your borrowers have not been contacted for loan modifications.

Mr. Haldeeman, it was disclosed yesterday at the Senate hearing that 80 percent of your borrowers, not 60 percent, but 80 percent of your borrowers were not contacted for loan modifications. Are you familiar with that?

Mr. HALDEMAN. What period of time was that statistic?

Ms. SPEIER. I don't think it matters. I think the fact that 80 percent of the borrowers have not been notified is an F.

Mr. HALDEMAN. For any period of time. The reason for me inquiring about time period was to see how far in the past that was and whether we are making progress in terms of more right party contact over time. I believe we are.

Ms. SPEIER. I think it is within this year.

Mr. HALDEMAN. Then I would—

Mr. DEMARCO. Congresswoman, I am sorry, I am not personally familiar with what was reported in the Senate yesterday, but I would find these numbers a bit hard to believe.

Ms. SPEIER. Okay. Would you, upon reviewing that, provide this information to the committee so that we can assess your performance based on that kind of information?

Mr. HALDEMAN. Absolutely.

Ms. SPEIER. Now, to you, Mr. DeMarco, you have been at a number of meetings that have been scheduled with the gentleman from

Maryland, Mr. Cummings, and I thought we made great progress at the last meeting. We already know that the HARP program has only reached about 800,000 homeowners, that there are some 11 million homeowners who are underwater with their loans, and you had provided us with information that would suggest, if I remember correctly, about 3 million of those homeowners fall under Fannie or Freddie.

And based on the proposal that the President suggested, where, if these are homeowners who have been paying their mortgages on time, with the exception of maybe one in the last year, that they could in fact refinance their loans for whatever the percentage is now, which is probably close to 6 percent to maybe as low as 4 percent. And that looked all very good, but we haven't heard a peep from you since. So I would like to know what is happening with that program.

Mr. DEMARCO. Certainly. I am pleased to answer that, Congresswoman. First of all, Fannie Mae and Freddie Mac don't have 3 million underwater mortgages, that is referencing something closer to the HARP eligible universe. But you are quite right, we have had some very healthy discussions regarding the HARP program and its opportunity to assist borrowers that have a mortgage owned or guaranteed by Fannie Mae or Freddie Mac to be able to refinance.

When I made the announcement regarding the changes to the HARP program, we said that we would have the directives out to the seller servicers, that is, the people that actually service mortgages and originate them for Fannie and Freddie, we would have the detailed guidance regarding HARP out to them by November 15th. That was yesterday. That went out yesterday afternoon.

So now the mortgage community, the lenders out there now have the updated guidance with regard to how the HARP program is working, what the changes are, what that means operationally for them. So as of today they have that information and they should be gearing up to be implementing the changes to the HARP program.

Ms. SPEIER. So I can say to my constituents you can go to any bank, any of the big five right now, all of whom are in the HARP program, and ask them to refinance your loan, and if one won't do it, another one will because the servicers are just going to make money off of this, correct?

Mr. DEMARCO. Well, we are trying to encourage servicers to reach out to borrowers to let them know that this opportunity is available to them. Different institutions are going to need different amounts of time to actually make the operational changes to implement the new program, but they have known it was coming and the big ones have certainly been all geared up for it and are looking forward to participating. So they may all be ready at slightly different time periods, but I would expect in the very near future all of them are up and running with it.

Ms. SPEIER. Thank you.

I yield back.

Chairman ISSA. I thank the gentlelady.

I will now recognize myself for a second round.

Earlier I brought up the subject of general counsels. Mr. DeMarco—well, actually, I will do it this way. Mr. Williams, what were your legal fees in 2010, outside legal fees?

Mr. WILLIAMS. Congressman, I will have to check on that and get back to you.

Chairman ISSA. Mr. Haldeman, what were your outside legal fees, approximately?

Mr. HALDEMAN. I will have to get back to you with a good number on that.

Chairman ISSA. Mr. DeMarco, do you know how much they are spending in outside counsel of all sort?

Mr. DEMARCO. Not off the top of my head, sir.

Chairman ISSA. But is it fair to say that all these lawsuits that you earlier justified, a \$2.9 million compensation package for Mr. Bostrom, was because you needed somebody that could manage these various lawsuits? So the question is are these lawsuits being done by his observation or are they basically being done by outside counsel? And do you need to spend \$2.9 million, or roughly \$1,000 an hour if he works 3,000 billable hours a year, do you need to spend that much to get somebody to hire outside counsel?

Mr. DEMARCO. It is a team effort in pursuing this litigation.

Chairman ISSA. Well, then how much is the entire team paid?

Mr. DEMARCO. Mr. Bostrom is no longer employed by Freddie Mac.

Chairman ISSA. Okay, well, then Mr. Mayopoulos, the general counsel over at Fannie Mae, at \$2.6 million. It isn't a whole lot different. When I hear team effort, I say great. I go to baseball and football games. I am not asking what the whole roster got paid; I am asking about—I don't know whether he is the quarterback or the coach. But the question is if I go to major Fortune 500 corporations that have huge patent portfolios and they are suing constantly, and they pay a quarter as much this or half this amount, including stock bonuses, very seldom are they going to get to \$2.6 million.

But, more importantly, I see some sort of a direct relation. What I heard earlier is, jeez, you guys kind of got swamped in how to administer the job because this was so unique. Two point nine million dollars is a pretty good chunk of money. Isn't it enough to get some of the finest former U.S. attorneys, who make \$160,000 a year, who know about suits and litigation? We have a former U.S. attorney who is a member of this committee, and I believe when he went from being a U.S. attorney to being a Congressman he actually got a small pay raise, getting to \$174,000.

Your salary seems to be sufficient to keep you overseeing people who make more than 10 times what you make.

Mr. DEMARCO. We are putting that to the test on a daily basis.

Chairman ISSA. Touche.

I would like to move to another one. Although executive compensation and performance is the subject here, this is tangentially involved. Yesterday, when I read Uncle Sam is a reluctant landlord of foreclosed homes, a quarter of a million, 248,000, they reported homes are currently for sale or rent. They have a number further down in the article that is closer to a million.

Mr. Williams, have you done everything you can do to quickly sell and get back in the hands of people who will maintain homes or to rent to people who can afford to pay the rent on their homes, even if they are the existing current debtor?

Mr. WILLIAMS. Congressman, we have an expansive REO operation that we run. We are constantly looking to move properties. We first rehabilitate the property; we look to preserve the community through the execution; we also work with community groups; and, more importantly, we focus on people who want to come in and own the home, because that is the best thing that you can do for the neighborhood.

Chairman ISSA. But isn't it true that by the time you actually do a liquidation sale of a home, it has typically been in foreclosure and often unoccupied, or even occupied by not the original owners, but by somebody they sublet to or somebody that simply squatted for a year or more, and the home is devalued considerably because of that intervening period?

Mr. WILLIAMS. Congressman, we try to take over the properties as quickly as possible when they go through foreclosure. Much of what we are all dealing with today is the fact that properties are staying in foreclosure for extended periods of time, which ends up adversely affecting the properties.

Chairman ISSA. Have you come to Congress for relief so that you can foreclose more expeditiously or, in fact, even convert a homeowner who clearly cannot and is not making payments into a tenant?

Mr. WILLIAMS. Congressman, we actually do have a tenant-in-place program, which we are renting back properties to about 10,000 borrowers.

Chairman ISSA. Ten thousand out of millions?

Mr. WILLIAMS. Out of millions.

Chairman ISSA. So the question I asked you, and maybe I will go to Mr. Haldeman because you guys are slightly different in your organizations, do you need, can Congress give you greater authority so that in fact these sort of expeditious conversions will cause less loss of asset to the community? Because Mr. Cummings and I come from very different communities; mine is more suburban, his is more urban. The one thing we know, though, is no matter where a foreclosed property is, the entire neighborhood suffers during that entire period; it is not just the asset that the taxpayer is losing on. Do you have all the tools? Ten thousand rentals into a million homes doesn't sound like the tool is working very well.

Mr. Haldeman, do you have all the tools you need so these homes are occupied, maintained, and as productive as possible, regardless of whether or not the current debtor is able to make payments?

Mr. HALDEMAN. Mr. Chairman, we have worked with Fannie and with FHFA on a servicer alignment initiative which I think is going to allow us to more effectively deal with the problem that you are talking about, that is, have increased pressure on our servicers to do some of the things you are speaking of.

Chairman ISSA. Mr. Williams.

Mr. WILLIAMS. Congressman——

Chairman ISSA. I didn't mean to cut you off, but I wanted to give you both——

Mr. WILLIAMS. That is quite all right. Two other points. One, the foreclosure laws are State laws, so if Congress is willing to act to take responsibility for what are currently State laws, that would be one thing. A second thing that I would highlight is we are working with both FHFA and Freddie Mac on opportunities to further expand REO opportunities for rental.

Chairman ISSA. Mr. DeMarco? You don't get paid as much, but you are welcome to give full answers.

Mr. DEMARCO. Thank you, Mr. Chairman. It has been a challenge for me as conservator to look at the difficulties that you were talking about, properties that are unoccupied or where there is a squatter.

To Mr. Williams' point, part of the difficulty here is that these are governed by State laws, and there are some States that have foreclosure processes and foreclosure requirements that are designed to protect the borrower, but at the same token that is imposing greater losses on the investor in these mortgages because it is such a time-consuming and costly process to move these properties through foreclosure.

Even if the property has been abandoned or has a squatter sitting in it, it still, in some States, is an enormous length of time to move that thing through foreclosure, to get that property back into the marketplace to help that local community, and I do believe that that is a problem and it is not being addressed.

Chairman ISSA. Well, I am going to be cognizant I have overused my time even on the second round. But what I will tell you on behalf of this committee is that if you will bring to us, if you will, the bad actors, the ones that you believe the States that are hurting you, not helping you, and thus hurting the taxpayer, I am a very strong believer in the 10th Amendment, but when it comes to Federal preemption, look, we hand these States a lot of money, and if we are looking at the various Federal programs that are helping their citizens, we have every right to say this money will not be as available to—and I will take North Carolina because I have a Member present—North Carolina, we can say, look, this program is not going to be available in North Carolina unless North Carolina gives us the tools to get a reasonable opportunity to in fact rehabilitate these.

And I would say, for one, even my home State of California, given a choice of not getting the Federal dollars or making changes as to Freddie and Fannie and FHA underwritten homes, they would make changes necessary to help. We have never been asked. So I would hope that you would really look, use your general counsels, some of those 3,000 hours, and please give to us where the problems are, because we are the committee that happens to also own intergovernment relations. All of those States, all of those cities are in fact within our portfolio to try to help them help you and help all of us.

Mr. DEMARCO. Thank you, Mr. Chairman. I will have the team follow up with you. I will say the State of California has one of the faster processes, and I believe that has actually helped certain markets in California to recover better and faster.

Chairman ISSA. Thank you.

Recognize the ranking member.

Mr. CUMMINGS. Just one clarification. The chairman had asked for agreements with regard to compensation agreements and certain information, and I just want to make sure that we are talking about those executives named in the SEC filings. Is that right?

Mr. DEMARCO. I believe that is what we are talking about.

Mr. CUMMINGS. Okay. All right.

Mr. DEMARCO. But if it is more, we will certainly clarify.

Mr. CUMMINGS. All right. Number two, you mentioned, with regard to those law firms dealing with foreclosures, I think you said two firms had given the rest of them a bad name. Is that what you said?

Mr. DEMARCO. I said a few.

Mr. CUMMINGS. Oh.

Mr. DEMARCO. I said a few.

Mr. CUMMINGS. I was going to say it was a lot more than two.

Mr. DEMARCO. No, I understand. No, I did not say two. I said that a few firms in the industry have given the entire industry a bad name.

Mr. CUMMINGS. And what, other than changing the lawyer network system, has anything been done to bring any kind of punishment to these guys? In my other life I used to represent lawyers, and for some of the stuff that these lawyers did our lawyers would be suspended from the practice of law, if not disbarred. And I find it interesting how they keep working for us. I just don't understand it and I just wonder whether we underestimate what they have been doing. This whole robo-signing stuff, we create a "normal" and that is not normal, it is not supposed to be normal. I could go on and on and on.

I was just wondering has there been any efforts to punish these folks.

Mr. DEMARCO. Well, Mr. Cummings, I am not an expert in this, but my general awareness is that this would be something that would be done by a State bar association.

Mr. CUMMINGS. Right. That is correct.

Mr. DEMARCO. It should be done in the State. And what has been puzzling to me is I am not aware of hardly any debarment or State disciplinary action that has been taken against law firms. Now, there may be people behind me that know more, but that is in their realm. We have certainly been working with State attorney generals on this issue and, as you well know, State attorney generals have been taking an awful close and long look at foreclosure processing issues both by servicers and by law firms.

Mr. CUMMINGS. Did you have something on that, Mr. Williams?

Mr. WILLIAMS. I was going to echo that point, Congressman, that we have been cooperating whenever we find these situations with State attorney generals and local counsel on these matters.

Mr. CUMMINGS. Did you have something, Mr. Haldeman?

Mr. HALDEMAN. I have nothing to add.

Mr. CUMMINGS. Last, but not least, let me say this. I know that there have been some that have said that you all probably felt a little uncomfortable being here, but I have to tell you I don't have any sympathy, because of the people that I face every night when I go home in my block in Baltimore. I have, probably in my block,

out of about 30 houses, 7 or 8 of them in foreclosure, and those were my neighbors, and we see it over and over again.

I just think that there is more we can do. I just believe it. And I really wonder sometimes whether the President even knows how significant this problem is. And I say that with all due respect. Sometimes I wonder whether he even has the information available to understand how many Americans are drowning. We just had NAKA in Baltimore, and they tell me some 16,000 people came out trying to get their mortgages modified, 16,000 in 4 days.

So I just hope that when you go back to your drawing boards, you know, I kind of wish I could just hang out in the boardroom and just whisper in your ears constantly, reminding you about the people who are suffering and who need some urgency, and they don't feel like they are getting it.

And I know what you are saying, but when you have people like the man that I talked to yesterday, who comes home and all his stuff is out on the corner, and it is about Christmas time and Thanksgiving, and he doesn't know where he is going to go, listening to people who make \$7 million in 2 years, who are supposed to have something to do with his plight and helping him out of it, doesn't give him much relief. You know, he can't afford a house; he can't even afford a turkey.

So I hope that you will keep that human element in mind. And we are going to be meeting with you again, not the committee, but our group of legislators, Mr. DeMarco, hopefully within the next 2 to 3 weeks.

Mr. DEMARCO. Okay.

Mr. CUMMINGS. Thank you very much.

Mr. DEMARCO. Thank you, Mr. Cummings.

Mr. MCHENRY [presiding]. I thank the ranking member.

I recognize myself.

Now, Mr. Williams, I ended with you and how your deferred compensation is calculated, and reading the Politico article on this, it is not clear if it is Fannie or Freddie where this compensation package works this way, so, Mr. Haldeman?

Mr. HALDEMAN. So we have a scorecard, which is weighted into broad categories, broad categories such as financial results, mission, technology and infrastructure, and there are weightings attached to those large categories, and they are on the order of four or five of them and a category weighting is typically 20 to 30 percent. And HAMP would be a subpoint under one of those larger categories, and there are not weightings attached to a subpoint. So it is a little bit difficult to be too precise about the percentage weighting for just HAMP modifications.

Mr. MCHENRY. But is one of the broader sections mortgage modifications?

Mr. HALDEMAN. It would be mission or supporting the housing market, that kind of language. And subpoints under that would be all of the tools that we have to try to be supportive of the housing market, including modification.

Mr. MCHENRY. What other than modifications would be in that subcategory?

Mr. HALDEMAN. It would be refinancings, and within that HARP refinancings and traditional refinancings; there would be tradi-

tional modifications and HAMP modifications; it could be affordable housing goals. Those all could be subpoints.

Mr. MCHENRY. But largely that mission, that piece is largely modifications?

Mr. HALDEMAN. That would be a big piece of it. It certainly would be a significant piece of it that our board would be looking at. It is not precisely weighted, but because of the attention afforded that in the press, I am sure that our board looks very closely at the numbers of modifications that are done.

Mr. MCHENRY. So that mission piece, what percentage of your deferred compensation comes from that, your bonus?

Mr. HALDEMAN. I don't recall the precise number, and it does vary from year to year, but it would typically be a number like 25 percent.

Mr. MCHENRY. But you know at the beginning of the year that the board is going to measure you against this scorecard?

Mr. HALDEMAN. Yes.

Mr. MCHENRY. Okay.

Is that similar for your organization, Mr. Williams?

Mr. WILLIAMS. Yes, it is, Congressman.

Mr. MCHENRY. Okay. And in a similar form as Mr. Haldeman described his scorecard? Is your scorecard similar?

Mr. WILLIAMS. I have not looked at Freddie Mac's scorecard, but we do have a scorecard—

Mr. MCHENRY. If you listened to the gentleman—I have never seen the scorecard.

Mr. WILLIAMS. We look at very similar sets of priorities, providing liquidity and stability and support for the market, ensuring that we are doing everything we can to manage credit losses and all the other activities related to our financial results that we control, and then also making sure that we continue to improve the operational and risk areas of the company.

Mr. MCHENRY. And are mortgage modifications a part of that scorecard?

Mr. WILLIAMS. Yes, they are a part of that.

Mr. MCHENRY. Okay. Is HAMP a part of that as well?

Mr. WILLIAMS. HAMP modifications and administering the program for Treasury are one piece of the scorecard.

Mr. MCHENRY. Okay, thank you. That is much more forthcoming than the last exchange we had, and I appreciate that.

Mr. DeMarco, you outline this in your written statement about the scorecards, corporate scorecards.

Mr. DEMARCO. Yes.

Mr. MCHENRY. Back in March, the IG said that FHFA didn't have a written policy on how to handle that. With your testimony today, it sounds like that critique you have incorporated and now there are some solid policies by which to judge these scorecards.

Mr. DEMARCO. To clarify, I committed to the IG that this will be completed by the end of this calendar year. The work is actively going on now.

Mr. MCHENRY. Okay, thank you, and thank you for clarifying. I do appreciate that.

Now, the additional question would be will you make public that policy?

Mr. DEMARCO. Well, I certainly could. This is what the IG was requesting.

Mr. MCHENRY. Well, the question is not—

Mr. DEMARCO. Yes.

Mr. MCHENRY. Do or do not. There is no try.

Mr. DEMARCO. I will make it public. I will make it public. It is a written internal procedure for how we would go about the internal review.

Mr. MCHENRY. Okay.

Mr. Haldeman, will you make your scorecard public for your institution?

Mr. HALDEMAN. I can see no reason why—

Mr. DEMARCO. This has to be reported in the 10-Ks anyway. These are publicly disclosed.

Mr. MCHENRY. Right, but in a user-friendly format. I have the Fannie 10-K and it is with three broad goals. I have now lost it in my stack of paper. Here it is. And it is very unclear in the couple of pages in the 10-K. Would you make this—

Mr. DEMARCO. If I may, I will work to make sure that we have greater clarity and transparency with regard to the scorecards going forward.

Mr. MCHENRY. Okay. I appreciate that, but since we do have the heads of the two institutions you are overseeing, I mentioned you as a human shield earlier today, my intention is not, in this questioning, for you to throw yourself in front of this questioning. I appreciate your willingness to do this. It is more of a soldier-like sacrifice. I appreciate it. But with massive losses we want to be able to understand at the beginning of the year how you will be judged and what success looks like.

Mr. Haldeman, would you—

Mr. HALDEMAN. It is a reasonable request and I am happy to do it, subject to the approval of our regulator. We are a regulated organization and I like to check most things with the regulator before doing it or committing.

Mr. MCHENRY. Nicely done. Who says there is just politics on the Hill?

Mr. Williams.

Mr. WILLIAMS. Congressman, we disclose our goals in accordance with the SEC rules. We also disclose in accordance with SEC rules how individuals have performed. We provide the scorecards to Mr. DeMarco and we will work with him on how he wants to handle this going forward.

Mr. MCHENRY. Okay. Okay. Well, Mr. DeMarco has outlined that he would like to see housing finance reform, as would I, and I have been in Congress since 2005 trying to articulate that, and it still has not happened. The administration has not taken the lead; the President has not taken a lead. The President has complained about executive compensation packages, but two large entities where he could have a larger and direct say, he tends to make speeches rather than actual consultation.

Mr. Williams, Mr. Haldeman, there are discussions about Fannie and Freddie's losses going forward. Mr. Williams, at what point will your institution be able to repay the taxpayers for this extraordinary support?

Mr. WILLIAMS. Congressman, I do not venture a timeframe in which we would do that. We are very focused on our credit losses. As you have seen probably from the conservator's report, the activities we have undertaken are reducing future expectations around this area. We will continue to focus on this, but bear in mind much of what we are dealing with is also driven by the state of the economy, unemployment, and declining home prices.

Mr. MCHENRY. Mr. Haldeman.

Mr. HALDEMAN. Yes. As you know, Congressman, we do pay a 10 percent preferred dividend on our outstanding draw, which, for Freddie Mac, is now approximately \$70 billion, so our annual preferred dividend is \$7 billion. And I think the best place to go to get an answer to your question is detailed analysis put out by FHFA which looks at both Enterprises going forward and under different scenarios makes a projection as to the amount of draw that will be required going forward.

Mr. MCHENRY. So you don't have any planning purposes in your institution that outlines when this would happen?

Mr. HALDEMAN. We do, and the numbers—

Mr. MCHENRY. What year would that be?

Mr. HALDEMAN [continuing]. And our numbers in planning were submitted to FHFA and made part of the document that they put out.

Mr. MCHENRY. So you are not willing to say what year it is?

Mr. HALDEMAN. I can't recall from the document—

Mr. MCHENRY. Mr. Williams, what year will Fannie have repaid the Treasury?

Mr. WILLIAMS. Congressman, as you know, with a 10 percent dividend on the amount that is drawn, we will never fully be able to pay back the amount that is due to the Treasury. This is why the director has highlighted the need to move forward.

Mr. MCHENRY. Mr. DeMarco, what year will the GSEs be able to repay the taxpayers for this extraordinary support?

Mr. DEMARCO. I do not believe they will repay the taxpayer in full.

Mr. MCHENRY. Ever?

Mr. DEMARCO. Well, unless we keep this conservatorship going to my children and beyond, no. I would hope that the conservatorships end before then.

Mr. MCHENRY. Okay. At what point—Mr. Haldeman wouldn't venture a guess, but at what point will Freddie be able to repay the extraordinary support?

Mr. DEMARCO. Mr. Chairman, I don't believe either company will repay the extraordinary support in full. I have said that before. I look at the current financials of the company, the fact that we are shrinking the retained portfolios of the company, looking at the expenses that are there, including the dividend, which is paid to the Treasury Department for that which is already borrowed, and I don't have a time line looking forward that I can point to and say by this year this will be repaid. And I do hope that we have moved beyond the conservatorships in the relatively near future, so we are not going to get them repaid before then.

Mr. MCHENRY. So if we just left this as it is currently structured, we could be back here having this same hearing in 5 years.

Mr. DEMARCO. No, I think we will look quite different in 5 years, and I believe that the book of business that we have been taking on since conservatorship is a profitable book of business to the taxpayer and I believe that as we finish washing through these bad mortgages that were originated in the 2005 to 2008 period, that will eventually we will move passed that and the remaining book of business, the new book of business will be profitable to the companies. So I believe that that is one of our fundamental obligations with the companies in conservatorship, is to ensure the new business we are doing is profitable, and I believe it is, but that is not going to be profitable enough to be repaying this amount of money in the near future.

Mr. MCHENRY. And what year do you think that would be?

Mr. DEMARCO. I believe our projections—well, it is going to depend upon house prices and employment.

Mr. MCHENRY. Sure. It depends on a lot of different things.

Mr. DEMARCO. But we believe that by the end of next year we will have moved through a good chunk of most of what is left with the previous book.

Mr. MCHENRY. Okay. I certainly appreciate that and I appreciate your willingness to answer questions today.

Mr. DeMarco, I have referred to you as a human shield a number of times. I sit on both Financial Services and this committee. You have been very forthright. We understand the difficult situation that has been thrust upon you. We do appreciate your career service to the Federal Government.

Mr. Haldeman, Mr. Williams, we certainly appreciate your willingness to head up very challenging institutions. We do. The concern here today is the extraordinary taxpayer support and the fact that, in essence, we have two nationalized entities, and we also have AIG, for instance, but we have two nationalized entities here, and that is where your compensation becomes a question for the taxpayers. Otherwise, if you are private institutions, we have had these hearings before with private institutions. That is not the proper purview of those, me, for instance, that is a taxpayer fiduciary. However, because of the nature of your entities, that is where this concern comes.

And we understand you are patriotic Americans. We are not questioning your patriotism by any means, but we are questioning whether or not this is an appropriate type of compensation, level of compensation with two nationalized entities.

Thank you for being here today. I certainly appreciate your willingness and your time.

With that, this committee stands adjourned.

[Whereupon, at 1:03 p.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

