

**Resolution Trust Corporation refinancing and restructuring issues
: hearing before the Subcommittee on Financial Institutions Supervision,
Regulation and Insurance of the Committee on Banking, Finance,
and Urban Affairs, House of Representatives, One Hundred Second
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RESOLUTION TRUST CORPORATION REFINANCING AND RESTRUCTURING ISSUES

HEARINGS BEFORE THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

SEPTEMBER 12 and 17, 1991

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(II)

CONTENTS

	Page
Hearings held on:	
September 12, 1991.....	1
September 17, 1991.....	59
Appendixes:	
September 12, 1991.....	81
September 17, 1991.....	247

WITNESSES

THURSDAY, SEPTEMBER 12, 1991

Robson, Hon. John, Deputy Secretary of Treasury, on behalf of the Resolution Trust Corporation Oversight Board; accompanied by Peter Monroe, President, Resolution Trust Corporation Oversight Board.....	14
Seidman, Hon. L. William, Chairman, Federal Deposit Insurance Corporation; accompanied by David Cooke, Executive Director, Resolution Trust Corporation; William H. Roelle, Deputy Executive Director, Resolutions and Operations Division, Resolution Trust Corporation; and Lamar Kelly, Director, Asset and Real Estate Management Division, Resolution Trust Corporation .	25

APPENDIX

Prepared statements:	
Annunzio, Hon. Frank.....	81
Vento, Hon. Bruce.....	86
Cox, Hon. John W., Jr.	89
Robson, Hon. John.....	91
Seidman, Hon. L. William.....	138

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Resolution Trust Corporation, memorandum from Arthur G. Stow, Deputy Director, Regional Operations, to William H. Roelle, Deputy Executive Director re: Congressman Annunzio's Data Request	221
Resolution Trust Corporation's response for the record to questions submitted by the subcommittee.....	241
Savings Association Insurance Fund, statement in support of extension of the FIRREA August 9, 1992 deadline, with letter of transmittal from Larry A. Caldwell, Chairman	219
Section-by-section Description of a Proposal to Restructure the RTC.....	227

WITNESSESES

TUESDAY, SEPTEMBER 17, 1991

Bowsher, Hon. Charles A. Comptroller General, General Accounting Office; accompanied by Richard Fogel, Assistant Comptroller General, General Government Programs, GAO.....	64
Reischauer, Robert D., Congressional Budget Office	67

(III)

APPENDIX

Prepared statements:	Page
Annunzio, Hon. Frank.....	247
Bowsher, Hon. Charles A.....	250
Reischauer, Robert D.....	280

ADDITIONAL MATERIAL TO BE SUBMITTED FOR THE RECORD

CBO Staff Memorandum, The Cost of Forbearance During the Thrift Crisis, June 1991.....	291
Nader, Ralph, prepared statement dated September 19, 1991.....	306
Seidman, Harold, Senior Fellow, National Academy of Public Administration, prepared statement dated September 19, 1991.....	316
Questions and answers submitted to Hon. Charles A. Bowsher, from Hon. Larry LaRocco.....	319
Questions and answers submitted to Robert D. Reischauer, from Hon. Larry LaRocco.....	323

(IV)

RESOLUTION TRUST CORPORATION REFINANCING AND RESTRUCTURING ISSUES

THURSDAY, SEPTEMBER 12, 1991

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Frank Annunzio [chairman of the subcommittee] presiding.

Present: Chairman Annunzio, Representatives Hubbard, Barnard, Vento, Schumer, Kleczka, Kennedy, Flake, Hoagland, Orton, Bacchus, Moran, Cox, Wylie, Leach, McCollum, Roukema, Ridge, McCandless, Baker, and Duncan.

Chairman ANNUNZIO. The meeting of the subcommittee will come to order. Today, the subcommittee begins hearings on the need for additional funding for the Resolution Trust Corporation (RTC) and on the need to restructure the RTC. Two and one half years ago, Treasury Secretary Brady told this subcommittee that the RTC would need \$50 billion to clean up the failed savings and loans.

That \$50 billion was gone within a year. The administration was given an additional \$30 billion earlier this year. Now, the General Accounting Office reports that \$79 billion of the \$80 billion that Congress has provided the administration will be gone by the end of the month. The administration is now asking for an additional \$80 billion, with no assurances that this will be the final funding request.

How much is \$80 billion? It is enough to fund the National Cancer Institute for 47 years. It is enough to buy almost 800,000 houses at today's median home price. Laid end-to-end, 80 billion \$1 bills would stretch over 7.5 million miles.

The job of the RTC is to dispose of assets. Instead, it seems to have become a self-perpetuating bureaucracy. In March 1990, the RTC had control of about \$170 billion in assets, and 2,300 employees. Fifteen months later, assets had shrunk to \$160 billion, but the number of employees had grown to over 6,000. Now, the RTC employs more than 7,500 people.

Likewise, the RTC has shown little progress in the disposal of assets. Monthly asset sales have progressed in fits and starts. The level of sales in June 1991 is virtually unchanged since that of 18

months earlier, even though the number of employees at the RTC has increased by 600 percent.

The assets the RTC has sold to date have been the easiest assets to dispose of. Even that progress has been painfully slow. More than 70 percent of the assets held by the RTC are highly qualified, quality assets consisting of performing loans, negotiable securities, mortgage-backed obligations.

Even the supposedly difficult-to-sell real estate portfolio of the RTC consists of property that should be easy to sell. The RTC currently has in its inventory 23,000 single family homes, at a time when American home ownership is declining. These houses present an opportunity for the struggling working American to own a piece of the American dream.

We need to see more vigorous efforts to sell these houses to American families, rather than to continue to hold them in inventory. The RTC needs to give Americans the chance to turn these sterile houses into warm homes. There are numerous proposals to restructure the RTC; to make it more efficient. Cosmetic changes, such as moving around boxes on organizational charts will not suffice.

After only 2 years, the RTC has moved far from Congress' original intent in creating it. The House Conference Report on FIRREA states that the RTC was "granted authority to use private sector resources in order to minimize their reliance upon Government sources. The RTC will have no employees." The RTC has fulfilled its mandate as accurately as Saddam Hussein described the results of the war in Kuwait.

We need to cap the number of RTC employees say to 100—to force it to contract out the work to the private sector, while giving that small core of RTC employees the authority to approve or disapprove of the contractors' work. Provide the private sector with the incentives to dispose of assets, and we can truly resolve this crisis without creating lifetime jobs for RTC bureaucrats.

I cannot support additional funding for the RTC. It is an agency that has shown in its 2-year existence that it is more interested in taking care of itself than in reducing the burden of the American taxpayer. This administration has continued to deny its responsibility for the ever-escalating costs of the RTC.

On May 28, I wrote to Secretary Brady asking him to submit any RTC funding requests at the earliest possible date. Almost 4 months have passed and the administration has yet to send a legislative request to the Congress.

I want the witnesses and the members of this subcommittee to know that there will be no markup of additional RTC funding until the administration has formally sent to the Congress legislation requesting RTC funding.

If there is to be additional RTC funding, then the vehicle for that funding must come from the administration. Members will, of course, be given every opportunity to amend that proposal, but there will be no markup until the administration formally sends a proposal to the Congress.

[The prepared statement of the Honorable Frank Annunzio can be found in the appendix.]

Chairman ANNUNZIO. Mr. Wylie, the ranking Republican on the subcommittee.

Mr. WYLIE. Thank you very much, Mr. Chairman. It sounds as if your words are being taken down. I don't know what this noise is.

Chairman ANNUNZIO. That's no surprise to me.

Mr. WYLIE. I don't think the Soviet Union is tapping us anymore.

Chairman ANNUNZIO. We're being tapped.

Mr. WYLIE. Thank you, Mr. Chairman, for calling this hearing and the two others relating to funding issues for the RTC for fiscal year 1992. We are pleased to have John Robson here this morning. He's always the bearer of good information and does a splendid job, as you will see, Margaret. We see Margaret, John's wife, right behind him there. I'd like to welcome her to the hearing.

Chairman ANNUNZIO. I was going to suggest that maybe you could hold your statement. We'll go and vote and come back. Oh, that's the caucus of the Democrats. We have a caucus of the Democrats and it's a call for them.

Mr. WYLIE. I'm glad you're alert to those things. OK, anyhow, Margaret, we welcome you to the hearing this morning. As I say, you'll see that John does a splendid job when he appears before us, and the same can be said for Peter Monroe, and we want to welcome him also.

To be very frank, this is a subject that none of us likes to have to deal with. However, our duty is to maintain a sound banking system and this requires us to keep the RTC running so that no depositors will lose money. Let me reiterate that point—this money is for depositors. For some unknown reason, we frequently lose sight of that. In my own home State of Ohio, 425,000 accounts have been protected by funds provided through the RTC. In Texas, over 2 million accounts have been protected.

However, brain-dead institutions still remain open, and as Mr. Robson points out in his statement today, forbearance in closing insolvent institutions cost the taxpayers \$66 billion in the 1980's. Certainly no one wants to vote another \$80 billion to the RTC, but the estimate is consistent with what Secretary Brady told us last year, so we're not surprised. He indicated that the high end would be around \$130 billion in 1991 dollars. This request is, regrettably, on the high end but it is consistent with those early predictions.

That's the bad news, but I do see some light at the end of the tunnel. We are going to be told this morning that this will be the last request for funding for the RTC. The RTC is making progress on the management reforms that I called for in the funding bill for 1991, including reducing the time that institutions are in conservatorship to less than 9 months.

I wonder if we might ask staff to see if they could defer that pounding until after our hearing is over. That's very disconcerting.

RTC has sold over half the assets it has taken in since its inception, disposing of over \$168 billion in assets. The RTC has lost, on an average basis, only 4 cents on the dollar. That's information that was a pleasant surprise to me. For real estate assets, the RTC is getting rid of these 33 percent faster than it did just a few months ago.

Given all of this, I am hopeful that we can complete the final leg of this exhaustive process. Simply put, the RTC has to be allowed to finish the job Congress gave it to do. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much, Mr. Wylie. Mr. Hubbard.

Mr. HUBBARD. Thank you very much, Mr. Chairman. Let me begin by commending you, Mr. Chairman, upon calling this important and timely hearing. At the conclusion of my opening remarks, I regret that I have to leave for a 10:30 appointment on the Senate side, but I promise to return very shortly.

Yes, this is an important and timely hearing; important because we are being asked to appropriate another \$80 billion of taxpayer money to resolve failed savings and loans. Timely, because, according to its Chairman, the Honorable L. William Seidman, the Resolution Trust Corporation will run out of money by the end of October.

While I believe it is essential to avoid any unnecessary slowdown in the resolution process, I do have serious concerns about some of the policies and practices of the RTC. I don't believe there are many of us here today who would take issue with the assertion that, overall, the RTC has done an outstanding job of closing failed institutions and paying off insured depositors.

What concerns me and other members of our subcommittee and the Congress are the \$160 billion of assets the RTC has retained and the policies currently in place which govern the disposition of these assets. In this regard, just last Friday, September 6, I chaired a field hearing of our subcommittee on General Oversight and Investigations on RTC asset disposition in Dallas, TX, where, incidentally, the RTC offices are in one of the most expensive buildings in Dallas, in a very high rent area.

Time and time again, our witnesses echoed the same complaint that the RTC does not handle its asset disposition transactions in what they consider to be a businesslike manner. Rarely, if ever, they told us, does the RTC send a bona fide decisionmaker to the negotiating table with the power, authority and incentive to close a deal expeditiously.

This lack of decentralized decisionmaking at the RTC has undoubtedly slowed the pace of asset disposition and thereby increased the cost to American taxpayers. We learned that this is especially so in negotiations involving real estate asset disposition. Let me repeat: out in Dallas, we were told firsthand that we have real problems in negotiations involving real estate asset disposition.

But perhaps of equal importance is the prevailing perception in the private sector that doing business with the RTC has become an increasingly costly, lengthy, and frustrating experience. One might legitimately ask, therefore, why these people continue to do business with the RTC? One of our witnesses in Dallas, a real estate management executive, had a typically Texan response to that question. She said, quote, "The RTC is the biggest dog in the fight; we'll have to adapt." Unquote.

It is my hope, Mr. Chairman, that we can work together with the RTC to change this negative perception in the private sector so that in the future, people doing business with the RTC will be

doing so because they want to, not because they have to. Thank you, Mr. Chairman, for this opportunity of an opening statement. I look forward to hearing our distinguished witnesses today.

Chairman ANNUNZIO. Thank you very much, Mr. Hubbard. Now that we have a few more members, I want to read an additional statement so that they can know just exactly where we're going with this hearing.

Originally, the plan was to have Secretary Robson and Chairman Seidman testify at the same time. However, I've been informed that Mr. Seidman had an unexpected medical appointment this morning, and he will be unable to arrive until 10:30. I have assurances that he will be here. That is about all we can tell you.

In light of that, we will go ahead with Secretary Robson's testimony, and then we will hear from Mr. Seidman when he arrives.

At this time, I will recognize Mrs. Roukema for an opening statement.

Mrs. ROUKEMA. Mr. Chairman, I have no prepared opening statement, but I would simply like to make an observation based on your rather unsettling declarative statement that you are not going to mark up anything, nor are you going to support anything.

Chairman ANNUNZIO. Unless the administration submits the request.

Mrs. ROUKEMA. Yes. Well, putting aside the administration's responsibilities for a moment, I just remember the last time we had to deal with this issue, and I would say that we all know that it has got to be done, and I certainly hope it is not going to be done with creative scheduling like the Senate voted its pay increase at the 11th hour when there is no full and open debate.

In any case, I think what we have to do today, and in the interim period, is assure ourselves that the best possible disposition of assets are taking place, and that there is complete justification for the cumulative total of monies to be appropriated.

Certainly, we are probably shooting ourselves in the head if we try to thwart the activities, the proper, legal activities of the RTC, and certainly we are undermining the future of these financial institutions, not to mention the savers whose assets are being held.

So I just want to say that yes, we have the responsibility of assuring ourselves that everything is done not only legally and without conflicts-of-interest, but also in the most cost-effective way, whether it be through performance-based funding or some other proposals. But we have an obligation to the people and to the taxpayers, and indeed to ourselves, under the Constitution to comply with our responsibilities here.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much. I have one more. Mr. Hoagland.

Mr. HOAGLAND. I would also like to thank you, Chairman Annunzio, for holding these hearings on the refinancing and restructuring issues concerning the Resolution Trust Corporation.

I think that, as the administration requests additional funding for the Corporation, this is an important opportunity for us to examine the basic structure, the management structure of the RTC, and see if it is organized in the most efficient way possible.

Chairman Seidman and Secretary Robson's testimony was provided to us yesterday, and there are some aspects in Chairman Seidman's testimony I would like to note here for the record, because I think they are quite interesting, and conform to conclusions that some of us have been drawing as we have attempted to examine the operations of the RTC.

Chairman Seidman observes that the next 2 years are going to be very significant for the RTC, because there is yet a great deal of work to do, considering the number of thrifts that have yet to be resolved and the properties that have yet to be disposed of.

He also observes that there are some organizational changes that could be made that would not significantly impede current operations.

Chairman Seidman then presents two proposed restructuring proposals, first the corporate board model, and second, the dual board model; and in discussing those models, he observes that, first of all, it has become apparent that the creation of a strong CEO position seems now to be desirable.

First of all, there would then be one identifiable individual who would be accountable to Congress and the administration. I know all of us have experiences at home and in Washington with people who say it is difficult to find who in the RTC is accountable for particular decisions.

The way the RTC is currently organized results from conflicting statutory mandates; frankly, the enabling legislation of the RTC sets up conflicts between the RTC and the Oversight Board which results in management by consensus, without one CEO that can be held accountable.

Now, yesterday, I introduced a bill, H.R. 3303, that would conform, I think, in general terms, to the corporate model that is suggested by Chairman Seidman. The bill would eliminate the current Oversight Board, would remove the FDIC as the exclusive manager of the RTC, and would remove the FDIC board as the RTC board, and set up a new five-member Board of Governors of private sector, part-time citizens who, in turn, would hire a CEO with extensive financial and real estate management experience.

The goal would be to eliminate the current mish-mash management structure, to place clear lines of responsibility, and allow the administration, Congress, and the public to go to one individual who would have considerable latitude to run the operation the way American corporations are run, the age-old structure in operating successful American corporations that have served us well in America.

Now, clearly, in reorganizing the upper echelons of the RTC, we do not want to do anything that will significantly impede current operations, and Secretary Robson in his statement raised that issue. On the other hand, if a strong CEO form of governance would significantly enhance the operations of the RTC in the coming years—and, of course, it may be around for a lot longer than 2 years, if the experience we have with other temporary Government agencies is any indication—well, then, I think, Mr. Chairman, this subcommittee should at least strongly consider making those changes as part of a refinancing bill.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Hoagland.

Mr. McCandless.

Mr. McCANDLESS. Thank you, Mr. Chairman. I do not have an opening statement. I look forward to the testimony and to the activity that will bring about, hopefully, a resolution of this problem in a manner that Mrs. Roukema outlined, not in the 11th hour, but in a timely fashion, leading up to a sensible decision based upon facts rather than expediency.

Thank you.

Chairman ANNUNZIO. Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman. Let me thank you for these hearings.

A couple of points I guess I would just like to make briefly before we begin.

Number one is that again, we do have to fund this. Let us hope that this is the last time. It is stated it is the last time you are going to come before us. We have heard it before. Let us hope and pray that it is. We do not relish this activity on either side of the aisle, I think; but if it is an expenditure that is made, as I have always said, you can pay a little now—it is no longer a little—but you can pay a good sum now, or even more later.

I would say that I think Chairman Annunzio is on the mark. As you know, I have tried to be helpful in getting the funding, and working with the administration; but the idea of dodging around and this who is going to go first—it is the administration's job to make an official request. They ought to do it, and I think the chairman is in line with that.

That is on the funding.

On restructuring, I must say that out there I have heard better things about RTC in the last several months than in the past, from many of the same people who were complaining.

We all knew it was a gargantuan task. We all knew it would take a long time. We all know that the problems are not solved yet. I think we have to be careful, or balance two things.

On the one hand, there are probably some changes and some improvements that are necessary. Certainly, the structure that was drafted in the FIRREA bill leaves something to be desired, the structure at the top.

At the same time, now that things are beginning to get better, you do not want to rearrange and turn a whole agency upside down and inside out, and have them start over again. All of us, the public, Congress—and it is part of all of our jobs—sometimes ask RTC to do things very quickly, which we would like them to do. That is the goal; but it is just not possible.

Now that they are beginning to get on track, I think we do have to balance the need for certain changes with the need for some stability and some continuity. I hope that we will do that in the upcoming month.

Thank you.

Chairman ANNUNZIO. Thank you, Mr. Schumer.

Mr. Baker.

Mr. BAKER. Thank you, Mr. Chairman. I appreciate the opportunity for the hearing, and would like to echo the comments of the gentleman from New York to agree, in that there are obvious con-

cerns that continue to need to be addressed. I still share some concern that we have not, with regard to real properties, moved strongly toward privatization and brokerage-type handling, even at lower levels than the standards currently provide.

On the other hand, I think being fair-minded about the complexity of the task and the actions of the RTC management over the past months, many of the individuals who offered complaints about the lack of pace now seem to be happy, particularly with securities and mortgages, that we are moving efficiently in the right direction. Real property still does tend to be a concern, because of resistance in local markets.

Really at issue is the question of reorganization for reorganization's sake, and second, the funding of the agency to continue its operations.

I share the concern that simply the appointment of a CEO only creates a new target for criticism and does not really create an avenue for making effective managerial changes.

A CEO in the Federal bureaucracy cannot operate a sales organization the way a real estate broker can operate a real estate office.

There are no commissions to be paid. There are no incentives for meeting sales targets. There is only internal investigations and audits if someone accepts an offer less than the publicly-printed transaction price.

So, the problems we face are the governmental ethical constraints applied to Federal bureaucracy which slows the pace of disposition, and we simply cannot expect this organization to conduct its affairs as a normal business enterprise with arm's-length negotiations and people making offers and varying the terms of the acceptance.

As a result of that, I think we—we must continue to look to place more of these properties in the hands of private portfolio managers but recognize that reorganization at this point in the process will likely enhance the length of the disposition and, without any doubt in my mind, increase the cost of disposition.

Further, if we are not willing to face the fact that, although an unseemly task, the RTC must be adequately funded in order to continue its operations, and if we walk away at this moment from providing the operating capital that one must need to adequately dispose of these assets, we are not going to save the taxpayer any money; we are going to cost the taxpayer money.

So, for the sake of short-term political concerns, I would suggest that the taxpayer comes out the ultimate loser if we fail to fund and we get involved in significant reorganization.

That's not to say that there aren't matters that are of real concern that cannot be modified at this hour and perhaps enhance the return and speed the process, but I would hope the subcommittee would look carefully before we move to simply appoint a new administrator or fail to act on the question of should the RTC continue to be funded at an appropriate level.

The end of the process that everyone, I think, has a common goal is to ensure the taxpayer is called upon less in dollar amount and with less frequency, and I think the actions the Board is suggesting to us this morning are, indeed, appropriate, and we should move forward as early as possible.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much.

Mr. Barnard.

Before you proceed, Mr. Barnard will be the last person, if I get the approval of the subcommittee. I ask unanimous consent that all those that want to make an opening statement, I will recognize you for that purpose, but if you can possibly—

Mr. SCHUMER. Mr. Chairman, Joe Kennedy might.

Chairman ANNUNZIO. Well, I was asking unanimous consent that your statements be made part of the record, but if you want to—

Mr. KENNEDY. I want to say something.

Chairman ANNUNZIO. All right. OK. Then we will go ahead.

Mr. BARNARD. Mr. Chairman, I am just going to be very brief.

First of all, I think that these hearings are very timely.

I think that a real record has got to be established between now and the time that we go to the floor of the House requesting the additional funding, and I think the more opportunities the RTC can report of their advances and their successes in light of some of the relationships that individual Members of Congress have with the organization, the better it is going to be, and I think that these hearings are going to be very timely in that regard.

You know, sometimes we get so deep in minutia that we are not able to sometimes appraise the big picture, and that is what is happening to a lot of Members of Congress.

Mr. Schumer reports that he is hearing more good reports about RTC than he has previously.

I am not hearing a lot of bad reports, but some of the reports that do come to my attention just absolutely cause me some real concern.

I had one problem where there was a renegotiation of a loan, and it was all agreed upon, and then the next day, they find out they had sold the loan 4 months previous.

I mean these are the kinds of things that we, as Members of Congress, are having to confront, and so, sometimes, you know, if you do not watch yourself very carefully, you get bogged down in that minutia, and you are not able to equate the big picture.

So, I think the opportunity today to hear from Secretary Robson and Mr. Monroe and Dr. Seidman is going to be helpful to us, and it is going to be helpful to you, because the better story that we can tell as to your organization and your successes and the resolution of these problems, the better it is going to be for the success of the overall picture.

So, I would say that we should be very grateful that these hearings are coming up, and we should see to it, at least the RTC should and the FDIC and the administration, that as good a front as possible can be put to this story.

The other side of the question is, for goodness sakes, get the message down to the ranks. When Members of Congress call, they become suspicious.

I had one yesterday that absolutely asked me—in fact, he asked me to write him a letter expressing the problem, because he did not know that I was a Congressman, and so, I said, well, would you mind doing me a favor? Would you call me back? This is my tele-

phone number: 202-225-4101. I said call and ask for Congressman Barnard.

So, he did. He hung up the phone and called me back.

You know, that just blows my mind. I cannot imagine a Congressman—I mean somebody impersonating a Congressman.

I mean what I would rather do is to make it appear that I was not a Congressman, but I will say that it is a sad commentary when we run up against those type of problems, just blows my mind.

Of course, I told the gentleman that I was a member of the Banking Committee and that I was engaging in RTC hearings tomorrow and what kind of conversation I had with him was going to have a lot of effect on what I said to Mr. Monroe and Mr. Cooke and Mr. Seidman.

Anyway, get the message down. You know, there are not but 535 of us, and we all got a vote on this thing. Put a good taste in our mouths before we do it. Thank you.

Chairman ANNUNZIO. Mr. McCollum.

Mr. LEACH. Do you think the witness ought to swear that he is the real John Robson?

Chairman ANNUNZIO. I think we have had enough swearing in already in this subcommittee.

Mr. McCollum.

Mr. McCOLLUM. Thank you, Mr. Chairman.

I just wanted to make the comment on opening that the RTC has come a long way. There are a lot of improvements that have been made, obviously a monumental task, and for those things, I think this subcommittee should be commending many of the people sitting at the table before us today.

There are a couple of areas where my work indicates there are still great needs for improvement.

One of the areas we hear some about, less than we did before, as we began to resolve these institutions, is that there are some that think that there has not been enough effort in a few cases to sell the institutions as a whole before they are broken up, and we still get some of those complaints.

I know I am not the only member of the subcommittee to have heard some of those, but the most attention now seems to be focusing on the real estate asset disposition.

Mr. Kelly, who is with us today, was out in Texas with Mr. Hubbard and me last Friday, when we got an earful of those kinds of problems.

I know he is working very hard to try to resolve them, but there are some very serious problems there in management and some that may, indeed, affect the question that is really before us today, which is, do we really need \$80 billion more to resolve these things?

I suspect we are going to need a great deal more.

Maybe we do need \$80 billion, but the problem our subcommittee faces, Mr. Chairman, is the fact that there are many constituents out there, many people in the public, who see these errors and see these things they perceive as mismanagement, whether it is true or not, that would, if done in other ways or more properly, save a good deal of money, and perhaps that would be a drop in the

bucket compared to the request today. But that perception, nonetheless, is there, and it is a problem for us all. I am glad that the gentlemen are here, and I am looking forward to the discussion we will have with them after they present their statements.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. McCollum.

Mr. Kleczka.

Mr. KLECZKA. Thank you, Mr. Chairman.

Mr. Chairman, I do not have an opening statement, but I would like to note that, a short time ago, this subcommittee passed on legislation which would provide a \$70 billion loan from Treasury to the Bank Insurance Fund.

Today, we will be asked to provide upward to \$80 billion for the RTC for the savings and loan problem, and I have to wonder aloud, you know, when all this is going to stop, how we are going to pay for this massive expenditure.

It seems that anytime the financial institutions need a little extra dollar, you know, we can find bunches of billions of dollars with no problem, and they all magically appear, but when we need a couple dollars for extension of unemployment compensation benefits around here or some decent housing programs, those dollars are not available, and I might further wonder out loud, Mr. Chairman, is this really the time to deregulate the banking system in this country, and to that question, I think I have to say no.

Chairman ANNUNZIO. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

Mr. Chairman, I am here because of the concerns that I have this morning with regard to the open-ended nature of the \$80 billion that is being requested by the RTC.

I think that we have all learned the hard lesson in this subcommittee as to the problems that occur when we delay providing the RTC or, in the past, other agencies with the funds that they need to be able to move on these institutions. Therefore, I do not question the overall need for additional funds into the organization.

What I do question, however, is the open-ended nature.

Whenever there is a need for additional money, all that has to happen is the individuals that are here this morning—and we welcome them—come before the subcommittee, tell us what the latest bill is, and we write them a check.

Now, the problem with that is that we also hear, in between, sometimes when these gentlemen are here in the mornings and sometimes when they are not, we hear intermittently from the GAO.

The GAO is very clear about what a mess the RTC is in.

I, like Mr. Schumer, have heard some better stories on some of the issues pertaining to affordable housing.

I know, in working with some of the individuals at the RTC, that they are making a yeoman's effort with regard to some of the issues pertaining to affordable housing, but fundamentally, what we really see here is the last of the Soviet-style bureaucracies.

What we see here is an organization that is almost an impotent monolith. They come and basically indicate to us despite the fact that, 2 years ago, we enacted the legislation establishing their existence, the information systems are still not in place, the sale of

assets moves slowly, and the right hand does not know what the left hand is doing. I see Mr. Seidman shaking his head, but you know, the fact is, sir, that you are well aware that we have got these situations where we hear from the GAO that an asset is sold one day by one arm of the RTC, then sold again the next day by another arm of the RTC, and then you come before the subcommittee and ask us for \$80 billion.

Well, it is very difficult for me to be able to understand exactly what kinds of checks and balances you would feel, were you sitting on this side of the table, ought to be in place so that we do not simply have a situation that develops where the ordinary—taxpayers of this country end up subsidizing a wealthier group of individuals through the RTC bailout mechanism.

It seems to me that, when you come in with an \$80 billion request, what we really see is a massive transfer of wealth from the working people of the country, who pay the lion's share of the Tax Code, to those depositors, 28 percent of whom have deposits in savings and loans and in the institutions that you are providing the insurance for at over \$100,000.

So, as a result, what we really see is, I think, you know, kind of throwing salt on a wound, and I do not feel that we have put in place the necessary checks and balances. What you essentially have now is a system that says, no matter how badly we spend \$80 billion, if we need the \$80 billion, we are going to come and ask you for it, because we know that we can come and say to the Congress, look what you guys did 3 or 4 years ago or 5 years ago on the savings and loan crisis, and if you do not give us the \$80 billion right now, then we are going to go to the press, and the press is going to indicate to the American public that somehow the Congress of the United States is responsible.

The fact is that we are not putting in place the necessary standards for the RTC to stand up to and to be held accountable to, I should say, in order to assure the American public that they are getting a real value for the dollar that they are putting into the organization.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Kennedy.

Mr. Bacchus. Mr. Bacchus, would you withhold?

Now I ask unanimous consent that all other members who wish to submit statements or make a statement be inserted into the record.

Is there objection?

[No response.]

Chairman ANNUNZIO. Without objection, so ordered.

Mr. Bacchus, go ahead.

Mr. BACCHUS. Thank you, Mr. Chairman.

I want to begin by saying that I agree with virtually every word my colleague from Massachusetts just said.

We have essentially socialized much of the American economy, and the people of the United States of America do not realize it.

I do not know who Mr. Schumer has been talking to up in New York, but he has not been talking to any Floridians who have gone up there to see Broadway shows.

I have yet to hear one positive word about the RTC in the State of Florida.

I do not envy you the task that you have, but based on everything I have seen and heard, you are not doing that task well at all.

I was extremely disturbed by the GAO report earlier this summer in which they said there simply was not enough documentation in the files of the RTC to do an audit, and I was especially disturbed, inasmuch as I met earlier this year with some of the high-ranking representatives of the RTC, who assured me that there would be plenty of documentation for an audit and that an audit would be done before you came trotting back up here asking for more money.

There is no accountability in the RTC. I voted against the bill in the spring. I want to be as responsible as the next member, but I'm responsible to the people I represent. Before I vote for giving any entity any money, much less \$80 billion and more, which is what you are really asking for, I want to make certain there is some accountability.

Within the next few days, Mr. Cox of Illinois and I are going to be offering a bill that I would encourage my colleagues to look at, and I encourage you to look at as well. We hope that it will be part of any funding proposal we send before the House.

It will do a number of things. I will not enumerate them all. Among other things, it will provide that you could not spend another dime, until we had an audit, and that you would have to have annual audits. It would place a cap on the legal fees that you can pay. It would improve the marketing of your assets so that you do not have people in far-flung corners of the country trying to peddle real estate in other far-flung corners of the country. It would curtail the ability of the RTC to hire high-ranking former officers of failed savings and loan associations. It would require you to comply with many of the Federal procurement laws from which the RTC is now exempt.

I am looking with a very, very skeptical eye on this enterprise. As far as I am concerned thus far, you have failed, and I am going to do everything I can, despite whatever smirks I see from people coming before us, to stand up for the taxpayers that I represent.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much.

This morning I would like to welcome once again to our panel the Chairman of RTC, Mr. Seidman. I do hope you got a clean bill of health from your doctor this morning. You are as robust looking as ever, and I am grateful for that.

Mr. SEIDMAN. Thank you, sir.

Chairman ANNUNZIO. We also have before the subcommittee this morning the Deputy Secretary of the Treasury. As I understand, this is the first appearance of the Honorable John Robson before the subcommittee. He has another distinction. He was raised, and his mother lives, in my district, and not too far from the Cubs' ballpark. Is that correct?

Deputy Secretary ROBSON. That is correct.

Chairman ANNUNZIO. Thank you. This is your first appearance before the subcommittee, although you testified before the RTC task force in 1989.

Mr. Robson has a distinguished career of public service, having served as Chairman of the Civil Aeronautics Board and as General Counsel and Under Secretary of the Department of Transportation. A lawyer by training, he is Dean of the Emory University and the President and Chief Executive Officer of G.D. Searle and Co.

I see that Mrs. Robson has accompanied the Deputy Secretary to the hearing today. Mrs. Robson, I am glad that you are able to be with us today.

I extend a warm welcome to both Secretary and Mrs. Robson on behalf of the members of the subcommittee.

Mr. Seidman, you are a veteran at this, so you can proceed in your own manner. You and the Deputy are testifying together, as I understand.

Mr. BARNARD. Mr. Chairman, you should emphasize the fact, though, that Mr. Robson had the good judgment to move to Atlanta. [Laughter.]

Chairman ANNUNZIO. I will be sure that that is inserted in the record.

Secretary Robson.

STATEMENT OF HON. JOHN ROBSON, DEPUTY SECRETARY OF TREASURY, ON BEHALF OF THE RESOLUTION TRUST CORPORATION OVERSIGHT BOARD; ACCOMPANIED BY PETER MONROE, PRESIDENT, RESOLUTION TRUST CORPORATION OVERSIGHT BOARD

Deputy Secretary ROBSON. Thank you, Mr. Chairman. That strikes me as an argument I ought not get in the middle of.

We are very pleased to be here today. I have with me Peter Monroe, the President of the Oversight Board of the Resolution Trust Corporation.

As your invitation asks, I will discuss the Board's request for additional funding for the RTC, RTC asset disposition, and RTC restructuring.

We are pleased that the subcommittee is giving attention to the important, indeed urgent, matter of providing additional funds to close failed thrifts and protect their depositors, in fulfillment of our Government's insurance commitment.

At the end of August, more than 16 million deposit accounts have been protected, 512 thrifts have been closed in 42 States, and about 135 thrifts are pending in conservatorship in these and another 3 States.

People all over the country, more than 16 million of them, have had their deposits saved by the money Congress has voted for this effort.

I cannot stress too strongly the point that these people could have lost their savings, and that they did not, because our Government honored its deposit insurance obligations.

Our commitment to these depositors has meant continued public confidence in the banking system. More remains to be done, howev-

er. Both additional loss funds and working capital are needed to complete the task.

Loss funds are the monies needed to fill the hole between an institution's deposits and the value of its assets. This is the money that savings and loans have lost through bad investments, mismanagement, and fraud, and the effects of weak real estate markets even on reasonably well-managed thrifts.

Working capital, on the other hand, is used of finance RTC's acquisition of the assets of failed thrifts until they are sold. It is borrowed by the RTC from the Federal Financing Bank, and these borrowings are backed by the seized assets. The RTC expects to repay its working capital borrowing from the proceeds of the sales of these assets.

To date, Congress has authorized \$80 billion in loss funds for depositors' protection—\$50 billion in FIRREA and \$30 billion in the RTC Funding Act of 1991.

The RTC estimates that it will complete the resolution of approximately 569 thrifts by the end of this fiscal year, and by the end of October, or shortly thereafter, will have used all of the \$80 billion.

How much is necessary to complete the task? Secretary Brady has repeatedly warned that the ultimate cost of the S&L cleanup is very difficult to estimate because it is driven by unpredictable real estate markets, interest rates, and the state of the economy. However, the Oversight Board and the RTC estimate that the additional amount of loss fund necessary to complete the task of closing defunct savings and loans and protecting depositors could be as high as \$80 billion.

Our request for an additional \$80 billion in budget dollars is based upon the conservative assumption that all institutions currently designated by the Office of Thrift Supervision as Group 4 and Group 3(c) and Group 3(b) would require resolution by the RTC.

While OTS now designates only Group 4 institutions as in probable need of Government assistance, we have taken a more conservative approach for three reasons.

First, OTS's designations represent a snapshot in time. Some institutions currently in Group 3 could be downgraded in the future, and past experience indicates that this is likely.

Second, our forecast of thrift failures should make allowance for the current uncertainty in real estate markets and the economy.

Third, no one can predict with any degree of certainty what the final cost of the thrift cleanup will be, so we have elected to assume a somewhat pessimistic scenario to ensure that sufficient funds are available for the prompt, orderly resolution of institutions that are found to be operating in an unsafe and unsound condition.

The Oversight Board therefore asks that Congress provide the RTC with sufficient funds to complete the job, which we estimate could be up to \$80 billion. This would recognize, as the budget does, that deposit insurance is a mandatory obligation of the Government and that, having pledged to protect depositors, the Government must now honor that pledge.

This action would also recognize that delays in funding simply add to taxpayers' costs. As the Congressional Budget Office points out in its most recent budget outlook, and I quote:

"Limiting funds does nothing to reduce eventual spending. In fact, it can drive up costs, if it slows the pace of resolutions and enables ailing institutions to stay in business. These costs of delay can be formidable."

It is worth adding that a CBO study found that forbearance, that is, delaying resolution during the 1980-1991 period of institutions then known to be insolvent, cost an extra \$66 billion in 1990 dollars.

The point is, Mr. Chairman, the failure to provide RTC with additional funds before the session ends would require the RTC to delay its closure of insolvent thrifts. The longer the period of delay, the higher the extra cost of the cleanup to the taxpayer.

That is why we believe the only sensible course is to provide now sufficient funds to get this enormous, unprecedented task behind us.

Adding our request for \$80 billion to the previously authorized \$80 billion would total \$160 billion budget dollars, which converts to approximately \$130 billion in 1989 dollars.

The Oversight Board has estimated, in past testimony, that the total cost of the savings and loan cleanup would be in the range of \$90 billion to \$130 billion in 1989 dollars. Secretary Brady has testified, because of economic conditions and deterioration in real estate markets, the most likely cost scenario has moved to the higher end of this range, but it remains in it, and we continue to believe that the estimate remains valid.

By the end of this fiscal year, the RTC expects to have \$70 billion in working capital borrowings outstanding, an amount well within the borrowing limitation set by FIRREA. However, during 1992, RTC could exceed the \$125 billion permitted by the note cap.

Therefore, we are approaching the time when additional borrowing authority will be needed. We estimate that working capital needs could peak at \$160 billion by mid-1993. At that time, the outstanding FFP balances will begin to decline.

Because both loss funds and working capital funds are required to complete resolutions, it is imperative that loss fund authorizations be matched with adequate working capital borrowings.

Therefore, we request that the subcommittee raise the RTC's borrowing limit to \$160 billion. Not to do so might create a situation in which RTC is pressured to dump assets at fire sale prices simply to stay under the limit. Failure to raise the borrowing limit would just as surely prevent the RTC from resolving thrifts and protecting depositors as delays in funding do.

It has been suggested that RTC asset sales can be used to fund losses. This cannot be done, because the assets are the only source of repaying FFP borrowings. If proceeds from asset sales are used to fund losses, FFP borrowings cannot be repaid. As I said earlier, both congressionally-authorized loss funds and FFP borrowings are necessary to continue the cleanup and protect depositors.

Although the exact number of thrifts still to be resolved with Federal assistance cannot be known, we can estimate that virtually all nonviable thrifts will be transferred to the RTC for resolution

during the next 2 years. However, current law provides that OTS may transfer thrifts to RTC for closing only until August 9, 1992.

Therefore, we request an extension of OTS transfer authority until September 30, 1993, for the following reasons:

The caseload is larger than anticipated, larger than any of us anticipated. The number of failed thrifts requiring resolution by the RTC has grown beyond our estimates at the time FIRREA was written. By adhering to the current deadline, we could create an incentive for rushing borderline thrifts to the RTC, and that could mean forcing a large number of thrifts into conservatorship for a long period during which they would lose franchise value.

RTC was designed to clean up the insolvent sector of the thrift industry. The intent of FIRREA was that SAIF would begin with a health industry. Therefore were thrifts to be transferred to SAIF starting August 9 next year. SAIF would have to gear up for a task that is already being now performed by the RTC.

For these reasons, we believe it makes good sense to provide the extension until September 30, 1993, and we do not believe that this will have any effect on the 1996 deadline for terminating the RTC.

FIRREA sets up a schedule for contributions to the SAIF beginning in fiscal year 1992, if Congress and the administration take further appropriations action. However, if Congress acts on this request, SAIF will not take insolvent institutions until October 1, 1993. The President's budget estimates that at that date, SAIF should have about \$1.6 billion in its reserves from premium income.

At this time it is too soon to tell whether, or how much of a contribution Treasury will need to make to SAIF. Secretary Brady has stressed that we cannot predict the ultimate costs and borrowing needs with certainty. As the General Accounting Office noted in its 1989 financial audit of the RTC, the actual cost will depend on the outcome of various uncertainties, including the number of institutions transferred to the RTC, the extent of their operating losses, the quality and saleability of their assets, and the condition of the economy, especially in certain geographic areas.

The RTC is making progress. We agree with Mr. Schumer and some others who have said that they hear better things about the RTC these days. It is doing so by adhering to the four guiding objectives established by President Bush when he proposed his solution to the savings and loan crisis soon after taking office.

First, protect insured depositors, millions of Americans who acted in trust when they deposited their savings in federally insured accounts.

We estimate that by the end of this fiscal year, nearly 19 million people with deposit accounts averaging less than \$10,000 will have been protected.

Second, restore the safety and soundness of the industry so that another crisis will not occur. New FIRREA mandated capital standards are being phased in. OTS reports that more than 1,700 institutions now meet or expect to meet these capital standards. Further, the private segment of the thrift industry reported net income of about \$997 million in the first half of 1991 compared to about \$675 million in loss in the first half of last year.

Third, clean up the overhang of insolvent S&Ls so we can get the problem behind us, and do it at the least cost to the taxpayer. When FIRREA created the RTC on August 9, 1989, RTC immediately became responsible for closing 262 insolvent thrifts; by October 1 of this year, will have closed 569 insolvent thrifts; about 1 every 33 hours.

Fourth, aggressively pursue and prosecute the crooks and fraudulent operators who help create the problem. As of July 31, over 800 individuals have been charged criminally, of whom 100 have been thrift CEOs, board chairmen, or presidents. To date, approximately 600 individuals have been convicted for thrift crimes, with about 80 percent of those sentenced receiving prison terms.

Improving the management of the RTC has been an important objective of the Oversight Board and the RTC because strong internal controls and effective management practices are essential to sound decisionmaking and ultimately to saving taxpayer dollars.

The Wylie amendment to the 1991 Funding Act mandated specific improvements in management practices. Following is a summary of RTC's progress on each of the improvements required by the amendment. A more complete description of the progress toward these reforms appears in appendix 1 to my testimony.

RTC has implemented standardized procedures for conservatorships and has required all regional RTC offices to adhere to a uniform conservatorship operations manual.

Second, RTC has reduced the average time that institutions remain in conservatorship. By September 30, it appears that the statutory goal of 9 months will have been surpassed.

Third, RTC projects that its information resources management strategic plan will be issued by September 30, identifying goals and systems needs at operation levels.

Fourth, RTC expects its computerized securities portfolio management system to be operational by September 30.

Fifth, RTC has developed a system to track and inventory real estate owned assets and it is becoming operational as data is entered into the system.

Sixth, RTC has developed standard loan sales documents for one to four family mortgages and has begun using standards with due diligence.

Seventh, RTC has standardized contracting policies and procedures among all regions by developing standardized directives, standardized solicitation and contract documents, training modules and a comprehensive policy manual.

Last, RTC has implemented a quarterly asset valuation system.

I'd like to expand on this last point because RTC asset valuation is directly related to the important issues raised by the GAO's 1990 audit of the RTC. GAO will soon be issuing its opinion on the RTC's 1990 financial statements. One issue we anticipate they will note is RTC's problems in reconciling its general ledger accounts for receivership assets with the records maintained at receivership level sites and by loan servicers.

GAO may cite unreconciled differences as part of a justification for issuing a disclaimer and no opinion on RTC's financial statements. The primary reason for a disclaimer most likely will be overall uncertainty and asset recovery values, which will likely

persist until RTC has had substantially longer experience in selling its illiquid assets. Nonetheless, the reconciliation problems represent a situation which the Oversight Board and the RTC believe must be remedied.

Secretary Brady testified to the full committee in its July 11 testimony, "HUD Deputy Secretary Alfred DelliBovi and I have been leading an Oversight Board working group charged with monitoring RTC's progress in the accounting and financial and management area and making recommendations for corrective actions where needed."

The Oversight Board and its staff have been concerned with these issues and have been discussing them with the GAO since early March, when the board staff asked the RTC inspector general to expedite an asset valuation review. We have had a number of meetings with the RTC, and I would say it's been an entirely cooperative and constructive process.

The Oversight Board working group has been actively exploring these issues with RTC, GAO, and the RTC inspector general since it was named by Secretary Brady on May 15.

Recently, it met with representatives of the RTC, the inspector general, and Price Waterhouse, which was retained by RTC to review its loss estimation methodology. Price Waterhouse told us that RTC's methods for estimating losses are both reasonable and conservative, but they did note the assets accounts reconciliation problems during the 1990 period covered by the GAO audit.

Price Waterhouse agreed that such problems add to the uncertainty of asset valuation of the asset valuation process, but that it was doubtful that such differences would have any material impact on RTC's 1990 financial statement of condition.

The RTC informs us, while reconciliation will continue to be a major challenge, a number of specific steps have been taken to minimize such problems.

One, the RTC established its own office of corporate finance in January to assume responsibility from the FDIC's Division of Accounting and Corporate Services for the integrity of financial reports. The staffing of this office is nearly complete and has resulted in a significantly greater allocation of resources dedicated to resolving accounting related issues such as reconciliation.

Second, the RTC has initiated a program for periodic comprehensive audits of receivership by independent accounting firms.

Third, the RTC has instructed regional offices to retain outside accountants where necessary to facilitate the reconciliation of receivership records.

Fourth, the RTC has established a standardized process for reporting the progress of the reconciliation program on a monthly basis.

Fifth, the RTC is in the process of implementing a mainframe system to further automate the reconciliation of subsidiary records for the general ledger.

Sixth, the RTC has also instructed its regional offices to proceed more aggressively in consolidating and reducing the number of asset servicers that support the general ledger accounts. This will greatly simplify the reconciliation process.

With this six-point program well underway, RTC has told us that any future unexplained differences discovered during the accounts reconciliation should not significantly affect the representation of RTC's financial position.

The RTC has nearly completed its June 30, 1991 reconciliation. Based on preliminary estimates, the RTC believes that the magnitude of items which are not reconcilable will not be material. Nonetheless, the RTC intends to establish a reserve for any unexplained unreconciled financial position.

It is our firm belief that this reconciliation initiative should permit the GAO to issue an opinion on RTC's financial statement. In addition to this very intensive effort vis a vis RTC's financial audit, the Oversight Board has adopted a policy on July 25 which encourages RTC to establish and adhere to internal control standards, including evaluation and reporting standards that are no less stringent than those required by the Federal Managers Financial Integrity Act of 1982.

RTC's first report on material weaknesses and corrective action plans is due to the Oversight Board in October. This policy is attached as appendix 2.

Asset disposition as many have noted here today remains the most important task facing the RTC today. As of June 30, 1991, the RTC has seized assets for the book value of \$328.3 billion and its sold or collected a net amount of \$168.2 billion, or 51 percent of the total.

Cumulative asset sales and collections are shown in appendix 3. Sales and collection by asset categories are shown in appendix 4.

The RTC has had most success in its sales of securities and mortgages, its most readily marketable assets. RTC reports that 73 percent of its book value of securities has been sold or collected, with only a 3 percent loss on these sales.

With respect to mortgages, the RTC has sold or collected 46 percent of its inventory and incurred only a 3 percent loss. The mortgage sales results as of June 30 do not reflect the recent success of the securitization program, which will further reduce the RTC's inventory of residential mortgages.

In general, RTC's losses on assets sold or collected have so far been very low, as shown in appendix 5, reflecting the fact that it has been selling its more readily marketable assets.

The pace of assets sales has increased since the beginning of 1991. For example, the expected holding period of RTC's current 20.7 billion REO inventory, its hardest to sell assets, is currently 42 months based on the assets sales and collection pace of April, May, and June, as shown in appendix 6. By contrast, in March 1991, the expected holding period for REO was 72 months.

In its operating plan for the 9 months from January through September this year, RTC projected net book value asset sales of \$65 billion. As of June, the RTC had achieved 74 percent of its projections, as shown in appendix 7. RTC expects to exceed its projections by September 30, 1991.

Developing effective programs to dispose of RTC assets quickly and at the best possible prices will save taxpayer dollars, and accordingly, the Oversight Board has worked with the RTC to use securitization to the widest extent possible. It's authorized an \$8 bil-

lion pilot program for portfolio sales and has taken steps to implement and enhance the affordable housing program.

RTC securitization and mortgage-backed securities is well underway. Immediately following the enactment of the Funding Act, which provided director and officer immunity from liability, the RTC filed a \$4 billion shelf registration with the SEC covering the issuance of mortgage-backed securities. Through August, the RTC had already sold approximately \$2.5 billion of these securities, including \$2.1 billion backed by single-family mortgages and nearly \$400 million backed by multi-family mortgages.

Securitization has permitted the RTC to sell mortgages for a higher return than would have been possible had they been sold on a whole loan basis. We estimate that this additional return to the taxpayer has already been substantial, and that it could be as much as a billion dollars as a result of the securitization of single-family mortgages alone.

The RTC is also considering the securitization of commercial loans, which could both increase returns to taxpayers and increase the pace of sales to those assets.

In light of the mounting inventories of real estate and other hard to sell assets, the RTC has introduced the portfolio sales program as one strategy to accelerate the pace of and return from asset sales. Under this new program, large portfolios, typically containing at least \$100 million of assets, will be sold to buyers qualified to purchase such large packages of property. The policy gives the RTC the flexibility to custom tailor transactions in a manner consistent with the private sector practice. By so doing, the RTC hopes to elicit greater investor interest and ultimately higher prices.

The program also addresses an acute marketing problem the RTC has experienced, that of inducing prospective investors to perform costly and time-consuming due diligence before they have any assurance that they will be able to purchase assets. The portfolio sales policy encourages buyer investment and due diligence by making the sales process more predictable.

To facilitate such sales, RTC has indicated that the participating cash-flow seller financing—that participating cash-flow seller financing may be made available. In exchange, the RTC would receive an outside participation in the financed assets.

One transaction under this program, the sale of between \$300 and \$500 million of office and hotel properties to the Patriot Group has been entered into, and two other transactions involving commercial real estate are currently being negotiated.

The Oversight Board has approved this RTC policy on a pilot basis of up to \$8 billion. At the Oversight Board's request, the RTC has amended its policy to ensure that the RTC will publicly disclose the details of all completed transactions on a timely basis.

The RTC and the Oversight Board have made every effort to implement the affordable housing provisions of FIRREA, actively promoting the sale of eligible single and multifamily properties to low and moderate income families with increasing success.

With regard to the single-family homes, RTC reports that 17,293 properties have been marketed in the Affordable Housing Program at June 30, 1991. Of these, sales have been closed on 3,882, and offers have been accepted on another 5,895. Another 4,833 are in

clearinghouses being offered for sale. Another 2,683 or 16 percent were offered for sale in clearinghouses but remain unsold. These are eligible now for donation to nonprofit organizations under the Reasonable Recovery Value Program. For example, RTC recently announced that it has donated for public use about 260 properties with no recoverable values to 18 cities and 25 nonprofit groups in Texas.

Since the passage of the Funding Act in March of this year, the number of single-family accepted offers began to increase sharply as demonstrated in appendix 8.

The success of the program in reaching its targeted income group is demonstrated by the fact that the average income of purchasers is \$23,000, 61 percent of the national median household income. FIRREA requires only that buyers have incomes less than 115 percent of local median income.

With regard to multi-family properties, RTC reports that 485 of these have been marketed at June 30, 1991. Of these, 49 sales have been closed, and offers have been accepted on 62. Another 138 are in clearinghouses, and 236 or 49 percent were not sold and have left the clearinghouse stage. This program has been more difficult to implement, but sales have recently begun to increase.

The 1991 Funding Act provided that single-family homes be made available to qualified buyers in conservatorship. This provision has proven helpful. RTC advises that at June 30, 1991, 1332 homes have been sold in conservatorship.

Turning now to the structure of the cleanup, FIRREA made the FDIC the exclusive manager of the RTC to perform all responsibilities of RTC under the statute. It made the FDIC Board the Board of Directors for RTC. At the same time, FIRREA gave the Oversight Board authority over RTC's strategies, policies, and funding and gave it responsibility for oversight and evaluation of the RTC.

Given the immensity and complexity of the cleanup and the need for continuing objective oversight of an organization that is responsible for spending as much as \$160 billion of taxpayer funds, the separation of management and operations from oversight made sense.

We have functioned under this structure for 2 years. Admittedly, there have been some problems in addressing this giant and unprecedented cleanup task. It would have been unrealistic not to expect them.

Some have suggested that there have been problems caused by the structure of the cleanup, notably the two-Board structure, and there have been calls for eliminating the Oversight Board, creating a single Board dominated by independent members and splitting the RTC and the FDIC.

As the Board has testified before, it does not believe that the problems stem from the organizational structure. Rather they have been operational in nature, and they are problems of an immense and unprecedented job.

The Board believes that the most important step that can be taken for making the RTC more effective is to appoint a new Chief Executive Officer with the experience and the operating latitude to get this job done. And on that we and Chairman Seidman are in agreement, and Secretary Brady and Chairman Seidman have

formed a Search Committee, and a search is actively underway for an RTC Chief Executive Officer.

We do not believe that changing the organizational structure of the cleanup now is desirable or necessary. Changes of the magnitude suggested in the bills introduced in the Senate and the House would entirely revamp the executive structure of the RTC. It would cause disruption of ongoing resolution of asset disposal activities, and thus would create expensive delays that, in any case, is by law scheduled to terminate at the end of 1996.

In conclusion, Mr. Chairman, I repeat the Oversight Board's request for legislation this session that will provide sufficient additional funds to complete the cleanup, which we estimate at \$80 billion, an increase in the RTC borrowing authority to \$160 billion, and an extension from August 1992 until September 1993 of the period in which the Office of Thrift Supervision may transfer thrifts to the RTC for closing.

I must underscore Chairman Seidman's opinion that additional loss funds will be needed by the end of October, if we are to get this job moving forward on time. If loss funds run out and the RTC is unable to close money-losing thrifts and pay off their depositors, the cost of the cleanup will simply grow, and we would risk alarming depositors if the deposits are not safe, thus creating runs on already weak institutions.

Ultimately Congress must provide the funds, simply in order to fulfill our Government's deposit insurance commitments. If the funds requested are provided and the cleanup can continue without disruption that would inevitably be caused by a major reorganization.

RTC can continue to close thrifts and save depositors accounts, and the unnecessary additional costs resulting from funding delays can be avoided. At the same time, the RTC and the Oversight Board will continue to work to improve RTC's asset disposition performance and to improve its management practices under the leadership of a new Chief Executive Officer.

For the longer term, when the backlog of insolvent thrifts is resolved and these institutions are closed or merged, we can look forward to a stronger industry with improved profitability.

Certainly, Mr. Chairman, I am sure that you and the members of the subcommittee share our goal of getting this immense, complex task behind us as quickly and as economically as possible. I hope you would also agree that we should do nothing, such as a major reorganization, to make the cleanup more difficult and more expensive, for I believe that if we are permitted to stay the course, we will get the job done with increasing efficiency.

Thank you very much.

[The prepared statement of the Honorable John Robson can be found in the appendix.]

Chairman ANNUNZIO. Thank you very much, Mr. Robson, for your statement.

You heard my opening statement. Now you tell me, when are we going to get a bill?

Deputy Secretary ROBSON. Mr. Chairman, I'm not going to argue with you on this. We had the Secretary of the Treasury up here 3 months ago or 2½ months ago making the same request I've made

today. But if you need a bill to get this thing moving, you'll get one—quick.

Chairman ANNUNZIO. When? When? Tell me when?

Deputy Secretary ROBSON. As soon as I can get Secretary Brady to sit down and write a formal letter that will come, then, to the Speaker and the Majority Leader of the Senate and—

Chairman ANNUNZIO. I'm sure you have a copy of my statement, so you can use that statement of mine, OK.

Deputy Secretary ROBSON. I heard it, and it's not a matter that I think you and I ought to sit here and argue about.

Chairman ANNUNZIO. No, that's absolutely correct, because Secretary Brady knows that when something is sent to this subcommittee with a deadline or a date to meet, this subcommittee has met every date that we've agreed upon with the Secretary.

Mr. WYLIE. Would the chairman yield on that question?

Chairman ANNUNZIO. Yes.

Mr. WYLIE. I have a letter here that was mailed to Mr. Prins yesterday with a copy of a proposed bill. Is that the bill you're suggesting?

Deputy Secretary ROBSON. You do have—the staff of the committee has a bill right now, Mr. Wylie. But in respect of the request—and I think this is the important issue—Secretary Brady made that request back in July. It is the same request that reiterate today. So there's been no mystery about what the administration was asking for.

Mr. KLECZKA. Mr. Wylie, would you yield?

Mr. WYLIE. In just a second. But I think what we're talking about here is a procedural mechanism by making it a formal request from the administration to the Speaker and the Majority Leader of the Senate, and the bill has already been prepared, although this just asked for a straight \$80 billion in new finding, right?

Deputy Secretary ROBSON. That's correct.

Mr. WYLIE. OK.

Deputy Secretary ROBSON. Mr. Wylie, I understood the chairman's request for a formal letter that comes from the Secretary to the Speaker of the House and the Majority Leader of the Senate. We'll get you one.

Mr. WYLIE. Well, we want to provide the mechanism to at least keep the process working, and I yield to the gentleman from Wisconsin.

Mr. KLECZKA. A question, Mr. Wylie. I missed your first statement.

You indicated that a draft of the bill was sent up to the committee. Which Congressman was that addressed to?

Deputy Secretary ROBSON. It wasn't addressed to any Congressman. It was addressed to Mr. Curtis Prins, Staff Director.

Mr. KLECZKA. Oh, Congressman Prins? [Laughter.]

Mr. KLECZKA. I call him the member-at-large.

Deputy Secretary ROBSON. Well, it was directed to the Staff Director. This is a staff procedure.

Mr. KLECZKA. Well, I hope the staff votes for it. [Laughter.]

Mr. WYLIE. I understand the thrust of the chairman's remarks a little earlier now, I think, since the gentleman from Wisconsin has had his say.

Thank you.

Chairman ANNUNZIO. Thank you very much.

Mr. Seidman, the RTC—that's right. I'm moving ahead.

Do you have a statement you would like to make?

STATEMENT HON. L. WILLIAM SEIDMAN, CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, AS MANAGER OF THE RESOLUTION TRUST CORPORATION; ACCOMPANIED BY DAVID COOKE, EXECUTIVE DIRECTOR, RESOLUTION TRUST CORPORATION; WILLIAM H. ROELLE, DEPUTY EXECUTIVE DIRECTOR, RESOLUTIONS AND OPERATION DIVISION, RESOLUTION TRUST CORPORATION; AND LAMAR KELLY, DIRECTOR, ASSET AND REAL ESTATE MANAGEMENT DIVISION, RESOLUTION TRUST CORPORATION

Mr. SEIDMAN. I'll make just a short statement, Mr. Chairman.

First, since I am hopeful this will be my last appearance before this subcommittee before I leave the scene, I want to thank you, Mr. Chairman, and the many members of the subcommittee I have worked with, for the courtesy that you have extended to me.

We haven't always agreed. I think we have in general been able to carry out Speaker Rayburn's admonition to disagree without being disagreeable when that was the case.

I specifically want to thank the members that I have worked with who have listened, the many times that they have listened to my side of whatever issue was involved.

As far as my statement today, I have listened to Secretary Robson's statement, and I agree with almost everything he said.

I do not think it will be necessary for me to repeat the many things that he said with regard to the request for funds, which we worked with him to prepare and which we agree with.

I agree with him that the RTC has accomplished a great deal, and it still has a great deal more to accomplish.

So, I think, in the interest of time, I will simply move to the one place where we do not agree, which is with respect to whether or not there ought to be a restructure of the RTC as part of an appropriation.

The primary reason why I believe a restructure will be beneficial is that it will relieve the FDIC of its obligations in this area and, therefore, eliminate the problems of two different organizations being involved in the management of the RTC operation.

I think it was appropriate. It certainly could be supported. In the beginning, the FDIC was needed because it was the agency with experience in this area.

I think it is no longer necessary for the FDIC to be involved, and the FDIC has a massive job, as you all know, on its hands, without having to be involved in the RTC operations at this time.

Therefore, I respectfully dissent from the Secretary's view that the current structure is one that we ought to keep in place for the remaining years of the RTC.

I have worked with the Secretary on a structure.

In the event that the Congress does want to move ahead, he and I and our organizations have worked on a structure, and I believe it is safe to say that we have agreed upon a structure that could be put in place if, in fact, you decide that a restructure is necessary.

In brief, the restructure would involve creating a CEO for the RTC by legislation, who would chair the RTC Board and would be a member of the RTC Oversight Board.

It would eliminate the FDIC as exclusive manager of the RTC, thereby eliminating the two—separating the two organizations.

It would adjust the powers of the Oversight Board to those normal for oversight and increase the CEO powers to those normal in this position.

Fourth, it would give the Oversight Board power to remove the RTC Board and to select the RTC CEO.

Thus, the Oversight Board would be the equivalent, in many ways, of a regular corporate board, and the RTC Board would operate as the equivalent of a committee or of the overall board, and I think we would have a very workable and improved structure under this proposal.

I have with me legislation which sets forth at least a start on accomplishing this, and I'd like to make that a part of the record, if I could, Mr. Chairman.

Chairman ANNUNZIO. Without objection, it will be made part of the record.

[The Information referred to can be found in the appendix.]

Mr. SEIDMAN. Finally, I would just like to conclude by saying that this has been a difficult process.

I have been around a long time. I have never seen anything that quite equals the challenge of trying to clean up this situation.

It is complex. It is much larger than anybody thought it was, and it is clearly something that, no matter how it is done, there will be those who object.

For those who are hearing from home that there is some improvement, we are delighted to hear that.

For those who have not heard that, we will try to see, I am sure, that the improvements will be reflected in their districts, as well.

I would just make one statement with respect to the GAO audit.

As I understand Mr. Bowsher—and I have talked with him about it—and his organization, they are not going to provide a clean certificate under any circumstances, and the reason that they are not providing a so-called clean certificate is that it is so difficult to value these assets that there is no way that they can certify that the opinion is correct.

Mr. Bowsher said in his statement—and we agree—that this is no reason not to proceed and to try to value them in the most scientific and effective way we can, but it was his opinion that even—no matter what we did, there would be no way that they could issue a clean certificate.

So, I think there has been some misunderstanding about what the GAO can or is willing to do.

With regard to the reconciliation problems, they currently are about \$1 billion in that area in a \$300-billion operation.

That is too high, but we had a choice. We could wait until we had perfect accounting systems before we began to liquidate these

institutions, or we could develop the systems while we were in the process.

We chose the first route because we believed that would reduce the cost to the taxpayer. I believe it has, but it clearly has resulted in some accounting problems.

In my experience, those accounting problems are not more or less than could be expected in this situation.

Thank you, Mr. Chairman.

[The prepared statement of L. William Seidman can be found in the appendix.]

Chairman ANNUNZIO. Thank you for your statement, Mr. Seidman.

At this time, I would like to ask you, Mr. Seidman: On Tuesday, the RTC accepted a bid of some \$500 million for a loan portfolio. There is \$700 million in loans.

What I want to know is if that winning bid was a cash bid or was it a finance deal? I would like to know the details of that deal if it was not a cash deal.

Mr. SEIDMAN. It was a cash deal.

Chairman ANNUNZIO. Thank you.

I commend you for the cash deal, because for some time you and I have been disagreeing on procedure here, and I have been saying you have got to sell the assets. So I commend you. You are coming to us for money, and you have money. Thank you very much.

Mr. SEIDMAN. We prefer cash, too, Mr. Chairman. We cannot always get it.

Chairman ANNUNZIO. We have always liked cash.

Mr. Robson, Salomon Brothers' government securities scandal has been the focus of much attention recently.

On August 19, in the *Wall Street Journal*, it states that Treasury officials were outraged when they learned that a few of the largest dealers manipulated the January 1990 sale of \$5 billion of 40-year REFCORP bonds by spreading false information. Has the Treasury Department or the RTC Oversight Board looked into the alleged manipulation of this bond sale?

Deputy Secretary ROBSON. That is part of the investigation that's going on with respect to all of those firms, Mr. Chairman.

It involves quite a number of different securities, as you have been progressively reading about in the paper, and all of those are under investigation.

Chairman ANNUNZIO. Mr. Seidman, the *American Banker* today reports that the RTC is considering bulk-borrowing from Wall Street to replace the RTC reliance on brokered deposits. Since the inception, how much has the RTC paid deposit brokers in commissions?

Isn't it true that brokered deposits are used in conservatorship institutions to give uninsured depositors an opportunity to withdraw their funds?

Mr. SEIDMAN. We inherit brokered deposits, Mr. Chairman.

The reason that we have brokered deposits, in almost all cases, is that they were in the institutions when we take them over.

We pay them off as rapidly as we get funding from the Congress to allow us to do that.

Chairman ANNUNZIO. Has your organization ever paid any brokers to get brokered deposits?

Mr. SEIDMAN. I will ask Mr. Cooke.

Mr. COOKE. It is very rare.

Mr. SEIDMAN. We might have in some isolated instances where we had a cash problem and we did not have the cash in hand.

I do not know of any that we paid.

Chairman ANNUNZIO. I know your feelings about brokered deposits, and that is the reason I am asking these questions.

Lisa Specter, the RTC Capital Markets Director, is quoted in today's *American Banker* as saying brokered deposits are expensive. Why has it taken the RTC 2 years to realize what the rest of the world knew for 10 years? If the RTC knew that brokered deposits were expensive, why did it keep using them when it has access to low cost Treasury and FFB borrowing?

Mr. SEIDMAN. Well, the answer to that is, we have paid them off as fast as funding was available.

Chairman ANNUNZIO. How does the RTC justify authorizing the deposit of almost \$8.5 billion in brokered deposits into 63 institutions that were in conservatorships in July? Specifically, why would the RTC authorize the deposit of almost \$8 billion in brokered deposits in only 9 of the 63 institutions, especially considering that, as of July, the amount of brokered deposits of these 9 institutions, \$6.57 billion, represents one-half of their total deposit base?

Mr. SEIDMAN. Well, we have requested a number of times, including to the Oversight Board, that we be funded so we could pay off all brokered deposits. We have not been funded in that event, so we don't have the money. So the answer is very simple, Mr. Chairman, you can't pay off brokered deposits unless you have the money to pay them off, and we haven't had the money.

Chairman ANNUNZIO. But you made a statement, as I recall, that you don't use brokered deposits.

Mr. SEIDMAN. I said we inherited brokered deposits, Mr. Chairman. In other words, when we take over an institution, they have brokered deposits, and therefore, we can't eliminate those without having funds to replace them.

Chairman ANNUNZIO. I appreciate your answer, but my information is different, and I'll follow it up later.

Mr. SEIDMAN. If you would follow it up, I'd be pleased to provide you with an answer.

Chairman ANNUNZIO. Mr. Wylie.

Mr. WYLIE. Thank you very much, Mr. Chairman. Mr. Seidman, welcome to the subcommittee again. I'm glad to see you here this morning in your still existing capacity as Chairman of the FDIC.

Do you think an additional \$80 billion is enough to finish the job, once and for all?

Mr. SEIDMAN. The \$80 billion?

Mr. WYLIE. \$80 billion?

Mr. SEIDMAN. I do, and I think it is a conservative estimate. As Secretary Robson has said, I would be hopeful that maybe we'd come in under that, but I believe, based on what we know now and the improving economy that I believe we see, that it is a conservative estimate.

Mr. WYLIE. What assurances—and I know that you've talked about this a little bit, but we need to pin it down as much as we can—what assurances do we have, Mr. Robson, that this will be the last funding request for RTC? I'm not suggesting that you're making up the figures or that you have any magic in this regard, but, I mean, you're probably closer to the scene.

Deputy Secretary ROBSON. Well, it seems to us to be a conservative approach. You've put into the estimate, two of the groups that are in Group 3 of OTS' classifications, which they classify as not needing Government assistance, but we have already seen that some of those in Group 3 slip into Group 4 as time passes.

What we've done is to try to take a realistic, conservative approach on the theory that no one is benefited by coming in with a lowball estimate of the amounts necessary to finish the job. Lord knows, we don't enjoy coming here to ask for the money. You don't enjoy giving it to us, and we feel between us—and Bill Seidman and I have looked at this and our respective organizations have, that this is a sound estimate.

Can I guarantee you that nothing in the world could happen that would make it not adequate? No, I can't. As Chairman Seidman himself has said, until the last asset is sold, you won't know exactly what the loss of this thing is. But it's our best estimate. We think it's a conservative approach and we're as confident as we can be on what we know now, that it will do the job.

Mr. WYLIE. Mr. Cooke, you run the shop. What do you think about the \$80 billion?

Mr. COOKE. I agree with what was just said.

Mr. WYLIE. You agree with what was just said. OK. Is there anything we in Congress should do to make darn sure that this is the last request? I think it has to be, really.

Deputy Secretary ROBSON. Well, I think one of the things you could do would be to give it to us soon so that we could get on with the job and, therefore, avoid any further delays.

Mr. WYLIE. Mr. Seidman, you have given us two proposals for RTC restructuring. Which of the two do you prefer?

Mr. SEIDMAN. Well, I prefer, really, the second proposal, which is the one that I submitted for the record—the kind of language that might be used to accomplish it.

Mr. WYLIE. How much of a difference would that make, do you think, as far as cost savings? Is there any way of knowing that?

Mr. SEIDMAN. I know no way to put a cost estimate on that, Mr. Wylie. I think it will save a lot of wear and tear on the part of a lot of people. It will save a lot of time, and I think it is particularly important, not only for the RTC operation, but for the FDIC operation.

Mr. WYLIE. Mr. Robson, have you been working with Mr. Seidman on a restructuring proposal?

Deputy Secretary ROBSON. Yes, sir.

Mr. WYLIE. Do you think we need a restructuring?

Deputy Secretary ROBSON. Well, as we have said, we do not believe—and as Chairman Seidman has said, we do not believe that we need restructuring. We think the thing is rolling along, not without some bumps and warts, but that the process is in place and that there just is not a lot of gain by shaking up the boxes. However,

er, we are not unaware of the fact that this issue is in the minds of a lot of Members of Congress. For that reason, we sat down with Bill and said, if we are going to get hit by a truck, what kind of a truck would we like to get hit by? It was he and I that then worked out the—that is something that we would find acceptable, but I do want to go back to my original position, which is we really do not think that restructuring is necessary.

Let me add to that that both Chairman Seidman—and we are in absolute agreement that a CEO for the RTC ought to be put in place and, as I said in my testimony, that search is going on as we speak.

Mr. WYLIE. Mr. Seidman, as you remember, there was a lot of controversy surrounding minority contracting last March, when we passed the last funding bill for fiscal year 1991. What progress has been made on that issue?

Mr. SEIDMAN. I will ask Mr. Cooke to give you the numbers. He has them in front of him.

Mr. WYLIE. Thank you.

Mr. COOKE. We have taken a number of initiatives to try to improve the numbers. The numbers are definitely trending upward. Within the percentage of dollar of contracts awarded to minority- and women-owned firms is gone from 11.2 percent back in August 1990, to 21.4 percent in the beginning of September. As far as minority firms only, the increase is less impressive, but trending up. Minority only has gone up from 4½ percent to 7 percent in the same timeframe.

We have put in place a number of initiatives designed to improve the whole process. We have established a senior level minority women-owned business director, a senior level, executive level. We have reorganized and beefed up the field operations of minority- and women-owned business personnel. We are breaking portfolios down into smaller chunks for contracting, and trying various pilot programs, in hopes of resulting in a larger percentage of awards to minority firms and women-owned firms.

In addition to that, we have entered into agreements with the SBA on using greater use of the 8A Program, and with the Minority Business and Development Administration, the MDBA, to help us in outreach and providing technical advice to minority firms that are in the solicitation and contract process. We have passed our interim final rule which clarifies who is and who is not a minority-owned firm.

These, as well as other actions, we think, will continue to show improvement in that whole area.

Mr. WYLIE. It sounds like you are making good progress. That should be a plus in the consideration of the funding. Thank you.

Mr. SEIDMAN. Thank you. We are working hard on it.

Mr. WYLIE. Thank you, Mr. Chairman.

Chairman ANNUNZIO. I am going to ask Mr. Roelle to read a memorandum that you received from Mr. Stow, having to do with brokered deposits.

Mr. ROELLE. Mr. Chairman, do you want me to read the whole memo into the record?

Chairman ANNUNZIO. Yes. It is not that long, you can read it. It is a good memo.

Mr. ROELLE. It says——

Chairman ANNUNZIO. We have attached——

Mr. ROELLE. It is a memo from Arthur G. Stow to myself, and it is regarding the Chairman's data request on brokered deposits. It states: "We have attached the response to items request 11 of Mr. Annunzio's letter of August 20, 1991.

"Using data, as of July 31, 1991, we have created the RTC authorized brokered deposit schedule. The schedule's total amount column reports the amount of brokered deposit funds authorized by the RTC, which is defined as any new or renewed brokered deposits received by the institution since the date of conservatorship. The fee paid relates to the amount of fees paid to the brokers for the authorized amount of funds deposited at each institution. The schedule contains data for the 63 outstanding conservatorship institutions reporting broker deposit balances outstanding, as of July 31, 1991.

"We have gathered detailed information on the nine largest institutions and volume of brokered deposits which have 90 percent of the national total of all brokered deposits and conservatorships. Brokered deposits at these nine institutions represent at almost 50 percent of the total deposit base. The brokered deposits in the other 54 institutions represent only 3 percent of their total deposit base.

"In my earlier memorandum I explained that to pursue brokered deposits, broker name and fee information on those additional 54 shops would require time beyond the deadline for response to Mr. Annunzio, as those shops generally are less likely to have reporting mechanisms in place to produce the data quickly and require significant resources to complete the request.

"The schedule has several reports the nine largest institutions and volume of brokered deposits from the 54 other institutions with brokered deposits. For each top nine institutions, the schedule contains the brokers names, deposit amounts and fees received. For all 63 institutions the schedule contains the outstanding amount of brokered deposits and the highest rates offered by maturity of brokered certificates of deposit, as reported by the conservatorship on July 31, 1991.

"Each institution set is segregated by RTC region, where the grand total and regional totals are reported after the grouping of nine and 54. An aggregate grant total and regional total is reported on the last page of the schedule.

"I hope this information is helpful. Please contact John Kostiras of my staff at 416-7259 should you have any further question."

Chairman ANNUNZIO. Mr. Roelle, how much money did the RTC pay out for brokered deposits?

Mr. ROELLE. In terms of fees?

Chairman ANNUNZIO. Yes, that is right.

Mr. ROELLE. Well, in the top nine, it was \$37 million over the lifetime.

Chairman ANNUNZIO. I thank you very much for your cooperation. I wanted the record to show that there is money being paid out.

Mr. ROELLE. Let me point out though that most of these brokered deposits were inherited; they have continued to be rolled over to

keep the institutions operating until such time as they can be closed down. As Mr. Seidman indicated, if we had had funds—other sources of funds, those funds would have been utilized.

Chairman ANNUNZIO. Nevertheless, the point I am getting at is whether they were inherited or what. You did pay out \$36 million for brokered deposits. RTC paid—

Mr. SEIDMAN. Mr. Chairman, would you yield?

Mr. WYLIE. Yes, I was going to ask Mr. Seidman, that is not inconsistent with what your testimony—

Mr. SEIDMAN. No, that is exactly what I said to you, Mr. Chairman. I just wanted to make it clear, I said we have brokered deposits and we pay fees on brokered deposits, because we inherit those brokered deposits and we have no way to pay them off.

Mr. VENTO. Would the Chairman yield to me?

Chairman ANNUNZIO. My information shows that \$36 million has been paid out.

Mr. VENTO. Would the Chairman yield to me?

Chairman ANNUNZIO. I yield to Mr. Vento.

Mr. VENTO. Well this is a concern, because in many market-places, the RTC-run institutions are paying higher amounts because they are rolling over these brokered deposits, bidding up the cost of deposits. It is my understanding that the RTC, led by Mr. Seidman and Mr. Cooke, had sought to extinguish these brokered deposits, and had brought that policy to the Oversight Board and had not been given permission to do so. Is that correct, Mr. Seidman? Mr. Robson?

Mr. SEIDMAN. I know we have discussed it with him and we have not had an appropriation—we have not requested appropriations.

Mr. VENTO. Well, so the decision was made—the decision made by the Oversight Board—to roll over the brokered deposits—the policy is that that is what the Oversight Board has told you to do.

Chairman ANNUNZIO. My time has expired. Mr. Hubbard.

Mr. HUBBARD. Thank you, Mr. Chairman. I said during my opening statement earlier in the hearing that I had to go to the Senate for an appointment, and I regret I have missed some of the testimony, but it is good to have our friends at the witness table, including the distinguished Chairman, Bill Seidman. I am going to yield a few minutes of my time, asking the chairman and other members to be generous, to my Congressman, that is right, my Congressman, out in northern Virginia. My friend, Jim Moran, has to go to a 12 o'clock meeting, and I yield to him.

Mr. MORAN. I very much appreciate your yielding to me, Congressman Hubbard, and I hope I will have an opportunity to return the favor at some point.

I represent part of the area that Mr. Seidman has declared to be, on the front page of the *Washington Post*, having banks with highest percentage of troubled loans in the Nation, thank you very much. I understand that was in—

Mr. SEIDMAN. May I reply, Mr. Moran?

Mr. MORAN. No, I know—I have been doing my best to put all the caveats that ought to be associated with that, but nevertheless, the impression was made. I know we have got great problems. RTC is going to play an increasingly important role. They have already

played a very important role, particularly in the disposal of real estate property, but it is not effective.

It's not working and there are a number of reasons. One of the reasons that I am told is that the RTC insists that with regard to real estate properties that all of the contracts and loan commitments that were made between the lender/seller and the purchaser can be voided by the RTC. And the RTC will not preapprove any contract or loan commitment.

Now, you're obviously familiar with this situation, but so many of the potential purchasers will say, we are not going to buy property unless we know there is some way to secure development and construction financing. And all of the agreements that had previously been attached to that property can be voided; and generally will be voided. And so, the property is of no value because those potential purchasers know that in northern Virginia there is virtually no place they can go out and get financing to make that project work.

Now, that's what I'm being told. And I know that there's not going to be a short enough answer to get it all verbally, but I would like it in the record. There's a situation with a land company—they had retained earnings of \$3 million last year and they were part—the subsidiary of a bank that was taken over. RTC said that you put them into bankruptcy. And the only explanation, despite the fact that they were making a very fine profit, was that we are not in the business of being developers. Well, you put them into bankruptcy, the person that was managing it went into personal bankruptcy himself as a result, he had a salary agreement where he was going to get compensation owed him of 255,000, that was voided. He had to go to court and the court said, well, sure, this is a valid contract. He got it, but RTC and the person himself spent tens of thousands of dollars just to make that contract good. That's part of the problem.

And, now, yesterday we spent a good part of the afternoon with some constituents that came back from Tucson and they're telling us that in Tucson—I know this is out of my area, but there's nobody from Arizona on the committee; that the RTC—and it's been in some of the papers—has routinely kept prices at a high level until the 90-day period expired so that low and potential low-income home buyers couldn't buy the property and then the next day after the 90-day period expires, they sell that property at half of the price that they offered it before the 90-day period.

The low-income home—the potential low-income home buyers could easily have bought it at half the price, even three-quarters of the price. But it was kept at that inflated level for 90 days and then no longer available to the potential low-income home buyers and we wind up—the taxpayer wound up getting bagged for half of the cost. And this is the kind of thing that we are hearing repeatedly. And so, when we hear about the need for \$80 billion, we trust you it's needed. But it's a difficult sell that every creative opportunity to dispose of this property in an effective and responsible way is being accomplished by the RTC.

Now, I tried to fit a lot into 5 minutes here and I thank you, Mr. Chairman.

Mr. HUBBARD. Thank you, Congressman Moran.

Mr. MORAN. Perhaps we can get some verbal response and then a more complete response for the record.

Mr. HUBBARD. I'd be very pleased if you would give us the names of the actual cases——

Mr. MORAN. I've got them all here, and I will give them to you.

Chairman SEIDMAN. And we will look into them and we will respond to you and if they haven't been handled properly, we'll try to correct. I don't think any of those things you've mentioned are our standard practices, but we would like to look into it and see whether there's something that needs to be done.

Mr. HUBBARD. Reclaiming my time at this point, Mr. Chairman. And I appreciate my friend Jim Moran. Let me assure my colleagues, I'll just ask three questions, two of Mr. Seidman, one of Mr. Robson. And I'll be finished.

Last week, Mr. Chairman, our Subcommittee on General Oversight and Investigations, which I'm honored to chair, held a hearing in Dallas, TX on the Resolution Trust Corporation's operations there in the State of Texas. Many serious charges were leveled against the RTC at this hearing. Incidentally, we did visit the RTC headquarters there in Texas at Revershon Plaza in Dallas, which would be equivalent, Mr. Chairman, to a government agency having leased offices down on the K Street corridor in Washington—extremely expensive real estate, modern luxurious Revershon Plaza, that's where the RTC is in Dallas.

One charge was that the RTC's failure to sell real estate to willing buyers is attributed to the perception that its employees and contractors have no incentive to sell. Witness after witness, last Friday, agreed that RTC employees and contractors realized that the sooner they sell property, the sooner they would be out of a job. Can you please tell us exactly what types of incentives RTC employees have to speed up, rather than slow down, real estate sales?

Chairman SEIDMAN. Let me start by saying that that's a problem of the RTC that no one can ever correct. The employees, the faster they do their job, the sooner they'll be out of a job. That's a fact. Therefore, we have to try to design systems to provide other incentives and we do by providing them with their major source of income through sales and not through management. But our fundamental approach is to try to keep from having to manage assets so that we can sell them and, of course, the private sector sells and the private sector gets commissions for selling. So we're using the normal private sector broker system to sell property and they are in control of most of the property.

But you cannot get away from the fact that this is a liquidating institution and as a result of that there are people there that are normal like everybody else and they know the quicker they sell the sooner they'll be out of business.

Mr. HUBBARD. A second question. Another criticism we heard was that RTC rarely, if ever, sends a decisionmaker to the negotiating table with interested buyers; someone who can make counter offers or accept offers, thus negotiations which take hours in the private sector drag out for months—we even heard years—with the RTC. What really can be done to address this problem of no decisionmakers being at the table when there's——

Chairman SEIDMAN. The answer——

Mr. HUBBARD. Interested buyer sitting there wanting to buy.

Chairman SEIDMAN. The answer, Mr. Hubbard, is, for small amounts there is a decisionmaker at the table. For any substantial amounts, as a matter of internal control, we require that it be approved by someone else. The potential for fraud here is huge. And we have to have some very special procedures in place or there are chances for the system to really be ripped off and therefore we are a slower and a more governmental type organization than normal private sector negotiations. But even with that, for smaller sales, we do have decisionmakers in place.

Mr. HUBBARD. My one question for Mr. Robson. When the administration proposed FIRREA in 1989 it projected the cost of protecting S&L depositors at no more than \$50 billion. Now you're saying that the cost has more than tripled to \$160 billion and we need, at this point, \$80 billion more. Administration officials have blamed this discrepancy, in the past, on minor miscalculations. That would be difficult for me to sell to my constituents that these would be minor miscalculations now that we're asking for \$80 billion more, this is a major error, of course. How could a mistake of this magnitude have been made, Mr. Robson?

Deputy Secretary ROBSON. I don't know what administration officials are blaming it on minor errors, but it wasn't the one sitting in front of you. And I don't think it was anyone at Treasury. We were wrong. Everyone was wrong on the dimension of the problem. A lot more thrifts have gone into the RTC process.

They were in worse shape than we expected them to be and therefore the losses on their assets have been higher. The real estate market has been terrible and that has both affected the saleability and the price at which you get assets. The economy has been soft and so you've had a variety of factors that have contributed to the large price tag that is attached to this thing.

There were a lot of people who were wrong in that original estimate and Lord knows there is no profit in being on the low side of those kinds of things and we wish we weren't, but we are—but—and there are a number of factors which I just touched on that are responsible for that.

Mr. HUBBARD. One of my colleagues reminded me that even GAO was off on its estimate, right?

Deputy Secretary ROBSON. That's true.

Mr. HUBBARD. Thank you, Mr. Chairman.

Chairman ANNUNZIO. The time of the gentleman has expired. Mr. Leach.

Mr. LEACH. An earlier comment was made that we had a Soviet-style bureaucracy at issue. I think that was a bit exaggerated. As hard as it is to defend the RTC, let me say that as the Commissar leaves at least we have had no Third World kinds of conflicts of interest. I think every member of this subcommittee and every member of the panel knows of instances where there have been delayed decisionmaking and in what might be defined as bits of incompetence. But it is very, very impressive that in better than a year in operation, there have been no serious scandals. That is an extraordinary phenomenon.

Now obviously fear of scandal slows the process but I just would like to tip my hat to the leadership. In terms of integrity of operation the RTC deserves very high marks at this particular stage.

Now obviously there is a balance. I mean it would be a fluke to say that you want a little bit of fudging to get faster decisionmaking. No one would ever want to come exactly to that conclusion but let me stress that some of the tardiness is based upon procedures that have been put in place to protect the integrity of the American Government. This member appreciates that very much.

Mr. SEIDMAN. Thank you, Mr. Leach.

Chairman ANNUNZIO. Thank you very much.

What is the pleasure of the subcommittee? Would you like to go over and vote and then come back and finish this up? All right, so it's 5 after and we'll come back in about 7 minutes, OK?

[Recess.]

Chairman ANNUNZIO. The subcommittee will come to order.

Mr. Seidman will leave at 12:30, and we will continue with the hearing. Before he leaves, I want to express my appreciation for your attendance today and for all of the cooperation you have extended to the subcommittee, and we wish you well, whatever the future might bring for you.

Mr. SEIDMAN. Thank you, Mr. Chairman. Am I excused at this point?

Chairman ANNUNZIO. Yes.

Mr. SEIDMAN. Thank you.

Mr. McCollum, you are recognized for 5 minutes.

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

I would like to particularly direct this policy concern, since we are talking about funding and cost and so forth, to Mr. Cooke and Mr. Kelly. It is a policy concern on bulk sales of real estate that I am concerned about, and it comes from a situation I am familiar with that has occurred in my district recently.

I do not bring it to your attention for any observation, particularly, or scrutiny of this transaction, but as an illustration. And we have looked into it with your folks.

It is my understanding that RTC owned or controlled for some time 22 lots out of 25 in a subdivision. The original three lots in that subdivision, before you controlled them, were sold for \$410,000, \$423,500, and \$450,000 each.

After RTC had them, about 9 months ago a property company offered to buy the remaining 22 lots for \$5 million in cash, which would be \$227,000 a lot.

Your folks—and I do not dispute this—said they had some problems with financial information from the offering company, and that did not get completed.

About a month ago, two other lots were sold by RTC for \$378,000 and \$318,000 apiece.

Within 2 weeks of those sales, the remaining 20 lots were sold in bulk for \$3.3 million, or \$165,000 a lot.

What bothers me about this is that the explanation given for the sale was that they were done under a bulk sale appraisal, and that the offer of \$3.3 million was 80 percent of that appraisal, which fell within your guidelines.

Technically, that may be true. I do not know.

What I am concerned about is that this illustrates for me a flag. And I just wanted to ask about the policies that are in existence now with respect to selling bulk sales like this, because it strikes me, just on the face of it, that selling lots for half of what they were being sold for individually in a bulk sale is not a very efficient way of doing things. I realize, again, that you would not know the particulars of this, and I am not trying to put anybody on the line on the particulars, but if this 80-percent rule and so forth in the bulk sale real estate appraisal is going on like this all over the country, it seems to me that we ought to at least air it and discuss it.

I would like to know about it, Mr. Kelly or Mr. Cooke, either one.

Mr. COOKE. I think Mr. Kelly can address the policy.

What you have just described, though, is something we do not have any firsthand knowledge about now.

Mr. MCCOLLUM. I am aware of that.

Mr. COOKE. In that particular case, if it was a bona fide offer and it was already on the table, under current policies, we would not sell it. We would not sell it in a portfolio sale.

Mr. MCCOLLUM. Well, I am more concerned, then, with the bona fide offer, with the idea that—I don't know about those other people—within 2 weeks of the time you had sold two of the lots individually for twice the amount, you sold them in bulk for half of that.

What I am concerned about is if bulk sales are so important that we are going to discount them to that degree—to get 80 percent of an appraisal and then come out with half had to be under what the real estate was valued at.

Are you having problems with appraisals? Are we having problems with bulk sales? Is it hard to get a grip on the problem, or how is that going?

Mr. KELLY. Congressman, first, with respect to the 80 percent, there is a lot of confusion out there about what the 80 percent, the 60 percent of appraisals means.

In fact, that is a delegation of authority to our people in the field that says, within 6 months of date of appraisal, you could sell for 80 percent.

That does not mean you should sell for 80 percent. That just simply is an appraisal or a control mechanism that is out there.

With respect to the issue of selling in bulk at significantly lesser amounts, the fact is that we dispose of 20 properties in your illustration, and I do not try to justify the numbers, but we dispose of 20 properties, hopefully for cash, on that day.

We rid ourselves of all of the risk associated with holding those properties, from further deterioration in real estate markets.

Additionally, we have that cash available to us to invest today, so that we do not have the time risk, money risk associated with holding those properties and selling them for some expected retail value over whatever period of time, and I would presume that, in this instance, it probably would exceed 3 years to dispose of the remaining 20.

So, on a present-value basis, which is what we would have to do in order to justify that bulk-sale decision, we would look at the expected retail value over a period of time, present value of that back

to today's dollars, and that is the basis for making those kinds of decisions.

Mr. McCOLLUM. Well, I appreciate your explaining it, and I understand that rationale.

I guess, in a given application of it, it can be very harsh. And perhaps the concerns that I have as an office holder—and Oversight Board members would have, too—would be over the whole issue of are you getting a good enough return, is the policy worth it—and I know the policy rationale. I understand it.

It's just, in its application in a given case like that, it seemed rather strange.

Let me ask one other question on the little remaining time that I have.

With regard to the issue of the subcommittee, I went out to Dallas, as you know, Mr. Kelly, and we were concerned out there with several issues.

One of them that I have had complaints in Florida, too, concerned the incentive for selling property by those who are managing it, the broker asset managers. It is a question I raise for all of you, Mr. Monroe and Mr. Cooke and all of you.

The issue sounded to me, as it has been raised, as a legitimate issue, that there may be an incentive in the system now for people who are receiving the maintenance fees from RTC, to not move the property very well. And that was a complaint I know we heard from realtors out there, but I have heard it in Florida, as well.

Is that a concern that RTC has, that people who have the management of these properties may well not have any incentives to move them, if they are responsible for that, as well as for the management?

Is there some way that incentives can be provided to make them more interested in moving the property?

Mr. COOKE. Again, most of our property is managed by private-sector contractors. Most of our more illiquid assets are under private-sector management.

The incentives: we have a standard asset management disposition agreement, which we have modified several times to try to increase the incentives for disposition and decrease the incentive for management, but the problem that is many times attributed to government employees that are in the liquidating business is really also there in the private sector, as well, and we have tried several different models.

We are trying another now which would greatly increase—or we are looking into putting one in place now that would greatly increase the percentage cut the more the assets were sold, even higher than the existing model.

It is a balance, though.

At some point, you have to strike the right mix where the fees you are given are enough to maximize the return to the Government but also provide the additional incentives, and it is something we are struggling with, but we think that we are making progress and moving in the right direction.

When we find contractors that are not moving assets, we quickly, in part of our overview process, advise them that they may not be able to continue doing contracting with us if they do not meet the

established time goals, and we have an ongoing oversight process to see how well they are doing or not doing.

Lamar, do you want to add something?

Mr. KELLY. Can I just quickly add that there's no substitute for a straight sale. You can't devise an asset management contract that places the incentives—puts the incentives in place like a sale does where an investor puts money at risk and has the rates return available—

Mr. McCOLLUM. Well, you heard the suggestion out there, I'm sure, Lamar, that the realtors were making that you not allow any of these maintenance people to get their fees until the property is sold, working on a commission basis. I suppose you'd have a hard time getting people to manage the property with that condition, but that was what they were proposing.

Mr. KELLY. That would be totally unrealistic. A lot of these properties are distress properties. They have to go through foreclosure in order to realize the values associated with the assets. So there has to be some kind of monies for them in order to carry this out.

Mr. McCOLLUM. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Mr. Vento, you are recognized for 5 minutes.

Mr. VENTO. Well, thank you, Mr. Chairman.

Mr. Robson, I note that your estimate of \$80 billion in loss funds, \$80 billion in new working capital, these numbers are predicated on an estimate of some 900 S&L failures overall. Do you repudiate the CBO estimates? Have you looked at that? In other words, how did you come up with these numbers of institutions? CBO has indicated anywhere from 1,500 to 1,600 S&Ls, 900 plus the 600 that are now in the formula.

Deputy Secretary ROBSON. We simply don't agree with that, and RTC doesn't agree with it. You can make any gloomy estimate of the future state of the economy and future state of the real estate market that would sweep in the whole industry, I suppose. What we've tried to do—

Mr. VENTO. Well, I didn't make any. I'm talking about CBO.

Deputy Secretary ROBSON. Yes. They've extended their reach well into group two, if I remember correctly.

Mr. VENTO. They have some group two, yes.

Deputy Secretary ROBSON. Of OTS. We haven't done that because we think that if you look at the overall state of the industry, if you look at that, this is a reasonable estimate and a conservative one. Believe me, we have no interest in being on the short side of this one.

Mr. VENTO. Well, we have to look at whether—I mean, I think that traditionally in this area, there has been a denial of the problem for some time during the decade of the eighties. I mean, a lot of people participated in it, and I guess the question is whether that's persisting to date. For instance, the question of what the asset disposition process will yield, at some point, someone said it would be 80 percent. It looks like now it's closer to about 60 percent. What is your presumption with regards to asset disposition and the loss on assets in the portfolio that will exist under your scenario?

Deputy Secretary ROBSON. It depends on which category—

Mr. VENTO. You must make an estimate——

Deputy Secretary ROBSON. Which category of assets it is Congressman Vento. That is, in some cases——

Mr. VENTO. How about the ones that are already sitting in the portfolio at the RTC right now, \$165 billion worth. Can you give us any overall figure? I mean, clearly, when you come up with these estimates, you don't just pull them out of the air.

Deputy Secretary ROBSON. Well, they're based in part on experience and in part on projection, and if I remember correct, they are in the 20-percent range overall.

Mr. VENTO. Twenty percent? But, you know, the experience, especially with the remaining assets—in other words, existing assets that have been sold—have been in the 20-percent range, but you're not holding onto these assets because they are highly liquid and desirable sitting over there in the RTC today, that mountain of assets, plus, of course, those that are coming in.

I mean, this is the critical type of question that needs to be sufficiently answered to in order to justify the dollars that are being requested.

Deputy Secretary ROBSON. It's an entirely fair question, and I can assure you that we have no incentive or desire to come up with an estimate that we feel is too low. What we've done is include some 900 thrifts which, on the best estimate between RTC, which is dealing with the problem on a day by day basis, we and OTS are the ones that are likely to come into the RTC failure process.

Could we be wrong? Yes, we could be wrong on the upside or we could be wrong ultimately on the downside. We've taken a conservative stance on this thing because we don't want to be wrong.

Mr. VENTO. Mr. Robson, what about this brokered deposit issue. Why haven't you adopted a policy which would extinguish the brokered deposits that are currently in the portfolio? Why have you resisted that and not sought the necessary funds to do that? In the end, I mean, we look at these numbers and we see anywhere from 50 to 100 basis points difference between the Treasury borrowing and the cost of brokered deposits, plus, of course, the brokered deposit fees. Why has the Oversight Board, the Treasury, the administration, persisted not addressing that particular concern?

Deputy Secretary ROBSON. Well, first let me say we agree with the RTC that the pay-off of high-cost deposits is a good thing to do. The problem that you face was particularly last year, we had the note cap limitation that restricted our borrowing. We had to decide whether we were going to use borrowed funds for resolving institutions or paying off high-cost deposits. The judgment was that you were better off using those limited funds for paying off the costs associated with the resolution of the institutions.

The note cap is less of a problem today. RTC has come back to us and has asked us for some authority to do that just recently, and we're looking at it.

Mr. VENTO. Well, I mean, I just think this——

Deputy Secretary ROBSON. We have no disagreement with them. What you had was a limitation of money.

Mr. VENTO. Well, it seems to me that there are two things that every administration wants: maximum flexibility and all the money they can get, I mean in any issue. Of course, Congress' job is

to try to provide and to meet the responsibilities in a way that implements a rational policy in terms of resolution and sale of these assets.

We all want to do that, clearly, but, I mean, the point is that here we are 2 years into it, and we haven't got a policy on broker deposits. In other words, we used some early loss funds for that particular policy, but that was the extent of it. Since then, that issue hasn't been addressed.

This is not a new problem. This is something that has from day one been a major issue in terms of the assets of these or the deposits of these particular institutions, not a new problem.

I'm sort of surprised by the reluctance—I suppose I should not be—by the reluctance of the Treasury to accept any type of restructuring. I'd say I'm very encouraged by the response of the members in the committee, Congressman Hoagland, the chairman, and even Chairman Seidman, in terms of eliminating this plate of spaghetti that we have as an organizational chart.

You know, it's one thing for the Treasury to ask for more power; it's another thing for the Chairman of the Oversight Board not even to be here today. I understand Secretary Treasury Brady is busy. He's a busy man. But I think this job requires more than part-time attention, and that's why I insist and am going to advocate a strong reorganization.

I think the other committee members are coming to the realization of that particular need, as well as, I guess, yourself, Mr. Robson, in the sense that you're working with Mr. Seidman. So I hope we can work it out. But I have no illusions about the necessity, and surely I will work to whatever progress and whatever good policies are in place. There's no reason we have to lose anything in the process of doing this reorganization.

But I think we're just kidding ourselves if we continue with this policy where issues are falling between the cracks, like the issue that we just discussed, and there are many, many others that could be raised that simply seem to me to be a duplicative effort.

I might just add, not just my opinion. You look at the authorities that we've asked—for instance, the National Academy of Public Administration, and I quote from my opening statement, "The division of functions among the Oversight Board, the FDIC and the RTC inevitably causes confusion, generates conflicts, encourages second-guessing and buck-passing. It makes it impossible to hold any one individual organization accountable for the effective performance of its tasks assigned to the RTC."

A nonpartisan professional group, you know, maybe they aren't the fountain of all wisdom, but clearly I think asking the people that are involved in the turf fight what we ought to do inevitably leads to interesting answers.

Deputy Secretary ROBSON. It was too bad that they never came to talk to either us or the RTC, to our knowledge, in writing their opinions.

Mr. VENTO. Yes. Well, I don't know that they needed to. I think all they had to do is look at the product that the task force and others have seen in terms of the problems that have persisted.

I understand everyone is functioning in good faith. You've worked very hard. This RTC board of professionals has worked

Now I have heard repeatedly at the staff level in conversations among congressional staff and RTC people that that may not happen.

Can you pledge to us today that you won't be coming here in a year or two to tell us that we need to make up the difference on what we have lost in working capital?

Deputy Secretary ROBSON. The FFB borrowings are going to be repaid, if you have sufficient proceeds from the assets to sell. If you don't, you're going to have a higher loss than we presently estimate.

Mr. BACCHUS. So again, the answer is no.

Deputy Secretary ROBSON. It's the same issue.

Mr. BACCHUS. Again, the answer is no, and you can't make that statement today; is that correct?

Deputy Secretary ROBSON. If you're talking about what the ultimate loss is going to be, if you have to have more money in order to repay the Federal Financing Bank funds, it will simply add to the ultimate loss of the transaction. And as I say, our expectation is that those balances are beginning to decline and will be paid off by the assets.

Mr. BACCHUS. But you can't guarantee us that?

Deputy Secretary ROBSON. I cannot guarantee you that.

Mr. BACCHUS. Thank you, sir.

The next question: You are asking us for an extension on transfer authority. You make some good justifications for needing that extension.

What about the sunset of the RTC?

Deputy Secretary ROBSON. I wouldn't tamper with that at all.

Mr. BACCHUS. You would not tamper with that all. I've noticed in the past year the growth in the agency, the increasing numbers of employees.

Can you pledge to us today that this administration will not come back and ask us for an extension of that sunset?

Deputy Secretary ROBSON. We certainly don't have any expectation to hold it beyond 1996.

Mr. BACCHUS. You don't have any expectation. But you can't say that you won't do that?

Deputy Secretary ROBSON. I certainly can't imagine the circumstances that we would come back and ask that the 1996 date be changed.

Mr. BACCHUS. What about the audit, Mr. Secretary? I'm sorry Mr. Seidman had to leave. He made some good points about the difficulties in valuing what real estate is worth now and thus coming to some conclusion about the pros and cons in any audit.

But it seems to me that that's true of not only the RTC, but in this real estate climate, of virtually every corporation in the country.

The question that was not answered was: When will we see an audit?

Deputy Secretary ROBSON. Well, I think there will be an audit provided by GAO fairly shortly. It may be one that is qualified, though, which was the point in my statement.

Mr. BACCHUS. Yes, sir. I understand that.

Deputy Secretary ROBSON. I think GAO is coming before you in another several days, and I would expect that they would be able to answer that question or will show up with the audit at that point.

Mr. BACCHUS. I appreciate that. With all due respect, I've heard that before, and I heard it the last time that the RTC came asking for money.

The next question—

Deputy Secretary ROBSON. If GAO—excuse me, sir, but GAO is doing the audit. We aren't. It's their audit, so they are the ones who are most able to answer that question directly.

Mr. BACCHUS. I certainly will be asking them that question, too, sir. You're right about that.

The next question: In terms of contractors, I agree with the notion that we should privatize as much as possible. I especially think you need people who are educated and schooled in how the private sector works, especially in terms of securities and real estate. You've discussed some of this.

Can you tell me—including lawyers, accountants, real estate managers, and all other contractors—how many contractors does the RTC employ right now?

Deputy Secretary ROBSON. Could I turn that over to David Cooke?

Mr. BACCHUS. Yes, sir.

Mr. COOKE. I don't have it right with us, but we can get that for you and submit it, an exact count number of contractors.

[Mr. Cooke conferring with his colleagues.]

Mr. COOKE. I do not have that with us. I can provide that to you.

Mr. BACCHUS. Thank you, Mr. Cooke. I would appreciate that, and I would appreciate it if you could provide me also with a breakdown in terms of the numbers of lawyers, the numbers of property managers, underwriters, accountants, whatever the categories may be.

Mr. COOKE. I will be happy to do it.

[The information referred to can be found in the appendix.]

Mr. BACCHUS. I think it is important in that respect, also, to have the subcommittee take a careful look at the provisions for accountability, and I will be talking about that in terms of our proposed legislation with respect to the Federal procurement laws.

Final question: Mr. Secretary, I read several stories this summer—one in the *Washington Post* and another repeating it in the *New Republic*—about a gentleman employed by the RTC in the midwest who had purchased a lot of art for his office, and when he was asked about how he could justify that purchase at the taxpayers' expense, he replied "c'est la guerre."

Now, this type of cavalier attitude has no place in our Government.

I ask you, is that gentleman still employed by the RTC?

Deputy Secretary ROBSON. I agree with your statement. I would like David Cooke to answer that question, because he is their employee, not ours.

Mr. COOKE. That is right.

The Inspector General has just concluded a review of the entire acquisition.

very hard. I commend you for the work that you've done, but I also recognize some of the shortcomings, Mr. Robson.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Mr. Barnard, you're recognized for 5 minutes.

Mr. BARNARD. Thank you, Mr. Chairman. I'd like to express to you, as well as the panelists, my apologies for having to leave. There are other problems that we have in the country, other than just RTC. If that's satisfying to some degree, then I'd like for you to know that. One of them is short-selling in the over-the-counter market.

But Mr. Secretary, as you anticipate the legislation that the administration will recommend be passed, are you going to include what agreements on restructuring you and Dr. Seidman have made?

Deputy Secretary ROBSON. We don't expect to do that, Congressman Barnard. As I said earlier, our view is that we don't need a restructuring; that we can put a CEO in there tomorrow without any legislative change.

The reason is, as I said, that we work with Chairman Seidman to—

Mr. BARNARD. Don't you need legislation to discharge the responsibility of the FDIC?

Deputy Secretary ROBSON. Excuse me?

Mr. BARNARD. The responsibility that the FDIC has in the role of RTC, wouldn't that have to be done legislatively?

Deputy Secretary ROBSON. Yes.

Mr. BARNARD. So, wouldn't it be timely to do it at the same time you're asking for the funds?

Deputy Secretary ROBSON. As I said earlier, I think our view is that we don't think there is a necessity to change the structure in any way.

Mr. BARNARD. Maybe I'm not hearing you right. I thought you said, number one, that we did need legislation to discharge the responsibilities of the FDIC.

Deputy Secretary ROBSON. We aren't proposing that.

Mr. BARNARD. You're not proposing that?

Deputy Secretary ROBSON. No, sir.

Mr. BARNARD. OK, I see. But Dr. Seidman is suggesting that?

Deputy Secretary ROBSON. Chairman Seidman has suggested that a form—an approach to reorganization.

Mr. BARNARD. Don't you think that it would be helpful and certainly would assist greatly in the expediting of this bill, if you could come to some agreement on that, unless you've already determined that that's the final decision, because I think the more help that this subcommittee gets from what you want to do ultimately across the board, is going to be helpful.

I know we benefited from the FIRREA bill because the administration came forth with a bill that we could work on. So, I'm saying that as complete as your legislation can be, it's going to be that much more helpful for our consideration.

Deputy Secretary ROBSON. I understand what you're saying and I don't want to be cute on this, but what we are saying is, first, we really don't believe that restructuring is necessary. Second; that in

recognizing that a lot of Members of Congress are interested in it and that that is a possibility, I sat down with Bill Seidman and we said—and worked out an approach that said that if this thing is inevitable, if it happens, if Congress insists on it, we can live with that.

Mr. BARNARD. OK.

Deputy Secretary ROBSON. But it's not our initiative.

Mr. BARNARD. Well, OK, it's not your initiative. Well, let me say this; if I was in your position, I'd rather offer something than to take what maybe Congress is going to give you. I mean, I'll just give you a little advice, which is free and probably worth what I'm going to say to you.

But brace yourself, because I think it's coming. [Laughter.]

Mr. BARNARD. In that vein also, in Dr. Seidman's testimony, appendix D, there was some suggested legislative changes that he indicated. I just was wondering, likewise—and, Mr. Wylie, to get your attention—if these recommendations are going to be made, shouldn't that also be included in the legislation? I mean, we ought to get a real package.

I think it's to your benefit that we get a full package, as opposed to sending something up here and hoping and wishing for the best as far as the Congress is concerned.

Deputy Secretary ROBSON. I hear you.

Mr. BARNARD. So, there's a possibility. Well, anyway, would you have any objections if these suggested legislative changes, which I don't think are controversial, were included?

Deputy Secretary ROBSON. I'd have to—I don't remember exactly what they are.

Mr. BARNARD. You need to look at them.

Deputy Secretary ROBSON. If I remember, they were predominantly technical.

Mr. BARNARD. That's right. I just want to clean this thing up as much as possible. I don't want anybody to come back later and say, well, why didn't we do this; why didn't we do that? So, I think that it would be helpful—

Deputy Secretary ROBSON. We'll look at those. I'm simply not conversant with the detail of it.

Mr. BARNARD. The appointment of the CEO—I'm sorry that I was not here, but have we determined how the CEO would be designated, how he would be appointed?

Deputy Secretary ROBSON. Well, right now, under the current law, you could appoint a CEO who would be elected by the RTC Board.

Mr. BARNARD. Is that what you plan to do?

Deputy Secretary ROBSON. Under the approach that Chairman Seidman spoke about today, the CEO would be appointed by the Oversight Board.

Mr. BARNARD. Peter, how are you appointed? You are appointed by whom?

Mr. MONROE. By the Oversight Board.

Mr. BARNARD. OK, so, therefore, it's not a Presidential appointment that would require confirmation?

Deputy Secretary ROBSON. No.

Mr. BARNARD. Thank you very much.

Chairman ANNUNZIO. Mr. Hoagland.

Mr. HOAGLAND. Well, thank you, Mr. Chairman. In following up on the questions of Chairman Barnard and Chairman Vento, it seems to me, Mr. Robson, there is a developing consensus here that we should go to a strong CEO form of administration.

I am told, and is this not the case, that some of the individuals that you have interviewed in your search committee have indicated that they're simply not interested in serving under the current structure, but would like a strong CEO form before they'd be willing to commit their reputation and their time to this effort? Is that true?

Deputy Secretary ROBSON. I'm sure you're going to run into people who want all kinds of conditions attached to it. They want to be Presidential appointees, they want to have all kinds of bells and whistles on the job, and that's going to be. When you go into a big search, you're going to run into that.

There's also others who understand that what you're talking about is operating with a group of people with trust and confidence and you can make any kind of organization work under those circumstances. I've run a lot of big ones myself, and I think that's the approach that I frankly think is a sensible one.

Mr. HOAGLAND. But might there, as Chairman Vento has pointed out, and I know that he is coming to this conclusion as well as Chairman of the RTC Task Force, if you look at the enabling legislation and statutory language, I mean there are really major conflicts that are built into the structure that require administration by consensus to set up the spaghetti plate form of—let me just quote from the statute here, and I wonder if we shouldn't at a minimum take advantage of this legislation—

Mr. VENTO. If the gentleman would yield to me, this is the structure the administration sought incidentally. It's not what Congress did to them. This is what they wanted.

Mr. HOAGLAND. Yes, I think that's clear, that this language was in the bill sent to us by the administration, but let me just quote some of the conflicting statutory provisions that at least get lawyers interested in scratching our heads.

The Oversight Board is empowered "to oversee and be accountable to the Resolution Trust Corporation." Yet at the same time the RTC Board is to be an "exclusive manager" of all responsibilities—so we have that conflict.

Now the Oversight Board is a corporate body and is designed to oversee the RTC, yet at the same time the RTC is told in the statutes to perform all the responsibilities of the corporation.

Here's a third conflict. The RTC board is comprised of the FDIC board in order to facilitate resolution. However, this Board, the RTC board, which is also the FDIC board, may not obligate funds of the FDIC. Any obligations and guarantees are subject to the supervision of the Oversight Board.

So you see, the statutory language which in retrospect was not very well thought out, leads to this mish-mash and I think that if we are to have a strong CEO form of government, form of governing this institution I should say, it would really make sense to conform the statutes as Chairman Seidman indicates to have a more traditional board like corporate America has organized—

Mr. VENTO. I don't think that is the proposal that he's made. It's not the corporate form, if I understood what he said today. It was that he favored the retention of the Oversight Board and indeed if I may—I don't want to interrupt you, Congressman Hoagland—

Deputy Secretary ROBSON. And indeed, I don't want to interrupt you, Congressman Hoagland—

Mr. HOAGLAND. Oh, please—please.

Deputy Secretary ROBSON. The genesis of the division between oversight, funding, and policy and operations was one that was not initially proposed by the administration. It evolved in the hurly-burly of the FIRREA legislation and had a lot of parents before it was through but that's neither here nor there. That's what the legislation was.

Mr. HOAGLAND. Well, let me, Mr. Secretary, if I can, direct your attention to Chairman Seidman's testimony on pages 33, 34, 35. He didn't have time, of course, to read it, but on those pages he advocates two forums.

He first suggests the corporate board model. This is at the top of page 34. This organizational structure is patterned after the standard private sector corporation.

Then as an alternative, and I think out of the spirit of compromise, he suggests a dual board model, starting on page 35, and there he describes I think just the compromise the two of you had arrived at, but it's pretty clear and he gives a lot of reasons—I don't have time to read all of the different statements, but it is pretty clear that as Chairman of the FDIC and as one of the principal managers of this operation the last 2 years he's strongly recommending that we go to the corporate board model with a strong CEO who would have the authority to act in a way a committee really can't act under the current situation and would also serve as the individual "who would be accountable to Congress and the administration."

Before asking your comment on that, let me just read one sentence from page 32. He says, "Moreover, the need to concentrate the day to day decisionmaking in one identifiable individual with all the powers of a traditional corporate CEO has become apparent."

I think those of us on the committee regard this as pretty good authority because it's stated by someone who's retiring, who has no personal stake, who's been in the center of the action for 2 years and who is really free to speak his mind on the subject.

Deputy Secretary ROBSON. Well, I think he said also, as I've pointed out here, that the advantage of the dual board model was (a) you have an independent oversight; (b) you don't have the disruption that you have if you totally collapse the present organization.

I'll be honest with you. I really think that Congress is going to make one big mistake if it folds the tent and recreates this thing in its own way because you are going to have nothing but one hell of a lot of confusion and a lot of disruption and you are not going to buy yourself anything from it.

Second, let me make this point.

Mr. HOAGLAND. All right.

Deputy Secretary ROBSON. I would think that Congress would want to have oversight. I would think—and GAO in fact has endorsed the notion of having an oversight body that is separated from operations in the case of the RTC structure—I would think you would want to have that.

You call us up here as accountable members of the administration who have the ultimate responsibility to bear for spending an awful lot of the taxpayers' money. We are prepared to take that responsibility but we can't take it without having a role in the execution of the—and having some oversight over its expenditure and that is exactly the concept that underlay the creation of the RTC structure now.

I think it's sound, it's working, we're selling a lot of assets, we're resolving a lot of thrifths and it's going forward.

Mr. HOAGLAND. Well, let me just respond. I know my time is up, Mr. Chairman. Let me just respond to the point that the Secretary made.

I think Chairman Seidman deals with that, Mr. Robson, because on pages 33–34 he says that this time the request for new funding “offers an important opportunity for improvement without impeding current operations significantly.”

Then he talks about the importance of the next 2 years, the importance of gaining efficiency, and then offers this corporate CEO model as a change at the top. We are not talking about rooting out what is going in the vast bulk of the organization, just a change at the top so we can bring in a very talented individual with a great deal of private sector experience to have the freedom that traditional American CEOs have in operating organizations.

Anyway, my time is up, Mr. Chairman——

Deputy Secretary ROBSON. I just would——

Mr. HOAGLAND. Please respond.

Deputy Secretary ROBSON. Would just say one thing.

We can bring in a CEO tomorrow who would have all of the latitude and authority that that person would need to run the RTC. You do not need to change one comma in the legislation.

Mr. HOAGLAND. Except I'm told that a lot of very capable individuals won't serve under the current structure because of the mish-mash we've talked about——

Deputy Secretary ROBSON. I am not aware of these many, many capable individuals who are dying to do this——

Mr. VENTO. Mr. Chairman, I would ask unanimous consent that Mr. Hoagland have an additional minute.

Chairman ANNUNZIO. Without objection.

Mr. VENTO. Will the gentleman yield to me?

Mr. HOAGLAND. I'd be happy to yield.

Mr. VENTO. First of all, I think that the history of the legislation will show that the fight wasn't in Congress over what the structure would be but really was between the FDIC and Treasury and you all came to this particular agreement.

What the real wonder is, as you read through this, is that you have been able to get anything done—as you read through the type of structure, so I mean all of the three, the FDIC, the RTC, the Treasury should be commended at least in that particular sense.

I think that that particular aspect—in other words I think that the history is that in 2 years we've lost any number of people that had worked in—you've got three different presidents of the Oversight Board. I mean the reason that Kearney left I think was simply because he wasn't going to be attracted to a situation where he didn't have the authority and that is why you are getting the questions now as you confront applicants that Congressman Hoagland pointed out, so I think that the record is here for members to look at.

We want to work with you. We don't want to see anything lost in terms of transition or change, but, you know, we have to separate the turf fights from what would be oversight.

Yours isn't just oversight. This is actual operational policy types of issues that deal with—and believe me, I have a difficult time to determine the difference between policy and an operational procedure exists only in the minds of those at Treasury or at the RTC. It is a difference without a distinction, so I think we have tried to split hairs here.

I think in the end we are losing some efficiency.

I thank the gentleman for yielding and thank the members for the extra minute.

Chairman ANNUNZIO. The time of the gentleman has expired. Mr. Bacchus.

Mr. BACCHUS. Thank you, Mr. Chairman.

Mr. Secretary, I would like to begin by echoing Mr. Vento and Mr. Barnard and Mr. Hoagland on the issue of restructuring.

I appreciate your defense of your Hydra-headed beast but if you think you are going to get this money without some major changes, you are dreaming.

I have a few questions.

First of all, I would like to follow up on the question that Mr. Wylie asked earlier on where you say in your testimony that this \$80 billion will, quote, "complete the job."

Now you seem confident of your estimates, so much confident that you disregard those higher estimates of the CBO.

Are you telling us now that you won't be back to ask for more? Are you willing to pledge that today?

Deputy Secretary ROBSON. I'll give you the same answer I gave Mr. Wylie, which was I cannot guarantee you that events will not happen in the future that will prove that estimate wrong.

Mr. BACCHUS. So you can't tell us that you won't be back to ask for more?

Deputy Secretary ROBSON. I cannot say to you and swear and say beyond any recall—and I would be foolish to do that.

What we have given you is our—

Mr. BACCHUS. Based on prior projections, sir, I think you would be foolish.

Deputy Secretary ROBSON. What is our best estimate of what we think it will take to finish this job.

Mr. BACCHUS. Thank you. The next question I have, in terms of working capital you say in your testimony "The RTC expects to repay its working capital borrowings from the proceeds of the sale of these assets."

Now I have heard repeatedly at the staff level in conversations among congressional staff and RTC people that that may not happen.

Can you pledge to us today that you won't be coming here in a year or two to tell us that we need to make up the difference on what we have lost in working capital?

Deputy Secretary ROBSON. The FFB borrowings are going to be repaid, if you have sufficient proceeds from the assets to sell. If you don't, you're going to have a higher loss than we presently estimate.

Mr. BACCHUS. So again, the answer is no.

Deputy Secretary ROBSON. It's the same issue.

Mr. BACCHUS. Again, the answer is no, and you can't make that statement today: is that correct?

Deputy Secretary ROBSON. If you're talking about what the ultimate loss is going to be, if you have to have more money in order to repay the Federal Financing Bank funds, it will simply add to the ultimate loss of the transaction. And as I say, our expectation is that those balances are beginning to decline and will be paid off by the assets.

Mr. BACCHUS. But you can't guarantee us that?

Deputy Secretary ROBSON. I cannot guarantee you that.

Mr. BACCHUS. Thank you, sir.

The next question: You are asking us for an extension on transfer authority. You make some good justifications for needing that extension.

What about the sunset of the RTC?

Deputy Secretary ROBSON. I wouldn't tamper with that at all.

Mr. BACCHUS. You would not tamper with that at all. I've noticed in the past year the growth in the agency, the increasing numbers of employees.

Can you pledge to us today that this administration will not come back and ask us for an extension of that sunset?

Deputy Secretary ROBSON. We certainly don't have any expectation to hold it beyond 1996.

Mr. BACCHUS. You don't have any expectation. But you can't say that you won't do that?

Deputy Secretary ROBSON. I certainly can't imagine the circumstances that we would come back and ask that the 1996 date be changed.

Mr. BACCHUS. What about the audit, Mr. Secretary? I'm sorry Mr. Seidman had to leave. He made some good points about the difficulties in valuing what real estate is worth now and thus coming to some conclusion about the pros and cons in any audit.

But it seems to me that that's true of not only the RTC, but in this real estate climate, of virtually every corporation in the country.

The question that was not answered was: When will we see an audit?

Deputy Secretary ROBSON. Well, I think there will be an audit provided by GAO fairly shortly. It may be one that is qualified, though, which was the point in my statement.

Mr. BACCHUS. Yes, sir. I understand that.

Deputy Secretary ROBSON. I think GAO is coming before you in another several days, and I would expect that they would be able to answer that question or will show up with the audit at that point.

Mr. BACCHUS. I appreciate that. With all due respect, I've heard that before, and I heard it the last time that the RTC came asking for money.

The next question—

Deputy Secretary ROBSON. If GAO—excuse me, sir, but GAO is doing the audit. We aren't. It's their audit, so they are the ones who are most able to answer that question directly.

Mr. BACCHUS. I certainly will be asking them that question, too, sir. You're right about that.

The next question: In terms of contractors, I agree with the notion that we should privatize as much as possible. I especially think you need people who are educated and schooled in how the private sector works, especially in terms of securities and real estate. You've discussed some of this.

Can you tell me—including lawyers, accountants, real estate managers, and all other contractors—how many contractors does the RTC employ right now?

Deputy Secretary ROBSON. Could I turn that over to David Cooke?

Mr. BACCHUS. Yes, sir.

Mr. COOKE. I don't have it right with us, but we can get that for you and submit it, an exact count number of contractors.

[Mr. Cooke conferring with his colleagues.]

Mr. COOKE. I do not have that with us. I can provide that to you.

Mr. BACCHUS. Thank you, Mr. Cooke. I would appreciate that, and I would appreciate it if you could provide me also with a breakdown in terms of the numbers of lawyers, the numbers of property managers, underwriters, accountants, whatever the categories may be.

Mr. COOKE. I will be happy to do it.

[The information referred to can be found in the appendix.]

Mr. BACCHUS. I think it is important in that respect, also, to have the subcommittee take a careful look at the provisions for accountability, and I will be talking about that in terms of our proposed legislation with respect to the Federal procurement laws.

Final question: Mr. Secretary, I read several stories this summer—one in the *Washington Post* and another repeating it in the *New Republic*—about a gentleman employed by the RTC in the midwest who had purchased a lot of art for his office, and when he was asked about how he could justify that purchase at the taxpayers' expense, he replied "c'est la guerre."

Now, this type of cavalier attitude has no place in our Government.

I ask you, is that gentleman still employed by the RTC?

Deputy Secretary ROBSON. I agree with your statement. I would like David Cooke to answer that question, because he is their employee, not ours.

Mr. COOKE. That is right.

The Inspector General has just concluded a review of the entire acquisition.

His comments in the paper were very, very regrettable, both on our part and on his part, as well, but we have looked into the acquisition of the artwork to see to what extent it exceeded or violated any procedures, RTC, FDIC, or even Government standards, and the Inspector General has just completed its report, and I have not had a chance to review it in depth, but basically it comes out and says that that regional director did not violate any existing procedures.

Mr. BACCHUS. Well, I am not satisfied that the existing procedures are sufficient. That is one reason I am proposing legislation.

Mr. COOKE. That is right, and I think it would be helpful, perhaps, to read the background in the Inspector General report.

We have put out directives since then that have basically prohibited the acquisition of any artwork, even though, regardless of whether—and I am told, in this case, we are even more restrictive than any GSA standards now in our directive as to what you can or cannot buy.

Mr. BACCHUS. I probably would also believe the GSA standards should be more restrictive, as well.

Is this gentleman still employed by the RTC?

Mr. COOKE. Yes, sir, he is still employed.

Mr. BACCHUS. He is still in the same position?

Mr. COOKE. No, sir, he is not. He has been detailed to the Washington office, and his final placement would be pending the completion of the Inspector General investigation, and as I have said, we have got it, and we are reviewing it now.

Mr. BACCHUS. I appreciate the hard work all of you are trying to do. I hope you appreciate that I am trying to do my job, but a "c'est la guerre" attitude is not the one we need.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you.

Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Secretary Robson, I certainly have no personal criticism of you. I think you inherited a bad situation, and I am sure you are trying to do the best you can with it, but I have to say this. I heard the chairman's opening statement, and he mentions in there about the fact that, almost overnight, we have created a massive, gigantic bureaucracy with 7,500 employees.

I have to say that I think his statement sounded like that of a conservative Republican, and then I heard Mr. Bacchus make a statement, and if I was a Baptist, I would have probably said "amen" to his opening statement, because unfortunately, I have heard the same things, all bad things, all horror stories every member has about the operation of the RTC.

What I am wondering, sir—we are seeing in the Soviet Union and other places that massive, gigantic bureaucracies just cannot work. They do not work any place in the world.

The Soviet economy is near collapse right now, and other countries around the world are finding that they are having to go to the private sector to get things done in an economical, efficient way.

I was not on this subcommittee during the last term, but I understand that there was some consideration given to having the private sector handle all of this, or most of it, and I was not here for

all of the questioning, so I apologize if someone has already asked this, but has any consideration been given to trying to turn over some of this to a private business or a private entity to close out one of these savings and loan associations, if nothing else, on an experimental basis at this point?

Because it is hard for some of us to see how a private company could do any worse job than has been done so far.

Deputy Secretary ROBSON. Well, let me disagree with your premise, but let me say this: I think the basic thrust of the whole clean-up program, Congressman, is just exactly that.

It is to put it in the hands of the private sector, to get properties out of the Government and either have them bought or have them managed until they are bought by the private sector.

The last thing that we want to do is hang around here and see this process go on forever, and Mr. Cooke can embellish what I said, but that is the whole purpose of this thing, is to get this stuff off the shelf and into the hands of the private sector.

Thus far, they have moved about—of \$330 billion of assets that have come in, half of that is now gone.

Mr. DUNCAN. Have we ever turned over any of the savings and loan associations to the private sector from the beginning, when they had to be closed down?

Have we ever, even on an experimental basis, taken one and said to a major insurance company or a major financial firm of some sort and said, here, you handle it, and let us see if you can do a better job?

Mr. COOKE. I would like to say there has been some experience with doing that, certainly back in the FSLIC. FSLIC did that on a number of occasions, and I will ask Mr. Roelle, who oversees the entire resolution process to comment, but I would like to say I think our record in closing down—seizing control of and closing down institutions is pretty impressive. It is unparalleled.

I am not aware of any situation where so many institutions have been seized control of and closed in so short a period of time by a new entity anywhere, ever, but I would like to ask Mr. Roelle to respond to that specific question.

Mr. ROELLE. Congressman, in the eighties, the FSLIC, prior to the FIRREA, had a number of institutions operating under what they called the management consignment program, which was a program to allow the private sector to take over institutions and run them and, hopefully, rehabilitate those institutions or get them into position where the private capital markets would be willing to acquire them.

They had some limited success with that program. A great number of the early resolutions that we took over in the very first weeks of the process were institutions that had been under the management consignment program.

So, I think that it is not to be critical of the private sector's efforts in that regard.

It is simply that institutions are acquired primarily because of their franchise value, which in the case of thrifts are primarily their deposit franchises, and the prime determinant in all of that is the ability for the transaction to be closed out with a cash statement.

Mr. DUNCAN. Let me tell you the direction I am coming from. Then I will stop, because I know you have been here a long time.

Louis Rueckheyser, the syndicated columnist and TV commentator, said in a column on August 6, now that free-market principles have met with such enthusiasm in Russia and other countries in Eastern Europe, now let us try a truly radical suggestion and try them here in the United States, as well.

There are some of us who believe that—there are some of us on this subcommittee who believe in the free-enterprise system and who think that the job that would have been done by the private sector could not have been nearly as costly or nearly as inefficient or with nearly as many complaints as we have had doing it the way we have done it, and there are some of us who believe that it is possibly not too late to at least try that and admit that we have made some mistakes and gone about some of these things in the wrong way.

I know each of you gentlemen is here having to defend the RTC, but sometimes it is better to admit failure or admit mistakes and try a new approach.

Deputy Secretary ROBSON. I come from the private sector, Congressman Duncan, and so, I do not need any education. That is where I have spent all my life. I believe in it.

Chairman ANNUNZIO. The time of the gentleman has expired.

We all need education. we can never have enough.

Deputy Secretary ROBSON. I want to associate myself with the thrust of your comments, because I think they are right, but I really think that the process here has been one that was designed to avoid building a huge permanent bureaucracy, and I certainly will not say there have not been any mistakes made along the way, but the goal here is to get this stuff out of Government's hands, get the employee body of RTC pared down as the job becomes less, and get out of this game, and by God, that is what we want to do, and that is what you all want to do, and we do not think—let me just say this. I do not think, when you look at the job that faced us, that the thing has been as bad as some say.

It is like Mark Twain said about Wagner's music: It is not as bad as it sounds.

Chairman ANNUNZIO. Mr. Cox.

Mr. Cox. Well, Mr. Robson, we are going to move on to my time.

If, in fact, there is a specific desire to avoid the creation of a giant bureaucracy, it would seem to me you are going about it in a very strange way.

A couple of comments. You said earlier that the audits are the GAO's responsibility and you have to ask them about it.

Am I correct in understanding that if there are, in fact, delays that are occurring in producing that audit, that those are the cause of GAO and not RTC?

Deputy Secretary ROBSON. You will have to ask GAO that, not the Oversight Board.

Mr. Cox. That is what I understood your comments to be. Is that accurate?

Mr. COOKE. We have provided them, I think, timely, our financials, our estimated financials, our estimated value. We have re-

cently agreed on all the verbiage that would be used in the footnotes to the financial statements.

The big question is what will their opinion to the financials be, and again, you have to talk to GAO.

Mr. Cox. OK. So, it is your statement that, whatever the delays are, they are the cause of GAO and not anything RTC has done.

Mr. COOKE. I would say that we have tried to be as timely as we could be.

I do not know, in an issue as complex as trying to figure out what is a good way to value the assets that we have taken over and what are they worth, that it is hard to fault GAO or us, I would hope, and that takes time.

It takes time to establish an estimated value.

Mr. Cox. Well, the 1989 audit apparently showed up sometime in early 1991. It seems to me that is a problem that we ought to confront somehow.

Mr. Chairman, I apologize to you and the other members of the subcommittee and to the witnesses for my late arrival.

I believe that respect from this side is as important as your willingness to come here and testify, and I do apologize, because other matters were pending for me, but Mr. Chairman, I do agree with your opening statement.

I was one of those members last time who voted for the additional funding for RTC on the belief that during this time, since the last vote, some changes could occur. And as Mr. Bacchus very ably stated earlier, and even though I'm not a Baptist, I say "Amen" to what Mr. Bacchus said earlier. He and I and our staffs have been working hard on some recommendations in the form of reform that I hope all the members of the subcommittee, even Treasury, might want to take a look at and maybe we can all work together and expedite some requirements here that might move things forward faster than they've been going.

Specifically, I'm deeply concerned about the pace at which the RTC is selling its assets. And I would like to know what is your targeted goal of how many dollars worth of assets you aim to sell each month or each year? Do you have any kind of a schedule in place, quota system, whatever you might want to call it that requires some specific accomplishment on a regular basis?

Deputy SECRETARY ROBSON. Let me, as the—let the Oversight Board—the RTC rather than the Oversight Board answer that, but let me just say this, the Oversight Board established for this fiscal year specific asset sale goals which RTC will be meeting. They are \$65 billion in net asset reduction which they are on course to meet and which they expect to, I think, even surpass somewhat.

But let them answer the specific question.

Mr. Cox. Other than the Oversight Board's quota, do you have any others in place?

Mr. COOKE. We have specific timelines that all go into the construction of that overall goal for different types of assets. What kind of turnover rates and we monitor how old the inventory is and how quick it's turning over. So, yes, we do have timelines and a number of initiatives. I'll just conclude with that that we have incorporated recently dealing with portfolio sales and in the area

Now I have heard repeatedly at the staff level in conversations among congressional staff and RTC people that that may not happen.

Can you pledge to us today that you won't be coming here in a year or two to tell us that we need to make up the difference on what we have lost in working capital?

Deputy Secretary ROBSON. The FFB borrowings are going to be repaid, if you have sufficient proceeds from the assets to sell. If you don't, you're going to have a higher loss than we presently estimate.

Mr. BACCHUS. So again, the answer is no.

Deputy Secretary ROBSON. It's the same issue.

Mr. BACCHUS. Again, the answer is no, and you can't make that statement today; is that correct?

Deputy Secretary ROBSON. If you're talking about what the ultimate loss is going to be, if you have to have more money in order to repay the Federal Financing Bank funds, it will simply add to the ultimate loss of the transaction. And as I say, our expectation is that those balances are beginning to decline and will be paid off by the assets.

Mr. BACCHUS. But you can't guarantee us that?

Deputy Secretary ROBSON. I cannot guarantee you that.

Mr. BACCHUS. Thank you, sir.

The next question: You are asking us for an extension on transfer authority. You make some good justifications for needing that extension.

What about the sunset of the RTC?

Deputy Secretary ROBSON. I wouldn't tamper with that at all.

Mr. BACCHUS. You would not tamper with that all. I've noticed in the past year the growth in the agency, the increasing numbers of employees.

Can you pledge to us today that this administration will not come back and ask us for an extension of that sunset?

Deputy Secretary ROBSON. We certainly don't have any expectation to hold it beyond 1996.

Mr. BACCHUS. You don't have any expectation. But you can't say that you won't do that?

Deputy Secretary ROBSON. I certainly can't imagine the circumstances that we would come back and ask that the 1996 date be changed.

Mr. BACCHUS. What about the audit, Mr. Secretary? I'm sorry Mr. Seidman had to leave. He made some good points about the difficulties in valuing what real estate is worth now and thus coming to some conclusion about the pros and cons in any audit.

But it seems to me that that's true of not only the RTC, but in this real estate climate, of virtually every corporation in the country.

The question that was not answered was: When will we see an audit?

Deputy Secretary ROBSON. Well, I think there will be an audit provided by GAO fairly shortly. It may be one that is qualified, though, which was the point in my statement.

Mr. BACCHUS. Yes, sir. I understand that.

Deputy Secretary ROBSON. I think GAO is coming before you in another several days, and I would expect that they would be able to answer that question or will show up with the audit at that point.

Mr. BACCHUS. I appreciate that. With all due respect, I've heard that before, and I heard it the last time that the RTC came asking for money.

The next question—

Deputy Secretary ROBSON. If GAO—excuse me, sir, but GAO is doing the audit. We aren't. It's their audit, so they are the ones who are most able to answer that question directly.

Mr. BACCHUS. I certainly will be asking them that question, too, sir. You're right about that.

The next question: In terms of contractors, I agree with the notion that we should privatize as much as possible. I especially think you need people who are educated and schooled in how the private sector works, especially in terms of securities and real estate. You've discussed some of this.

Can you tell me—including lawyers, accountants, real estate managers, and all other contractors—how many contractors does the RTC employ right now?

Deputy Secretary ROBSON. Could I turn that over to David Cooke?

Mr. BACCHUS. Yes, sir.

Mr. COOKE. I don't have it right with us, but we can get that for you and submit it, an exact count number of contractors.

[Mr. Cooke conferring with his colleagues.]

Mr. COOKE. I do not have that with us. I can provide that to you.

Mr. BACCHUS. Thank you, Mr. Cooke. I would appreciate that, and I would appreciate it if you could provide me also with a breakdown in terms of the numbers of lawyers, the numbers of property managers, underwriters, accountants, whatever the categories may be.

Mr. COOKE. I will be happy to do it.

[The information referred to can be found in the appendix.]

Mr. BACCHUS. I think it is important in that respect, also, to have the subcommittee take a careful look at the provisions for accountability, and I will be talking about that in terms of our proposed legislation with respect to the Federal procurement laws.

Final question: Mr. Secretary, I read several stories this summer—one in the *Washington Post* and another repeating it in the *New Republic*—about a gentleman employed by the RTC in the midwest who had purchased a lot of art for his office, and when he was asked about how he could justify that purchase at the taxpayers' expense, he replied "c'est la guerre."

Now, this type of cavalier attitude has no place in our Government.

I ask you, is that gentleman still employed by the RTC?

Deputy Secretary ROBSON. I agree with your statement. I would like David Cooke to answer that question, because he is their employee, not ours.

Mr. COOKE. That is right.

The Inspector General has just concluded a review of the entire acquisition.

His comments in the paper were very, very regrettable, both on our part and on his part, as well, but we have looked into the acquisition of the artwork to see to what extent it exceeded or violated any procedures, RTC, FDIC, or even Government standards, and the Inspector General has just completed its report, and I have not had a chance to review it in depth, but basically it comes out and says that that regional director did not violate any existing procedures.

Mr. BACCHUS. Well, I am not satisfied that the existing procedures are sufficient. That is one reason I am proposing legislation.

Mr. COOKE. That is right, and I think it would be helpful, perhaps, to read the background in the Inspector General report.

We have put out directives since then that have basically prohibited the acquisition of any artwork, even though, regardless of whether—and I am told, in this case, we are even more restrictive than any GSA standards now in our directive as to what you can or cannot buy.

Mr. BACCHUS. I probably would also believe the GSA standards should be more restrictive, as well.

Is this gentleman still employed by the RTC?

Mr. COOKE. Yes, sir, he is still employed.

Mr. BACCHUS. He is still in the same position?

Mr. COOKE. No, sir, he is not. He has been detailed to the Washington office, and his final placement would be pending the completion of the Inspector General investigation, and as I have said, we have got it, and we are reviewing it now.

Mr. BACCHUS. I appreciate the hard work all of you are trying to do. I hope you appreciate that I am trying to do my job, but a "c'est la guerre" attitude is not the one we need.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you.

Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Secretary Robson, I certainly have no personal criticism of you. I think you inherited a bad situation, and I am sure you are trying to do the best you can with it, but I have to say this. I heard the chairman's opening statement, and he mentions in there about the fact that, almost overnight, we have created a massive, gigantic bureaucracy with 7,500 employees.

I have to say that I think his statement sounded like that of a conservative Republican, and then I heard Mr. Bacchus make a statement, and if I was a Baptist, I would have probably said "amen" to his opening statement, because unfortunately, I have heard the same things, all bad things, all horror stories every member has about the operation of the RTC.

What I am wondering, sir—we are seeing in the Soviet Union and other places that massive, gigantic bureaucracies just cannot work. They do not work any place in the world.

The Soviet economy is near collapse right now, and other countries around the world are finding that they are having to go to the private sector to get things done in an economical, efficient way.

I was not on this subcommittee during the last term, but I understand that there was some consideration given to having the private sector handle all of this, or most of it, and I was not here for

all of the questioning, so I apologize if someone has already asked this, but has any consideration been given to trying to turn over some of this to a private business or a private entity to close out one of these savings and loan associations, if nothing else, on an experimental basis at this point?

Because it is hard for some of us to see how a private company could do any worse job than has been done so far.

Deputy Secretary ROBSON. Well, let me disagree with your premise, but let me say this: I think the basic thrust of the whole clean-up program, Congressman, is just exactly that.

It is to put it in the hands of the private sector, to get properties out of the Government and either have them bought or have them managed until they are bought by the private sector.

The last thing that we want to do is hang around here and see this process go on forever, and Mr. Cooke can embellish what I said, but that is the whole purpose of this thing, is to get this stuff off the shelf and into the hands of the private sector.

Thus far, they have moved about—of \$330 billion of assets that have come in, half of that is now gone.

Mr. DUNCAN. Have we ever turned over any of the savings and loan associations to the private sector from the beginning, when they had to be closed down?

Have we ever, even on an experimental basis, taken one and said to a major insurance company or a major financial firm of some sort and said, here, you handle it, and let us see if you can do a better job?

Mr. COOKE. I would like to say there has been some experience with doing that, certainly back in the FSLIC. FSLIC did that on a number of occasions, and I will ask Mr. Roelle, who oversees the entire resolution process to comment, but I would like to say I think our record in closing down—seizing control of and closing down institutions is pretty impressive. It is unparalleled.

I am not aware of any situation where so many institutions have been seized control of and closed in so short a period of time by a new entity anywhere, ever, but I would like to ask Mr. Roelle to respond to that specific question.

Mr. ROELLE. Congressman, in the eighties, the FSLIC, prior to the FIRREA, had a number of institutions operating under what they called the management consignment program, which was a program to allow the private sector to take over institutions and run them and, hopefully, rehabilitate those institutions or get them into position where the private capital markets would be willing to acquire them.

They had some limited success with that program. A great number of the early resolutions that we took over in the very first weeks of the process were institutions that had been under the management consignment program.

So, I think that it is not to be critical of the private sector's efforts in that regard.

It is simply that institutions are acquired primarily because of their franchise value, which in the case of thrifts are primarily their deposit franchises, and the prime determinant in all of that is the ability for the transaction to be closed out with a cash statement.

Mr. DUNCAN. Let me tell you the direction I am coming from. Then I will stop, because I know you have been here a long time.

Louis Rueckheyser, the syndicated columnist and TV commentator, said in a column on August 6, now that free-market principles have met with such enthusiasm in Russia and other countries in Eastern Europe, now let us try a truly radical suggestion and try them here in the United States, as well.

There are some of us who believe that—there are some of us on this subcommittee who believe in the free-enterprise system and who think that the job that would have been done by the private sector could not have been nearly as costly or nearly as inefficient or with nearly as many complaints as we have had doing it the way we have done it, and there are some of us who believe that it is possibly not too late to at least try that and admit that we have made some mistakes and gone about some of these things in the wrong way.

I know each of you gentlemen is here having to defend the RTC, but sometimes it is better to admit failure or admit mistakes and try a new approach.

Deputy Secretary ROBSON. I come from the private sector, Congressman Duncan, and so, I do not need any education. That is where I have spent all my life. I believe in it.

Chairman ANNUNZIO. The time of the gentleman has expired.

We all need education. we can never have enough.

Deputy Secretary ROBSON. I want to associate myself with the thrust of your comments, because I think they are right, but I really think that the process here has been one that was designed to avoid building a huge permanent bureaucracy, and I certainly will not say there have not been any mistakes made along the way, but the goal here is to get this stuff out of Government's hands, get the employee body of RTC pared down as the job becomes less, and get out of this game, and by God, that is what we want to do, and that is what you all want to do, and we do not think—let me just say this. I do not think, when you look at the job that faced us, that the thing has been as bad as some say.

It is like Mark Twain said about Wagner's music: It is not as bad as it sounds.

Chairman ANNUNZIO. Mr. Cox.

Mr. Cox. Well, Mr. Robson, we are going to move on to my time.

If, in fact, there is a specific desire to avoid the creation of a giant bureaucracy, it would seem to me you are going about it in a very strange way.

A couple of comments. You said earlier that the audits are the GAO's responsibility and you have to ask them about it.

Am I correct in understanding that if there are, in fact, delays that are occurring in producing that audit, that those are the cause of GAO and not RTC?

Deputy Secretary ROBSON. You will have to ask GAO that, not the Oversight Board.

Mr. Cox. That is what I understood your comments to be. Is that accurate?

Mr. COOKE. We have provided them, I think, timely, our financials, our estimated financials, our estimated value. We have re-

cently agreed on all the verbiage that would be used in the footnotes to the financial statements.

The big question is what will their opinion to the financials be, and again, you have to talk to GAO.

Mr. Cox. OK. So, it is your statement that, whatever the delays are, they are the cause of GAO and not anything RTC has done.

Mr. COOKE. I would say that we have tried to be as timely as we could be.

I do not know, in an issue as complex as trying to figure out what is a good way to value the assets that we have taken over and what are they worth, that it is hard to fault GAO or us, I would hope, and that takes time.

It takes time to establish an estimated value.

Mr. Cox. Well, the 1989 audit apparently showed up sometime in early 1991. It seems to me that is a problem that we ought to confront somehow.

Mr. Chairman, I apologize to you and the other members of the subcommittee and to the witnesses for my late arrival.

I believe that respect from this side is as important as your willingness to come here and testify, and I do apologize, because other matters were pending for me, but Mr. Chairman, I do agree with your opening statement.

I was one of those members last time who voted for the additional funding for RTC on the belief that during this time, since the last vote, some changes could occur. And as Mr. Bacchus very ably stated earlier, and even though I'm not a Baptist, I say "Amen" to what Mr. Bacchus said earlier. He and I and our staffs have been working hard on some recommendations in the form of reform that I hope all the members of the subcommittee, even Treasury, might want to take a look at and maybe we can all work together and expedite some requirements here that might move things forward faster than they've been going.

Specifically, I'm deeply concerned about the pace at which the RTC is selling its assets. And I would like to know what is your targeted goal of how many dollars worth of assets you aim to sell each month or each year? Do you have any kind of a schedule in place, quota system, whatever you might want to call it that requires some specific accomplishment on a regular basis?

Deputy SECRETARY ROBSON. Let me, as the—let the Oversight Board—the RTC rather than the Oversight Board answer that, but let me just say this, the Oversight Board established for this fiscal year specific asset sale goals which RTC will be meeting. They are \$65 billion in net asset reduction which they are on course to meet and which they expect to, I think, even surpass somewhat.

But let them answer the specific question.

Mr. Cox. Other than the Oversight Board's quota, do you have any others in place?

Mr. COOKE. We have specific timelines that all go into the construction of that overall goal for different types of assets. What kind of turnover rates and we monitor how old the inventory is and how quick it's turning over. So, yes, we do have timelines and a number of initiatives. I'll just conclude with that that we have incorporated recently dealing with portfolio sales and in the area

of securitization will, I think, greatly help us to meet or exceed and particularly in single family mortgages we'll even do better.

Mr. Cox. Could you provide those to the subcommittee rather than go through them here?

Mr. COOKE. I'll be happy to.

Mr. Cox. Thank you. Mr. Bacchus and I are also very interested in promoting a system of performance based funding for the RTC. And under the system that we intend to propose, the RTC will be given half its requested funding immediately, but the additional funding will be contingent upon your sale of assets. What effect do you perceive such legislation would have upon the operations of RTC in accomplishing its goals?

Deputy Secretary ROBSON. Well, I would say, the one effect it will have is it will suggest to depositors who have insurance that the government isn't going to make good on their deposit insurance unless some congressionally-established performance standards are satisfied. I can't tell you what the effect on the RTC would be behaviorally. The delays, if there are delays in funding, the person that gets hurt is the taxpayer and the depositor.

I don't think we're working at cross purposes here. I think—I don't think that we're seeking different goals. The Oversight Board wants to get this job done. The Oversight Board wants to get it done as cheaply as possible. I'm not going to say that everything has been perfect that's happened up to this date, but I am also not going to agree with those that say it's been a total failure. It hasn't been.

And it's one hell of a big job.

Mr. Cox. But, Mr. Robson, we are at a point where's there is almost bipartisan agreement that the RTC isn't doing its job, at least in a way that is acceptable to us, and when the time comes to vote the money, we stand on the floor of the House of Representatives, while we're struggling to reach legislation that will provide the money, and there are charts up in front of us telling about the money that's being lost because of our irresponsible behavior in not passing a bill that gives the money to the administration and go ahead willy-nilly and spend it as you see fit, and make your sales of your assets as you see fit, without any real input from us or basic requirements from us.

And I, for one, am not going to be part of that again. If we're going to give money to continue the responsible bailout and delivering on that promise to those depositors, it's going to be expedited. We're going to get rid of those assets, and the RTC is going to shut down as planned.

You know, Mr. Seidman probably has the best quote of all. He says: "If the RTC were to sell a million dollars of assets a day, it would take 504 years to deplete the portfolio," and it's getting worse as we go along.

I think we really need to place upon the RTC requirements, real sale of assets requirements, to be tied to receiving the funds needed to continue your work.

Deputy Secretary ROBSON. Will you remove—one of the things, if you're going to do that, you ought to consider is removing the anti-dumping provisions from the legislation. That is to say, if you're going to tie it to just pace of asset disposition, then you want to

consider removing from the FIRREA law those requirements that Congress put in that require certain levels of pricing in certain markets, prohibit dumping, and those kinds of things.

Mr. Cox. Well, we may have to—I'm sorry, Mr. Chairman; I know my time is up—we may have to take a look at those in order to be fair, but we're not going to be a party to simply getting rid of them in order to qualify for those standards.

There are things going on that could be handled in a better way, and I think the only way we're going to see that happen is if we provide the incentive.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. The time of the gentleman has expired. It's been a long day. Mr. Kennedy will be recognized for two questions.

Mr. KENNEDY. Thank you, Mr. Chairman.

First of all—

Chairman ANNUNZIO. Two questions.

Mr. KENNEDY. Yes, that would be great, Mr. Chairman. It depends upon our definitions of the questions, I suppose, Mr. Chairman.

But first of all, let me just say to Mr. Robson that while I very much appreciate the testimony you gave and the extended testimony, really, that you provided in your opening statement, in your written statement this morning, it does seem to me that Chairman Annunzio really had invited Secretary Brady to be here today. And the fact that you are coming to the Congress of the United States asking for \$80 billion would seem to me to be a very appropriate time for the Secretary of the Treasury to be here.

And I just want to let you know—I mean, I have a great deal of respect for you as an individual and for the testimony that you have provided and your willingness to answer the questions—but the fact is that the Secretary of the Treasury ought to have been here.

This is as much money as any single account of the Government, and, you know, to have the Secretary not even bother to show up, I think is a real disservice and shows the disdain for which he must view this process. I am really dumbfounded by the fact that—and if this happened to be a bad day, I'm sure the chairman would have adjusted our schedules to meet, if you're about to tell me that he couldn't have been here for some other huge conflict. I doubt it was an \$80 billion conflict.

Having said that, I think you understand my concerns as I talked about them earlier. Even in your written testimony, despite the fact that you talked about the notions that many of these resource management systems, the computerization issues, the systems to track inventory of real estate, owned assets and the like are going to be improving shortly, I think that if we actually look at what the GAO has had to say about the organization thus far, including all the Members of Congress up here today, there is a great deal of dissatisfaction with the way the organization is being run.

I have two questions. First of all, I know that my colleague had just talked with you about his ideas of a way to put some brakes on how the funding mechanism works.

There is also another idea out there, which I think is an interesting one, a proposal that we're considering that would assess a minuscule user fee of 200ths of 1 percent on all transactions through the Federal Wire System. Such a modest fee, which could sunset after a short period of time, would raise something on the order of \$85 billion per year. I wonder whether you've had any chance or an opportunity to study that as a mechanism for raising the funds necessary to avoid the kinds of huge borrowings and the tremendous recessionary problems that those borrowings have now, at least in all recent reports, indicated would occur?

Do you have any thoughts about that?

Deputy Secretary ROBSON. I never heard of the proposal, Congressman Kennedy, until just this moment.

Mr. KENNEDY. I see. Well, it's a proposal that has been, as I understand it, filed in the U.S. Senate, and there is one that we are taking a very serious look at in the House.

Maybe if you have a chance to take a look at it, you could get back to me. I'll send it to you, and maybe you could get back to me with your thoughts on it.

Mr. KENNEDY. Have any of the rest of you heard about this proposal?

[No response.]

Mr. KENNEDY. I also am interested in some of the differences that have occurred between the FDIC and the RTC, in terms of its treatment of bankruptcy proceedings and how various rules that apply to the RTC are very different than the rules that apply to the FDIC. I can get back to you with some specific incidents that I have been made aware of in recent days and weeks.

It seems to me that there are some very significant differences when individuals that have proceedings that end up in court, or excuse me, end up before the bankruptcy procedures, end up being hurt and you are able to play some kind of cat and mouse game between the two agencies.

Mr. Monroe, you were nodding your head. Are you familiar with what I am speaking to?

Mr. MONROE. No, but I would be glad to respond to you. I will get back to you for sure.

Mr. KENNEDY. I would appreciate it very much.

Finally, I just want to let you know, and this will not be a question, Mr. Annunzio. I just want to let you know that I appreciate very much Lamar Kelly's efforts to try and work out some of the problems with regard to some of the low-income housing programs. I know that there have continued to be a number of misunderstandings and mix-ups, with regard to some of the various properties and the like. I do want to commend Mr. Kelly for the efforts that he's making on behalf of that program. There are a lot of problems out there, but I just appreciate the efforts, and want to indicate that I want to continue to work with you.

Thank you very much, Mr. Chairman.

Deputy Secretary ROBSON. Mr. Chairman, may I make one comment, and I do not—if I may, Congressman Kennedy, with respect to your earlier comments regarding Secretary Brady, I really think it is not appropriate to say that he has disdain for this process. He was in front of this subcommittee 2 months ago. He has been in

front of several committees. It so happened that today he could not be here, and I——

Mr. KENNEDY. Mr. Robson, let us be serious here. You are talking about coming to this Congress, asking for \$80 billion. He has had 4 months to respond to Mr. Annunzio's request that he come here today, and——

Deputy Secretary ROBSON. May I say one thing here? He asked for the——

Mr. KENNEDY. Mr. Robson, let me finish too, sir. The fact of the matter is that you have not. This is an uncomfortable position to come to. You are asking the Congress for \$80 billion for an organization that is about as mixed up as any organization that anybody has ever heard of. The fellow does not have the guts to come here and ask for it himself.

Deputy Secretary ROBSON. I am sorry, but he asked for it in front of this subcommittee in July, and said that we would need \$80 billion to finish this job and \$160 billion of note borrowing and all of that was on the record, in front of this subcommittee in July.

Mr. KENNEDY. This is the procedure—this is the hearing——

Deputy Secretary ROBSON. I'm sorry.

Mr. KENNEDY. This is the body under which he is to make the formal request. That is the procedure, Mr. Robson. It was not the procedure back in July. That was a generalized hearing. This is the procedure under which you are supposed to make the formal request.

Chairman ANNUNZIO. The time of the gentleman has expired. It has been a very long day. It has been a good hearing. I want to thank our witnesses for being here. Their testimony will help the subcommittee, that is very obvious, considering RTC funding when the administration sends its request to Congress.

I appreciate the need to honor our commitment to depositors. I support paying off the insured depositors in failed S&L's, and I could vote for additional funding for that purpose. My concern is that the money is going not to depositors, but to deposit brokers and others. The RTC has spent hundreds of millions of dollars for employees, contractors, consultants. Unless more money goes to depositors and less to the hangers-on feeding off the RTC, I cannot support additional funding.

I also want the witnesses to know that on Monday we are going to have a staff study released on all of the 1991 expenditures of FDIC.

Thank you very, very much.

Deputy Secretary ROBSON. Thank you, Mr. Chairman.

[Whereupon, at 1:30 p.m., the hearing was adjourned.]

RESOLUTION TRUST CORPORATION REFINANCING AND RESTRUCTURING ISSUES

TUESDAY, SEPTEMBER 17, 1991

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Frank Annunzio [chairman of the subcommittee] presiding.

Present: Chairman Annunzio, Representatives Hubbard, Barnard, Kennedy, Hoagland, LaRocco, Moran, Leach, McCollum, and Roukema.

Chairman ANNUNZIO. The meeting of the subcommittee will come to order.

Today marks the second of three hearings in the funding needs for the Resolution Trust Corporation (RTC). We will hear testimony that questions whether the administration's request for an additional \$80 billion will provide sufficient funding for the RTC.

Eighty billion dollars will buy a lot of things.

I am going to stop for a moment.

You know, on the floor of the House this morning they are debating the unemployment compensation legislation, and there is an amendment to increase taxes in order to pay for it.

Sometimes, I wonder what this \$80 billion would provide in unemployment benefits without any tax increase, and take care of that problem that is kind of hanging over our heads.

It could pay for the war on drugs for the next 7 years.

You know, we just very leisurely mention \$80 billion without thinking of what we are talking about. We know more about dollars in hundreds and thousands than we know about billions. It is hard to understand the magnitude of that kind of money.

It could buy 47 billion school lunches. It could fly everyone in the United States round-trip from Washington to San Francisco and give them spending money while there.

There are those in the Congress who say we have no choice but to pass the \$80 billion to continue the savings and loan bailout. They suggest that, without the new money, depositors in failed thrifts will not be paid off.

I can certainly understand that concern, but my concern is that a large segment of the funds is not being used to pay off depositors, but rather to fund a bloated bureaucracy of more than 7,500 em-

ployees, to pay more than \$35 million in fees for brokered deposits, and to hire do-nothing contractors who are paid not to sell assets.

Yesterday, I released a report detailing some of the RTC's spending. Instead of paying off depositors, the RTC spent thousands of dollars buying such nonessential items as golf shirts, coffee mugs, and pool towels.

The RTC buys pool towels, vodka, and tennis court time and then comes before this subcommittee and blames the Congress for not having sufficient funds to pay off depositors.

It is going to be hard to vote to give this agency 80 cents, let alone \$80 billion, unless its spending excesses are reined in.

It may be that cable television should have a new series based on the lavish spending of the FDIC as the manager of the RTC. The series could be called "Lifestyles of the BIF and the Shameless." From what the subcommittee staff study found, it will be a long-running show, not a mini-series.

Even the staff study only scratched the surface. It did not attempt to evaluate the cost effectiveness of the \$1 billion in legal fees spent by RTC and the FDIC this year or the millions of dollars in asset management contracts that the RTC has awarded.

The very same chaotic RTC recordkeeping that has frustrated the GAO in its efforts to audit the RTC makes evaluating the record of RTC contractors extremely difficult.

Many of the contract awards, I am convinced, are being done on the buddy system. A handful of contractors get the bulk of RTC contracts, while tens of thousands of others who are well-qualified, and are on the RTC bidding list, never get an opportunity to get any RTC business.

As I indicated, the GAO has not been able to provide an audit of the RTC for 1990, largely because of the horrible records of the RTC. Yet, the RTC expects Congress to simply give it more money on a "trust us" basis.

It would be easier for me to vote for RTC funding if the funds were going to pay depositors in failed thrifts, but without such assurances, it will be very difficult for me to give away \$80 billion of the taxpayers' money to an agency more interested in buying art than selling assets.

Mr. Leach, you are recognized for an opening statement.

Mr. LEACH. Thank you, Mr. Chairman.

First, let me apologize on behalf of the ranking Member, Mr. Wylie, who has had an important meeting at the Pentagon this morning, and he hopes to be in later.

Second, let me further apologize. We have a 10:15 conference committee with the House Banking Committee and the Senate Foreign Relations Committee on international financial institutions, and I will have to be leaving for that.

Third, let me just say it is hard not to fully share a number of the sentiments of the distinguished subcommittee chairman and, also, not to recognize his strong feelings on this issue.

I do think, though, we are going to have to take real care in seeking some balance and to recognize that all of the faults are not those of the healers, the doctors of bureaucracy, when certainly some accountability has to go to the precipitators of the crisis in

the private sector as well as, perhaps, some public sector miscreants, but thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you, Mr. Leach. Mr. Hubbard.

Mr. HUBBARD. Thank you, Mr. Chairman, and I commend you for calling this important series of hearings on the refinancing and restructuring of the Resolution Trust Corporation.

Chairman Bill Seidman testified before our subcommittee last week that the Resolution Trust Corporation would soon have spent the last of \$80 billion Congress has already appropriated.

From the testimony we heard last week, it now appears that the RTC will need another \$80 billion to complete its task. As you pointed out at that hearing, \$80 billion is a lot of money, even for our Federal Government. Personally, I can't even imagine how far \$80 billion would go in my rural district of Kentucky where per capita income is less than \$10,000 a year.

Unfortunately, this money is not going to be spent for economic development or badly needed social programs in congressional districts like my own and those of 434 other colleagues.

No. It will be used to right the wrongs of dishonest and imprudent savings and loan officials who, often promoters of personal profit, saw fit to play Russian roulette with the federally-insured accounts of their depositors.

It is so crucial that we fully assume our oversight responsibilities with regard to the RTC. The final price tag for resolving our Nation's failed thrifts is estimated to be somewhere between \$300 and \$500 billion. Well, \$300 to \$500 billion that won't be spent on domestic or other programs, \$300 to \$500 billion which will only add to the mountain of debt that the Federal Government has already incurred.

So the least we can do, Mr. Chairman, is see that these dollars are spent wisely and efficiently. And while this means considering issues such as restructuring the RTC, it also means avoiding any costly delays in funding.

Indeed, the situation is critical enough without allowing political, partisan in-fighting to delay and thus increase the cost of the RTC's mission.

I look forward to hearing the testimony of our distinguished witnesses, Comptroller General Charles A. Bowsher, of the U.S. GAO, and Director Robert Reischauer of the Congressional Budget Office.

I would thank our witnesses for being with us and look forward to hearing their testimony.

Chairman ANNUNZIO. Thank you very much. Mrs. Roukema.

Mrs. ROUKEMA. Thank you, Mr. Chairman.

Mr. Chairman, as you well remember, at our hearing last week I made a few comments regarding my concerns that perhaps both the administration and the subcommittee were being tempted toward dilatory tactics in facing the inevitability of legislation that was needed to authorize the \$80 billion in loss funds and working capital for the RTC.

I certainly understand the political problems with such a request, and maybe the old adage that fools rush in where angels fear to tread applies here, because what I plan to do is to help the process along with respect to this funding request and the necessity for this funding.

In an effort to move this process—so call me a fool, Mr. Chairman, if you may—but in an effort to move the process along a little quicker, today I plan to introduce legislation which accomplishes two goals

First, my bill incorporates the Oversight Board's request for the \$80 billion, as well as the extension of time for the OTS to close failing thrifts and the RTC to accept control of them.

Second, my bill incorporates the several structural changes recommended by Chairman Seidman at our hearing last week. These include the authorization for the appointment of a CEO and the severing of the direct oversight links of the FDIC.

Mr. Chairman, I introduce this bill so that when we conclude our subcommittee hearings on Thursday, we can schedule markup within a reasonable period of time. I realize that many other members of the subcommittee, certainly including you, Mr. Chairman—and by the way, this is not meant as any criticism of your leadership; I understand your position. You have been forthright from the beginning in terms of your position. I don't necessarily agree with it, but you have the right to your position.

Many members, including yourself, have their own ideas as to where we should go with the RTC. Certainly, Mr. Vento, as I understand it, the gentleman from Minnesota, has some additional restructuring ideas, and he and I may be able to work cooperatively on that in the future. And I know that Mr. Bacchus and Mr. Cox are exploring some intriguing ideas of authorizing the full \$80 billion, but conditioning the release on the percentage of those funds based on performance standards.

These and other ideas are well worth debating, and we should get on with that debate as quickly as possible. But I would suggest that my barebones position is one that is being forthright with the American public, that is consistent with our past commitment, and I am convinced that it is the only way that we can move the process along and help thwart any future escalation of costs and could actually be the avenue for reducing the escalation of costs in the future.

Thank you, Mr. Chairman.

Chairman ANNUNZIO. Thank you very much.

Mrs. ROUKEMA. By the way, I would, of course, have an open invitation for all members of the subcommittee to join me in cosponsoring this legislation. Thank you.

Chairman ANNUNZIO. I want to assure you that this chairman will not deny you any of your rights.

I had originally scheduled another day of hearings for this Thursday. Six witnesses had been scheduled, but three of the six have since indicated that they will be unable to attend. Due to the withdrawal of some of the witnesses on the panel, I have decided to cancel the meeting on Thursday, and the new date will be announced just as soon as we're able to confirm all around that everybody's schedule is clear.

Mr. Barnard.

Mr. BARNARD. Thank you, Mr. Chairman.

I certainly don't want to take the time away from this distinguished and important panel in discussing this very important subject. But I would like to say to the Comptroller and Mr. Fogel that

the great work that you do certainly doesn't go unnoticed by Members of Congress.

I happened to be on a plane yesterday, and I read your report on the disposition activities of the FDIC, and, you know, it astounds me is what we're finding about these various agencies. I think this particular report had to do with 23 properties, 23 properties that were sold by the FDIC, and of those 23 properties, 8 had already been sold by the FDIC. Another number, eight or nine, were from people who were already in bankruptcy.

And I am just astounded at the operation of these things. And I realize it's very intricate and involved, but I sometimes wonder whether or not the average member of the Banking Committee and this subcommittee and, yes, the Congress understands what a debacle we are in as far as these—the FDIC, RTC, and so forth is concerned.

And, you know, just like unraveling—we haven't come to the end of the cord in all of this, in all of this work, but it does really concern me greatly, the efficiency that some of these things are being carried out.

You all are doing great work in trying to bring this message to Congress, and I want you to know as one member, I appreciate it.

Mr. Chairman, you brought something to my attention today. I guess I've been in the closet or someplace, but I did not know about the Seidman Center, and no one has a greater respect and admiration and appreciation for the great work that Dr. Seidman has done as Chairman of the FDIC. But I was astounded to find out the cost and the operation of the Seidman Center and the associated hotel that went with it. It appears to me that there's got to be some justification for that. I haven't heard of that up to now. So it looks like to me we've got a lot more things to do than even what we are doing.

Chairman ANNUNZIO. I would like to say, gentlemen, that we have only begun to scratch the surface.

As I recall, there was a Regional Director of the RTC—was it Chicago?—in the southwest, and he overspent on some furniture for his office and was fired immediately.

You see, in this instance, there is nobody around to fire anybody. They were too high up.

Mr. McCollum.

Mr. McCOLLUM. There is a quorum call.

Chairman ANNUNZIO. There is a quorum call, followed by a vote. What is the pleasure of the subcommittee? Should we recess?

Mr. BARNARD. Please.

Chairman ANNUNZIO. Recess for the next 10 minutes. There will be no more statements. Just the panel will—Mr. Hoagland, why don't you make your statement now?

Mr. HOAGLAND. I do have a brief statement. I wanted to make it now, Mr. Chairman, because we still have a couple of minutes, if I might.

Chairman ANNUNZIO. Sure. Go ahead. When we come back, there will be no more statements, only the witnesses.

Mr. HOAGLAND. OK.

Let me just address this, if I might, to our distinguished panel, and I appreciate your having this hearing, Mr. Chairman. It is very helpful.

There may be a consensus developing, gentlemen, that we should make some changes with respect to the upper management organizational structure of the RTC, and I would be interested in your views as to, number one, the length of time that you think the RTC is going to have important work to do.

Chairman Seidman indicated, during his testimony last week, that we are looking at at least 2 more years where tens of billions of dollars are going to be managed by the RTC.

Second, your thoughts as to the merits of the strong CEO position and whether or not we need statutory revisions to bring that about, as opposed to trying to set up a strong CEO position under the current structure, because there are, you know, conflicting statutory provisions that I pointed out last week and others have pointed out for months, and is it necessary those be amended?

Is it necessary that we change the enabling legislation to be able to effectuate a strong CEO position to the extent that you all think necessary?

Then, finally, can these changes be made without disrupting RTC operations, because the last thing we want to do is set the agency back in its efforts by tampering with the structure, but if we can come in and just abolish the Oversight Board and make other changes necessary to allow a strong CEO position to be established, can we do that in such a fashion that we will not disrupt or set back the agency's activities?

So, those are the issues I am interested in hearing from you gentlemen this morning, Mr. Chairman, and I appreciate, again, your having scheduled the hearing.

Chairman ANNUNZIO. I thank the gentleman for his contribution, and we will be back immediately after the vote.

[Brief recess.]

Chairman ANNUNZIO. I want to welcome the witnesses today. We will proceed, and as the members walk in, they'll take their seats.

Mr. Bowsher, I want to extend my appreciation to you. You've always been cooperative. You've cooperated with this chairman on all of his hearings. You can proceed in your own manner. Your entire statement will be made part of the record without objection and you can summarize.

STATEMENT OF HON. CHARLES A. BOWSHER, COMPTROLLER GENERAL, GAO; ACCOMPANIED BY RICHARD FOGEL, ASSISTANT COMPTROLLER GENERAL, GAO

Mr. BOWSHER. Thank you very much, Mr. Chairman. I'm accompanied today by Dick Fogel, the Assistant Comptroller General for our General Government Division—that has this area of responsibility. I appreciate the statement being put in the record in its entirety, and I'll just briefly summarize it here.

First, we believe that RTC is making progress. They are selling more assets through the use of bulk sales, portfolio sales, and securitization. But at the same time, challenges facing RTC continue to change and grow. When you look at the charts in the back of my

testimony, you will see that the inventory is staying high even though sales are increasing.

RTC's funding needs have been explained to this subcommittee by the administration a couple of days ago when Mr. Seidman testified. He is asking for an additional \$80 billion in loss funds that would take RTC into 1993, and he's asking for a total of \$160 billion in working capital funds.

If you were to just ask for a funding estimate through fiscal year 1992, RTC estimates the loss funds needed would be \$50 billion, and the working capital borrowing authority would be \$117 billion.

So I think those are the two main options: whether you want to fund the financial needs of RTC through their current life, or whether you want to extend the life of the institution and give them borrowing authority and enough loss funds to continue operations into 1993.

We have not yet completed our 1990 financial audit of RTC. We are having trouble with some of the valuation of the assets and the liabilities, and we have now come to a conclusion that we will not be able to give a clean opinion this year. We will probably issue a disclaimer. I hope to have it out in the next 30 days.

If you look at the charts at the back of our testimony you will see that on chart 1, the total assets that RTC has taken control of is \$328 billion. As of June 30, 1991, RTC had liquidated 51 percent. That has increased from 31 percent last June 1990, so they are beginning to move the assets.

Also, from inception through June 30, 1991, RTC has taken \$275 billion in financial assets—including cash, securities, mortgages, and other loans—under its control, and through sales and collections, this total is down to \$124 billion. Financial assets make up 78 percent of RTC's total asset inventory which are the bulk of the assets RTC is dealing with.

If you look at chart 3, you'll see the loan inventory and the sales and collection changes, and as I said, the loan inventory continues to mount even though sales and collections are increasing. You can see the same situation on chart 4 for the real estate inventory; the real estate inventory is gradually moving up even though RTC is now getting some increase in real estate sales.

Chart 5 shows RTC's single family affordable housing and the multifamily affordable housing sales. RTC still has a lot of real estate on its hands, and in the multifamily housing area, they really have just gotten started with a national sales program.

We are encouraged that some of the programs RTC has started—like the Securitization Program—are starting to move some of the securities RTC has taken over. In the past 6 months, RTC had six transactions equaling \$2.5 billion, and they hope to move another \$6 billion by the end of 1991.

In the contracting area, which is very important to RTC's operations, they are making progress. For example, this month RTC published the first edition of their contracting manual. Also, they now have a standardized solicitation for SAMDA contracts, and RTC's Office of Contractor Oversight and Surveillance has started to review asset management contract performance in the field. We have said for some time now that it's essential that RTC get out and actually see how the contractors are performing.

RTC still needs to develop standards to evaluate SAMDA technical proposals, to complete the financial resource qualification standards, and to establish a system of penalties short of contract termination.

These are our major contracting recommendations and I know RTC is working on them. I think it is essential that RTC does not have to cancel a whole contract if things are not going well. They need a system of penalties, and I think they are working to try to address this situation. Also, contractor oversight, as I said is starting to improve.

The last chart in my testimony shows some statistics on the Minority and Women Outreach Program. They had a slow start, no question about that. However, there has been quite a bit of activity recently. For example, RTC has issued the interim final regulations on both Minority- and Women-owned Business Contracting Programs. They have also increased staffing in this area and have the training program finally put together. We will be monitoring RTC's efforts to see if they pay off.

On information management, RTC finally has a strategic IRM plan, the programs are going forward, and we'll be monitoring them.

The main issue that I'd like to close with is the restructuring options. During hearings in February, we raised the issue of whether the FDIC Chairman could handle both the CEO responsibilities of the FDIC with all the problems that were beginning to develop in the banking industry, and at the same time handle the CEO responsibilities for the RTC. With its role evolving more and more toward asset disposition.

We said we thought that this Summer or Fall was a good time for the Congress and for the administration to look at and address the restructuring issue. They have now come out with a recommendation that they do need a new CEO, a separate CEO for the RTC; they have come out with some recommendations for restructuring the Oversight Board; and they are recommending severing the strong tie between FDIC and RTC.

These are all moves in the right direction. I'm not sure whether the dual-board concept that has been put forth is the right answer or not, but a strong Oversight Board of some type is needed. However, we have to be careful that we don't force too much change on the organization because it is working, and the changes that are being considered now by most people are moving RTC in the right direction—and that direction is getting a strong CEO for RTC.

Mr. Chairman, that would conclude my summary. We'd be happy to answer any questions after Bob gets done with his presentation.

[The prepared statement of Charles Bowsheer can be found in the appendix.]

Chairman ANNUNZIO. Thank you very much. I just have one question before I leave to vote and come back.

When you last appeared before this subcommittee, I asked you to give a letter grade to the work of the RTC, and you responded that you would give the RTC no better than a "D." This is, as we all know, a barely passing grade.

I would ask you, after your current review of the RTC and the RTC Oversight Board, what grade would you give now to the RTC and the RTC Oversight Board?

Mr. BOWSER. I thought I gave an incomplete, rather than a "D." Chairman ANNUNZIO. It is almost failing.

Mr. BOWSER. I am afraid I have to give RTC the same grade now, an incomplete, until it actually achieves more progress on the end result, the output you might say. We still see problems, but I do want to say that we also see some progress with the RTC.

Chairman ANNUNZIO. I hope you can understand my position. If you can give them only an incomplete grade, how in the world am I going to vote for anything?

Mr. BOWSER. I think you are in a very difficult situation, Mr. Chairman.

Chairman ANNUNZIO. I will be right back.

[Recess.]

Chairman ANNUNZIO. I want to welcome Mr. Robert Reischauer to the subcommittee and extend my appreciation for your attendance today.

Mr. Reischauer is Director of the Congressional Budget Office.

Your entire statement, without objection, will be made part of the record, and you can proceed in your own manner and take as much time as you want.

STATEMENT OF ROBERT D. REISCHAUER, DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Mr. REISCHAUER. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the subcommittee to discuss CBO's assessment of the financial condition of the Resolution Trust Corporation (RTC).

Let me start by noting that CBO has estimated that resolving the thrift industry's problems will cost \$215 billion. This \$215 billion figure is composed of \$60 billion that will be charged to the Federal Savings and Loan Insurance Corporation (FSLIC) Fund and to the FSLIC Resolution Fund, and another \$155 billion that will be charged to the RTC or its successor agency.

These estimates are expressed in present-value terms. In other words, they represent the past, present, and future net costs of resolving failed thrifts, expressed in 1990 dollars.

The budget numbers that record the yearly net flows of cash into the deposit insurance accounts look quite different. CBO's most recent budget projections are summarized in table 1 in my prepared statement.

We estimate that outlays for RTC's insurance losses will total about \$191 billion over the 1989-1996 period. Disbursements of working capital over that period will total \$357 billion, which includes the interest costs on the working capital that is borrowed from the Federal Financing Bank (FFB).

Receipts from disposal of assets acquired in the course of the resolution process through 1996 are estimated at about \$298 billion. Of course, there will be further receipts after that period, extending into the next century.

The issue facing the Congress concerns the RTC's immediate funding needs. CBO estimates that \$73 billion of the \$80 billion that the Congress has already given the RTC to cover losses will be used by the end of the current fiscal year; that is, by the end of September. The balance will be exhausted early in fiscal year 1992.

While the exact timing of RTC disbursements is highly uncertain, we have estimated that the RTC will need about \$40 billion more to cover losses through the next fiscal year, bringing the total spending for thrift losses through fiscal year 1992 to \$120 billion.

There is a lot of confusion surrounding various estimates of the S&L problem, and so let me take this opportunity to compare CBO's most recent figures and estimates with those of the administration.

First, with respect to the final costs of the resolution expressed in present-value terms, the administration has estimated those costs of the RTC's cleanup activities to be somewhere in the range of \$90 billion to \$130 billion, expressed in terms of 1989 dollars, while CBO's figure, as I mentioned before, is \$155 billion, expressed in terms of 1990 dollars.

In other words, we estimated significantly higher than the administration on the basis of present value.

In terms of budget dollars, the administration has projected that the RTC will need as much as \$160 billion in loss funds, while CBO has estimated that that figure is closer to \$190 billion. Our estimate is about \$30 billion higher than the administration's.

With respect to the pending request for an additional \$80 billion in loss funds, the administration expects that \$50 billion will be needed for fiscal year 1992, while CBO, as I mentioned before, expects that roughly \$40 billion in additional loss money will be needed for the coming fiscal year.

I want to emphasize that the amount set aside for 1992 could easily vary by \$5 billion in either direction.

The administration has also requested that the RTC's authority to borrow from the FFB be increased from \$125 billion to \$160 billion. According to our calculations, that amount should be sufficient to cover the RTC's needs for working capital.

The administration expects that the RTC may have to resolve somewhere between 900 and 1,000 institutions and that that job can be completed by the end of fiscal year 1993, which is a bit more than a year longer than the RTC's scheduled lifespan under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA).

CBO believes that the RTC or its successor will most likely have to resolve nearly 1,500 institutions—in other words, 500 to 600 more institutions than the administration has estimated—and that the job will take at least until early 1995 to complete. In other words, we estimate that the task will take a longer period of time than the administration suggests.

Let me conclude by noting that a good deal of uncertainty surrounds all of the estimates that I have presented here today. For example, the actual costs for losses could easily vary from our current estimate of \$190 billion, by \$30 billion in either direction. The uncertainty arises because the estimates depend upon factors that

are difficult to predict accurately, such as the availability of funding, regulatory actions, and economic conditions.

CBO's estimates, like those of the administration, have assumed that adequate funds are provided to the RTC on a timely basis. Funding delays can lengthen the time needed to complete the resolution process and increase its final costs.

The ultimate costs of resolution are driven up when ailing institutions are allowed to stay in business. This point was brought home quite clearly by a recent CBO study which concluded that the policy of forbearance roughly doubled the cost of the thrift resolutions over the last 12 years. In other words, it added roughly \$66 billion to the final price tag.

With your permission, I would like to submit a copy of that CBO report for the record.

Chairman ANNUNZIO. Without objection, it will be made a part of the record.

[The information referred to can be found in the appendix.]

Mr. REISCHAUER. Fluctuations in the economy, of course, also contribute to uncertainty because of financial health of thrifts is sensitive to the pace of economic activity, and especially to the level of interest rates, which have an important bearing on real estate values. Because of these fluctuations, it is difficult to project how much the RTC will recoup from disposing of the assets of failed institutions. In fact, we will not know the answer to that question until the last asset is sold, which will not occur until some time in the next century.

Finally, the costs could be affected by changes in the structure and operations of the RTC or in its governance. Costs could be reduced if the RTC's decisionmaking processes were streamlined and its lines of accountability were more clearly defined. Institutional changes, as you have heard from other witnesses, also generate confusion, delay, and disruptions that can add to costs. Therefore, if steps are taken to restructure the RTC, care should be taken also to ensure that the RTC's resolutions activity is not disrupted during the transition period.

That ends my summary. I will be glad to answer any questions.

[The prepared statement of Robert D. Reischauer can be found in the appendix.]

Chairman ANNUNZIO. Thank you very much.

I have noted, Mr. Reischauer, that this problem exists, like all other major problems, in the minds of people who are in the Beltway area. Once we get outside of Washington, people do not talk so much about it, except to say that we are not going to pay \$80 billion. People are sick and tired of paying it. That is the problem that Congress is going to have. We just cannot get any enthusiasm generated because of activities that have been going on.

Mr. Bowsher, last week, one of the members of this subcommittee praised the RTC for not being involved in any major scandal. In this town that is considered a compliment.

My question is this. As the chief watchdog of the Congress of the United States, can you assure this subcommittee that all of the funds that have been given to the RTC have been spent legally, and that there is no possibility of embezzlement or fraud on the part of that agency? In short, can you put the GAO stamp of ap-

proval on the RTC and tell us that there is no possibility of hanky-panky going on in the RTC?

Mr. BOWSHER. I wish I could give you that assurance, Mr. Chairman, but I cannot. This is a very large organization, very far-flung, and highly decentralized. We are looking at the systems and the procedures that RTC has. When we see problems, we recommend that they get corrected. But, until we can give a clean opinion on the financial audit, and review all of the systems and controls, I cannot really give you the kind of assurance that you are asking for, and probably never give you the assurance quite to the extent that you're asking for here.

However, we can say that so far, we have not come upon any major fraud or problems in looking over the RTC approach. So, I think, by and large, one of the assets they do have is that they have run a pretty clean shop.

Chairman ANNUNZIO. I hope you are right. I do know that in a short period of time, they put a very large organization together—7,500 people.

Mr. BOWSHER. That is right.

Chairman ANNUNZIO. I want to give credit to those responsible for putting the organization together.

Mr. BOWSHER. Yes. It has been a tremendous task.

Chairman ANNUNZIO. On the other hand, I wonder sometimes whether we needed 7,500 people. I mean, they must be getting in each other's way.

Mr. BOWSHER. As I often have said, when RTC took over some of the failed institutions, they found the paperwork, the loan files, in terrible shape. So, to sort that out to a point where something can be sold is just not an easy job. The task that RTC has is one of the biggest ones that has ever been undertaken by any Government agency.

Chairman ANNUNZIO. Mr. Reischauer, do you want to add to that?

Mr. REISCHAUER. Yes. I think that when we look back on the RTC's record, it is inevitable that there are going to be some transactions, among the many thousands of transactions that that agency is going to conduct over the next decade or so, that look stupid. That is inevitable, especially when one has the knowledge of hindsight. And there are going to be criticisms of individual deals that will be labeled as examples of bad management. We have to realize that a certain amount of that goes on everywhere. It is impossible to shut that down completely. Although oversight by this subcommittee and by other committees of the Congress certainly can hold the feet of these agencies' Administrators and CEOs to the fire.

We should not have a situation in which, if one or two bum deals come to light, that there is a piling-on phenomenon.

Chairman ANNUNZIO. I am sure you agree with me that when we passed the FIRREA bill, Congress extended and gave every bit of cooperation. The Congress has given these people all the money they've asked for. Now they're back telling us that that's not enough and they need more. This is where the difference is.

Before Congress can vote any additional funds, it has to be damned sure that the money that they've already given has been

adequately spent. We also have to be sure that these assets have been treated in a manner that will bring the most to the Government and the agency itself in helping to pay off this debt.

We also know that there's about \$160 billion in assets, and some of these assets are negotiable so that they don't have to have super salesmen to sell them. The difference that I have found is that the selling of some of these assets, that the men and the women that were hired to sell these assets did not perform. In fact, some of them were told not to sell because that was not their job, you see. This is where some of the criticism has taken place.

Mr. Reischauer, what is your estimate, in nominal dollars, of the entire cost of resolving the savings and loan crisis, including interest costs on lost funds and other RTC related borrowings?

Mr. REISCHAUER. Well, our estimate of the total lost funds expressed in budget terms is \$191 billion. That's an estimate that runs from 1989 through 1996. Then, as I mentioned earlier, we expect working capital disbursements, together with the interest costs of borrowing from the FFB, to be in the neighborhood of \$357 billion over this same time period.

Chairman ANNUNZIO. At the end of July 1991, the RTC had \$7.8 billion in brokered deposits in conservatorship institutions. The RTC claimed last week that it did not have adequate funds to replace the brokered deposits in the institutions. Did the RTC have the resources to avoid the use of brokered deposits?

Mr. REISCHAUER. I think if the RTC can turn to working capital funds to replace those brokered deposits, it does have the leeway to do so. One possible approach along these lines would be to replace the brokered deposits with funds borrowed from the FFB as the brokered deposits mature.

Chairman ANNUNZIO. We were told that when the brokered deposits were received from these institutions that went under—and that's how the RTC inherited brokered deposits, through these institutions that went under—but on the other hand, I recall reading some of these statements where, in addition to the brokered deposits that they received from the institution, they bought about \$74 million of brokered deposits. They have been using brokered deposits.

You pointed out that ailing institutions, to stay open—that's a quorum call and a 5-minute vote. Well, I'll ask one more question. You point out that allowing ailing institutions to stay open drives up the ultimate cost of resolution. Do you believe that the RTC practice of placing institutions in conservatorships prior to resolving them is effective? Does the use of conservatorships increase costs by permitting uninsured depositors to withdraw their money prior to the closing of the institution?

Mr. REISCHAUER. We have not estimated the cost of that, but certainly the longer institutions stay in a conservatorship position, the larger the losses tend to be. As we pointed out in our earlier study, the question here really is, what is the alternative? To some extent, there is a limit to the ability of the RTC to absorb the assets that are dumped on it when an institution goes into receivership.

I think the RTC is trying to reduce the length of time that those institutions remain in conservatorship. When the RTC started up,

of course, they inherited many institutions that had been in conservatorship for a considerable length of time.

Chairman ANNUNZIO. Mr. Bowsher, would you like to comment?

Mr. BOWSHER. I agree, basically, with Mr. Reischauer. We looked at it earlier in the year, and the one thing that they came with, which I thought made sense, was the Accelerated Resolution Program. But they've not had a lot of success. It's because of the reasons that were stated by Bob; that it's sometimes hard to find the buyers. It's hard to do the deals.

I think the local deal of Perpetual Savings is a good example of one that they tried to do, and, apparently, it hasn't moved very quickly. Also, they took over some very large institutions in California—the Beverly Savings and the Columbia Savings—which were just big messes that had to be worked out as a part of a conservatorship before RTC finally closed them down.

So, it's a tough situation. The sooner you can do it, the more money you save, there's no question, but it's not easy.

Chairman ANNUNZIO. Thank you. I'll try to get back as soon as I can.

[Brief recess.]

Chairman ANNUNZIO. I am going to announce that there are several more votes coming, and then at 1 o'clock, because of the High Jewish Holidays, they are shutting down.

So, under those circumstances, we will go on until the next bells. I was going to say 10 minutes, but that is a rough guess on my part, and I want to tell the witnesses that I appreciate the patience you have exercised, but I get plenty of exercise myself going back and forth.

Mr. Reischauer, I am getting back to these brokered deposits. The RTC claimed last week that it did not have adequate funds to replace the brokered deposits in the institutions. Did the RTC have the resources to avoid the use of brokered deposits?

Mr. REISCHAUER. I am not in a position to answer that question definitively, but I think the RTC could have replaced much of the brokered deposits in the past, and certainly, if RTC had the authority to use working capital funds, it would have sufficient resources to replace brokered deposits.

Chairman ANNUNZIO. Would that have saved the taxpayers money?

Mr. REISCHAUER. Yes, it would, clearly. Basically, are substituting high-cost money—

Chairman ANNUNZIO. What is your estimates of an amount?

Mr. REISCHAUER. No, we do not have an estimate.

Chairman ANNUNZIO. You do not have that.

Mr. Bowsher, can you add anything to that?

Mr. BOWSHER. No. I would basically agree with Mr. Reischauer's answer, and we do not have an estimate, either.

Chairman ANNUNZIO. The statement has been made that they did not use brokered deposits. The fact is that they inherited the brokered deposits with the institutions that they took over, but as we get further into these hearings, I have learned that they did use brokered deposits.

I have learned that they spent millions of dollars using brokered deposits, and this was of no help to the taxpayers. That is what the taxpayers are screaming about.

Now, Mr. Reischauer, you point out that allowing ailing institutions to stay open drives up the ultimate cost of resolution. Do you believe that the RTC practice of placing institutions into conservatorships prior to resolving them is cost effective?

Does the use of conservatorships increase cost by permitting uninsured depositors to withdraw their money prior to the closing of the institution?

Mr. REISCHAUER. Unquestionably, it does drive up costs, but often there is no alternative, and the real issue here is how long institutions remain in conservatorship. I think there has been an effort by the RTC to try and bring that length of time down, although certainly more could be done on that front as the capacity of the RTC develops.

Mr. FOGEL. Mr. Annunzio, I would like to point out that the Congress, last—

Chairman ANNUNZIO. Mr. Fogel.

Mr. FOGEL. The Congress, last spring, in the Funding Act, required RTC to move quicker in terms of getting these institutions out of conservatorship and getting them resolved on a more speedy basis.

So, that certainly has helped.

Chairman ANNUNZIO. Well, the Congress was justified, and the Congress was right.

Mr. FOGEL. Absolutely.

Chairman ANNUNZIO. The longer you keep an institution open, the more time people have to talk to one another and start withdrawing deposits and hurting the situation more than it has already been hurt.

Mr. Reischauer, why do you believe the administration's estimate of \$160 billion is \$31 billion short of what the RTC will require in loss fund appropriations? This statement is in your testimony.

Mr. REISCHAUER. As I said in my statement, there is a degree of uncertainty about all of these estimates, and our number could be \$30 billion lower or \$30 billion higher, depending on the state of the economy and the pace at which funds are provided to the RTC. But I guess our estimates are different because we expect a larger number of institutions to be resolved taken over by the RTC, and possibly because we anticipate more deterioration of the institutions that are in both the administration's and the CBO's case-loads.

Chairman ANNUNZIO. Mr. Hubbard has come in, and I am grateful. I have one or two more questions, and then I am going to turn it over to Mr. Hubbard, so that he can get some of his questions answered.

Mr. Bowsher and Mr. Reischauer, what does the RTC recently-enacted aggressive discount policy with respect to its sale of real estate assets do to your estimates of RTC estimated recovery value and, therefore, RTC loss fund requirements?

Mr. BOWSHER. Well, I think I pointed out to the committees some months ago is that, when it comes time to repay the working cap-

ital funds to the Federal Financing Bank, you could well have some additional losses, simply because the sales that are taking place are sometimes going to bring in less money than what was recorded on the books as an estimated fair market value.

So we all should not kid ourselves. We probably have some additional losses coming.

Chairman ANNUNZIO. Mr. Bowsher, you report that the value of assets held by the RTC are uncertain but are subject to significant reduction.

Are you saying, in other words, that the RTC will need additional loss funds on top of the \$80 billion, but that you are unable to predict how much additional funds will be necessary?

Mr. BOWSHER. Yes. What we are saying is that we think there will be additional losses coming out of the working capital money, in all probability, when you finally sort out the sale of all these assets, and that could well have to be added to the \$80 billion.

Chairman ANNUNZIO. Under FIRREA, you were supposed to issue your audit of the RTC's 1990 financial statement by the end of June 1991. The audit is already 2½ months late. When will this audit be issued?

Mr. BOWSHER. We plan now to issue the audit within the next 30 days. We did not get the information, some of the key information, until the middle of this summer, and we have now come to the conclusion, as I said earlier, that we will not be able to issue an opinion, that we will have to give a disclaimer, and we hope to get that out in the next 30 days.

Chairman ANNUNZIO. Mr. Bowsher, is it appropriate—this is what I have been aiming at all morning—for the RTC to pay more than \$37.5 million in brokers' fees to attract \$8.5 billion in deposits into nine institutions in conservatorship, and to pay interest rates on those deposits one-half to 1 percent higher than the rate of Treasury borrowings? Why wouldn't the RTC borrow any additional monies needed from Treasury to keep these nine conservatorship institutions temporarily afloat? Wouldn't this have saved the taxpayers money?

Mr. BOWSHER. If RTC could have moved on them, I think it would have saved the taxpayers money. But, I think in some of these situations it was critical to get control over the entire institution's operations before they made some of the moves. I would think that with the monies that now are being requested, if the Congress approves them, RTC would have adequate funds to pay down most of these brokered deposits, and I think in each case you would save the taxpayers money.

Chairman ANNUNZIO. Then I assume that you would support a ban barring the RTC from using brokered deposits?

Mr. BOWSHER. I am against brokered deposits as a concept.

Chairman ANNUNZIO. Yes.

Mr. BOWSHER. The only thing I would be hesitant on is when they inherit these brokered deposits, I would not put too big of a restriction on RTC. I would give RTC guidance, but I would not make it a full ban, because I think each institution has to be sorted out, and lots of times that takes weeks.

Chairman ANNUNZIO. Mr. Hubbard.

Mr. HUBBARD. Thank you, Mr. Chairman.

Members of our subcommittee apologize for not being here for your testimony. Repeated rollcall votes, of which you are aware, have kept us over there.

I appreciate our chairman appearing again and again between these many votes.

I would like to express my appreciation to you, Mr. Chairman, for your report on FDIC and RTC expenditures which you distributed to the members of our subcommittee yesterday. Your report lists numerous examples of questionable spending decisions by FDIC and RTC officials.

As we consider RTC's request for an additional \$80 billion, I would like to highlight one area of this report. The following may be found on page 24 of your report.

Quote: "An RTC employee took a five-day management seminar at the University of Michigan School of Business Administration, at a cost of \$2,650.00." That is \$500 a day.

Reading on, quote: "Another RTC employee took the same management course at the University of Michigan for \$3,250 while a third RTC employee took a 3-day course entitled, quote, Effective Coaching and Counseling, unquote, that cost \$2,950. These courses cost the taxpayer over \$600 a day."

I am sure glad my daughter at Vanderbilt does not have to pay that kind of fees. She would not be there. [Laughter.]

Mr. HUBBARD. Also, just recently, our Subcommittee on General Oversight and Investigations was in Dallas, TX for a hearing, and we saw the RTC headquarters in downtown Dallas in the plush Revershon Plaza Building. It is similar to one of the finest on the K Street Corridor here in Washington, DC.

It is amazing to see the RTC with their beautiful sign out in front of this plush real estate, and it would be interesting to know how much that costs.

All I can say, Mr. Chairman, is that I hope these RTC officials and employees can see the light that we in Congress think they are spending too much money. Hopefully, these RTC employees got a good education from these courses, because spending this type of money surely has given our subcommittee a good education on how the RTC has decided to spend the taxpayers' money.

The first question, to Mr. Reischauer: RTC assumes that RTC will receive a total of roughly 900 institutions. On page 4 of your testimony, you estimate that 1,500 thrifts will become insolvent and must be merged or closed over the next 4 years.

That is a significant difference. Almost 600 S&Ls which are currently solvent and which RTC expects will survive will fail, according to the Congressional Budget Office.

Mr. Reischauer, would you explain, please, why your estimate is almost two-thirds higher than the RTC's?

Mr. REISCHAUER. We make our estimates using models of the deterioration of existing thrifts that take into account various economic factors as well as the past experience of this industry.

I want to point out that while our estimate of the number of institutions that will have to be resolved is considerably higher than the administration's, the marginal institutions that are thrown into conservatorship and receivership under our estimate often involve very little in the way of costs to the Government.

These might be relatively small institutions or institutions whose balance sheets are not hemorrhaging like those of institutions that are already in the caseload or are expected by the administration and CBO to be in the caseload.

Mr. HUBBARD. General Bowsher, would you care to comment on these varying estimates?

Mr. BOWSHER. Yes. We have been using the 1,000 figure. Bob's people have come up with a higher figure, based on their estimates. I just do not think an exact number is known at this point in time.

One trend we see that is disturbing and discouraging is that a fair number of institutions are starting to fall into lower OST categories. This is an indication to me that the CBO estimates might indicate more failed institutions.

Mr. HUBBARD. While the Congressional Budget Office's estimate of failed savings and loans is almost two-thirds higher than the Resolution Trust Corporation's, your total price tag estimate of \$155 billion, Mr. Reischauer, is less than 20 percent higher than the RTC's \$130 billion projection.

Could you please elaborate on that difference?

Mr. REISCHAUER. One major reason is that the institutions that we have added to the caseload are generally ones that involve relatively small amounts of Federal resources to bail out.

Also, I would just like to emphasize that those numbers that you referred to are the present-value estimates, and not the budget numbers.

Mr. HUBBARD. The chairman has allowed me time for one more question. I know there are other members here who want to ask further questions. Mr. Bowsher, on page 11 of your testimony, you say, quote, "The pace of real estate sales has been slow."

Well, we heard the same comment numerous times on September 6. That's when our Subcommittee on General Oversight and Investigations, which I am honored to chair, held a field hearing in Dallas on the RTC's operations in Texas. Many serious charges were leveled against the RTC at this hearing.

One was that RTC's failure to sell real estate to willing buyers is due to the perception that its employees and contractors have no incentives to sell. Witness after witness agreed that the RTC employees and contractors realize that the sooner they sell property, the sooner they'll be out of a job.

Can you please tell us what types of incentives RTC employees have to speed up, rather than slow down real estate sales and how these incentives can be improved?

Mr. BOWSHER. I think that might have been true at the very beginning. It was certainly true of the 1988 deals. In other words, contractors were sitting on real estate and were getting compensated for just handling the real estate. But I think once RTC went to the SAMDA contracts that it is using now, the incentives were built in to move the real estate. So, I think that's going to change, and I think they will move it.

RTC has a lot of real estate that's going to be hard to move. For example, some of the strip shopping centers in Houston and Dallas and in some other areas will be very, very hard to sell.

Chairman ANNUNZIO. Mrs. Roukema.

Mrs. ROUKEMA. Mr. Chairman, I haven't had the benefit of the testimony today, but I have a couple of questions that have been submitted here by staff. Perhaps I'll ask at least one of those questions, and I'll ask the witnesses to forgive me if I'm forcing them to repeat what they've already clarified.

There have been a number of Members of Congress who point out that perhaps we don't need to fund—vote additional funds, because they feel that the approximately \$160 billion worth of assets currently held and under control of the RTC could be the source of funding. That is, I think their reasoning is that if funding for the RTC could be done through the asset sales alone and something of a pay-as-you-go. What is your perception of that? Would that be a very costly way to go, based on your experience and your observations, or is it totally unfeasible?

Mr. BOWSHER. Well, I think you've got to keep in mind that there are two types of funds. Loss funds have to be appropriated because they cover, for the depositors, the difference between the book value of assets and what eventually will be recovered from the sale of those assets.

Mrs. ROUKEMA. The insured, oh, yes.

Mr. BOWSHER. That's the \$80 billion that's being requested. The working capital is borrowed, so when proceeds from the sale of assets come back they are used to repay the Federal Financing Bank. Therefore, the proceeds can't be used for loss funding; they have to be used to repay the Federal Financing Bank.

So, you've got to keep in mind that you really have two types of money that you're working with.

Mrs. ROUKEMA. Both of which are essential, in your opinion, to keep us operating at an efficient and—

Mr. BOWSHER. I think if you're going to have an orderly resolution of these defunct S&Ls, you do need to proceed with some funding.

Mr. REISCHAUER. If no further funds were given to the RTC and it was required right now to fund future resolutions out of the proceeds from its unsold pool of assets, the pace would slow down tremendously and the ultimate cost to the taxpayers would rise. Obviously, there would be insufficient proceeds from that \$160 billion worth of assets and whatever we could get from selling them, to complete this job and also pay back the FFB.

Mrs. ROUKEMA. Well, as you know, having heard my introductory remarks and the fact that I'm introducing legislation today, I certainly agree with you. I wondered how either of you gentlemen could quantify that though, in—not maybe in total dollars, but maybe as examples of what—you're saying, why would this cost more?

We've got to demonstrate to the Congress that it's totally irresponsible and not in the interest of the taxpayers to look for seemingly attractive short-term solutions when really you're compounding the problem and adding to the ultimate cost, both in the short term and the long term.

Mr. REISCHAUER. Well, remember that the assets that they have now in their pool were bought with money borrowed from the FFB, so the great bulk of that money would have to be paid back to the FFB or there would be an outstanding obligation to the FFB.

Mrs. ROUKEMA. Thank you. Mr. Chairman, we have a vote on, but I would invite our panelists, if they have other documentation or annotation to add to the record on this particular question, I would appreciate it. Thank you, Mr. Chairman.

Chairman ANNUNZIO. Mr. Leach.

Mr. LEACH. I would like to say, first, that the witnesses have been wonderful to come today, and it just happens we have an awkward day, and I know we have votes on, and the Congress is about to adjourn, and so, I would like to submit some questions in writing, if I could.

Chairman ANNUNZIO. Thank you very much.

Mr. Leach will submit his questions in writing, and the panel will answer those questions for the record.

As you all know, we are adjourning at 1 o'clock. We have specific instructions to adjourn, the High Jewish Holidays.

There is a District of Columbia appropriation bill on the floor, and a vote will come shortly, followed by another vote. So, I will proceed until the first bell rings, and then the same will apply to all of you.

If you have any questions, you can submit them to the witnesses, and they will submit the answers for the record.

Now, Mr. Hoagland, do you have one or two questions before the bells ring?

Mr. HOAGLAND. Thank you, Mr. Chairman.

Let me, if I can, incorporate the comments that I made during my opening statement, and I have had an opportunity to review the statements both of you have made with respect to the reorganization issue, and just ask you, Mr. Bowsher, first, and then you, Mr. Reischauer, do you recommend a strong CEO, should we make statutory changes, and in your opinion, can we do that with a minimum of—with little enough disruption so as to justify the change?

Mr. BOWSHER. I think everybody pretty much, now, has come to the conclusion that you should have a CEO at RTC, and I would certainly support a CEO position, as I did in my statement. Also, if statutory changes are made, I think you could create more independence in a stronger CEO than if you try to do it without statutory changes. Without statutory changes, a CEO could be named but could not be a member of the Board. So, I think that the statutory changes are probably appropriate. Then I think the important thing is not to make too many other changes.

I would concentrate on the board, on what kind of a board you want to set up, and the CEO. Then I would think that you might want to see how that works, rather than make too many other changes, because I think you have to keep this organization moving ahead, because they are making progress.

Mr. REISCHAUER. Let me associate myself with the answer that Chuck Bowsher just gave you and answer the other question that you raised in your opening remarks, which is, "What did we think the lifespan of this organization would be?"

As my prepared statement pointed out, we expect the RTC to be resolving institutions through early 1995, which is considerably longer than the administration has allowed for. But more important, you have to remember that the basic job of the RTC is to dispose of assets, and somebody or some institution must be responsi-

ble for disposing of the assets that will have been accumulating through 1995.

This task will stretch into the next century, and we can call responsible agency something else if we want, but the basic functions of the RTC, which involve the acquiring and disposition of assets, will go on long after we are around to keep our eye on it.

Chairman ANNUNZIO. There are 8 minutes remaining for the next vote, and we must adjourn.

So, I want to say to the witnesses, it has been a rough day. You have been most patient. I appreciate your cooperation.

I am sure that the Members have all received copies of your statement, just like I did. They will receive copies of these hearings, and your contribution will be invaluable to us in helping to mark up a bill that we are going to have.

As soon as these hearings are concluded, we hope to start marking up legislation.

I thank you very much.

The subcommittee stands adjourned subject to the call of the Chair.

[Whereupon, at 12:25 p.m., the hearing was adjourned, to reconvene subject to the call of the Chair.]

APPENDIX

September 12, 1991

**STATEMENT OF THE HONORABLE FRANK ANNUNZIO
AT RESOLUTION TRUST CORPORATION
REFINANCING AND RESTRUCTURING HEARING
THURSDAY, SEPTEMBER 12, 1991**

Today the Subcommittee begins hearings on the need for additional funding for the Resolution Trust Corporation (RTC) and on the need to restructure the RTC.

Two and one half years ago, Treasury Secretary Brady told this Subcommittee that the RTC would need \$50 billion to clean-up the failed savings and loans. That \$50 billion was gone within a year. The Administration was given an additional \$30 billion earlier this year. Now, the General Accounting Office reports that \$79 billion of the \$80 billion that Congress has provided the Administration will be gone by the end of the month. The Administration is now asking for an additional \$80 billion, with no assurances that this will be the final funding request.

How much is \$80 billion? It is enough to fund the National Cancer Institute for 47 years. It is enough to buy almost 800,000 houses at today's median home price. Laid end to end, 80 billion one-dollar bills would stretch over 7.75 million miles.

- 2 -

The job of the RTC is to dispose of assets. Instead, it seems to have become a self-perpetuating bureaucracy. In March, 1990, the RTC had control of about \$170 billion in assets and 2,300 employees. Fifteen months later, assets had shrunk to \$160 billion, but the number of employees had grown to over 6,000. Now, the RTC employs more than 7,500 persons.

Likewise, the RTC has shown little progress in the disposal of assets. Monthly asset sales have progressed in fits and starts. The level of sales in June of 1991 is virtually unchanged since that of 18 months earlier, even though the number of employees at the RTC has increased by 600 percent.

The assets the RTC has sold to date have been the easiest assets to dispose of. Even that progress has been painfully slow. More than 70 percent of the assets held by the RTC are high quality assets, consisting of performing loans, negotiable securities, and mortgage backed obligations.

Even the supposedly difficult to sell real estate portfolio of the RTC consists of property that should be easy to sell. The RTC currently has in its inventory 23,000 single family homes at a time when American homeownership is declining. These houses present an opportunity for the struggling working American to own a piece of the American dream. We need to see more vigorous efforts to sell these houses to American families, rather than to continue to hold them in inventory. The RTC needs to give Americans the chance to turn these sterile houses into warm homes.

There are numerous proposals to restructure the RTC to make it more efficient. Cosmetic changes, such as moving around boxes on organizational charts, will not suffice. After only two years, the RTC has moved far from Congress' original intent in creating it. The House Conference Report on FIRREA states that the RTC was granted authority "to use private sector resources in order to minimize the reliance upon government sources The RTC will have no employees." The RTC has fulfilled its mandate as accurately as Saddam Hussein described the results of the war in Kuwait.

We need to cap the number of RTC employees -- say to 100 -- to force it to contract out the work to the private sector, while giving that small core of RTC employees the authority to approve or disapprove of the contractors work. Provide the private sector with incentives to dispose of assets, and we can truly resolve this crisis, without creating lifetime jobs for RTC bureaucrats.

I cannot support additional funding for the RTC. It is an agency that has shown in its two-year existence that it is more interested in taking care of itself than in reducing the burden on the American taxpayer.

This Administration has continued to deny its responsibility for the ever escalating cost of the RTC. On May 28, I wrote to Secretary Brady asking him "to submit any RTC funding requests at the earliest possible date." Almost four months have passed and the Administration has yet to send a legislative request to the Congress.

- 5 -

I want the witnesses and the Members of this Subcommittee to know that there will be no markup of additional RTC funding until the Administration has formally sent to the Congress legislation requesting RTC funding. If there is to be additional RTC funding, then the vehicle for that funding must come from the Administration. Members will, of course, be given every opportunity to amend that proposal, but there will be no markup until an Administration bill has formally been sent to the Congress.

OPENING STATEMENT
CONGRESSMAN BRUCE F. VENTO
CHAIRMAN RTC TASK FORCE
SEPTEMBER 12, 1991

MR. CHAIRMAN, I WANT TO COMMEND YOU FOR HOLDING THESE TIMELY HEARINGS. WITH THE FULL PLATE OF THE BCCI SCANDAL, THE GROWING FAILURES OF BANKS, THE DEPLETION OF THE BANK INSURANCE FUND, AND THE DEBATE ON BIF RECAPITALIZATION AND BANK REORGANIZATION, THE RTC AND THE S&L BAIL-OUT HAVE, TO A LARGE EXTENT, DISAPPEARED FROM THE FOCUS OF PUBLIC ATTENTION. THAT IS UNFORTUNATE, FOR AS THE TASK FORCE'S HEARINGS AND INVESTIGATIONS HAVE SHOWN, THE PROBLEMS OF THE RTC PERSIST AND THE COST OF THE BAIL-OUT CONTINUES TO GROW BY LEAPS AND BOUNDS.

MR. CHAIRMAN, I WOULD HAVE LIKED TO REPORT TO THE SUBCOMMITTEE TODAY THAT AFTER A SHAKY START, THE RTC IS OPERATING EFFICIENTLY AND EFFECTIVELY. IN THAT CASE, I WOULD HAVE URGED MEMBERS TO TAKE THE PAINFUL STEP TO SUPPORT ADDITIONAL FUNDS FOR THE BAIL-OUT WITHOUT STRINGS ATTACHED. I WISH I COULD HAVE CONFIDENTLY REPORTED THAT SUCH FUNDS WOULD BE EXPENDED AND UTILIZED IN SUCH A MANNER TO MINIMIZE THE TAXPAYERS' COSTS.

HOWEVER, BASED ON MY EXPERIENCE AND OBSERVATIONS SUCH A POSITIVE REPORT AND SUCH RECOMMENDATIONS CANNOT BE MADE. YESTERDAY'S DEFICIENCIES AT THE RTC PERSIST AND WILL CAUSE SERIOUS PROBLEMS TOMORROW UNLESS THEY ARE ADDRESSED TODAY.

FURTHERMORE THE RTC'S JOB IS FAR FROM OVER. THE MONEY REQUESTED TODAY CONTEMPLATES ABOUT AN ADDITIONAL 300 FAILURES. I WANT TO CALL TO MY COLLEAGUES ATTENTION THE CBO ESTIMATE OF THE NUMBER OF S&L FAILURES. CBO PREDICTS TOTAL FAILURES THAT FAR EXCEEDS ANY NUMBERS WE HAVE HEARD FROM THE ADMINISTRATION. LAST MARCH CBO SAID THAT AS MANY AS 900 ADDITIONAL FAILURES WILL OCCUR. THIS WILL MEAN THAT A TOTAL OF 1,600 FAILED S&L'S WILL BE PLACED IN THE RTC. IN JUNE WHEN CBO MET WITH THE TASK FORCE, THEY STUCK WITH THEIR PREDICTION.

WE SHOULD BE MINDFUL OF THE FACT THAT THE CBO ESTIMATES HAVE BEEN MORE ACCURATE THAN THE ADMINISTRATION'S. THE ADMINISTRATION HAS UNDERESTIMATED THE EXTENT OF THIS BAILOUT EVERY STEP OF THE WAY. THEIR CLAIM OF SIGNIFICANT ACHIEVEMENTS IN RESOLUTIONS AND ASSET COLLECTIONS AND SALES STILL LEAVES THEM WITH A HUGE INVENTORY OF BAD ASSETS.

I HAVE BEEN A CONSTRUCTIVE CRITIC OF THE RTC. I WANT TO EMPHASIZE THAT MY CONCERNS ARE NOT POLITICALLY MOTIVATED NOR DO THEY DEAL WITH A PERSONALITY PROBLEM. I HAVE NOTHING BUT THE HIGHEST RESPECT FOR DAVID COOKE AND HIS STAFF AND I WANT TO EMPHASIZE THAT THE RTC HAS HAD SOME NOTABLE AND IMPORTANT SUCCESSES BUT THERE ARE STILL SERIOUS PROBLEMS FACING THE RTC

THAT CERTAINLY MERIT THE CRITICISM THAT I HAVE LEVELED.

MOST RECOGNIZE THE IMMENSE DIFFICULTY OF STARTING AN AGENCY UP FROM SCRATCH TO DEAL WITH A PROBLEM OF UNPRECEDENTED PROPORTIONS. IT SHOULD BE UNDERSTOOD THAT THE RECORDS OF THE FAILED S&L'S HAVE SLOWED DOWN THE RESOLUTION PROCESS. WE MUST RECOGNIZE THAT WE CANNOT LEGISLATE OR REGULATE AWAY THE GLUT IN THE COMMERCIAL BUILDING MARKET NOR THE YEARS OF BAD BUSINESS DECISIONS AND INACCURATE APPRAISALS OR MAGICALLY RESTORE SOLVENCY TO AN INSOLVENT PORTFOLIO. HOWEVER, SUCH PROBLEMS ARE NOT RESOLVED BY THE INDECISION AND LIMITED ACTION THAT HAS TOO OFTEN BECOME THE HALLMARK OF THE RTC FOR THESE PAST 25 MONTHS. THE RTC HAS BEEN DEALT A TOUGH JOB, BUT THE RTC AND THE ADMINISTRATION HAVE TO PERFORM THAT JOB WITH ACUMEN INSTEAD OF ENGAGING IN WISHFUL THINKING OR A HEARTS AND FLOWERS ROUTINE.

HERE WE ARE, OVER TWO YEARS INTO THIS EFFORT AND THE CHAIRMAN OF THE OVERSIGHT BOARD IS NOT AT THIS HEARING.

HERE WE ARE, OVER TWO YEARS INTO THIS EFFORT AND THE RTC STILL DOES NOT HAVE A COMPLETE MANAGEMENT INFORMATION SYSTEM.

HERE WE ARE, OVER TWO YEARS INTO THIS EFFORT AND THE RTC DOES NOT HAVE AN OVERALL PLAN TO ASSURE THE QUALITY OF ITS INFORMATION.

HERE WE ARE, OVER TWO YEARS INTO THIS EFFORT AND THE GAO CANNOT ISSUE ITS AUDIT OF THE RTC BECAUSE THE INFORMATION IS SIMPLY NOT THERE.

HERE WE ARE, OVER TWO YEARS INTO THIS EFFORT AND EVERYONE EXCEPT THE TREASURY DEPARTMENT FEELS THAT THE RTC SHOULD BE RESTRUCTURED AND REFORMED.

WE HAVE ALL HEARD FROM CONSTITUENTS AND COLLEAGUES ABOUT THE DAY-TO-DAY FAILURES OF THE RTC IN THE FIELD. THESE UNANSWERED PHONE CALLS AND REFUSALS TO ACT ON RESPONSIBLE BIDS NOT ONLY GIVE THE RTC A BLACK EYE, THEY LOSE MONEY FOR THE AMERICAN TAXPAYER.

CONGRESS CANNOT AND SHOULD NOT ATTEMPT TO OPERATE THE RTC ON A DAY TO DAY BASIS, BUT WE CAN AND MUST REFORM THE RTC TO INSURE THAT IT IS EFFICIENT AND RESPONSIVE.

EARLIER THIS SUMMER, THE TASK FORCE HELD A HEARING REGARDING THE RESTRUCTURING OF THE RTC. IN CONJUNCTION WITH THAT HEARING TESTIMONY WAS SUBMITTED BY THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION. THE ACADEMY ACCURATELY DESCRIBES THE INHERENT ORGANIZATIONAL PROBLEMS BY STATING:

"THE DIVISION OF FUNCTIONS AMONG THE OVERSIGHT BOARD, FDIC AND RTC INEVITABLY CAUSES CONFUSION, GENERATES CONFLICTS AND ENCOURAGES SECOND-GUESSING AND BUCK-PASSING, AND MAKES IT IMPOSSIBLE TO HOLD ANY ONE INDIVIDUAL OR ORGANIZATION ACCOUNTABLE FOR THE EFFECTIVE PERFORMANCE OF ITS TASKS ASSIGNED TO THE RTC."

MR. CHAIRMAN, UNTIL THIS BUREAUCRATIC LOGJAM IS BROKEN AND THE NECESSARY STRUCTURAL REFORMS ARE IN PLACE, NO ADDITIONAL FUNDS SHOULD BE PROVIDED TO THE RTC. CONGRESS CANNOT BE A SILENT ACCOMPLICE WITH THE ADMINISTRATION IN THE CONTINUED MISMANAGEMENT AND BUNGLING AT THE RTC.

EARLIER THIS YEAR, THE ADMINISTRATION GOT ITS WAY. THE RTC WAS GIVEN AN ADDITIONAL \$30 BILLION WITHOUT STRUCTURAL CHANGES. MONTHS HAVE PASSED AND THE RTC IS DEEPER IN DEBT WITHOUT THE ADMINISTRATION HAVING PUT IN PLACE THE TYPE OF SIGNIFICANT STRUCTURAL REFORMS THAT ARE NEEDED. AGAIN I WANT TO REMIND MY COLLEAGUES THAT THE TAXPAYER IS THE REAL LOSER WHEN THE SLIPPAGE OCCURS BETWEEN THE CUP AND THE LIP.

AS MY COLLEAGUES KNOW, I HAVE INTRODUCED LEGISLATION TO IMPLEMENT ORGANIZATIONAL REFORMS IN THE RTC TO STREAMLINE ITS OPERATIONS AND TO ESTABLISH A CLEAR LINE OF AUTHORITY. OTHER MEMBERS OF THIS COMMITTEE HAVE ALSO PUT FORTH THEIR OWN INITIATIVES ON THIS ISSUE. IT IS IMPORTANT THAT THESE ALTERNATIVES BE REVIEWED AND THAT REFORMS BE IMPLEMENTED TO IMPROVE THE OPERATIONS OF THE RTC AND TO SAVE THE TAXPAYERS' MONEY.

MR. CHAIRMAN, I WOULD LIKE TO SPECIFICALLY DIRECT SOME COMMENTS TO OUR FIRST WITNESS, DEPUTY SECRETARY ROBSON. MR. DEPUTY SECRETARY, YOU AND I BOTH KNOW THAT THE PASSAGE OF THE ADDITIONAL FUNDING REQUEST FOR THE RTC WILL NOT BE A SIMPLE TASK. MEMBERS OF CONGRESS ARE NOT GOING TO SIT IDLY BY AND APPROVE ANOTHER \$80 BILLION TO POUR DOWN A BLACK HOLE. HOPEFULLY THE ADMINISTRATION WILL FACE REALITY AND MAKE THE DECISION TO SIT DOWN AND WORK ON A BIPARTISAN BASIS TO STREAMLINE THE RTC. DELAY IN PROVIDING THE INFUSION OF NEEDED CAPITAL TO THE RTC OR THE ADMINISTRATION'S APPARENT DESIRE TO OPEN A NEW CHAPTER ON FOREBEARANCE WILL DRIVE UP THE ULTIMATE COSTS OF THE S&L BAIL-OUT. THAT IS A DECISION THAT RESTS SOLELY IN THE HANDS OF THE ADMINISTRATION.

MR. CHAIRMAN, HOPEFULLY TODAY WE WILL HEAR FROM THE DEPUTY SECRETARY THAT THE ADMINISTRATION IS FINALLY WILLING TO FACE REALITY AND TO WORK WITH US TO IMPROVE THE OPERATIONS OF THE RTC AND THE APPROVAL OF THE ADDITIONAL FUNDS.

STATEMENT FOR CONGRESSMAN JOHN W. COX, JR.
HEARING ON RTC REFINANCING AND RESTRUCTURING ISSUES
SEPTEMBER 12, 1991

Mr. Chairman, I commend you for holding this hearing, and I would like to thank Chairman Seidman and Deputy Secretary Robson for testifying before the subcommittee today. Following the recently released reports by the General Accounting Office and the Congressional Budget Office on the financial state of the RTC, it is clear this committee must move swiftly to replenish the RTC fund.

Just six months after the last round of RTC funding, the issue remains a highly divisive one. In reviewing the testimony of today's witnesses, I am pleased by some of the improvements the RTC has made. The corporation seems to have improved its ability to track and inventory its assets, manage its securities portfolio, and oversee its contracting policies and procedures.

Despite such improvements, I am left with many more concerns about the RTC's operations. The portion of our witness' testimony that troubles me the most is the request for an extension of OTS transfer authority to the RTC until September 30, 1993. This is a solid indication that the RTC will be unable to fulfill its mission in a timely fashion.

While I am not surprised by this request, it leads me to wonder how many of these extensions we will be asked to grant before the RTC

completes its business. My speculation is grim.

As the RTC boasts of its complex new computer system, its extensive contracting program, its office space and its loads of government employees, we move farther away from a temporary corporation, and closer to a permanent bureaucracy. If we are going to vote to give the RTC the additional \$80 billion it is now requesting, I am hopeful that this time we can give it conditionally. In addition to providing the RTC with the money it needs to close down failed thrifts and repay the insured depositors, we need to provide it with the proper incentives to quicken its pace. We must remember the RTC has a specific purpose -- and a definite deadline.

In the coming week, Rep. Jim Bacchus and I will introduce legislation to give the RTC this desperately needed incentive. The cornerstone of our legislation is a system of performance-based funding. Under such a system, the RTC will be given half its requested funding immediately, but additional funding will be contingent upon its sale of assets.

I look forward to this series of hearings we will be having in the next few weeks regarding the RTC. I am hopeful that Congress will eliminate the notion of funding the RTC with a "blank check" and move to adopt seriously needed measures of reform.

Thank you, Mr. Chairman.

EMBARGOED UNTIL GIVEN
 EXPECTED AT 10:00 A.M.
 SEPTEMBER 12, 1991

STATEMENT OF THE HONORABLE JOHN ROBSON
 DEPUTY SECRETARY OF THE TREASURY
 BEFORE THE
 SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
 REGULATION AND INSURANCE
 SEPTEMBER 12, 1991, 10:00 A.M.
 2128 RAYBURN HOUSE OFFICE BUILDING

Mr. Chairman, members of the Subcommittee, I am pleased to appear today on behalf of Secretary Brady, the Chairman of the Oversight Board of the Resolution Trust Corporation. Accompanying me is Peter Monroe, President of the Oversight Board. As your invitation asks, I will discuss the Board's request for additional funding for the RTC, RTC asset disposition, and RTC restructuring.

We are pleased that the Subcommittee is giving attention to the important, indeed urgent matter of providing additional funds to close failed thrifts and protect their depositors in fulfillment of our government's insurance commitments. At the end of August, more than 16 million deposit accounts had been protected. Five hundred and twelve thrifts had been closed in 42 states, and about 135 thrifts were pending in conservatorship in these and another three states. People all over the country - more than 16 million of them - have had their deposits saved by the money Congress has voted for this effort. I cannot stress too strongly the point that these people could have lost their savings, and that they did not because our government honored its deposit insurance obligations. Our commitment to these depositors has meant continued public confidence in the banking system.

More remains to be done, however, and both additional loss funds and working capital are needed to complete the task. Loss funds are the monies needed to fill the "hole" between an institution's deposits and the value of its assets. This is the money that savings and loans have lost through bad investments, mismanagement and fraud, and the effects of weak real estate markets even on reasonably well-managed thrifts.

Working capital, on the other hand, is used to finance RTC's acquisition of the assets of failed thrifts until they are sold. It is borrowed by the RTC from the Federal Financing Bank (FFB), and these borrowings are backed by seized assets. The RTC expects to repay its working capital borrowings from the proceeds of the sales of these assets.

Loss Fund Request

To date Congress has authorized \$80 billion in loss funds for depositor protection: \$50 billion in FIRREA and \$30 billion in the RTC Funding Act of 1991. The RTC estimates that it will complete the resolution of approximately 569 thrifts by the end of this fiscal year, and by the end of October or shortly thereafter will have used all \$80 billion.

How much is necessary to complete the task? Secretary Brady has repeatedly warned that the ultimate cost of the S&L cleanup is very difficult to estimate because it is driven by unpredictable real estate markets, interest rates, and the state of the economy. However, the Oversight Board and the RTC estimate that the additional amount of loss funds necessary to complete the task of closing defunct savings and loans and protecting depositors could be as high as \$80 billion.

Our request for an additional \$80 billion in budget dollars is based upon the conservative assumption that all institutions currently designated by the Office of Thrift Supervision (OTS) as Group IV, IIIC and IIIB would require resolution by the RTC. While OTS now designates only Group IV institutions as in probable need of government assistance, we have taken a more conservative approach for three reasons. First, OTS designations represent a snapshot in time. Some institutions currently in Group III could be downgraded in the future, and past experience indicates that this is likely. Second, our forecast of thrift failures should make allowance for the current uncertainty in real estate markets and the economy. Third, no one can predict with any degree of certainty what the final cost of the thrift clean-up will be, so we have elected to assume a somewhat pessimistic scenario to ensure that sufficient funds are available for the prompt, orderly resolution of institutions that are found to be operating in an unsafe and unsound condition.

The Oversight Board therefore asks that Congress provide the RTC with sufficient funds to complete the job, which we estimate could be up to \$80 billion. This would recognize -- as the budget does -- that deposit insurance is a mandatory obligation of the government, and that having pledged to protect depositors, the government must honor that pledge.

This action would also recognize that delays in funding simply add to taxpayers' costs. As the Congressional Budget Office points out in its most recent Budget Outlook, "limiting ... funds does nothing to reduce eventual spending. In fact, it can drive up costs if it slows the pace of resolutions and enables ailing institutions to stay in business. These costs of delay can be formidable." It is worth adding that a CBO study found that forbearance - that is, delaying resolution - during 1980-1991 of institutions known to be insolvent, cost an extra \$66 billion in 1990 dollars.

The point is, Mr. Chairman, that failure to provide RTC with additional funds before the session ends would require the RTC to delay its closure of insolvent thrifts. The longer the period of delay the higher the extra cost of the cleanup to the taxpayer. That is why we believe the only sensible course is to provide now sufficient funds to get this enormous, unprecedented task behind us.

Adding our request for \$80 billion to the previously authorized \$80 billion would total \$160 billion budget dollars, which converts to approximately \$130 billion in 1989 dollars.

The Oversight Board has estimated in past testimony that the total cost of the savings and loan cleanup would be in the range of \$90 to \$130 billion in 1989 dollars. As Secretary Brady has testified, because of economic conditions and deterioration in real estate markets, the most likely cost scenario has moved to the higher end of this range, but it remains within it. We continue to believe that the estimate remains valid.

Working Capital Request

By the end of this fiscal year, RTC expects to have \$70 billion in working capital borrowings outstanding, an amount well within the borrowing limitation set by FIRREA. However, during 1992, RTC could exceed the \$125 billion permitted by the note cap.

Therefore we are approaching the time when additional borrowing authority will be needed. We estimate that working capital needs could peak at \$160 billion by mid-1993. At that time the outstanding FFB balances will begin to decline.

Because both loss funds and working capital funds are required to complete resolutions, it is imperative that loss fund authorizations be matched with adequate working capital borrowings. Therefore, we request that Congress raise the RTC's borrowing limit to \$160 billion. Not to do so might create a situation in which RTC is pressured to dump assets at fire-sale prices simply to stay under the limit. Failure to raise the borrowing limit would just as surely prevent the RTC from resolving thrifts and protecting depositors as delays in funding do.

It has been suggested that RTC asset sales can be used to fund losses. This cannot be done because these assets are the only source of repaying FFB borrowings. If proceeds from asset sales are used to fund losses, FFB borrowings cannot be repaid. As I said earlier, both Congressionally authorized loss funds and FFB borrowings are necessary to continue the cleanup and protect depositors.

Extension of OTS Transfer Authority

Although the exact number of thrifts still to be resolved with Federal assistance cannot be known, we can estimate that virtually all nonviable thrifts will be transferred to the RTC for resolution during the next two years. However, current law provides that OTS may transfer thrifts to RTC for closing only until August 9, 1992. Therefore we request an extension of OTS transfer authority until September 30, 1993, for the following reasons:

- The caseload is larger than anticipated. The number of failed thrifts requiring resolution by the RTC has grown beyond our estimates at the time FIRREA was written.
- By adhering to the current deadline we could create an incentive for rushing borderline thrifts to the RTC, and that could mean forcing a large number of thrifts into conservatorship for a long period, during which they would lose franchise value.
- RTC was designed to clean up the insolvent sector of the thrift industry. The intent of FIRREA was that the SAIF would begin with a healthy industry. Therefore were thrifts to be transferred to SAIF starting August 9 next year, SAIF would have to gear up for a task that is already being performed by the RTC.

For all these reasons we believe it makes good sense to provide the extension until September 30, 1993. We do not believe this will have any effect on the 1996 deadline for terminating the RTC.

FIRREA sets up a schedule for contributions to the SAIF, beginning in fiscal year 1992 if Congress and the Administration take further appropriations action. However, if Congress acts on this request, SAIF will not take insolvent institutions until October 1, 1993. The President's budget estimates that at that date, SAIF should have about \$1.6 billion in its reserves from premium income. At this time, it is too soon to tell whether or how much of a contribution Treasury will need to make to SAIF.

Secretary Brady has stressed that we cannot predict ultimate costs and borrowing needs with certainty. As the General Accounting Office noted in its 1989 Financial Audit of the RTC, "the actual cost... will depend on the outcome of various uncertainties," including the number of institutions transferred to the RTC, the extent of their operating losses, the quality and salability of their assets, and the conditions of the economy, especially in certain geographic areas.

PROGRESS IN MEETING CLEAN-UP GOALS

The RTC is making progress. It is doing so by adhering to the four guiding objectives established by President Bush when he proposed his solution to the savings and loan crisis soon after taking office.

First, protect insured depositors: the millions of Americans who acted in trust when they deposited their savings in federally insured accounts. We estimate that by the end of this fiscal year, nearly 19 million people with deposit accounts averaging less than \$10,000 will have been protected.

Second, restore the safety and soundness of the industry so that another crisis will not occur. Now, FIRREA mandated capital standards are being phased in. OTS reports that more than 1,700 institutions now meet, or expect to meet, these capital standards. Further, the private segment of the thrift industry reported net income of about \$997 million in the first half of 1991, compared to about a \$675 million loss in the first half last year.

Third, clean up the overhang of insolvent S&Ls so we can get the problem behind us, and do it at the least cost to the taxpayer. When FIRREA created the RTC on August 9, 1989, RTC immediately became responsible for closing 262 insolvent thrifts. By October 1, 1991 it will have closed 569 insolvent thrifts, one about every 33 hours.

Fourth, aggressively pursue and prosecute the crooks and fraudulent operators who helped create the problem. As of July 31, over 800 individuals have been charged criminally, of whom 100 have been thrift CEO's, board chairmen, or presidents. To date, approximately 600 individuals have been convicted for thrift crimes, with about 80 percent of those sentenced receiving prison terms.

PROGRESS IN IMPROVING RTC MANAGEMENT

Improving the management of the RTC has been an important objective of the Oversight Board and the RTC because strong internal controls and effective management practices are essential to sound decision-making and, ultimately, to saving taxpayer dollars. The Wylie Amendment to the 1991 Funding Act mandated specific improvements in management practices. Following is a summary of the RTC's progress on each of the improvements required by the amendment. A more complete description of progress toward these reforms appears in Appendix I.

- RTC has implemented standardized procedures for conservatorships, and has required all regional RTC offices to adhere to a uniform Conservatorship Operations Manual;

- RTC has reduced the average time institutions remain in conservatorship. By September 30 it appears that the statutory goal of 9 months will have been surpassed.
- RTC projects that its Information Resources Management strategic plan to be issued by September 30, identifying goals and systems needs at operation levels;
- RTC expects its computerized securities portfolio management system to be operational by September 30;
- RTC has developed a system to track and inventory real-estate-owned assets and it is becoming operational as data is entered into the system;
- RTC has developed standard loan sales documents for one-to-four family mortgages and has begun using new standards for due diligence;
- RTC has standardized contracting policies and procedures among all regions by developing standardized directives, standardized solicitation and contract documents, training modules, and a comprehensive policy manual; and
- RTC has implemented a quarterly asset valuation system.

I would like to expand on this last point because RTC asset valuation is directly related to important issues raised by the GAO's 1990 audit of the RTC.

GAO will soon be issuing its opinion on RTC's 1990 financial statements. One issue we anticipate they will note is RTC's problems in reconciling its general ledger accounts for receivership assets with the records maintained at receivership sites and by loan servicers. GAO may cite unreconciled differences as part of a justification for issuing a disclaimer, or no opinion, on RTC's financial statements. The primary reason for a disclaimer most likely will be overall uncertainty in asset recovery values, which will likely persist until RTC has had substantially longer experience in selling its illiquid assets. Nonetheless, the reconciliation problems represent a situation which the Oversight Board and RTC believe must be remedied.

As Secretary Brady described to the full Committee in his July 11 testimony, HUD Deputy Secretary Alfred DelliBovi and I have been leading an Oversight Board working group charged with monitoring RTC's progress in the accounting and financial management area and making recommendations for corrective actions where needed. The Oversight Board and its staff have been concerned with these issues and have been discussing them with the GAO since early March, when the Board staff asked the RTC Inspector General to expedite an asset valuation review.

The Oversight Board working group has been actively exploring these issues with RTC, GAO and the RTC Inspector General since it was named by Secretary Brady on May 15. Recently, it met with representatives of RTC, the Inspector General, and Price Waterhouse, which was retained by RTC to review its loss estimation methodology. Price Waterhouse told us that RTC's methods for estimating losses are both "reasonable and conservative," but they did note the asset accounts reconciliation problems during the 1990 period covered by the GAO audit. Price Waterhouse agreed that such problems add to the uncertainty of the asset valuation process, but that it was doubtful that such differences would have a material impact on RTC's 1990 financial statement of condition.

The RTC informs us that, while reconciliation will continue to be a major challenge, a number of steps have been taken to minimize such problems.

1. The RTC established its own Office of Corporate Finance in January to assume responsibility from the FDIC's Division of Accounting and Corporate Services for the integrity of financial reports. The staffing of this office is nearly complete and has resulted in a significantly greater allocation of resources dedicated to resolving accounting related issues such as reconciliation.
2. The RTC has initiated a program for periodic comprehensive audits of receivership by independent accounting firms.
3. The RTC has instructed regional offices to retain outside accountants where necessary to facilitate the reconciliation of receivership records.
4. The RTC has established a standardized process for reporting the progress of the reconciliation program on a monthly basis.
5. The RTC is in the process of implementing a mainframe system to further automate the reconciliation of subsidiary records with the general ledger.
6. The RTC has also instructed its regional offices to proceed more aggressively in consolidating and reducing the number of asset servicers that support the general ledger accounts. This will greatly simplify the reconciliation process.

With this six-point program well under way, RTC has told us that any future unexplained differences discovered during accounts reconciliation should not significantly affect the representation of RTC's financial position.

The RTC has nearly completed its June 30, 1991 reconciliation. Based on preliminary estimates, the RTC believes that the magnitude of items which are not reconcilable will not be material. Nonetheless, the RTC intends to establish a reserve for any unexplained, unreconciled financial position.

It is our firm belief that this reconciliation initiative should permit the GAO to issue an opinion on RTC's financial statements.

In addition to this very intensive effort vis a vis RTC's financial audit, the Oversight Board also adopted a policy on July 25 which encourages RTC to establish and adhere to internal control standards, including evaluation and reporting standards, that are no less stringent than those required by the Federal Managers' Financial Integrity Act of 1982. RTC's first report on material weaknesses and corrective action plans is due to the Oversight Board in October. This policy is attached as Appendix II.

PROGRESS IN ASSET SALES

Asset disposition remains the most important task facing the RTC today. As of June 30, 1991 the RTC had seized assets with a book value of \$328.3 billion and had sold or collected a net amount of \$168.2 billion or 51 percent of the total. Cumulative asset sales and collections are shown in Appendix III. Sales and collections by asset categories are shown in Appendix IV.

The RTC has had most success in its sales of securities and mortgages - its most readily marketable assets. RTC reports that 73 percent of its book value of securities has been sold or collected with only a three percent loss on these sales. With respect to mortgages, the RTC has sold or collected 46 percent of its inventory and incurred only a three percent loss. The mortgage sale results as of June 30 do not reflect the recent success of the securitization program which will further reduce the RTC's inventory of residential mortgages. In general, RTC's losses on assets sold or collected have so far been very low, as shown in Appendix V, reflecting the fact that it has been selling its more readily marketable assets.

The pace of asset sales has increased since the beginning of 1991. For example, the expected holding period of RTC's current \$20.7 billion REO inventory - its hardest to sell assets - is currently 42 months based on the asset sales and collection pace of April, May and June, as shown in Appendix VI. By contrast, in March 1991, the expected holding period for REO was 72 months.

In its operating plan for the nine months from January through September this year, RTC projected net book value asset sales of \$65 billion. As of June, the RTC had achieved 74 percent of its projections, as shown in Appendix VII. RTC expects to exceed its projections by September 30, 1991.

Developing effective programs to dispose of RTC assets quickly and at the best possible prices will save taxpayer dollars. Accordingly, the Oversight Board has directed the RTC to use securitization to the widest extent possible, has authorized an \$8 billion pilot program for portfolio sales, and has taken steps to implement and enhance the affordable housing program.

Securitization

RTC's securitization of mortgage-backed securities is well underway. Immediately following the enactment of the Funding Act, which provided director and officer immunity from liability, the RTC filed a \$4 billion shelf registration with the Securities and Exchange Commission covering the issuance of mortgage-backed securities. Through August, the RTC had already sold approximately \$2.5 billion of these securities, including \$2.1 billion backed by single-family mortgages and nearly \$400 million backed by multi-family mortgages.

Securitization has permitted the RTC to sell mortgages for a higher return than would have been possible had they been sold on a whole loan basis. We estimate that this additional return to the taxpayer has already been substantial, and that it could total \$1 billion as a result of the securitization of single-family mortgages alone.

The RTC is also considering the securitization of commercial loans, which could both increase returns to taxpayers and increase the pace of sales of those assets.

Portfolio Sales

In light of mounting inventories of real estate and other hard-to-sell assets, the RTC has introduced the portfolio sales program as one strategy to accelerate the pace of, and return from, asset sales.

Under this new program, large portfolios (typically containing at least \$100 million of assets) will be sold to buyers qualified to purchase such large packages of property. The policy gives the RTC the flexibility to custom-tailor transactions in a manner consistent with private sector practice. By so doing, the RTC hopes to elicit greater investor interest, and ultimately higher prices.

The program also addresses an acute marketing problem the RTC has experienced -- that of inducing prospective investors to perform costly and time-consuming due diligence before they have any assurance that they will be able to purchase assets. The

portfolio sales policy encourages buyer investment in due diligence by making the sales process more predictable.

To facilitate such sales RTC has indicated that participating cash flow seller financing may be made available. In exchange the RTC will receive upside participation in the financed assets.

One transaction under this program -- the sale of between \$300 million and \$500 million of office and hotel properties to the Patriot Group -- has been entered into, and two other large transactions involving commercial real estate are currently being negotiated.

The Oversight Board has approved this RTC policy on a pilot basis up to a total of \$8 billion. At Oversight Board request, the RTC has amended its policy to ensure that the RTC will publicly disclose the details of all completed transactions on a timely basis.

Affordable Housing

The RTC and the Oversight Board have made every effort to implement the affordable housing provisions of FIRREA, actively promoting the sale of eligible single and multi-family properties to low- and moderate- income families with increasing success.

With regard to single-family homes, RTC reports that 17,293 properties have been marketed in the affordable program at June 30, 1991. Of these, sales have closed on 3,882 and offers have been accepted on 5,895. Another 4,833 are in clearinghouses being offered for sale. Another 2,683 or 16 percent were offered for sale in clearinghouses but remain unsold. These are eligible for donation to nonprofit organizations under the reasonable recovery value program. For example, RTC recently announced that it has donated for public use about 260 properties with no recoverable value to 18 cities and 25 nonprofit groups in Texas.

Since the passage of the Funding Act in March this year, the number of single-family accepted offers began to increase sharply, as demonstrated in Appendix VIII.

The success of the program in reaching its target income group is demonstrated by the fact that the average income of purchasers is \$23,000, 61 percent of the national median household income. FIRREA requires only that buyers have income less than 115 percent of local median income.

With regard to multi-family properties, RTC reports that 485 have been marketed at June 30, 1991. Of these, 49 sales have closed and offers have been accepted on 62. Another 138 are in clearinghouses, and 236, or 49 percent, were not sold and have left the clearinghouse stage. This program has been difficult to implement but sales have recently begun to increase.

The 1991 Funding Act provided that single-family homes be made available to qualified buyers in conservatorship. This provision has proven helpful. RTC advises that, at June 30, 1,332 homes had been sold in conservatorship.

STRUCTURE OF THE CLEANUP

FIRREA made the FDIC the exclusive manager of the RTC to perform all responsibilities of RTC under the statute, and made the FDIC Board the Board of Directors for the RTC. At the same time, FIRREA gave the Oversight Board authority over the RTC's strategies, policies, and funding, and gave it responsibility for oversight and evaluation of the RTC. Given the immensity and complexity of the cleanup, and the need for continuing objective oversight of an organization that is responsible for expending as much as \$160 billion of taxpayer funds, this separation of management and operations from oversight makes sense.

We have functioned under this structure for two years. Admittedly there have been problems in addressing this giant, unprecedented cleanup task. It would have been unrealistic not to expect them.

Some have suggested that they have been caused by the structure of the cleanup, notably the two-board structure, and there have been calls for eliminating the Oversight Board, creating a single board dominated by independent members, and splitting the RTC and the FDIC.

As the Board has testified, it does not believe that the problems stem from the organizational structure. Rather, they are operational in nature. The Board believes that the most important step that can be taken toward making the RTC more effective is to appoint a new RTC Chief Executive Officer with the experience and the operating latitude to get this job done.

Secretary Brady and Chairman Seidman have formed a search committee and a search is actively in progress for an RTC Chief Executive Officer.

We do not believe that changing the organizational structure of the cleanup now is necessary or desirable. Changes of the magnitude suggested in bills introduced in the Senate and House would entirely revamp the executive structure of the RTC, would cause disruption of ongoing resolution and asset disposal activities, and thus would create expensive delays in an effort that in any case is by law scheduled to terminate at the end of 1996.

CONCLUSION

In conclusion, Mr. Chairman, I repeat the Oversight Board's request for legislation this session that will provide sufficient additional funds to complete the cleanup, which we estimate at \$80 billion; an increase in RTC borrowing authority to \$160 billion; and an extension from August 1992 until September 1993 of the period in which the Office of Thrift Supervision may transfer thrifts to the RTC for closing.

I must underscore Chairman Seidman's opinion that additional loss funds will be needed by the end of October or shortly thereafter. If loss funds run out and the RTC is unable to close money-losing thrifts and pay off their depositors, the costs of the cleanup will simply grow, and we would risk alarming depositors that their deposits are not safe, thus creating runs on already weak institutions. Ultimately, Congress must provide the funds, simply in order to fulfill our government's deposit insurance commitments.

If the funds requested are provided and the cleanup can continue without the disruption that would inevitably be caused by a major reorganization, RTC can continue to close thrifts and save depositor's accounts, and the unnecessary additional costs resulting from funding delays can be avoided.

At the same time the RTC and Oversight Board will continue to work to improve RTC's asset disposition performance and to improve its management practices under the leadership of a new Chief Executive Officer.

For the longer term, when the backlog of insolvent thrifts is resolved and these institutions are closed or merged, we can look forward to a stronger industry with improved profitability.

Certainly, Mr. Chairman, I am sure that you and the members of the Subcommittee share our goal of getting this immense, complex task behind us as quickly and economically as possible. I hope you would also agree that we should do nothing - such as a major reorganization - to make the cleanup more difficult and more expensive. For I believe that if we are permitted to stay the course we can get the job done with increasing efficiency.



RTC Management Initiatives: Current Status

Oversight Board
Resolution Trust Corporation
Washington, D.C.

August 27, 1991



Preface

This report is intended to document the current status of management initiatives being undertaken at the RTC which address: (i) criticisms by the GAO; and (ii) requirements set forth in the RTC Funding Act of 1991.

Each page in this document is organized according to the following categories:

Operating Area	Segments RTC's major operating areas as follows: <ol style="list-style-type: none">1. Resolution Process2. Asset Sales3. Information Resources Management (IRM)4. Contracting5. 1989 Financial Statements
GAO Criticisms	Summarizes major issues and findings of GAO extracted from: <ol style="list-style-type: none">1. Testimony of Comptroller Bowsher on February 20, 1991 before The House Committee on Banking, Finance, and Urban Affairs2. GAO's Audit of RTC's 1989 Financial Statements
RTC Funding Act of 1991	Details Management Reform Initiatives called for in the RTC Funding Act of 1991
IG Comments	Provides a summary, prepared by the IG, on any related audit work in each of the five operating areas
RTC Comments	Provides status update, prepared by RTC staff, on initiatives which address both GAO criticisms and Congressionally mandated Management Reform Initiatives.

Operating Area	GAO Criticisms ⁽¹⁾	RTC Funding Act of 1991	IG Comments	RTC Comments
<p>I. Resolution Process</p> <p>A. Conservatorship</p>	<ul style="list-style-type: none"> Regional oversight inconsistent 	<ul style="list-style-type: none"> By 9/10/91, RTC must develop and implement standardized procedures with respect to: <ul style="list-style-type: none"> auditing conservatorships ensuring/monitoring compliance with policies and procedures ensuring/monitoring Managing Agent performance 	<ul style="list-style-type: none"> An audit of the region's and consolidated offices' oversight of conservatorship operations is in progress. Audit of individual conservatorships also being conducted to assist the hiring and supervision of managing agents. (5/9/91 Report) Headquarters oversight and procedure-setting for conservatorship operations under review. (6/10/91 Report) 	<ul style="list-style-type: none"> A Managing Agent Oversight and Training Task Force was established in March 1991 to address the standardization of conservatorship audits and Managing Agent oversight and training. The Task Force has concluded its mission. A directive titled "Standardization of Conservatorship Review Programs" establishing national standards for the oversight of conservatorships was issued on 7/11/91. RTC also issued directive titled "Training Standards for Conservatorship Operations" on 8/11/91, establishing national standards for training.
				<ul style="list-style-type: none"> RTC needs operational regional flexibility All regions follow uniform Conservatorship Operations Manual Headquarters staff meets with regions quarterly Ambiguous phrasing of questions on GAO survey of Managing Agents makes survey's reliability questionable.

Notes:

(1) All GAO comments taken from the testimony of Comptroller Bowsher on February 20, 1991 before the House Committee on Banking and Finance and Urban Affairs, with the exception of comments on RTC's 1989 financial statements, which are taken from the GAO Audit of the RTC's 1989 financials.



Operating Area

GAO Criticisms⁽¹⁾

RTC Funding Act of 1991

IG Comments

RTC Comments

I. Resolution Process

B. Resolutions

- Average length of time that thrifts have been in conservatorship was over 52 weeks at the end of 1990.
- Increase pace of resolutions with the goal that no institution remains in conservatorship longer than 9 months.
- (In January 15, 1991, R: issued audit report on four major resolutions. Deficiencies were not found relative to the cost test used in resolutions.
- At inception/August 1989, the RTC took control of 262 conservatorships. Many of these institutions had been under government control for as much as seven months by the time the RTC came into existence.
- Resolution pace was slowed down by uncertainty over funding. Now that funding has been provided, older conservatorships are being given priority for resolution. By 9/1991, substantially all institutions that were in conservatorship as of 3/1/89 will have been resolved.
- Thrifts held the largest are expected to be resolved first.
- Audit work is also in process relative to the award of appraisal contracts and asset valuation methods. (5/1991 Report)
- Report being finalized on review of resolution of a thrift in New Jersey conducted in response to Congressional complaint. (6/1091 Report)



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
A. Financial Assets				
(i) Securities	<ul style="list-style-type: none">• Develop comprehensive securities portfolio management system	<ul style="list-style-type: none">• Develop and implement securities portfolio management system by 9/30/91	<ul style="list-style-type: none">• Governing activities in this area generally. Specific audit scheduled to review the sale of junk bonds and holding instruments. Continuing involvement in and review of RTC systems development and implementation will include input to controls needed in the system. (6/10/91 Report) Fiscal Year 1992 audit planned.	<ul style="list-style-type: none">• SOS titled "Securities Inventory/Operations Support System" was issued on April 29, 1991. Contract was awarded on 8/16/91. System is to be operational by 9/30/91.



Operating Area		RTC Funding Act of 1991		IG Comments	RTC Comments
2. Asset Sales					
A. Financial Assets					
(i) Securities (cont'd.)					
		<ul style="list-style-type: none">• Centralize all securities sales in capital markets group	<ul style="list-style-type: none">• N/A		<ul style="list-style-type: none">• The RTC is in the process of centralizing the sale of all RTC-owned securities through a single "desk" in the Capital Markets Branch in Washington. On 7/12/91, the Capital Markets Branch moved to a state-of-the-art sales "desk" for securities sales located at RTC headquarters in Washington. Final steps will be completed and implemented at the time the securities portfolio management system comes on line.• The Capital Markets Branch is currently preparing a policies and procedures manual as part of the effort to centralize the sale of all RTC-owned securities.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
A. Financial Assets (ii) Portfolio Sales	<ul style="list-style-type: none"> Develop standardized packages conforming to market requirements 	<ul style="list-style-type: none"> Develop a program for performing due diligence of 1-4 family mortgages and marketing such loans on a probed basis 	<ul style="list-style-type: none"> Activities in this area are generally being monitored for potential audit coverage. IG recommendations regarding bulk sales and other major asset disposition efforts made in May 1991, 1991 report on the cancelled real estate auction. 	<ul style="list-style-type: none"> Developed and compiled representations and warranties in standard loan sales documentation for adjustable and fixed-rate 1-4 family mortgages.
	<ul style="list-style-type: none"> Standardize due diligence process 	<ul style="list-style-type: none"> See above 	<ul style="list-style-type: none"> Standardized loan sales agreements for commercial/multi-family mortgage, student, vehicle, credit card, manufactured housing and home equity loans incorporating industry standard representations and warranties are in final stage of completion. 	<ul style="list-style-type: none"> The diligence firms began using new standards for single family mortgages on 4/1/99.
				<ul style="list-style-type: none"> Standardized due diligence for commercial/multi-family mortgages and for various forms of consumer loans is near completion.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
A. Financial Assets				
(iii) Securitization	<ul style="list-style-type: none"> • Securitize as many loans as possible; resolve liability issue 	<ul style="list-style-type: none"> • Special legislative exemption for liability under Securities Act of 1933 for RTC directors, officers and employees 	<ul style="list-style-type: none"> • To the extent necessary, IG will monitor solicitation and award of contracts for underwriters, etc. • Audit report on alternatives to repaying FHL Bank Advances (selling of excess collateral) issued July 3, 1991. 	<ul style="list-style-type: none"> • RTC filed a shelf registration statement with the SEC for issuance of \$4 billion of investment-grade securities. Initial securitization of \$430 million of adjustable-rate mortgages closed on 6/27/91. Second issuance of approximately \$580 million occurred on July 15. Three additional securitization offerings are planned for August.
			<ul style="list-style-type: none"> • Audit work was started in May 1991 on RTC's Selection of Brokers to assess the criteria for and selection of brokers and whether planned processes will maximize sale proceeds. (6/10/91 Report) Audit terminated after survey work disclosed no significant problems. 	



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
A. Financial Assets				
(III) Securitization (cont'd.)				<ul style="list-style-type: none">• RTC currently pursuing securitization for junk bonds, multi-family and second mortgages, and mobile home loans.• A master selling and servicing contract was negotiated between the RTC and Fannie Mae, and Freddie Mac in October 1990. RTC has sold or swapped \$1.6 billion in mortgages that conform with the standards of above agencies.• On 5/10/91, RTC issued a directive requiring that all agency-eligible loans be swapped with above agencies.• RTC negotiating with Ginnie Mae to begin securitization program.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
A. Financial Assets				
(iii) Securitization (continued)	<ul style="list-style-type: none">• Centralize marketing efforts	<ul style="list-style-type: none">• N/A		<ul style="list-style-type: none">• Agency swaps and securitizations being coordinated in Washington.• RTC, Freddie Mac, and Fannie Mae have proposed a "Swap Guide" Manual that sets forth standardized procedures for securitizations. In June, 1991, the RTC, Freddie Mac, and Fannie Mae began visiting Consolidated Field Offices to train asset marketing specialists and asset technicians in manual procedures.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales :				
A. Financial Assets				
(iv) Overall	<ul style="list-style-type: none"> Develop and implement loan asset inventory system 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> IG generally monitoring systems development in this area. 	<ul style="list-style-type: none"> Loan and Other Asset Inventory System (LOAIS) currently implemented in 23 areas of North Central Region. It is expected to be implemented nationwide by 9/30/91.
	<ul style="list-style-type: none"> Consolidate loan sales 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> Audit work relative to compliance with delegations of authority will cover decision-making process in asset sales. 	<ul style="list-style-type: none"> Standardized due diligence documentation procedures and development and implementation of LOAIS will facilitate greater control and coordination of loan sales.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
B. Real Estate				
(i) General	<ul style="list-style-type: none"> GAO has not validated asset valuation appraisal process 	<ul style="list-style-type: none"> Develop process for quarterly valuation or updating of valuations of receivable assets incorporating, to the extent possible, RTC disposition experience 	<ul style="list-style-type: none"> Analysis work is in process relative to asset valuation methods and the standard administration of appraisal contracts. These audits are specifically assessing the establishment of asset valuations including estimated cash recoveries and net recovery values used in various cost calculations. 	<ul style="list-style-type: none"> RTC has implemented a quarterly valuation system, based on on-site reviews by contractors of a sample of RTC assets. This process includes consultation of asset values, bidding and operating costs. RTC completed a valuation of receivable assets as of 12/31/90 and submitted it to the GAO on 5/11/91 for review. In addition, RTC's Inspector General is reviewing the process. RTC is refining valuation process to fully integrate on-site reviews, data from SAMRA contracts, statistical sampling, RTC disposition experience, and empirical modeling. An enhanced automated system will be developed to support these efforts.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
B. Real Estate				
(i) General (continued)	<ul style="list-style-type: none"> Clarify asset sales strategy 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> Final audit report on the cancelled auction (Auction Company of America) issued May 13, 1991. Review of first bulk sales (Alamo & Commonwealth assets) started in July 1991. 	<ul style="list-style-type: none"> Sales strategies and standards are in place. Through June 1991, the book value of RTC sales and collections totaled \$179 Billion, including 29% (book value) of the real estate that has come under RTC control.
	<ul style="list-style-type: none"> Eliminate confusion/multiplication surrounding sales centers and SAMDA transactions 	<ul style="list-style-type: none"> N/A 		<ul style="list-style-type: none"> National/regional sales centers and SAMDA contracts each have clear non-duplicative role. Sales centers serve as central point of contact and referral to appropriate private sector managers, and as focal point for portfolio sales.
	<ul style="list-style-type: none"> Re-cut practices (sales documents, offer responsiveness) in line with private sector 	<ul style="list-style-type: none"> N/A 		<ul style="list-style-type: none"> Standard format due diligence procedures implemented on 4/15/91. Standard format bid packages and sales documents will reach investors by late August.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
B. Real Estate				
(ii) Affordable Housing	<ul style="list-style-type: none"> Improve operational consistency among regions 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> Audit work is scheduled in IG audit plan for the 4th Quarter of FY 1991. Work will probably begin in FY 1992. 	<ul style="list-style-type: none"> Held national affordable housing staff meeting 4/9. 4/11 to provide training and standardize program implementation. Moved Affordable Housing Program to consolidated and regional sales centers to improve marketing and sales consistency. Hired contractor to develop training program for staff, contractors, and brokers. Contractor attended first quarterly meeting with Affordable Housing staff on 7/11-8/2.
	<ul style="list-style-type: none"> Develop marketing network and inventory disposal structure in the Southwest region 	<ul style="list-style-type: none"> N/A 		<ul style="list-style-type: none"> Hired 142 Technical Assistance Advisors ("TAAs") as of June, 1991 to assist eligible single family purchasers. Recruiting effort to hire additional TAAs is continuing.
				<ul style="list-style-type: none"> Developing automated property information system to serve as a clearinghouse.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
2. Asset Sales				
B. Real Estate				
(H) Affordable Housing (continued)	<ul style="list-style-type: none">N/A	<ul style="list-style-type: none">RTC may sell eligible single family property to qualified buyers without regard to any minimum purchase price		<ul style="list-style-type: none">Directive initial "Guidelines for Selling single Family Properties Under the Affordable Housing Demonstration Program" providing for no minimum purchase price (and expanding the affordable housing program to cooperatives) was issued on 4/10/91.Mass advertising campaign underway to promote sale of affordable housing through auction and scheduled marketing campaigns. Auctions for properties will "sharpen", without minimum reserve price, are underway nationwide.



Operating Area

3. Information Resources Management (IRM)

GAO Criticisms

- Complete strategic plan and systems architecture

RTC Funding Act of 1991

- Strategic plan to include translation of program goals into necessary hardware, software and staff; required to accomplish such goals

IG Comments

- A number of audits in progress relative to IRM, including assessments of solicitations and awards for Real Estate Owned Management System, Interim Contractor Activity Reporting System, Contractor Activity Reporting System, and review of activities with respect to the Asset Inventory System and the Asset Management System. IG participating on an ongoing basis providing input on systems development. (5/9/91 Report)

RTC Comments

- Version 2 of the IRM Plan that incorporates the information architecture concept has been completed. Version 3, enhancing treatment of data integrity, integration, and detailed information requirements, is to be issued 9/30/91.

- See 2.A (i)

- Systems architecture to include:
 - (i) securities portfolio management system;
 - (ii) REO inventory and tracking system; to be developed and implemented by 9/30/91

- REO Management System (REOMS) development completed. In process of loading data onto system. On target for 9/30/91 implementation. In addition, Loan and other Assets Inventory System (LOAIS) and Asset Manager System (AMS) are expected to be implemented nationally by 9/30/91.



Operating Area		GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
3. Information Resources Management (IRM) (continued)		<ul style="list-style-type: none">Identify information and systems needs at all organization levels	<ul style="list-style-type: none">Identify system needs at all operation levels		<ul style="list-style-type: none">Establishes Office of Corporate Information to integrate and oversee development of a comprehensive management information systemUser task forces have been formed for all major applicationsUser working groups have been formed to define overall requirementsInclusion of field office review of information Resource Management strategic plan.Monthly meeting between Office of Corporate Information and Regional/Consolidated Information System Administrators



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
4. Contracting	(i) Policies/procedures	<ul style="list-style-type: none"> • Inefficient recognition given to contracting process and procedures 	<ul style="list-style-type: none"> • Many of the IG audits discussed herein assess contracting activity. In addition, IG has provided specific input on proposed policies and procedures for suspension and exclusion of contractors and compliance processing guidelines. IG reviewed and consulted with the RTC on the establishment of a separate independent contracting office as focal point of contracting activity. 	<ul style="list-style-type: none"> • Established independent contracting office to develop, monitor and enforce compliance with contract procurement standards and procedures • (Office of Contractive Oversight and Surveillance established in 1990 to detect/defraud)
		<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Nearly 70% of IG audit resources are devoted to issues which include contract management/contract management including: <ul style="list-style-type: none"> - SAM/DIA - Appraisals - Reviews - Bidder Selection - Legal Services 	



Operating Area

GAO Criticisms

RTC Funding Act of 1991

IG Comments

RTC Comments

4. Contracting

(i) Policies/procedures (continued)

- | | | |
|--|---|--|
| <ul style="list-style-type: none"> Develop directive describing roles and responsibilities of all parties involved in the contracting process; progress report by 9/30/91 | <ul style="list-style-type: none"> See comment at 4(i) above | <ul style="list-style-type: none"> RTC has developed and disseminated policy directives and standard contractual documents to standardize RTC policies and procedures. The most recent of which is titled "RTC Contracting Roles and Responsibilities" and was issued 5/6/91 |
| <ul style="list-style-type: none"> Develop standardized solicitation and contract documents for use by all RTC offices; progress report by 9/30/91 | <ul style="list-style-type: none"> SAMDA documents are being reviewed from a number of standards including audit and quality assurance oversight | <ul style="list-style-type: none"> Standardized solicitation and contract documents for asset management engagements completed, and issued to all RTC field offices on 4/15/91, and are currently in use |
| <ul style="list-style-type: none"> Develop comprehensive policy manual; progress report by 9/30/91 | <ul style="list-style-type: none"> OKG has reviewed and provided comments on draft manual | <ul style="list-style-type: none"> Manual is in final draft and will be issued by 9/30/91. |
| <ul style="list-style-type: none"> Develop standardized training modules; progress 9/30/91 | <ul style="list-style-type: none"> OKG has met with contractor to discuss training needs. | <ul style="list-style-type: none"> Private contractor has been engaged to develop 6 standard contract training modules that will be used by all RTC offices. The first training class will be held the week of 8/26-8/30. The training manual is in process and is currently being reviewed by RTC contracting and legal departments. |



RTC Funding Act of 1991

Operating Area	GAO Criticisms	IG Comments	RTC Comments
4. Contracting			
(ii) Management	<ul style="list-style-type: none">Improvements needed in areas of contractor selection and performance monitoring		<ul style="list-style-type: none">RTC has provided standardized documents, training, and directives on roles and responsibilities of contractor management.Pre-award certification reviewsDatabase to include potential contractors' performance history with government agencies and any involvement with federal/state law enforcement authoritiesComprehensive review of current RTC background check policies complete. Improving background checks, including whether entities meet the fitness and integrity standards established by FIRREA and have the financial strength to endure the term of the contract



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
4. Connecting				
(a) Management (continued)				<ul style="list-style-type: none">Fraud awareness training to both contracting and asset management staff on the early warning signs of fraud and abuse is being developed. First course took place during July 1991. The Office of Contract Oversight and Surveillance has issued a "Contract Fraud Training Manual" and embarked on an extensive series of training seminars on fraud awareness. The training program, intended to sensitize all RTC employees involved in the contracting process, has already been given in several field locations. The current schedule will result in fraud awareness training for all field personnel by year end.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
4. Contracting				<ul style="list-style-type: none">Contract audit program to review financial reports, verify services performed, and assess contractor's internal controls, compliance with laws and regulations, subcontractor selection and engagement practices and overall performance is operational. Since January 1991, Office of Contractor Surveillance and Oversight conducted over 60 inquiries and referred 12 matters to IG. RTC policy on suspension and exclusion of contractors has been issued.
(ii) Management (continued)				<ul style="list-style-type: none">Evaluation and monitoring of contractor performance against contractor business plans; rating system to evaluate overall performance under development; guidelines prepared for review of SAMDIA contractors internal controls, conduct audit of SAMDIA contracts to identify potential weaknesses; and develop comprehensive RTC contract audit program.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
<p>4. Contracting</p> <p>(H) Management (continued)</p>			<ul style="list-style-type: none"> It has started an audit. Review of the OM Program, which will include assessment of the performance rating system (6/10/91 Report) 	<ul style="list-style-type: none"> RTC policy regarding Oversight Manager Program defined in directive dated 11/28/90 RTC policy regarding Asset Manager Performance Ratings defined in directive dated 4/16/91, which establishes uniform criteria to measure performance of RTC Asset Management Contractors Washington and field staff participate in project compliance review teams which perform site visitations to ensure that operations and contractor management and contractor management oversight is being implemented according to RTC policy. Field office staff participate in a contractor oversight visitation program to monitor policy implementation by asset managers. IG working closely with contractor Oversight and Surveillance staff to coordinate investigative activity and formulate complementary contractor review and monitoring program to maximize coverage



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
<p>4. Contracting</p> <p>(u) Minority Contracting</p>		<ul style="list-style-type: none"> • Semi-annual reports due 4/30 and 10/31 on steps taken by the RTC to implement the minority and women outreach program required by section 1216(c) of FIRREA 	<ul style="list-style-type: none"> • Consideration to minority contracting activity is covered in all NJ contract audits including: <ul style="list-style-type: none"> - Legal Services - Bidder Selection - SAM/DIA 	<ul style="list-style-type: none"> • 4/10/91 Semi Annual report submitted. Five national Outreach seminars and over 100 regional outreach efforts have been initiated, with ethnic, minority, and female trade and professional associations and special interest groups. IA agreement with SBA has been signed. Proposed final regulations on M/WOB contracting were forwarded to Oversight Board on 4/8/91. Oversight Board comments were received on 6/2/91. Interim final regulations, except three related to minority preferences which are being held back pending Justice Department review, as requested by the Oversight Board, were approved by RTC Board on 7/10/91.



Operating Area	GAO Criticisms	RTC Funding Act of 1991		IG Comments	RTC Comments
4. Contracting (iii) Minority Contracting (continued)					<ul style="list-style-type: none">To encourage more contracting with minority, women-owned and small businesses, RTC is downsizing asset portfolios and making them more geographically concentrated. RTC is also enhancing normal solicitation actions with local and national advertising that is specifically directed at such firms.
					<ul style="list-style-type: none">Alternate proposal evaluation approaches are being developed by an RTC task force in order to improve the participation of minority, women-owned and smaller firms in RTC's contracting process. One such approach would qualify technical proposals within a given acceptable range (without scoring by absolute points) and then award the contract based on the cost side of the proposal.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
4. Contracting (ii) Minority Contracting (continued)				<ul style="list-style-type: none"> The RTC has signed an agreement with The Minority Business Development Agency (MBDA) to establish an interagency cooperative effort to assist in minority business development. The MBDA will assist in publicizing and promoting the RTC's outreach to minority businesses and will participate in joint efforts with RTC staff in training activities; allowing the input of MBDA staff and resources in areas in which RTC has not had an opportunity to develop; and work-shops targeting specific concerns of the minority businesses, thus enhancing contracting opportunities for the minority business community.



Operating Area	GAO Criticisms	RTC Funding Act of 1991	IG Comments	RTC Comments
<p>3. 1989 Financial Statements</p>	<p>(i) Audit Report</p> <ul style="list-style-type: none"> Qualified opinion, scope limitation due to uncertainties re: <ul style="list-style-type: none"> estimated recoveries on claims paid (asset valuation) estimated liability for unrecorded cases to be transferred from OTS (remaining cost of cleanup) 	<p>N/A</p>	<ul style="list-style-type: none"> IG has met with GAO and provided information from its reviews to expedite completion of 1990 statements 	<ul style="list-style-type: none"> RTC has implemented a quarterly valuation system to estimate recoveries on claims. See 2.B.(i).
<p>(ii) Internal Controls</p>	<ul style="list-style-type: none"> General concerns regarding adequacy 	<p>N/A</p>	<ul style="list-style-type: none"> All IG audits assess internal controls of the activity reviewed and provide recommendations relative to deficiencies noted. The IG is also participating as a technical advisor in RTC activities to establish an Internal Control Task Force. 	<ul style="list-style-type: none"> The estimated liability for unrecorded cases is based on the best available information from OTS. RTC acknowledges that there is inherent uncertainty as to asset values and the remaining cost of the thrift clean-up. Site reviews of Consolidated Offices have been initiated by the Offices of Corporate Finance and Program Analysis to flowchart and document transactional flows and associated control points in various processing cycles.

* GAO has identified specific instances of internal control weaknesses. RTC's review of internal controls revealed internal control procedures in place subject to possible audit exceptions which have subsequently been corrected. These audit exceptions included variation of duties, disbursement controls and settlement procedures.

See Attachment #1 entitled "RTC Internal Control Environment"

**Policy Statement Number 18
RTC Internal Controls**

1. Objectives.

The objectives of this Policy Statement are:

(A) to encourage the Resolution Trust Corporation ("RTC") to establish and adhere to internal control standards, including evaluation and reporting standards, that are no less stringent than those required of certain agencies pursuant to the Federal Managers' Financial Integrity Act of 1982 ("FMFIA");

(B) to encourage the RTC to vest in its Chief Financial Officer powers substantially similar to those provided in the Chief Financial Officers Act of 1990 ("CFO Act").

2. Purpose.

(A) The purpose of this Policy Statement is to ensure that the RTC, in its corporate and receivership capacities, has in place a comprehensive set of internal accounting and administrative controls, which can provide reasonable assurance that:

1) obligations and costs are in compliance with applicable law and Oversight Board resolutions;

2) all transactions are executed in accordance with management's general or specific authorization, and in accordance with established policies and procedures;

3) funds, property, and other assets are properly accounted for and safeguarded against waste, loss, unauthorized use, or misappropriation; and

4) revenues and expenditures are properly recorded and accounted for in a timely manner to

(a) permit the preparation of accurate and reliable accounts, financial statements, and management reports and

(b) maintain accountability over assets

3. Internal Control Standards. *

It is the policy of the Oversight Board that the RTC should establish and maintain a system of internal accounting and administrative controls which, at a minimum, meet the standards prescribed by the Comptroller General pursuant to FMFIA.

4. Internal Control Evaluation. *

It is the policy of the Oversight Board that the RTC should establish and maintain an internal control evaluation system which, at a minimum, meets the requirements prescribed by the Office of Management and Budget pursuant to FMPA. In establishing that system, the RTC should, to the extent practicable, study the evaluation systems used by Executive agencies and adopt the most effective elements of those systems. The RTC should also incorporate in such system specific mechanisms to evaluate compliance with relevant Oversight Board resolutions, policy statements, principles, and other guidance.

5. Designation, Authority, and Function of the Chief Financial Officer.

It is the policy of the Oversight Board that the RTC should provide its Chief Financial Officer with authority and functions substantially similar to those set forth in 31 U.S.C. Sections 902(a)(1)-(3), (5)(B)-(E), (7) and (8), and Section 902(b), as amended by the CFO Act.

6. Reports to the Oversight Board. *

(A) The RTC shall submit to the Chairman of the Oversight Board the annual management report required by the CFO Act at least 30 days before the report is due to be submitted to Congress.

(B) The RTC shall prepare and submit to the Chairman of the Oversight Board a statement and report on internal administrative and accounting controls substantially similar to that annually required of Executive agencies under FMPA. Such report is due 90 days after the end of the reporting period. The reporting period is the RTC's fiscal year unless the Chairman of the Oversight Board determines otherwise. On a one time basis only, however, the RTC shall submit a statement and report by October 30, 1991, covering the RTC's fiscal year ended December 31, 1990, and covering, to the extent possible, the period from January 1 through September 30, 1991.

7. Immediately Effective.

This Policy Statement shall be immediately effective.

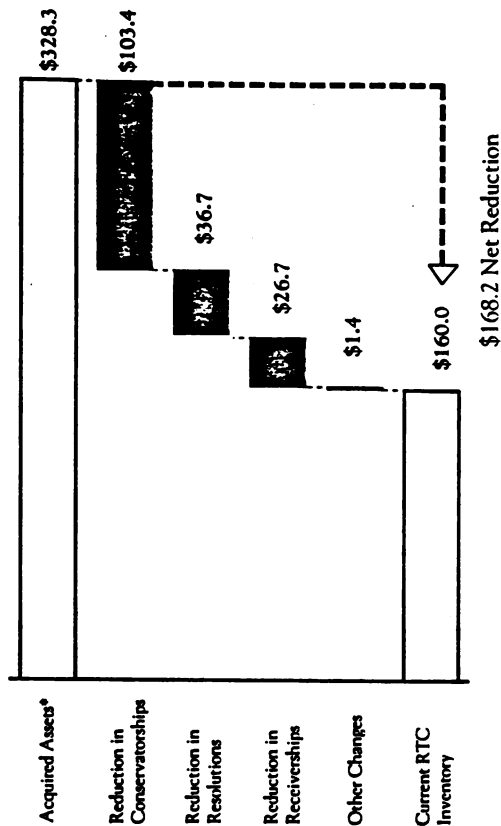
* With regard to Section 3 of this Policy Statement, RTC should develop appropriately rigorous internal control standards for the internal controls of those of its contractors who act on behalf of the RTC (e.g., SAMDA contractors and Interim Servicing Agreement contractors). The internal control evaluation system referred to in Section 4 of this Policy Statement should be employed by RTC to evaluate the internal controls of such RTC contractors in accordance with such standards. Reports required under Section 6 of this Policy Statement should include the results of such evaluations of the internal controls of such RTC contractors.

Since inception, the RTC has achieved net asset reductions of \$168.2 Billion. Most of these asset reductions have taken place in conservatorship.



Cumulative Net Asset Reductions (\$ Billions)

Inception through June 30, 1991



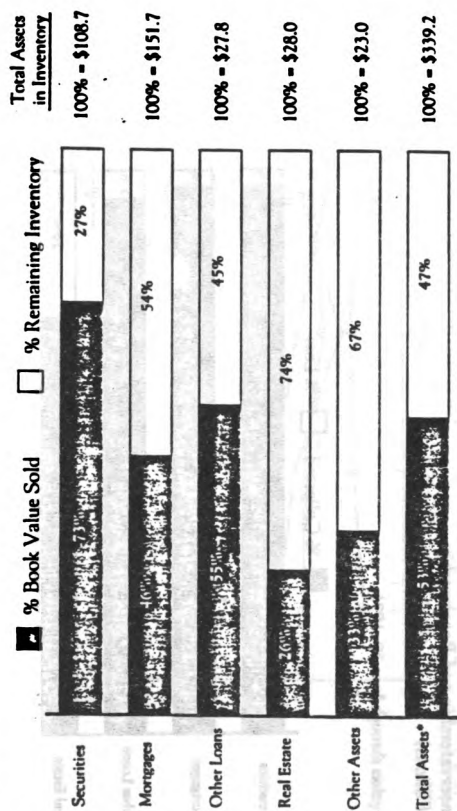
* Conservatorship and receivership
Source: RTC Review, OIR Analysis

The RTC has made the most progress in sales of its securities inventory.



Asset Sales and Principal Collections – Conservatorship and Receivership (\$ Billions)

Inception through June 30, 1991



* Total Assets include new loans and assets purchased by RTC Conservatorships prior to resolution.
Source: RTC; OB Analysis

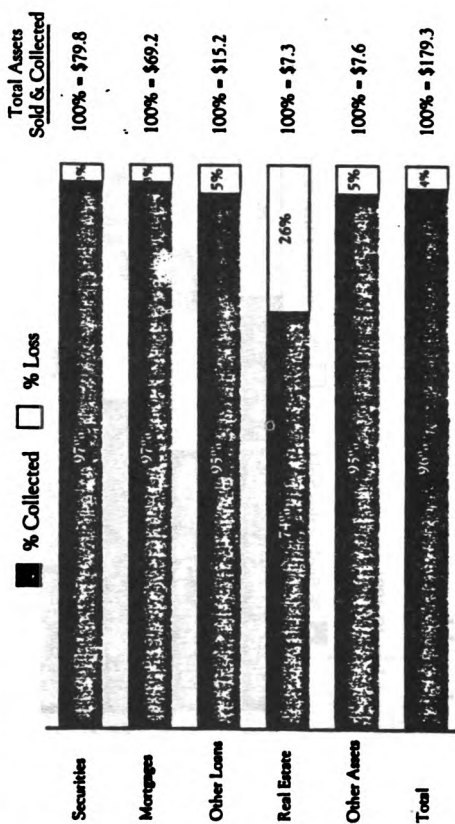
APPENDIX IV

The RTC has incurred the highest loss rate on sales of REO.



Loss on Asset Sales and Principal Collections Conservatorship and Receivership (\$ Billions)

Inception through June 30, 1991



Note: Loss percentages generally reflect the sale of higher quality assets in conservatorship and those passed at resolution.
Source: RTC/OB Analysis

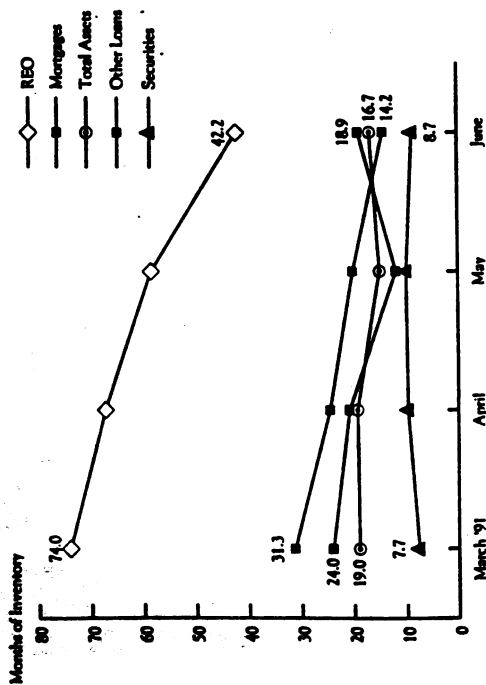
The holding period of RTC assets based on three month moving average of sales and collections has declined since March for all asset categories except Securities.



Total RTC Inventory* - Months of Inventory

Three Month Moving Average

Based on January-June, 1991 Sales



*Includes conservatorship assets, assets passed in resolution and receivership assets.

Note: Three Month Moving Average is the average sales and collections for the preceding 3 month period. The 42.2 month REO figure for June indicates that all REO will be sold after a holding period of 42.2 months, based on sales and collections in April, May & June.

Source: RTC Monthly Historical Information; OR Analysis

APPENDIX VI

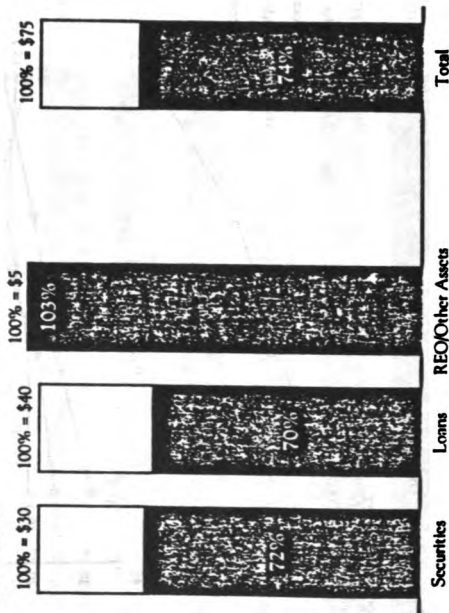
The RTC has achieved 74% of its January-September asset sales projections.



RTC Asset Sales and Principal Collections Pace Against Projections*

Book Value Reductions
(\$ Billions)

As of June 30, 1991



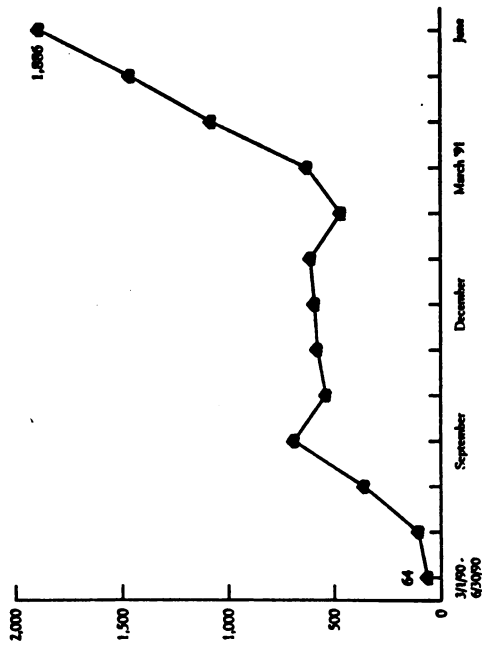
* Sales and collections projections include assets passed at resolution and sales and collections from receiverships and conservatorships.
Source: February 1 Operating Plan; RTC Monthly Historical Information; OBI Analysis

Single family affordable housing accepted offers have continued to increase in June.



Affordable Housing - Single Family Monthly Accepted Offers (# of Properties)

As of June 30, 1991



Note: The number of properties in RTC's eligible inventory is unknown. The RTC has hired a contractor to determine its inventory.
Source: RTC; OR Analysis

APPENDIX VIII

TESTIMONY OF

L. WILLIAM SEIDMAN
CHAIRMAN
RESOLUTION TRUST CORPORATION

ON

RTC FUNDING AND STRUCTURE ISSUES

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE
OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

10:00 PM
SEPTEMBER 12, 1991
ROOM 2128
RAYBURN HOUSE OFFICE BUILDING

Good morning, Mr. Chairman, members of the Committee. I appreciate the opportunity to appear before you today on behalf of the Resolution Trust Corporation.

It has been just over two years since the RTC was created by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) on August 9, 1989. In those two years, we have accomplished much. We have taken on a task of massive proportions and are in the process of accomplishing our mission. Much, of course, still remains to be done, including continuing with the initiatives we have underway to improve our performance.

In the first two years of its existence, the RTC has put together the largest financial institution in the country. Through September 3, 1991, it has taken control of 646 troubled thrifts with initial assets of \$342 billion. It has closed 511 of these 646 institutions--that is, the deposits have been paid-off or transferred to another institution. All told, approximately 16 million depositors have been protected from financial loss. In addition, these resolutions have produced a net savings to the taxpayers of \$2 billion over the cost of paying off insured deposits.

Let me put these numbers in perspective. After taking account of the fact that we had 262 institutions in conservatorship when FIRREA was signed into law, we have averaged four institutions a week coming under RTC control and management,

- 3 -

with nearly five a week being closed out thereafter. Moreover, we have been taking on assets at an average of \$2 billion per week.

The quantity of assets that the RTC has sold and managed has been huge. From its inception through July 31, 1991, it sold and collected some \$179 billion of assets, with a book value of \$188 billion, or 96 percent of book value. As of that date, we were managing assets with a book value of \$156 billion. Thus, the RTC has reduced the assets that have come under its control by over half.

The gross resolution and sales figures which I have just presented to you illustrate very clearly how much has been accomplished by the RTC. There are problems that remain, of course, and we are working on them diligently at the RTC.

I'd like to begin by giving you a status report on what the RTC has achieved to date in nine major areas, including asset disposition. I then plan to address RTC funding needs, and then will speak to the restructuring issue.

PART I. STATUS REPORT ON RTC ACTIVITIES

1. Building an Organization

The complexity of putting together the RTC cannot be overemphasized. Locating offices, recruiting and training a work force, developing and implementing numerous policies and procedures, all while operating at a record pace, has been no small feat. The RTC has grown from a handful of FDIC employees to a staff of over 7,000 today. The vast majority of these are non-career employees working in the field, managing the hundreds of failed thrifts and their billions of dollars of assets. Please see Appendix A for more detail.

o Consistency in a new and rapidly growing operation: Keeping pace with this growth is a major challenge. Early on, we made the establishment of consistent operating procedures and policies a major priority of the Corporation. Moreover, substantial progress has been achieved toward implementing the management enhancement goals required by the RTC Funding Act of 1991.

o Internal Controls: Strong internal controls are crucial to the successful operation of any business, and are especially important to a rapidly growing, geographically dispersed organization such as the RTC. The Corporation has aggressively pursued and implemented controls to protect its assets from loss and to deter instances of waste and mismanagement.

The RTC began its operations by using, to a large degree, the established policies, procedures, standards and various

- 5 -

internal control concepts of the FDIC. These control concepts had been approved by the GAO in its annual FDIC review. To build upon this base, and to supplement the efforts of our Inspector General, the RTC established an Internal Control Task Force to oversee the development and implementation of internal controls on a national basis.

The Corporation has established three specific offices to review and evaluate its internal controls. The Office of Program Analysis has management responsibility for monitoring the overall RTC internal control environment; the Office of Corporate Finance evaluates the RTC's internal accounting control structure; and the Office of Contractor Oversight and Surveillance reviews the RTC's extensive contracting operations. RTC's Asset and Real Estate Management Division and the regional and consolidated offices are also involved in evaluating the Corporation's field activities.

Please see Appendix B for a more detailed description of the RTC internal control structure.

o Openness and Public Accountability: Since its creation, the RTC has been committed to a philosophy of openness and public accountability. It routinely provides information on its contracting and other operations to the public. To facilitate this, the RTC has:

- 6 -

- o Established a Public Reading Room and processed over 29,000 inquiries from inception through the end of July, 1991.
- o Established Public Service Centers in each region which have processed approximately 20,000 public queries through this period.

2. Establishing Control of Conservatorships

During the first two years of its existence, the RTC had taken control of 646 troubled thrifts with initial assets of \$342 billion (Chart 1). As of September 3, 1991, the RTC operated 135 conservatorships. This has involved managing approximately 100,000 thrift employees at thousands of offices across the country. The typical insolvent institution has lost key personnel, has poor records and substandard assets, and is losing core customers. Controlling and stabilizing so many troubled institutions in so short a time has been a substantial challenge.

3. Resolutions and Protection of Depositors

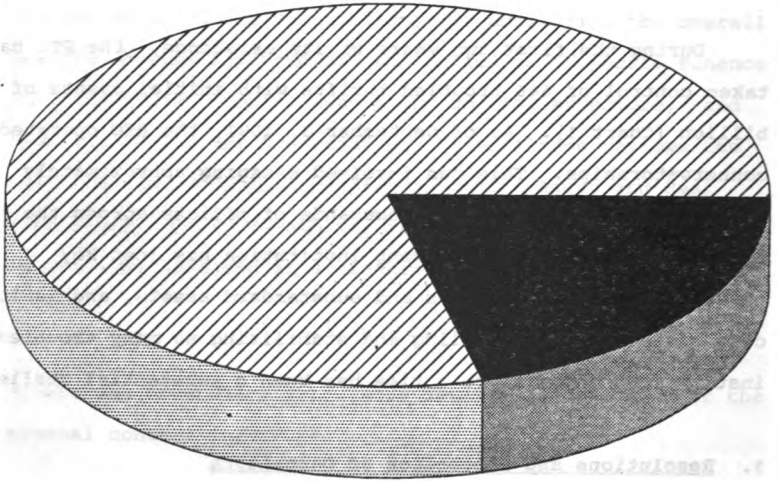
Through September 3, 1991, the RTC had closed 511 thrifts with \$157 billion in deposits and \$163 billion in assets. Total outlays for these resolutions totalled \$146 billion, and the total cost of these resolutions is estimated at \$67 billion. The RTC resolution process has resulted in \$2 billion of net savings

Chart 1

**Through August 31, RTC took over 646 thrifts,
closed 511.**

Total No.: 646

No. Closed: 511



**No. in Conservatorship:
135**

- 7 -

over the cost of paying off insured deposits.

o Protecting Depositors: RTC outlays are used to "make good" on the government's obligation to insured depositors. To date, approximately 16 million depositors, with average balances of over \$9,000, have been protected from financial loss. In virtually all cases, depositors have had access to their insured funds almost immediately after the closing of the institution.

o New Resolutions: The resolution process will continue apace. By September 30, the RTC expects to have closed 569 thrifts (Chart 2). This is an average of about ten resolutions a week during the June - September period, and includes substantially all those that have been in conservatorship for more than nine months.

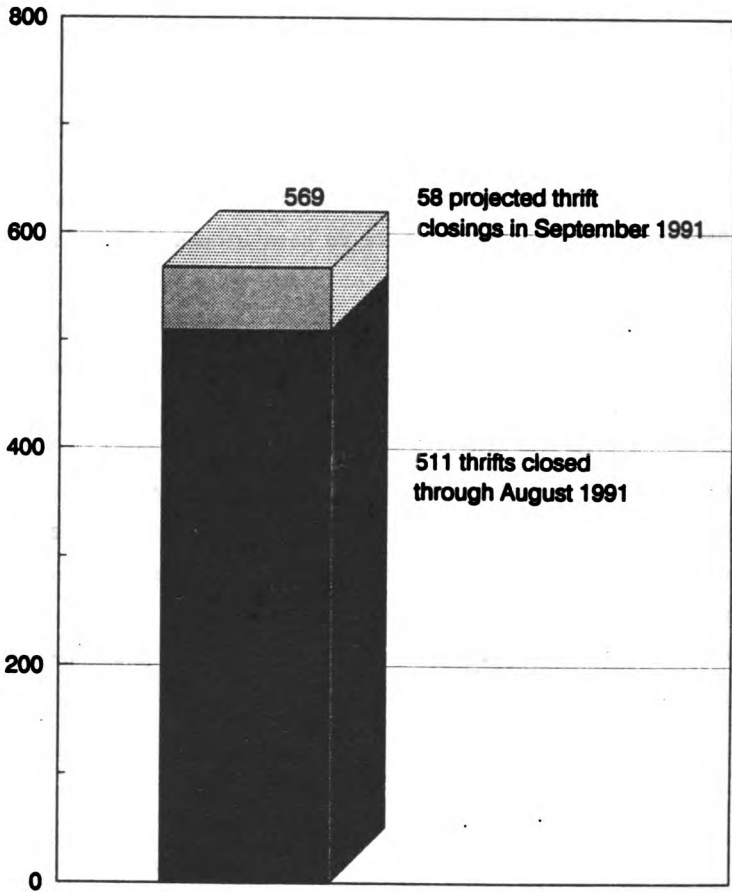
o Minority Resolutions: The RTC seeks to maintain whenever possible the same ethnic identification of minority thrifts placed into conservatorship. The RTC has resolved a total of 22 minority institutions through September 6, 1991, with 10 of the resolutions resulting in the preservation of the previous ethnic identification.

4. Asset Sales

Through the end of July, 1991, the RTC had sold and

Chart 2

By September 30, RTC plans to have closed 569 thrifts.



- 8 -

collected some \$179 billion in assets with a book value of \$188 billion. This represented more than half of all the assets taken over by the Corporation (Chart 3).

For the 9 months ending September 30, 1991, we have projected book value reductions of \$75 billion (\$65 billion after putbacks of assets previously sold to acquirers of closed institutions). Book value sales and collections during the first seven months of 1991 were \$65 billion, on track to meet the \$75 billion nine-month goals (Chart 4). Moreover, we have achieved significant reductions in our holdings of all major types of assets (Chart 5).

These sales have been made despite the recession, which has made it more difficult to sell assets. Real estate markets in many parts of the country are depressed, and there is little demand for real estate or many types of real estate related assets. Banks, which in other times might have been among the biggest buyers of some of the RTC's illiquid but performing assets such as commercial real estate loans, are facing problems of their own. They often do not have the capital to purchase even our highest quality assets, let alone risk that capital on a performing but risky loan in the current economic environment.

The RTC controlled \$ 156 billion of assets in conservatorship and receivership as of July 31, 1991. Close to

Chart 3

Through July, RTC disposed of more than one-half of the assets that came under its control.

**Book Value of Assets
at Takeover: \$330 billion**

**Book Value
Sold and Collected
\$188 billion**

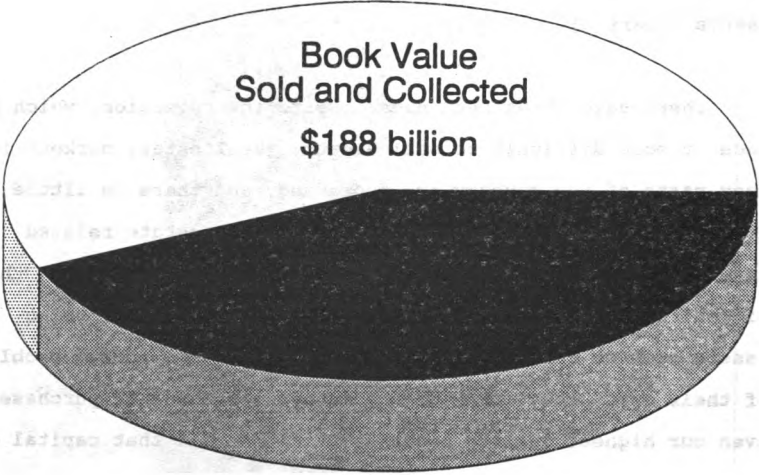
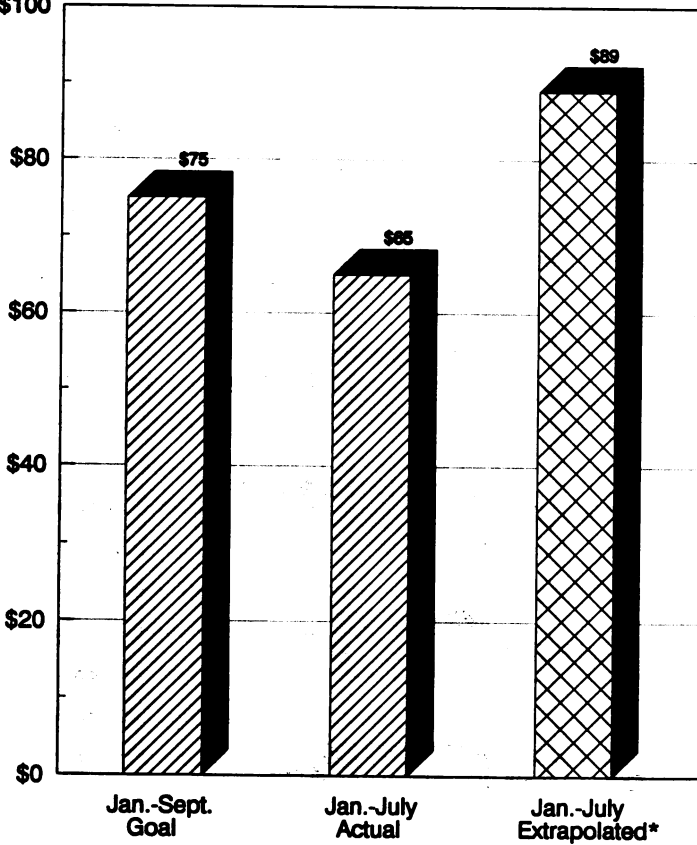


Chart 4

RTC asset sales and collections are on track to meet nine-month goal of \$75 billion.

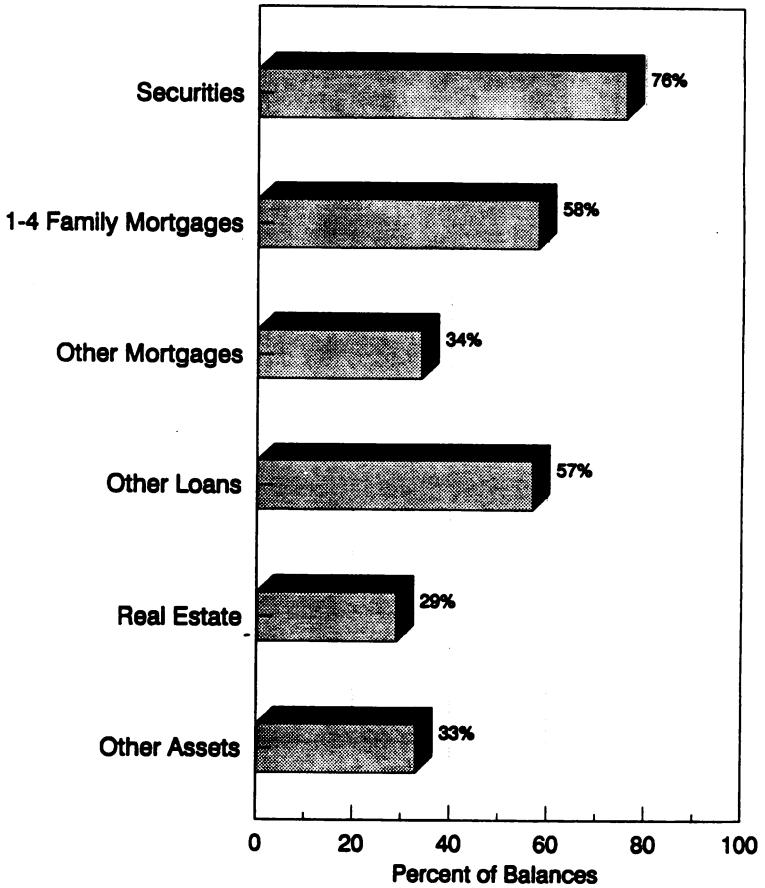
Billion dollars
\$100



* Resolution sales are extrapolated according to projected caseload through September. Other sales and collections are extrapolated on a straight-line basis from actual data.

Chart 5

As of July 31, 1991, the RTC had disposed of more than three-fourths of its securities, one-half of home mortgages, and one-fourth of real estate held for over 90 days.



- 9 -

two-thirds of this total represented illiquid assets--delinquent loans, real estate, commercial loans, and junk bonds (Chart 6). And, a substantial proportion of the performing one-to-four family mortgages were nonconforming, non-standard loans that are difficult to sell. Unfortunately, the RTC's portfolio at any given time is dominated by assets that are difficult to sell as the Corporation has been very successful in quickly disposing of its marketable assets.

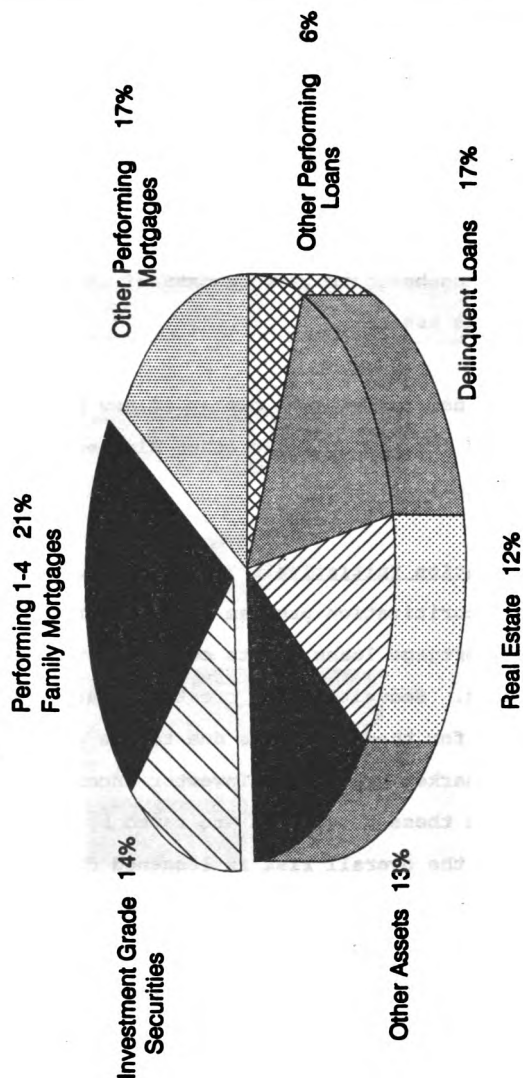
The RTC has initiated a number of new programs and policies to dispose of its illiquid and other slow moving assets, described below.

o Securitisation Initiative: The RTC has undertaken an extensive securitization program for the conforming and non-conforming mortgage loans of its conservatorships and receiverships. Securitization creates a larger market and a better price for these products due to the greater liquidity that a secondary market provides. Investor uncertainty is also lowered since these securities are rated by objective third party sources, and the overall risk is lessened due to the regional diversity of the mortgage collateral created by pooling of different institutions' portfolios. Cash flows are also established in a form that investors find attractive.

Conforming Mortgages: The RTC has been working with FNMA, FHLMC,

Chart 6

Hard-to-sell assets represent almost two-thirds of all assets under RTC control as of July 31, 1991.



Total Assets: \$156 billion

- 10 -

and GNMA to securitize and swap conforming residential mortgage loans. Through the end of May, the RTC awarded approximately \$2 billion in contracts for securitizations of single family mortgage loans to FNMA and FHLMC, and another \$2 billion is in the pipeline for award over the next three months.

Additionally, the RTC has just executed a contract with GNMA which will allow the creation of new GNMA securities with the FHA/VA product. The RTC is also developing a program to securitize several billion dollars of performing, agency-eligible multi-family loans in swaps with FNMA, FHLMC, and GNMA.

Non-conforming Mortgages: The RTC has developed innovative programs to dispose of non-conforming loans. Shortly after the passage of the Funding Act of 1991, the RTC board approved the issuance of the RTC's first one-to-four family mortgage-backed securities for mortgages that are performing but do not conform to FNMA or FHLMC standards.

The RTC completed the necessary shelf registration with the SEC in April which permitted the sale of \$4 billion of securities backed by residential non-conforming mortgages from RTC conservatorships and receiverships on a regular (i.e., monthly) basis to the public. In accordance with SEC rules, the securities are rated "AA" or "AAA". Through competitive procedures, the RTC selected pools of investment banking firms, trustee banks, loan servicers, accountants and printers.

- 11 -

The first securitized transaction of \$440 million of adjustable rate mortgages closed on June 27. The second issuance of approximately \$580 billion occurred on July 15, and was greeted with strong interest by foreign investors. Four additional issues, totalling approximately \$1.5 billion, were issued in August. These included the first RTC issue backed by multi-family mortgages. During FY92, RTC projects issuing an average of \$1-\$2 billion per month in mortgage-backed securities and from June through August 31 issued about \$2.5 billion.

o Standardized Due Diligence Procedures: Standardized due diligence and market acceptable formats have been implemented for one-to-four family mortgage loans sold through either whole loan or securitized transactions. We are extending this program to other loan categories, such as performing commercial mortgages and consumer loans. The RTC is offering standard representations and warranties for one-to-four family mortgages and all other types of market-acceptable performing loans.

With respect to our most illiquid assets --nonperforming loans, performing commercial mortgages, junk bonds and most real estate-- the RTC plans to expand programs to sell large packages of such assets in 1991 and in the years ahead. Current RTC initiatives for selling these assets are:

o Senior/Subordinated Structures: For performing but less

- 12 -

marketable assets, we plan to make extensive use of senior/subordinated structures. We are examining Collateralized Bond Obligations (CBOs) as a way to dispose of junk bonds now and hope to begin securitized sales of non-agency eligible multi-family mortgages in the fall.

o Portfolio Sales: It has not proven to be cost effective to sell many of our most illiquid assets, such as individual real estate parcels and distressed loans, on a one-at-a-time basis. To encourage the sale of these hard-to-sell assets, the RTC is pursuing structured transactions of portfolios of assets to pre-qualified purchasers of proven managerial and financial strength.

The RTC limits these structured transactions to large portfolios of widely marketed assets. Only those assets that have been on the market for a minimum of 180 days or those that have been the unsuccessful subjects of sealed bids or auctions will be considered for these large portfolio sales. All investors, large and small alike, have therefore already had ample opportunity to consider these large portfolios of assets.

Cash flow mortgages: As a financing option, the RTC is offering cash flow financing to these purchasers in return for a share of the upside earning potential on these hard-to-sell assets. The transactions are structured with the RTC receiving as much as 40 percent of future property cash flows and sales proceeds, as well

- 13 -

as holding a first lien position on the real estate. Since title to the properties is passed to the purchaser, all future costs and risks of deficits, repairs and capital improvements are passed as well.

It is crucial that these purchasers have the organization, expertise and the financial strength to fully realize the cash flow potential of these arrangements. These transactions are therefore approved at the highest levels in Washington and are scrutinized by major professional third party credit underwriters, appraisers and financial advisors.

Patriot Portfolio Sale: A recent RTC portfolio sale was the \$500 million portfolio sale of office buildings and hotel properties to Patriot American Investors. These widely marketed assets are to be selected by the buyer during the next several weeks and purchased for 100 percent of appraised value. One-third of the assets are hotels (20 percent of which are underperforming) and the balance consists of office buildings (25 percent of which are underperforming). Patriot has been offered the option of paying cash or financing the properties through standard seller financing or a 12-year cash-flow participation mortgage.

o **Sale of Small Properties:** The RTC is accelerating the sale of small properties, i.e, those assets valued under \$100,000, in order to reduce the administrative burden and free up staff resources to concentrate on large asset sales. Currently, much

- 14 -

staff time is, of necessity, spent on managing individual assets which while they make up the majority of the total number of RTC-owned assets, represent but a small percentage of the total book value of assets held. As a result of its targeting of small assets for sale, the Southwest Region reduced its inventory of real estate assets valued under \$100,000 by 9,570 properties or 82 percent, during the first six months of 1991.

5. Affordable Housing

RTC has made a commitment to assist the less advantaged in obtaining affordable housing. Through the end of June 1991, 17,300 single family properties had been listed with clearinghouses. The RTC had accepted offers or sold about 22,000 dwellings for \$450 million.

Properties are being sold to the target population -- lower and moderate income first time homebuyers. The average purchase price of the single family property in the Affordable Housing Disposition Program is \$30,000 and the average income of a purchaser is \$23,000. This represents an annual income of approximately 61 percent of national median income.

The RTC has recently amended its regulations to implement the RTC Funding Act provision that expanded the Affordable Housing Program to include single family properties held in

- 15 -

conservatorship, and to permit the RTC to sell eligible single family properties to qualifying non-profit organizations and families without regard to minimum sales price.

Properties in the RTC's inventory which have no reasonable recovery value are currently being made available for conveyance to non-profit organizations and public entities. Through June 1991, 1,198 have been made available for conveyance, and 598 properties have been conveyed.

6. Private Sector Commitment: Contracting

RTC is committed to making use of the private sector for services whenever appropriate, and relies extensively on private sector contractors to manage and sell assets. Virtually all performing loans are serviced by private contractors.

The goal of RTC is to place management for the bulk of unsold distressed loans and real estate under contract. The major contracting vehicle used by RTC to accomplish this is the Standard Asset Management and Disposition Agreement (SANDA). RTC designed this contract to provide the private sector with incentives to expedite sales as well as to maximize recoveries. Nearly three-fourths of receivership real estate and distressed loans are SANDA-contracted. Assets under SANDAs totalled \$25 billion on August 26, 1991 compared with \$11 billion at the end

- 16 -

of 1990. Additionally, there are open solicitations now in process that will place \$12 billion in assets under SANDAs over the next two months.

The RTC recognizes the risks involved in contracting and has developed extensive standards and procedures to oversee contractors' performance, including compliance with required internal control procedures. Consistent with the GAO's testimony last June before the RTC Task Force of the Financial Institutions Subcommittee of the House Banking Committee, we are examining the inclusion of penalty clauses in these contracts.

o Minority and Women-Owned Businesses: RTC has devoted considerable effort to improving the identification, registration and awarding of contracts to minority- and women-owned businesses (MWOBs) with the capacity to assist RTC.

The RTC proposed for Oversight Board consideration a final Minority and Women-Owned Business Contracting Program on April 8 of this year. Upon approval by the RTC Board of Directors, the Interim Final Rule regarding MWOB contracting was published in the Federal Register on August 15, 1991 with the comment period due to end October 15, 1991.

As of August 26, approximately 26 percent of the 71,500 registrants on the RTC Contractor Database were minority- or

- 17 -

women-owned businesses, with 8,250 minority and 10,400 women-owned businesses registered respectively. Of the total 31,669 RTC contracts awarded at this date worth an approximate \$1.1 billion, 2,251 contracts approximating \$66 million have been awarded to minority firms, and 5,144 contracts worth approximately \$195 million have been awarded to non-minority women-owned business.

RTC has appointed a Minority/Women Contract Specialist in each of the 19 RTC offices to ensure the inclusion of minority and women-owned businesses in its contracting. It is also coordinating with other federal agencies in its MWOB efforts. It has entered into an agreement with the Minority Business Development Agency for further outreach to minority- and women-owned businesses. Recently RTC signed an "8A Agreement" with the Small Business Administration for ADP hardware and software development, which it hopes to expand upon in the future.

Over 150 presentations to associations, conferences and interest groups have been made by the RTC staff. RTC also sponsored a national conference entitled "How to Work with the RTC," on February 27, 1991, in Washington, D.C., specifically focusing on the contracting process for minority- and women-owned businesses. More than 800 MWOBs were in attendance. This conference was replicated in Denver on June 18, San Antonio on July 2, Atlanta on July 25, Chicago on August 8, and Los Angeles

- 18 -

on September 4 with over 2,000 total attendees. RTC contracting opportunities are also being advertised in publications which target minority and women business owners.

In a further effort to place asset management contracts within reach of minority- and women-owned firms, small, geographically concentrated and more homogeneous asset portfolios are being structured in the RTC contract solicitation process. Seven MWOB firms have been selected as co-managing underwriters for residential mortgage loan securitization program. We are also reviewing our technical evaluation process with the intent of encouraging MWOBs to compete more equitably.

7. Investigations into Professional Misconduct and Fraud

The RTC is committed to recover assets diverted from institutions through professional misconduct, gross negligence or fraud, and to assist the Department of Justice in prosecution of those responsible. The RTC has made substantial progress to date toward these goals.

As of August 10, 1991, the RTC has completed preliminary investigations on 94 percent of the 638 thrifts placed under its control, and is now staffed to dispatch investigators to each thrift on the day of takeover. It has allocated resources to meet all statute dates and has staff assigned to all

- 19 -

investigative sites to coordinate with U.S. Attorneys offices, the FBI and other law enforcement agencies.

We have developed and installed a nationwide information tracking system; developed a criminal referral data base; put in place a management information system targeting the top 100 criminal cases; and established a national asset tracing program. We are working on methods to trace assets internationally.

o Civil Claims and Lawsuits: As of June 30, 1991, the RTC brought or assumed 105 lawsuits against directors, officers and other professionals. Eight claims were settled with defendants during the first half of 1991, resulting in the recovery of \$4.6 million. To date, the RTC has received cash recoveries in excess of \$22 million from professional liability actions and additional recoveries in excess of \$100 million are virtually certain pending appeals and legal settlement details.

o Criminal Prosecutions: More than 1700 criminal referrals made by RTC and others on RTC thrifts have resulted in 402 indictments, 153 convictions, and prison sentences totalling 289 years, according to the June 6, 1991 DOJ statistics. Fines of \$1.9 million have been imposed and the RTC has been awarded \$90.8 million in criminal restitution. Overall, according to Justice Department figures as of July 31, about 600 persons have been considered for actions related to failed thrifts.

- 20 -

o Drexel/Milken Litigation: The RTC and the FDIC filed a \$6.8 billion consolidated proof of claim on November 14, 1990, against the Drexel Burnham Lambert Group, Inc. According to the terms of the Drexel bankruptcy settlement, the FDIC and RTC will receive a base recovery in excess of \$435 million. The FDIC and RTC also acquired an interest in a number of additional claims against Michael Milken and other Drexel insiders.

o Specialized Areas of Investigation:

Accountant Liability Task Force: A national committee, comprised of PLS attorneys and CPA investigators with public accounting backgrounds has been formed to coordinate and accelerate the pursuit of accountant liability cases.

Securities and Commodities Task Force: More than \$600 million in losses resulting from trades by S&Ls in government securities and their derivatives have been identified in preliminary investigations in which potential claims and recoveries may be available.

Common Borrowers Task Force: The RTC has increasingly discovered common borrowers and other "outsiders" who may have perpetrated broad schemes against several thrifts across the country. The RTC has established two task forces to accelerate and coordinate the investigation of national and regional targets.

- 21 -

Civil Fraud Project: The RTC has initiated a pilot project in the Western Region to pursue civil fraud cases against individual thrift borrowers.

Please see Appendix C for a more detailed summary of RTC investigatory activities.

8. Activities to Reduce Costs of FSLIC Transactions

FIRREA directed the RTC to review and, if appropriate, to re-negotiate 1988 FSLIC merger and acquisition transactions. As of July 31, 1991, re-negotiations have been completed on three FSLIC assistance agreements for the exercise of unilateral rights such as prepayment of FSLIC notes and the writing down of assets. Savings of an estimated \$1 billion in present value terms, excluding increased tax revenue to the Treasury, are expected from the \$7.3 billion expended through August. Other negotiations are underway. RTC is attempting to restructure major agreements to eliminate disincentives to dispose of assets and to buy out smaller agreements.

9. Improving Internal Information Systems

The RTC has made significant progress in developing and improving information systems to support its activities. The RTC established the Office of Corporate Information (OCI) to

- 22 -

integrate and oversee development of a comprehensive management information system. OCI issued an updated Information Resources Management (IRM) Plan, which incorporates the information architecture concept. A third edition, which details how to improve data integrity and integration and details information requirements, is to be issued on September 30, 1991.

Some specific systems are worthy of comment. The Real Estate Owned Management System (REOMS) maintains an inventory of RTC-owned real estate and is being used to manage its maintenance and dispositions. The Loans and Other Assets Inventory System (LOAIS) creates a consolidated national database of loan assets from institutions in conservatorship or receivership. The Asset Manager System (AMS) is designed to monitor and report on performance of Asset Managers under contract with RTC. These systems are expected to be implemented by September 30, 1991.

In the area of asset valuation, the RTC has developed and begun to implement a process of valuing receivership assets on a quarterly basis, based on-site reviews by contractors. This asset valuation process will enable RTC to prepare financial statements that reasonably reflect RTC's financial condition on a current basis and will assist in determining its total funding requirement.

Thank you for allowing me to give you this status report on

- 23 -

our work at the RTC. I'd now like to talk to you about RTC funding issues.

PART II: RTC FUNDING

There are two basic types of RTC funds--loss funds and working capital. Loss funds are the monies used to make up the portion of the loss at insolvent thrifts that the government must make good--that is, the amount by which the values of the assets of those institutions are insufficient to satisfy insured depositors' claims. Working capital basically is the term given the funds which are used to help pay for depositor claims in resolved thrifts, but which are expected to be repaid through the sale of assets of the failed companies. Monies used to meet liquidity needs and to replace high-cost funds in conservatorships awaiting resolution also fall under the definition of working capital.

Of course, there is considerable uncertainty over the market value of the assets of failed thrifts. These values depend on the condition of national, regional, and local economies and real estate markets. No one can predict with any certainty the future course of the economy in general or real estate markets in particular. Thus, until the last asset has been sold, any estimates of cost, even for institutions that have already been closed, are fraught with error, and will continue to change as

market conditions change.

Testifying before the Senate Banking Committee last June, Comptroller General Bowsher correctly identified the problem of anticipating RTC losses as follows: "RTC and its Oversight Board are producing their estimate of losses and working capital within the limitations of current information; however, these estimates assume recoveries on the sale of failed institutions' assets which may not be realized. The uncertainties which affect recoveries are significant and include the continuing weakness in the economy and the seriously over-built real estate market . . ."

1. RTC Sources and Uses of Funds Through September 3, 1991

From its inception on August 9, 1989, through September 3, 1991, the RTC used approximately \$151 billion in funds. Resolution/receivership funding (including interest on FFB borrowings) for the 511 closings that had taken place through that date totaled \$146 billion: covering estimated losses accounted for \$67 billion, while \$79 billion went for working capital. Additional working capital for advances to conservatorships totaled \$5 billion.

RTC sources of funds through September 3, 1991 totaled \$165 billion. This consisted of \$50 billion provided to the RTC in FIRREA, \$30 billion in funds appropriated by the RTC Funding Act

- 25 -

of 1991, \$59 billion in FFB borrowings, and \$26 billion in repaid RTC advances and receivership dividends. Unused appropriated funds available to cover losses on September 3, 1991 was approximately \$13 billion.

Thus, through September 3, 1991, the RTC had used \$67 billion of loss funds which it does not expect to recover, and had \$59 billion in FFB borrowings outstanding which it expects to eventually pay back with the proceeds of asset sales.

From its creation through September 3, 1991, the RTC resolved 511 institutions. At the time these institutions were placed under RTC conservatorship, they had approximately \$253 billion in liabilities. All but a very small portion of these liabilities were insured deposits or fully secured liabilities. Through the aggressive sale of assets while these institutions were in conservatorship, the RTC paid down these liabilities to \$188 billion by the time of resolution.

The gross book value of the assets of these 511 institutions at the time of resolution was approximately \$159 billion. Thus, even if every asset could be sold at its original book value, there still would be a shortfall of \$29 billion--the excess of the \$188 billion in liabilities over the \$159 billion gross book value of assets. Unfortunately, although not surprisingly, the assets of these failed thrifts are worth considerably less than

- 26 -

their original book value. Although no one will really know what these assets are worth until they are sold, the RTC estimates that their market value is roughly \$119 billion, or \$40 billion less than original book value. Adjusting for rounding, the total excess of liabilities over the market value of assets is \$69 billion. The receipt of approximately \$2 billion in premiums paid by acquiring institutions for the failed thrifts' franchise value lowered the loss funds actually expended to about \$67 billion.

As noted previously, loss funds are not the only cash the RTC uses at resolution. The RTC attempts at that time to pass to acquirers as many assets as possible in order to offset the liabilities being assumed. However, buyers, as a practical matter, have shown little interest in assets other than those of higher quality--basically, investment grade securities and well-documented one-to-four family mortgages. Thus, the RTC has had to use approximately \$79 billion in working capital funds to pay for deposit liabilities. In effect, the RTC has acquired these assets and will use their collection proceeds to repay the working capital. Through September 3, the RTC had retained assets with an original gross book value of \$122 billion and an estimated market value of \$79 billion. Asset sales after resolution lowered the book value of assets held by RTC receiverships to \$93 billion (including \$6 billion in cash) with an estimated market value of \$53 billion by September 3, 1991.

- 27 -

Charts 7-9 provide a recap of RTC funding through September 3, 1991.

2. Planned Expenditures from September 3, 1991 through October 1991

During September 1991, the RTC expects to close 58 additional institutions with approximately \$23 billion in assets. Loss funds needed to resolve these institutions are estimated to be approximately \$9 billion. Thus, by the end of this fiscal year, the RTC expects to have used \$76 billion in loss funds, or almost all of the loss funds that have been appropriated to it by Congress. In addition, the RTC expects to borrow approximately \$10 billion from the FFB during September to use as working capital. Total FFB borrowings outstanding at the end of September 1991 will thus be approximately \$69 billion.

During October of 1991 the RTC expects to resolve another 27 institutions, with approximately \$8.0 billion in assets that have already been marketed. The estimated cost of resolving these institutions is \$3 billion to \$4 billion. Thus, by the end of October, the RTC will have used up all of the \$80 billion provided to the RTC to cover losses.

3. RTC Funding Needs Beyond October 1991

In testimony before the House Banking Committee in July,

Chart 7

Total cash outlays for resolutions equal the estimated loss plus the estimated recovery value of retained assets.

**Summary of RTC Outlays
 for 511 Thrifts
 through September 3, 1991
 (\$ Billions)**

Negative net worth (book value) of 511 thrifts	29
<i>plus</i> Estimated loss imbedded in assets	40
<i>minus</i> Premiums paid by acquirers	2
<i>equals</i> Total estimated loss	67
<i>plus</i> Assets retained by RTC (est. recovery value)	79
<i>equals</i> Total RTC cash outlays for resolutions	146

Chart 8

**The estimated recovery value of retained assets on
September 3, 1991 was \$53 billion.**

**Estimated Recovery Value of
Assets Retained by RTC
as of September 3, 1991
(\$ Billions)**

Original estimated recovery value of retained assets	79
<i>minus</i> Repayments and dividends paid by receiverships	26
<i>equals</i> Remaining estimated recovery value on 9/3/91	53

Chart 9

**FFB borrowings are used to fund retained assets and
receivership advances.**

**Federal Financing Bank Borrowings
as of September 3, 1991
(\$ Billions)**

Estimated Recovery Value of Retained Assets	53
<i>plus</i> Advances to Conservatorships	5
<i>equals</i> FFB borrowings on 9/3/91	59 *

*** Numbers do not add because of rounding.**

- 28 -

Secretary Brady estimated that the RTC might need up to \$80 billion in additional appropriated funds to cover losses and borrowing authority of up to \$160 billion to finish its job. Given the information we currently have, we see no reason to believe that this estimate is too low.

RTC's funding needs beyond October 1991 depend in a large part on the number of additional institutions the RTC is asked to handle. Clearly, the weaker the recovery, especially in the real estate sector, the more thrift institutions can be expected to need government assistance and the larger RTC funding needs will be. The Office of Thrift Supervision (OTS), which is responsible for placing institutions under RTC conservatorship, divides non-conservatorship thrifts into four groups. For purposes of projecting the RTC's case load, it is the bottom two groups that are important: Group IV, which OTS characterizes as "expected transfers to the RTC," and Group III, which it characterizes as "troubled with poor earnings and low capital," but "not expected to need government assistance." Group III is in turn broken into three subgroups, A, B, and C, based on capital levels and earnings. The III A's have the strongest capital levels and earnings and the III C's have the poorest.

The OTS revises its list of thrifts in various classifications on a quarterly basis. The most recent update was released last Thursday. We have not yet had an opportunity to

- 29 -

thoroughly analyze these new data. Thus, our analysis is based on the OTS classifications of June 12, 1991. However, based on a cursory review of the new data we see nothing that should cause us to revise our opinion that \$80 billion of additional loss funds appears to be sufficient for the RTC's needs.

If the June 12 Group IV's were the only additional institutions that would be transferred to the RTC, then by the end of September, the RTC would have approximately 173 institutions with about \$138 billion in gross assets left to resolve. We estimate that with this total caseload, the RTC would need an additional \$25 billion to \$35 billion in loss funds, and that FFB borrowings outstanding would peak at \$100 billion to \$115 billion.

However, the RTC's caseload may not be restricted to the current Group IV's. If the RTC's caseload were to grow to include the June 12 III C's, then, as of September 30, it would have approximately 234 institutions with about \$199 billion in gross assets left to resolve. Under such circumstances, we estimate it would need up to \$50 billion in loss funds above the \$80 billion already provided, and that FFB borrowings would peak at \$110 billion to \$130 billion. If the III B's were added to this, then the remaining caseload would be approximately 343 institutions, with about \$314 billion in gross assets, and we estimate the RTC would need up to \$80 billion in additional loss

- 30 -

funds and that FFB borrowing would peak at \$120 billion to \$150 billion.

If the Group IIIA's were also added to the list, the RTC's caseload as of the end of September would be approximately 551 institutions with about \$404 billion in assets. The RTC would need \$70 billion to \$100 billion in loss funds above the \$80 billion already appropriated, and working capital would peak at \$130 billion to \$170 billion. While under such circumstances, the RTC might need more than \$80 billion of additional funds, the OTS characterizes Group III as "not expected to need government assistance," and we regard the likelihood that substantially all the Group III's will fail as remote. A recap of these projections is found in Chart 10.

For FY 92, the RTC has forwarded to the Oversight Board for its approval, an operating plan that requests permission to expend up to \$54 billion in loss funds during the fiscal year. As I have already discussed, at the beginning of FY 92, the RTC expects to have remaining roughly \$4 billion out of the \$80 in billion loss funds already provided. These funds are earmarked for resolutions that have already been marketed that are expected to close in October. Thus, new loss funds requested for FY 92 come to approximately \$50 billion. The RTC has also asked the Oversight Board for permission to borrow \$48 billion from the FFB during FY 92 for working capital purposes. This would raise the

Chart 10

RTC Cumulative Estimated Loss Funds Usage and FFB Borrowings (Dollars in Billions)

	No. Cases	Gross Assets*	Total Liab.*	Cumulative		Estimated FFB Borrowing**
				Estimated Loss		
Resolutions as of September 3, 1991	511	251	253	67		59
Projected Resolutions at September 30, 1991	569	285	287	76		69
Remaining Conserv. and Group IV	742	423	418	105-115		100-115
Group III C	803	484	475	115-130		110-130
Group III B	912	599	581	135-155		120-150
Group III A	1120	689	665	150-180		130-170

* Asset and liability data for institutions that have been resolved or are under RTC conservatorship are for the quarter immediately prior to their coming under RTC control. For Group III and Group IV institutions asset and liability data are as of March 31, 1991.

** Net of estimated repayments.

- 31 -

level of FFB borrowing outstanding to \$117 billion.

Of course, no one can really know what the RTC caseload will be and even if this was known, as I have stated many times, no one will really know how much resolving the S&L crisis will cost until the last asset is sold. Thus, in order to ensure that the RTC has sufficient funds for the resolution process to continue without interruption, I urge you to provide the RTC with the full \$80 billion in additional loss funds

PART III: STRUCTURING THE RTC FOR THE FUTURE

The savings and loan debacle has resulted in the most difficult clean-up job ever undertaken by the government or the private sector. The establishment of the present structure to administer the clean-up balanced many desired objectives: efficiency, controls, oversight, experienced personnel, private sector participation, speed, and cost reductions, to name a few.

As the Administration and the Congress addressed the question of how to construct a clean-up mechanism two years ago, it became clear that the FDIC's expertise would be a critical component in any system that was devised. Logically, they chose to link the RTC with the FDIC, who was already in the business of resolving FSLIC cases, through the sharing of the same board of directors and by appointing the FDIC as its exclusive manager.

- 32 -

They also were concerned with protecting public monies and maximizing the taxpayers' recovery through Administration oversight and, accordingly, set up an Oversight Board to provide responsible accountability.

Under the current system, the RTC board has charge of the Corporation's operations. The Oversight Board has responsibility for establishing the plans and policies of the RTC and is, broadly speaking, "accountable for" the RTC. The Oversight Board also may remove the FDIC as the exclusive manager under certain circumstances. The Oversight Board consists of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Chairman of the Federal Reserve System and two citizen members.

Thanks in large part to the committed efforts of Executive Director David Cooke and Oversight Board President Peter Monroe, the somewhat complicated current structure is functioning, and, as I noted earlier, has accomplished a great deal.

However, while significant involvement by the FDIC board was imperative at the outset of the clean-up, now that the RTC's operations are fully underway, the need for direct operational control by the FDIC has passed. Moreover, the need to concentrate the day-to-day decision making in one identifiable individual with all the powers of a traditional corporate CEO has become apparent.

-33-

Therefore, we are at a point, particularly with additional funds again being required, when it would be appropriate to consider what modifications to the present structure would be most effective for the future. As I believe my earlier remarks illustrate, the next two years will be significant ones for the RTC. In view of the task ahead, any changes that would provide greater efficiency should be considered now.

In considering change, however, it should be understood that any restructuring approved could have a negative effect on operations during the period of consideration and implementation simply because of the employee uncertainty and the wait for a plan to be in place. Accordingly, change must be approached with care, weighing the cost of possible lost momentum against potential gains in operating efficiency that may result from structural rearrangements. The FDIC recently took action to separate the legal and personnel functions of the FDIC and the RTC, adding to other functions which have been transferred to the RTC. This move should facilitate any future restructuring as discussed here.

1. Restructuring Proposals

When I testified last June before the Senate Banking Committee I suggested two possible models for reorganization, a single corporate board model and a dual board model, each of

-34-

which, in my view, offered an important opportunity for improvement without impeding current operations significantly.

The Corporate Board Model: This organizational structure is patterned after the standard, private sector corporation. The key elements of this proposal are the creation of an expanded board for the RTC and the establishment of a Chief Executive Officer ("CEO") position for the Corporation.

The RTC board would be the current Oversight Board expanded to include two new members -- the Chairman of the FDIC and the CEO of the RTC. The Secretary of the Treasury would be the Chairman. The unitary RTC board would have the authority and responsibilities now split between the Oversight Board and the current RTC board. Thus, it would operate in the typical corporate structure used by successful business organizations.

The FDIC no longer would be the exclusive manager of the RTC. Rather, the RTC would be managed by a CEO who would be given substantial responsibility and authority to carry out the day-to-day operations and policy implementation. He would be in control of all staff.

In addition to the seven-member board, an executive committee could be created. The executive committee would be empowered to act on behalf of the board in emergencies or in

-35-

other situations for which authority is delegated.

All staff could be transferred to the RTC, but because it would remain a temporary agency, it should continue to use FDIC staff and resources on a reimbursable basis. Current staff of the Oversight Board would be transferred to the RTC.

Although this recommendation would significantly diminish the link between the FDIC board and the RTC board, it would maintain continuity of staff and thus minimize disruption. The time has passed when operational control over the RTC by the FDIC board is necessary. The proposal necessarily, however, would permit the RTC board to draw on FDIC expertise and provide for coordination between the two entities responsible for the liquidating of assets from failed financial institutions.

The creation of a strong CEO position would provide one identifiable individual who would be accountable to Congress and the Administration.

The Dual Board Model: The second option would involve somewhat less of a departure from the current structure. Key elements of this proposal are the focusing of the Oversight Board's duties to oversight; an expansion of the Board's membership; the creation of a strong CEO position; and the establishment of an RTC board with clear operational authority.

-36-

Like the corporate model, the responsibility for running the Corporation on a day-to-day basis would no longer rest with the FDIC as the exclusive manager. Rather, this authority would be vested in the newly-created office of the CEO, who would act under the direction of the RTC operating board. The CEO would be granted certain enumerated powers commensurate with those accorded to a CEO of a private corporation, including the ability hire, reorganize and compensate staff and the powers to implement the policies and procedures of the corporation. The RTC Board could delegate additional authority to the CEO, as appropriate.

To ensure effective input into the deliberations of the Oversight Board, the membership of the current Oversight Board would be expanded by adding CEO of the RTC and the Chairman of the FDIC. The expanded board would be charged with determining broad policy matters such as overall budget and funding requests.

Since the RTC would remain a temporary agency, it could continue to use FDIC staff and resources on a reimbursable basis. However, to provide needed flexibility to the new CEO, the proposal would permit the CEO to hire and establish the duties of staff assigned to the RTC. It would also allow the CEO, upon his appointment, to reorganize as necessary. To avoid any unwarranted employee concern, however, the proposal would require the reassignment within the FDIC of employees whose services are determined to be unnecessary.

-37-

The proposal would retain oversight by cabinet level officials of overall policies with regard to funding and other fiscal concerns. Thus, the Oversight Board would continue to be responsible for reviewing funding in the context of overall government spending and the ultimate cost to the taxpayer. By placing the Chairman of the FDIC and the RTC CEO on the Oversight Board, the restructuring plan would establish a built-in mechanism for the Oversight Board to consider the views of the those charged with daily operations and the formulation and implementation of non-fiscal policy and procedures. The clarification of responsibility for policies and procedures should streamline management of the RTC.

This proposal also has the advantage of a strong CEO with powers traditionally vested in a private sector corporate CEO. Note as well that this option would minimize disruption of RTC staff operations.

2. Suggestions for Other Legislative Changes

In addition to the restructuring proposal I have outlined, the organic statutes under which the RTC operates can be fine-tuned to encourage greater efficiency and provide needed flexibility. Attached as Appendix D is a list of suggested changes. We will provide you in the near future with suggested amendatory language. If the Committee is inclined to pursue

-38-

legislative initiatives that would affect the operations of the RTC, I would urge addition of some of these items.

APPENDIX A

More than 85% of RTC personnel were located in the field, and more than 70% were non-career employees, as of July 31.

	#	%
WASHINGTON	1,027	14
REGIONS	6,433	86
TOTAL	7,460	100
CAREER	2,119	28
NON-CAREER	5,341	72
TOTAL	7,460	100
ASSET MANAGEMENT	2,324	31
CONSERVATORSHIP OPERATIONS	824	11
LEGAL SUPPORT(FDIC)	1,222	16
ADMINISTRATIVE SERVICES	845	11
RESOLUTIONS & CLOSINGS	685	9
INVESTIGATIONS	436	6
CONTRACTING	421	6
FINANCE & ACCOUNTING	423	6
ALL OTHER	280	4
TOTAL	7,460	100

NOTE: Totals exclude 145 staff from the RTC Inspector General and 204 staff from FSLIC Operations, each of which is separately appropriated.

Appendix B

RTC INTERNAL CONTROL ENVIRONMENT

Since its inception RTC management has subscribed to the basic principle of a sound, consistent, and effective internal control environment. The objectives of the RTC's comprehensive internal control program have been to provide not only accurate and timely reporting but also to ensure compliance with various management policies, procedures, and standards.

To this end, RTC has established an Internal Control Task Force to oversee the internal control environment in all RTC operations. This Task Force administers the program from a national perspective and is providing the guidance for the preparation of the annual "management report" required under the Chief Financial Officers' Act of 1990.

Some basic components which comprise the overall internal control program adopted by the RTC follow.

- o RTC began its operations by utilizing to a great degree, the established policies, procedures, standards, and various internal control concepts of the FDIC. As part of GAO's annual review of the FDIC's financial statements, these control concepts were reviewed and validated via their study and evaluation of internal accounting controls.
- o Since inception RTC has issued in excess of one hundred Directives covering specific internal control policies and procedures, guidelines, programs and manuals. These Directives addressed the internal control environment to ensure consistent, reliable and accurate assessment of RTC's overall activities.
- o Currently, various Divisions and Offices are addressing RTC's overall internal financial management control environment. Three specific Offices - the Office of Corporate Finance (OCF), the Office of Program Analysis (OFA), and the Office of Contractor Oversight and Surveillance (COS) - have as part of their mission the added responsibility of reviewing and evaluating RTC's internal control environment.
- o The Office of Corporate Finance (OCF), which embodies the Corporation's Chief Financial Officer, has an Accounting and Operational Control Section. This Section has the responsibility for evaluating RTC's internal accounting control structure at headquarters and in the field.

This evaluation is performed through a comprehensive "Visitation Program" which encompasses a formal review of associated functions and operations at each location.

- o The Office of Program Analysis, functioning as an independent body, provides valuable oversight and analysis of RTC activities for the Corporation's Executive Director. This Office advised senior management of the effectiveness and extent of compliance with various RTC programs. Major programs are reviewed to ensure that statutory requirements are addressed and programs, as designed, are effectively meeting their objectives. Currently, the Office is instituting an internal control audit program for receiverships. This program is designed to specifically address overall accounting and operational controls. The RTC's Inspector General has provided valuable input to this program.

In addition, OPA has been designated as the focal point for preparing the management report to Congress in accordance with legislative requirements; obtaining the associated internal control certifications from all RTC offices; evaluating the material weaknesses identified; and determining that those areas are being addressed in accordance with scheduled improvements. Finally, this Office has been responsible for coordinating and controlling inquiries from the IG and GAO along with tracking and periodically reporting on those reports and issues generated from GAO and the IG.

- o The Office of Contractor Oversight and Surveillance (COS), established in January 1991, has on-going responsibility for reviewing the RTC's contracting operations. One of the primary areas of responsibility has been the study and evaluation of the internal control structure encompassing the Standard Asset Management Agreement (SAMDA) with specific emphasis on detecting fraud, waste, mismanagement, and insider abuse. The Office also has responsibility for reviewing the financial and operating performance of the asset management contractors and the associated risk and vulnerability they pose to the RTC. Currently, the Office is in the process of developing a number of audit programs to evaluate the SAMDA contractor's operations. The programs are being designed to specifically address; internal control, fraud, waste and abuse, contractor/subcontractor incurred costs, financial/management reporting, and compliance.

- o In addition to these three specific Offices, RTC Asset and Real Estate Management Division (AREM) and the Regional and Consolidated Offices are conducting comprehensive Visitation Programs that provide an internal evaluation of the Corporation's field operations. AREM has also established a Visitation Program to review the activities of asset management contractors. This program will be coordinated with the annual audit of SAMDA contractors. The frequency and scope of the Visitation Program will be established by the Oversight Manager for each SAMDA contract, subject to broad guidance set forth in the Oversight Manager Program.

The Program establishes a framework by which RTC monitors and reviews the activities and performance of its asset management contractors. The Visitation Program is an integral part of the RTC's approach to contractor supervision and the periodic on-site presence of the visitation team, in conjunction with other Oversight Manager efforts, provides an additional compliment to the SAMDA audits in assessing the contractor's risk control environment.

- o The Regional and Consolidated Offices through Internal Review Specialists assigned in each office also have an established Visitation Program. These group of individuals report directly to their respective office directors and currently provide an internal auditor function. In this role, they are involved in "audits" or reviews of conservatorship or receiverships, as well as internal office operations.
- o In November 1990, RTC management developed an audit program designed specifically to review the internal controls and the operations of asset management contractors. Certified Public Accounting firms were engaged to audit the asset management activity contracted on a large Savings and Loan in the Southwest. The preliminary results identified potential control weaknesses in the area of cash management and segregation of duties in the real estate accounting functions. As a result of th audit, appropriate action is being taken to strengthen controls in those areas.

One major aspect of internal controls is the cash management function. RTC has been aware of the importance of adequate cash controls since inception. Accordingly, procedures have been established to effectuate such controls. Each RTC Region has controls in place over the receipt and processing of cash and cash items. Central lockbox depository systems have been established to account for incoming payments as well as to ascertain the extent of reviews performed over those operations.

Internal reviews are currently being performed to validate internal controls in various processing cycles, including cash management, reconciliation procedures, documentation procedures, and approval and review procedures.

The review activities within the Regional or Consolidated Offices, the Office of Corporate Finance, Office of Program Analysis, Office of Contractor Oversight and Surveillance, and/or Visitations from RTC Divisions, are ongoing and will serve to further strengthen the overall internal control environment.

In addition to these various internal reviews, the RTC's Office of Inspector General provides an independent review of RTC's activities. Audits conducted by the IG assess the adequacy of program and operations and ensure that established internal controls are sufficient to combat fraud, waste, and mismanagement. The combination of self evaluation and IG oversight enable senior management to continually fine tune the internal control structure.

APPENDIX C



**SEMI-ANNUAL REPORT ON
INVESTIGATIONS
PROGRESS TO DATE**

**Prepared by the
OFFICE OF INVESTIGATIONS
RESOLUTIONS AND OPERATIONS DIVISION
AND
PROFESSIONAL LIABILITY SECTION
LEGAL DIVISION**

JUNE 30, 1991

881 17th Street, NW ■ Washington, DC 20434-0001

TABLE OF CONTENTS

I.	OVERVIEW	1
	- Accomplishments and Projects	
II.	COORDINATION WITH GOVERNMENT AGENCIES	2
	- Criminal Prosecutions	
	- Subpoenas	
	- Coordination with OTS	
	- Civil Recovery and Forfeiture	
III.	STAFFING AND ORGANIZATION	4
	- RTC's Professional Liability Section	
	- RTC's Investigations Branch	
	- Roles and Responsibilities	
IV.	CASE MANAGEMENT	5
V.	SPECIALIZED AREAS OF INVESTIGATIONS	5
	- Accountant Liability Task Force	
	- Securities and Commodities Task Force	
	- Common Borrowers Task Force	
	- Civil Fraud Project	
VI.	CIVIL CLAIMS AND LAWSUITS	7
VII.	RECOVERIES	11
VIII.	CRIMINAL REFERRALS AND PROSECUTIONS	11
	- Prosecutions	
	- Estimate of Fraud and Criminal Conduct	
	- Priority Criminal Cases - "Top 100"	
	- Criminal Indictments, Convictions and other Progress	
IX.	BACKGROUND CHECKS AND CONTRACTOR VERIFICATION	23
X.	CONCLUSION	24

I. OVERVIEW

When President Bush unveiled the plan to clean up the Savings & Loan ("S&L") problem, he said, "I make a solemn pledge that we will make every effort to recover assets diverted from these institutions and to place behind bars those who caused losses through criminal behavior."

The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") of 1989 gave the Resolution Trust Corporation ("RTC") authority to bring civil, but not criminal, actions against individuals for negligent or fraudulent conduct that caused losses to the thrift industry and strengthened criminal statutes to carry out the President's mandate. The RTC's Office of Investigations works with the RTC Professional Liability Section ("PLS") to recover funds from all available sources for losses brought about by professional misconduct, gross negligence or fraud, committed by insiders, borrowers or professionals such as accountants, lawyers, and securities brokers.

The Office of Investigations' other primary goal is to assist the Department of Justice ("DOJ") in prosecuting criminal conduct and restoring misappropriated funds through criminal and civil restitution and forfeiture proceedings.

Accomplishments and Projects

The RTC has created the organization, systems, and staff to achieve these goals. Over the past 18 months, the RTC's Office of Investigations, its investigators

and RTC attorneys have:

(1) recruited and trained a staff of almost 400 financial investigators, assigning them to the 15 consolidated field offices. The RTC began with about 60 investigators who transferred from the Federal Deposit Insurance Corporation's Division of Liquidation ("FDIC/DOL");

(2) staffed 17 new legal offices throughout the country; hired and trained 69 new attorneys and more than 50 new outside counsel;

(3) completed preliminary investigations of 90 percent of the thrifts taken over by the RTC since inception. We are now adequately staffed to dispatch a team of investigators and attorneys to each new thrift on the day of take-over;

(4) streamlined the process for hiring outside contractors to provide investigative services;

(5) assigned specific staff at all investigative sites to coordinate criminal investigations with U.S. Attorneys, the Federal Bureau of Investigation ("FBI") and other law enforcement agencies;

(6) developed standard formats for preliminary findings reports, plans of investigation, case review workplans, and criminal referrals, solicitations and task orders for contracting with outside investigators;

(7) developed and installed a nationwide information system for tracking investigations;

(8) developed a criminal referral data base and a management information system targeting the top 100 criminal cases;

(9) developed an extensive network of data bases, inter-governmental contacts, and other resources to complete background checks on RTC and conservatorship employees and

contractors wishing to do work for the RTC;

(10) established a national asset tracing program to locate misappropriated assets within the United States and in foreign countries.

II. COORDINATION WITH OTHER GOVERNMENT AGENCIES

Criminal Prosecutions

The Department of Justice has the responsibility to prosecute criminal conduct committed by insiders and parties related to RTC-controlled savings associations. RTC investigators and PLS attorneys are working closely with the FBI, U.S. Attorneys, Internal Revenue Service ("IRS"), Securities and Exchange Commission ("SEC") and the Secret Service in order to provide the necessary documents, work papers, and, in some cases, expert testimony needed to prosecute criminal conduct in failed thrifts. The RTC allocates substantial investigative resources to assist the Department of Justice in pursuing criminal cases.

The RTC has assigned a Criminal Coordinator in each of its 15 field offices to handle requests for documents needed in criminal cases, serve as a liaison to law enforcement agencies, attend the local Bank Fraud Working Group meetings, and follow up on the status of major criminal referrals. The RTC participates in more than 25 local bank fraud working groups and in the National Bank Fraud Working Group in Washington, DC.

In February 1991, the RTC issued a directive setting forth the agency's policy

of responding promptly and fully to all subpoenas and requests for information from the Department of Justice relating to the grand jury and prosecution of savings and loan crimes. To the extent that documents requested by DOJ contain privileged material, an RTC attorney must determine whether disclosure of the privileged material would substantially impair the RTC's position in civil litigation. Documents that are not considered privileged by the RTC are released after the Professional Liability attorney assigned to the institution has discussed the scope and relevance of the request with the requesting prosecutor or agent.

Subpoenas

In order to investigate fully the claims which the RTC may have against certain parties in specified institutions, it may, from time to time, be necessary to obtain records or take testimony from sources outside the RTC. Obtaining such records and testimony may require the issuance of subpoenas. The RTC, pursuant to Section 2534 of the Crime Control Act of 1990, has the power to exercise the authority granted by 12 U.S.C.1818(n) to, among other things, administer oaths and take testimony, and to issue subpoenas and subpoenas duces tecum.

Coordination with OTS

On April 29, 1991, the RTC and the Office of Thrift Supervision ("OTS") entered into a formal agreement regarding the exchange of confidential information. This agreement provides for the exchange of information in the possession, custody or control of both the

RTC and OTS for use in the discharge of their respective responsibilities for investigating and bringing related, but separate, claims involving activities in the same thrifts. The RTC and OTS have agreed that, in furtherance of the public interest, they will share investigatory information and legal analyses to pursue more efficiently each agency's mission, and to avoid wasteful duplication of costs and effort. This agreement establishes a procedure pursuant to which confidential information located or generated within the various jurisdictions may be exchanged in a manner that preserves all privileges, immunities, and claims of confidentiality to the fullest extent permitted by law.

Civil Recovery and Forfeiture

The RTC is cooperating with the DOJ-Civil Division; OTS, and FDIC to maximize the recovery of assets through civil recovery actions. Under an agreement with the DOJ, allocation of responsibility for bringing civil actions can be based on the most effective and efficient division of labor to effect civil remedies. The coordinated approach allows the RTC to maximize recovery with the least possible cost to the taxpayer. Under FIRREA and the Crime Control Act of 1990, the RTC and other agencies can choose from an array of civil remedies designed to recover assets and punish the perpetrators of fraudulent conduct against financial institutions, including:

- restitution and recovery actions brought by the RTC and FDIC as receiver, conservator or liquidator;

- administrative civil money penalty or restitution actions brought by the OTS;
- civil forfeitures;
- SEC sanctions; and
- civil penalties brought by the DOJ under Section 951 of FIRREA.

Using these tools, in early July 1990, a coordinated effort by the IRS, FBI and the RTC resulted in the seizure of \$3,249,279 from NCNB Texas, Harlingen, Texas. It is alleged in the NCNB complaint and seizure that the president of Valley Federal Savings Association, (Valley) McAllen, Texas, misappropriated and placed those funds in NCNB after Valley had been taken over by the RTC.

On January 30, 1991, federal law enforcement officials seized Inland Empire Mortgage Corporation and its affiliates, First Regency Mortgage Corp. and Evergreen Escrow Corp., all located in Seattle, Washington. These subsidiaries of Great West Federal Savings, (Great West) Craig, Colorado, an institution with \$17 million in assets and included on the "Top 100" criminal case list, are believed to have diverted \$18 million of Great West's funds for improper business purposes and personal expenses. The seizure of these active, operating companies is the first of its kind since the enactment of FIRREA. The RTC is presently operating these firms in an effort to minimize losses related to Great West's failure.

III. STAFFING AND ORGANIZATION

The RTC's Professional Liability Section

The Washington office of the RTC's Professional Liability Section, under the overall direction of the Assistant General Counsel for Professional Liability, coordinates and manages a nationwide program to obtain civil recoveries, from all available sources, through cost effective and meritorious litigation against directors, officers, and professionals who dealt negligently or fraudulently with thrifts. The Washington office also initiates policies and procedures for conducting its litigation; and it provides guidance nationwide for implementing such policies and procedures. The PLS Counsel in four regional offices oversee the work of attorneys in the field offices, and help coordinate the policy guidance and training provided by the Washington staff.

The RTC's Professional Liability responsibility was recently transferred from the Litigation branch of the FDIC to the RTC branch of the FDIC's Legal Division. This transfer has enhanced the RTC's PLS ability to provide legal services to the RTC. Its abilities were also enhanced when the RTC's PLS tripled in size from October 1990 to May 1991. The PLS has increased its staff from 23 lawyers to 69 lawyers nationwide. In addition to the four regional offices, there are 13 field offices, with two more planned, to coordinate with investigators in 15 consolidated field offices. Since increasing the number of attorneys employed, the RTC's PLS has assigned

responsibility for over 85 percent of the institutions with ongoing investigations to regional and field offices.

The RTC's Investigations Branch

The Washington Office of Investigations oversees and coordinates the RTC's nationwide investigative program. The RTC has staffed the 4 regional and 15 field offices with professionals experienced in financial investigations of thrifts and banks, and other specialists. Accountants, attorneys, appraisers, law enforcement agents, securities and commodities brokers, as well as lending and operations officers were recruited to fill investigative positions.

At the beginning of 1990, the RTC Office of Investigations had two employees in the Washington office; a Senior Investigations Specialist in charge at three of the four regional offices, and a skeletal force of investigators in the field who were transferred to the RTC from FDIC. As of June 30, 1991, 376 investigators and staff were employed nationwide with 51 vacancies in the process of being filled.

RTC investigators are organized into departments and are assigned to the 15 consolidated field offices reporting to an Assistant Director for Investigations in each field office. Senior Investigations Specialists in the regional offices oversee the field investigations and provide policy guidance, training, and investigative support.

Roles and Responsibilities

RTC investigators gather facts and information to support civil recovery

efforts and criminal referrals. Among other duties, investigators control and secure investigative records and target asset files; trace funds, and locate assets that may represent recovery sources. When pursuing professional liability claims, PLS attorneys give guidance to investigators on the course of the investigation and on the facts and theories of legal liability needed to recover civil judgements. With the assistance and approval of Investigations' management, PLS attorneys direct litigation against, and negotiations with, former directors and officers of thrifts, and professionals who dealt with these institutions.

The RTC Investigations staff is supplemented on a case-by-case basis by private investigators and accountants. Private contractors are used to develop cases, support litigation, and provide specialty skills to complex investigations.

During the past six months, the Washington Office of Investigations has streamlined the selection and hiring of outside investigators. Under the new program, the standard random selection process, under the Basic Ordering Agreement ("BOA"), has been replaced with a qualitative selection process performed by the managing investigator responsible for overseeing the work. Investigative firms have been solicited under the standard competitive Solicitation of Services ("SOS") process by the national office and several field and/or regional offices and are being qualified under standard BOA's. Contract awards will be monitored by the Washington Office of Investigations to insure that qualified firms participate and that minority firms are included. Contractor

performance is monitored and reviewed by Investigations staff in the field offices or regional offices as well as by PLS attorneys.

IV. CASE MANAGEMENT

As of June 30, 1991, the RTC was managing 212 thrifts under conservatorship and had resolved 410, for a total of 622 institutions. Each of these institutions is investigated to determine potential civil recoveries and whether criminal conduct was involved in the failure. Through June 30, 1991, 557 Preliminary Findings Reports had been completed, representing 90 percent of total institutions. A quarterly case review process in conjunction with PLS attorneys is used to aid in managing the caseload and allocating resources. During the case reviews, each potential claim is weighed and the cases are prioritized according to the resources demanded in the upcoming quarter; and according to overall importance, potential recovery, enforcement impact, statute of limitation considerations, and other factors.

V. SPECIALIZED AREAS OF INVESTIGATIONS

In addition to the pursuit of director and officer liability and bond claims, the RTC has begun a number of projects and task forces to study specialized topics and types of claims, including: accountants' liability, securities fraud, civil fraud, director and officer insurance, bond coverage issues, and document handling. As expertise develops, these new projects and task forces will provide significant knowledge and information that will assist in analyzing complex topics and claims.

Accountant Liability Task Force

A national committee, comprised of PLS attorneys and CPA investigators with public accounting backgrounds, has been formed to coordinate and accelerate the pursuit of accountant liability cases. The goals of this committee are to:

- (1) provide accounting resources and training to RTC investigators,
- (2) prepare guidelines and procedures for the pursuit of accountant liability claims,
- (3) promote nationwide consistency of approach for accountant liability investigations,
- (4) maintain a current listing of RTC/FDIC accountant liability claims and cases filed,
- (5) determine methods to consolidate, coordinate, and accelerate accountant liability claims.

Securities and Commodities Task Force

We have preliminarily identified more than \$600 million in losses resulting from trades by S&Ls in government securities and their derivatives, in which potential claims and recoveries may be available. We have identified several other investment products created by Wall Street firms which have caused significant losses, where potential claims and recoveries are possible.

A nationwide task force organized by RTC/PLS attorneys will be working on:

- (a) developing a summary of all securities and commodities investigations and litigation for failed financial institutions and issues arising from those cases;

- (b) preparing an Attorney Manual on Securities and Commodities Claims generated from failed financial institutions; and

- (c) preparing an Investigators' Guide to Recognizing and Investigating Securities and Commodities Claims generated from failed financial institutions.

Common Borrowers Task Force

During the course of its investigations, the RTC has increasingly discovered common borrowers and other "outsiders" who may have perpetrated broad schemes against several thrifts across the country. To date, the RTC has established two task forces to accelerate and coordinate the investigation of national and regional targets. The objective of these groups is to consolidate claims, exchange information, coordinate efforts and resources, and reduce costs in a concentrated effort to pursue investigation of the targets. It is expected the use of these multi-jurisdictional task forces will become increasingly common as the RTC pursues additional claims.

Civil Fraud Project

In conjunction with Commercial Litigation staff, RTC Investigations has initiated a pilot project in the Western Region to pursue civil fraud cases against a number of individual thrift borrowers. To date, the major emphasis of the project has been the identification of targets and the pursuit of asset searches on these targets. Once it is determined that sufficient assets exist to warrant pursuit of these cases, the RTC intends to pursue complaints and/or judgments to effect recovery. It is expected these

groups will be implemented nationwide in an effort to accelerate recoveries from borrowers who have defrauded institutions.

VI. CIVIL CLAIMS AND LAWSUITS

As of June 30, 1991, the RTC brought or inherited from the institutions under its control 105 lawsuits against directors, officers and professionals who may have contributed to the failure of a thrift. Eight claims were settled with defendants resulting in the recovery of \$4,637,641 for the first half of 1991. The RTC has recovered a total of \$19,320,641 from settlements of professional liability claims.

The RTC follows a policy of engaging in cost-effective litigation; therefore, unless sufficient assets are identified, litigation will not be pursued unless it is determined that the conduct involved warrants pursuing a claim for deterrent effect or precedential value. Other enforcement methods may be appropriate, however, including referral to the Department of Justice for criminal prosecution or enforcement of the civil penalty and forfeiture provisions established by FIRREA. Also, the OTS can take action to prohibit insiders and professionals from future employment in the financial services industry.

The following provides information concerning recent actions taken on various RTC controlled institutions:

CenTrust Savings, Miami, FL

The RTC placed CenTrust Savings

(CenTrust), Miami, Florida in conservatorship on February 2, 1990. The former chairman and principal shareholder of CenTrust, David L. Paul, is one of the primary targets for both the RTC and the OTS. The OTS has issued a temporary cease and desist order against David Paul.

On November 9, 1990, the RTC amended a complaint that was filed before RTC intervention in CenTrust, by a group of CenTrust shareholders in U.S. District Court for the Southern District of Florida against D. L. Paul and 15 other former directors and officers of CenTrust. The RTC's case in CenTrust focuses on the breach of fiduciary duty and gross negligence that was committed by Paul and the other directors and officers, largely through their wasteful expenditures and speculative junk bond investments that resulted in losses of at least \$250 million. In addition to the excessive salaries, bonuses and dividends, the case concerns the propriety of a \$5 million trust fund that was created solely for the purpose of providing substantial retirement benefits to Paul and other senior executives formerly employed by CenTrust.

In *Gibson et al. v. RTC*, the RTC recovered approximately \$14 million that was being held in an indemnity fund. The fund, originally in the amount of \$11 million, had been created by CenTrust's Board of Directors for the purpose of indemnifying the directors and officers of CenTrust for money they expended on legal fees and judgements against them. The fund was held in trust by the law firm of Bailey, Gerstein, Carhart, Rashkind, Dresnick & Rippingille. After

to Caprock, Mukesh G. Assomull, agreed on April 17, 1991, to plead guilty to one charge of money laundering in connection with the transfers of Caprock funds among accountants.

Century S&L, Baytown, TX

Anthony S. Rome, former president of Century, and Allison Spidelle Clover were indicted in May 1991, for conspiracy to commit bank fraud, misapplication of bank funds, and making false statements. Rome was indicted on fourteen counts and Clover on eight counts.

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TN

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City Federal Savings Bank,

Somerset, NJ

On February 5, 1991, William J. Spagnoli, a senior loan officer of City Federal Savings Bank (City) Somerset, NJ; Gerald Cernero, Charles Sicurrella,

Albert Bresnick, and Daniel Matthews, all real estate developers were indicted for misapplication of loan proceeds, false statements, and direct conflict of interest on Spagnoli's part. Spagnoli was indicted on 30 counts of bank fraud, money laundering and tax evasion. In addition to the 30 count indictment, the U.S. Attorney's office in Newark, New Jersey, filed a warrant seeking the forfeiture of Spagnoli's assets. If convicted on all counts, Spagnoli could face 100 years in prison and millions of dollars in restitution. On February 15, 1991, Spagnoli pled not guilty to the charges. A trial date has not been set. Cernero, Sicurrella, Bresnick, and Matthews pled guilty to paying kickbacks to Spagnoli in return for \$221 million in loans. Sentencing was originally scheduled for May 29, 1991, however, it has been delayed and a new date has not been scheduled.

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Michael R. Bosley, former senior vice president of Colonial Savings, and Larry D. Owsley, a Kansas real estate developer were charged February 27, 1991 with twelve counts involving falsification of loan applications to Colonial for borrowers who were purchasing homes from Owsley. Several of the borrowers were employees of Owsley. The grand jury also charged that Bosley, in a conspiracy with Owsley, made illegal disbursements on construction loans to Owsley and misapplied construction loan funds from the account of one borrower to another.

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Columbia Savings and Loan, Beverly Hills, CA

On February 27, 1991, charges were brought against a former vice president of Columbia Savings & Loan Association, Beverly Hills, California, and two executives of an automatic teller machine (ATM) leasing company with defrauding the thrift of more than \$12 million. Charges were filed against Jeffrey S. Worthy, former Vice President and Director of Financial Planning; Michael E. Parker, president of the bankrupt Parker North American Corp., and Brian W. Fink, its vice president. The 49 count indictment charges racketeering, money laundering, payment and receipt of kickbacks, bank fraud, and tax evasion in an alleged scheme the three created to sell Columbia 100 fraudulent ATM equipment lease packages.

The indictment alleges Parker sold \$166 million in leveraged lease packages to the thrift through Worthy, who received \$1.5 million in kickbacks for his assistance in reviewing and recommending that Columbia buy the packages. Reportedly, many of the leases sold to

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On March 4, 1991, Parker pled not guilty to charges of bilking the institution of \$11 million. A trial date has not yet been scheduled. On May 21, 1991, Brian Fink pled guilty and has agreed to cooperate with the U.S. Attorney's office. Fink will be sentenced November 4, 1991.

Gilbert Fuentes, a former executive of Columbia, was sentenced on July 30, 1991, to thirty days in prison and ordered to perform 3,000 hours of community service for tax evasion.

Comfed Savings Bank, Boston, MA

Significant criminal activity was discovered at Comfed and a total of 119 criminal referrals have been filed. Already, there have been two criminal trials. Criminal investigations continue due to massive fraud in the loan portfolio. It is anticipated that total losses associated with the fraud will approach \$300 million. The fraud was perpetrated through schemes such as straw borrowers and false statements, and fraudulent appraisals.

Patricia Hajjar, a former vice president of Comfed was sentenced to

the institution was placed into conservatorship, the RTC's Managing Agent repudiated the indemnity fund contractual arrangement that the directors and officers had entered into with their attorneys. Two of CenTrust's former directors and the law firm challenged the RTC's repudiation of the contract. The Southern District Court of Florida decided the matter in favor of the RTC, awarding the RTC the approximate \$14 million held in the indemnity fund. The directors and the law firm have appealed the District Court's decision.

On March 31, 1991, the OTS approved a hardship request by David L. Paul in which Paul contended that he was unable to pay all of his legal bills and other personal and business expenses. Paul is required to provide monthly bank statements to verify allowable expenses. He is also required to comply with an October OTS order requiring him to post a \$31 million bond to cover CenTrust money which the Government claims Paul used personally.

Columbia Savings and Loan, Beverly Hills, CA

Columbia Savings and Loan (Columbia), Beverly Hills, CA was placed in conservatorship on January 25, 1991. Preliminary data indicate that the losses at Columbia may ultimately be as high as \$2 billion. RTC/PLS has assumed a number of lawsuits related to the directors and officers, as well as litigation by Columbia's insurance carrier to rescind the blanket bond coverage. In a related matter, the RTC has taken over litigation involving fraudulent leveraged leasing programs on which Columbia lost

over \$31 million.

In September 1990, the OTS filed an administrative complaint against Thomas Spiegel, former Chief Executive Officer of Columbia. The OTS seeks a \$5 million civil money penalty and \$53 million in restitution for Spiegel's expenditures for personal benefits such as luxury items and real estate.

The RTC is continuing its investigation of the liability of directors, officers and other professionals associated with Columbia for corporate waste and mismanagement.

Drexel Burnham Lambert

The RTC and the FDIC in their corporate capacity as conservator and receiver, filed a \$6.8 billion consolidated proof of claim on November 14, 1990, against the Drexel Burnham Lambert Group, Inc., in U.S. Bankruptcy Court for the Southern District of New York.

The filing accuses the defendants of a scheme of coercion, extortion, and bribery to purchase junk bonds underwritten by Drexel. The FDIC and the RTC allege that Drexel and its co-conspirators engaged in a wide range of illegal conduct including market manipulation, threats, bribery, agreements to control prices, and numerous fraudulent misrepresentations about the value and liquidity of junk bonds. The claim requests that actual damages be tripled due to violations of federal racketeering laws.

In addition, the RTC and the FDIC in their corporate capacity as conservator

and receiver, filed a \$6 billion joint civil complaint on January 18, 1991 against Michael Milken, Lowell Milken, Frederick H. Joseph, Edwin Kantor, Cary J. Mautasch, Leon D. Black, Eugene Wong, Joshua Friedman, Marc Rapaport, Peter Gardiner, Robert Davidow, Peter Ackerman, John H. Kissick, Kevin Madigan, Richard S. Frary, Donald Engel, David W. Bergmann, Lorraine Spurge, Warren Trepp, Bruce L. Newberg, Gary Winnick, Richard V. Sandler, Craig M. Cogut, Edward G. Victor, Richard A. Bergman, Bergman, Knox & Green, Thomas P. Spiegel, Charles H. Keating, Jr., David L. Paul, Lambert Brussels Associates Limited Partnership, Groupe Bruxelles Lambert S.A., Pargesa Holdings S.A., SAIF Investments B.V., and assorted investment partnerships.

The suit accuses the defendants of a scheme of coercion, extortion and bribery to obtain thrift investments from 1982 through August 1989. The FDIC and RTC allege that 44 failed thrifts now under their control had losses estimated at \$1.25 billion because of Drexel junk bond investments. The FDIC and RTC are seeking an additional \$750 million in damages for the defendants' alleged unlawful profits on the transactions, for the loss of other earnings that the thrifts could have made by investing the money in other investments, and for excess fees and commissions. The suit asks for the actual damages to be tripled to \$6 billion under federal racketeering law.

The outside law firms, PLS attorneys, and RTC investigators have accomplished the following:

1. Proofs of claim in the amount of \$6.8 billion were filed in the Drexel bankruptcy on behalf of 45 institutions under the control of the FDIC and/or RTC on November 14, 1990. According to the terms of this settlement, the FDIC and RTC will receive a base recovery in excess of \$435 million.

2. As a result of this settlement, the FDIC and RTC also acquired an interest in a number of additional claims against Michael Milken and other Drexel insiders. These claims include *inter alia*, Drexel's right to recover over \$1 billion of compensation paid to Michael and Lowell Milken.

3. A preliminary understanding with the SEC was reached that would ensure the FDIC/RTC's receiving a major portion of the \$400 million to be distributed from the Milken civil disgorgement fund which is controlled by the SEC.

4. All assets were successfully frozen in the investment partnerships that have been sued by the FDIC and RTC. To date, this freeze has prevented proposed partnership distributions in excess of \$100 million.

5. An agreement was reached with James Dahl, a senior Milken deputy, which calls for Mr. Dahl to transfer his partnership interests to the FDIC and RTC (to be "pooled" under the terms of the bankruptcy settlement). This agreement also requires Mr. Dahl to cooperate fully in our prosecution of all Drexel securities litigation.

6. Access to information

identifying significant funds in partnership distributions was found which can be traced to former Drexel officers and employees.

7. Negotiations were undertaken with a number of defendants who have tentatively proposed settlements totalling tens of millions of dollars.

8. More than 80 securities have been identified and are being investigated, which, on their face, appear to warrant further investigation to determine whether institutions were defrauded in connection with their decision to purchase these securities.

9. Additional claims against issuers, professionals and holders of securities involved in junk bond offerings underwritten by Drexel were identified.

City Federal Savings Bank, Somerset, NJ

This \$10 billion association has generated virtually all types of professional liability claims. In February 1991, four separate claims (occurrences of dishonesty) totalling almost \$150 million were submitted to the carriers which had issued fidelity bonds with approximately \$60 million of coverage. The RTC continues its investigation of directors, officers and accountants who appear to have contributed to losses of approximately \$200 million. Recovery of substantial loss incurred through City's purchase of junk bonds is being pursued through the Drexel bankruptcy. One major criminal indictment has been handed down and several individuals have pled guilty to bank fraud.

Midwest Savings, Minneapolis, MI

When the RTC placed Midwest into conservatorship in 1989, this \$3.5 billion association was already immersed in litigation. There is a \$200,000,000 lawsuit against both commercial and professional defendants (attorneys and accountants). Separately, the RTC/PLS is involved in litigation, commenced by the director/officer liability insurance carrier, designed to rescind the relevant \$10 million policy.

MeraBank, Phoenix, AZ

A \$270 million dollar lawsuit was filed on April 23, 1991, against twenty former directors and officers of MeraBank for their negligence, breach of fiduciary duty, and breach of contract. The suit contends that MeraBank changed its emphasis in the 1980s from residential mortgages to a program of rapid growth through large, high risk loans and joint ventures. Management's failure to adequately control this expansion and take measures to reduce risks directly resulted in the failure of this \$6 billion thrift. Our sources of recovery are \$100 million in directors and officers insurance and substantial personal assets.

Libertyville FS&L, Libertyville, IL

A \$20 million dollar lawsuit was filed March 21, 1991, against six former directors and officers of Libertyville. The complaint charged the directors and officers with mismanagement and breach of fiduciary duties in connection with commercial real estate loans in Colorado and Texas.

Lincoln Savings & Loan Association, F.A., Irvine, CA

The RTC in its capacity as conservator for Lincoln Savings and Loan Association, F.A. (Lincoln) filed a civil complaint in September of 1989 against Charles H. Keating, Jr., Charles H. Keating, III, Judy J. Wischer, Robert J. Kieley, Robert M. Wurzbacher, Jr., Andrew F. Ligget, Robert J. Hubbard, Jr., Andre A. Niebling, Mark S. Sauter, Gary W. Hall, William J. Keating, the spouses of the above named defendants, and affiliated companies. The suit charges the defendants with violating both state and federal racketeering laws and federal violation of federal Racket Influenced and Corrupt Organizations Act (RICO). In addition, the suit alleges common law fraud, civil conspiracy, breach of fiduciary duties, and gross negligence. The suit seeks damages of \$1.716 billion. The complaint was amended on April 1, 1991, to include Connerly Wolfswinkel, a major borrower; Jack Atchison, a CPA who previously worked for Arthur Young before joining Lincoln; and C.V. Nalley, a borrower.

The OTS filed administrative charges against Charles H. Keating, Jr. and five other officials seeking \$40.9 million. Subsequently, Keating was ordered to provide regulators with current financial statements; to refrain from transferring any assets overseas; and to give regulators 48 hours notice before making any transaction involving more than \$5,000.

Peoples Bank, Streator, IL

The RTC filed a \$895,000 lawsuit

on February 25, 1991, against Northland Insurance Company, the fidelity bond carrier for Peoples Bank for Savings (Peoples), Streator, Illinois. The suit contends that John B. Schnure, former president and chief executive officer of the bank, manipulated the books and records of the bank and made misrepresentations to the Board of Directors in order to facilitate the bank's acquisition of Crest Savings and Loan Association in Kankakee, Illinois, and in an attempt to purchase Seaboard Savings Bank in Stuart, Florida. Schnure's conduct contributed to losses of approximately \$5.2 million.

VII. RECOVERIES

As of June 30, 1991, the RTC has received cash recoveries of \$19,320,641 from professional liability actions. Recoveries approaching \$100 million are virtually certain pending appeals and legal settlement details.

The RTC has been awarded \$90,808,679 in criminal restitution orders as of June 6, 1991.

VIII. CRIMINAL REFERRALS AND PROSECUTIONS

As of June 30, 1991, the RTC Office of Investigations has uncovered suspected criminal conduct in 360 of the 622 thrifts coming under the control of the RTC. As of the end of June 1991, 1,629 criminal referrals were filed with the Department of Justice.

Prosecutions

The Department of Justice reported as of

June 6, 1991, they had charged 764 defendants and had secured the conviction of 550 individuals in major savings and loan fraud cases which includes S&Ls under the control of the FDIC, RTC or OTS. In RTC-controlled savings and loans, DOJ indicted a total of 402 defendants and convicted 153 individuals.

Major prosecutive activity in RTC-controlled savings and loan prosecutions as of June 6, 1991 is as follows, with all numbers considered to be approximate:

Information/Indictments:	402
S&Ls Victimized:	168
Defendants Convicted:	153
Prison Sentences:	289 yrs, 2 mo.
Fines Imposed:	\$ 1,901,700
Restitution Ordered:	\$90,808,679

Estimate of Fraud and Criminal Conduct in RTC Thrifts

The following estimates are based upon preliminary review of RTC-controlled institutions as of June 30, 1991:

- Roughly 58 percent of RTC controlled thrifts have had suspected criminal misconduct referred to the Department of Justice.
- Fraud and potentially criminal conduct by insiders contributed to the failure of about 38 percent of the RTC thrifts.

Priority Criminal Cases, Top 100

A priority list of 100 criminal cases was compiled by representatives of OTS, FDIC, and RTC at a meeting in Indianapolis, Indiana in June 1990, and reviewed and updated at a follow-up

status meeting in Atlanta, Georgia in February 1991. The objective was to focus the attention of the Justice Department on the thrift cases that, in the view of the regulators, represented the most egregious criminal violations.

Significant progress has been made since the designation of the so-called Top 100 cases. DOJ has assigned additional resources to many of the cases and the RTC has responded by developing additional criminal referrals, tracing funds, producing documents, and otherwise assisting the FBI and U.S. Attorneys.

Criminal Indictments, Convictions, and Other Progress

Brookside Savings, Los Angeles, CA

On November 16, 1990, Brookside was placed into resolution, and prior to that time, the majority of the suspected individuals had plead guilty or had been indicted by the grand jury. Michael S. Moers, the former co-owner and chairman of Brookside, pled guilty on August 27, 1990, to four criminal counts involving falsifying records, misapplication of funds, and aiding and abetting. Moers sentencing, originally scheduled for June 10, 1991, has been postponed until September 16, 1991. Arthur M. Pastel, who owned 50 percent of Brookside for approximately 10 months prior to Moers purchase of the thrift, pled guilty to three felony charges on August 13, 1990, in connection with the same real estate scheme in which both men allegedly concealed their interest in an apartment complex in San Antonio,

Texas when they sold it to the thrift, and received \$1.67 million from the thrift through a third party. Pastel was sentenced April 17, 1991, to 16 months in jail, one year of community service, and \$1.25 million in restitution. Richard Breithaupt Jr., who had been charged with acting as the "straw man" in the San Antonio transaction, plead guilty as the phony owner and was sentenced on January 7, 1991 to a six month jail term, five years probation, and a \$5,000 fine. On November 13, 1990, Los Angeles attorney David Altshuler pleaded guilty to two felony counts for his role in the real estate scheme. Altshuler's sentencing, originally scheduled for June 10, 1991, has been delayed until September 16, 1991.

On May 6, 1991, Peter Cartmell, former president of Brookside, pled guilty to charges of bank fraud. Cartmell admitted to aiding and abetting former Brookside owners in a scheme to make it look as if the thrift had made a \$3 million profit on a phony securities transaction. On July 1, 1991, Cartmell was sentenced to four months in prison, three years probation and a \$5,000 fine for his role in the fraudulent transaction. John Rollo, a former borrower of Brookside who is terminally ill, has paid \$175,000 in restitution which has been deposited in an interest bearing account at Wells Fargo. Rollo has not pled guilty to any charges; however, he wished to settle with the RTC and not have his estate attached at a later date.

Caprock Savings and Loan, Lubbock, TX

On May 11, 1990, Robert E.

Savage, former executive vice president and chief financial officer of Caprock Savings and Loan Association (Caprock) was charged with conspiracy to defraud the United States. Savage and others agreed in late 1988 to participate in a stock purchase transaction to artificially increase the net worth of Caprock, and ultimately defraud government regulators. The transaction was documented to create a false impression that Savage and other Caprock officers were negotiating and dealing at arms length with a foreign lender to obtain the funds for the stock purchase. Savage pled guilty on July 20, 1990, and was sentenced to five years probation with the condition that he serve three months incarceration in a halfway house for his role in the conspiracy. He was ordered to pay restitution of \$70,043.

On April 30, 1991, four executives and two lawyers for Caprock were charged with conspiring to defraud the institution and launder money. This is the first time federal money laundering statutes have been applied in a thrift fraud case. The six defendants are accused of concocting a complicated scheme to use funds borrowed from Caprock to buy stock in the thrift's now defunct parent company, Great West Banc Shares, Inc. The four executives charged in the indictment are George F. Dillman, chairman and chief executive officer; William C. Hatfield, chairman of the executive committee; Kenneth L. Hird, general counsel and chief lending officer; and Anthony C. Nims, president. Also indicted were attorneys James D. Eggleston, Jr. and Mary Lou Garcia for their involvement in the conspiracy. In a case related to the Caprock case against the former officers, a financial consultant

to Caprock, Mukesh G. Assomall, agreed on April 17, 1991, to plead guilty to one charge of money laundering in connection with the transfers of Caprock funds among accountants.

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Patricia Hajjar, a former vice president of Comfed was sentenced to

three years imprisonment, a \$7,000 fine, and \$8,000 in restitution. Hajjar and two others were convicted on 106 counts of bank fraud, false statements, and conspiracy.

On March 21, 1991, Frank A. Buco, a former executive vice president of Comfed, pled guilty in federal court to bank fraud, making false statements, and conspiracy. Buco was accused of defrauding Comfed by concealing second mortgages from Comfed's underwriting department. As a result, scores of unqualified buyers received 100 percent financing. Buco is the twelfth person convicted of fraud and other offenses connected to defrauding the bank. Comfed has reported 85 separate incidents of suspected criminal activity to authorities.

On May 23, 1991, William W. Lilly, Sheldon M. Stone, Gerald Sarro, Louis Bifolck, J. Barry Dwyer, and Peter Nuell were charged with defrauding ComFed and BayBank of more than \$2.6 million through a broad conspiracy to falsify loan documents and applications at a New Hampshire condominium project. Trial is scheduled for July 29, 1991.

In 1989, RTC had filed a criminal referral on Lilly and other suspects at Royal Palm Federal S&L, West Palm Beach, Florida. Lilly was charged in December 1990, with 31 counts of bank fraud involving \$11 million in loans he had with First Mutual Savings of Boston and Royal Palm of West Palm Beach, FL.

Drexel Burnham Lambert

Michael Milken, the former head

of Drexel Burnham Lambert, was indicted on 98 felony counts in 1990. He pled guilty to six charges of securities fraud and on November 21, 1990, Milken was sentenced to ten years in prison, ordered to pay \$200 million in fines, and \$400 million in restitution. On March 19, 1991, the SEC permanently barred Milken from the securities industry.

Former Drexel official Alan E. Rosenthal was indicted on May 10, 1991, on 11 counts of conspiracy, fraud and embezzlement. The indictment alleges that Rosenthal conspired with Milken and others to create more than \$1.6 million in phony tax losses for David B. Solomon, the former head of Solomon Asset Management, Inc. Solomon, one of Drexel's clients, received immunity for criminal prosecution in exchange for his cooperation with the government. If convicted, Rosenthal faces as much as 51 years in prison and \$2.3 million in fines.

First Federal Savings & Loan Association, Bakersfield, CA

Rosa Castro, an employee of First Federal Savings and Loan Association, (First Federal), Bakersfield, California was sentenced on March 18, 1991, to 21 months imprisonment and ordered to pay restitution to the RTC in an amount of approximately \$575,000. Castro had previously entered into a plea agreement in which she admitted to embezzling funds from First Federal.

First Savings Association of East Texas, Houston, TX

Roy W. Dailey, former president and chief executive officer, was convicted

on six counts of bank fraud and making false statements to federally insured institutions on December 7, 1990. On March 9, 1991, Dailey was sentenced to 12 years in prison and ordered to pay \$5,548,037 in restitution.

Hill Financial. Red Hill. PA

On May 23, 1991, a one count information was filed against Gary H. McGill. The information charges that McGill submitted a financial statement which was false and fraudulent in that it underestimated McGill's liabilities by approximately \$700,000. The statement was submitted to Hill Financial in connection with McGill's personal guarantee of an \$825,000 loan made by Hill. McGill was the CEO of United Savings Bank in Wyoming. He faces charges related to the failure of that institution as well.

Imperial Federal Savings Association. San Diego. CA

There have been 10 convictions resulting from criminal activities involving Imperial Federal Savings Association, San Diego, California, and there are two indictments where the individuals are out of the country in fugitive status. In the latest conviction, Bruce Li was sentenced February 21, 1991, to five and one-half years in prison and ordered to pay a \$150,000 fine.

LaHacienda Savings Association. San Antonio. TX

William M. Kelly, John T. Haney, and Matt L. Steffert, all former borrowers of LaHacienda, were previously

charged with fraud and bribery as a result of their involvement in the offenses committed at the LaHacienda Savings Association, San Antonio, Texas. On May 24, 1991, Kelly was sentenced to three years in prison, five years probation, a \$20,000 fine, and \$75,000 in restitution. Haney was sentenced to three years in prison, a \$15,000 fine, and \$75,000 in restitution on May 29, 1991. Steffert was sentenced on May 31, 1991, to three years in prison, five years probation, a \$250 fine, and \$260,740 in restitution.

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Midwest Federal, Minneapolis, MN

On October 5, 1990, a federal grand jury re-indicted Hal Greenwood, former chairman, and three other former high ranking officers of Midwest Federal, adding new charges of racketeering and conspiracy against all four; and illegal insider trading against Greenwood. This 49 count indictment supersedes and combines two indictments against the four executives. In March 1991, Susan Greenwood Olson, the daughter of Chairman Greenwood and a former Vice President of Midwest, was charged with ten felony counts in connection with a loan to the Jockey Club, a Miami, Florida resort. The indictment charged Olson authorized large loans to the resort despite the fact she knew they could not be repaid, conspired to conceal the losses in order to collect bonuses, and submitted a false appraisal on the resort to regulators. Peter P. Jackson, a New York appraiser, has pleaded guilty for his role

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The latest indictment charges Greenwood with 38 felonies. New charges include two counts of illegal insider trading in the stock of Greentree Acceptance, a former Midwest subsidiary, and one count each of racketeering conspiracy and racketeering. The charges also seek \$5.1 million in restitution from Greenwood. In addition, Masica is charged with 33 counts seeking forfeiture of \$691,000; Mampel, a former Minnesota banking commissioner, is charged with 22 counts seeking \$373,000; and Olson was charged with nine new counts, totalling 20 counts seeking \$143,000. The new charges allege the former thrift officials benefitted financially from a series of acts that ultimately led to Midwest's downfall.

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On April 17, 1991, James A. Cruce the former president of Peoples, pled guilty to three counts of fraud and one count of conspiracy to defraud a federally insured financial institution. Federal prosecutors dropped 34 other charges in exchange for the guilty plea. The charges stemmed from an alleged scheme to defraud the thrift of \$105 million. Cruce faces a maximum sentence of 20 years in prison and a \$1 million fine. Sentencing, originally scheduled for June 24, 1991, has been moved up to August 1, 1991. Thomas D. Dunn, Jr., former chairman

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On April 18, 1991, John Coles, former president of Peoples was convicted on twenty-two counts, including misapplication of funds, bank fraud, money laundering, and false statements. Coles was sentenced on July 2, 1991, to 11 1/4 years of incarceration with no parole. Coles was also ordered to pay \$568,026 in restitution based on documents provided by the RTC Criminal Coordinator. In addition, Coles' sister, Francine Coles, pled guilty on fraud counts earlier and was sentenced May 14, 1991 to six months home confinement. Coles testified against her brother in his trial as part of her plea agreement.

Pima S&L, Tucson, AZ

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and Ance M. Sutton, an officer of Barclay's Mortgage Corporation were sentenced for a loan kickback scheme in which Mortimer recommended five loans to Sutton or his interests in exchange for over \$10,000 and jewelry in payoff. Mortimer would withhold key information from the Director's Loan Committee or misrepresent the credit worthiness of Sutton. Pima lost over \$9.3 million on these loans as well as another \$15.5 million on other loans in which a borrower was also paying bribes to Mortimer. Mortimer received five years of imprisonment (the maximum allowed), five years probation, \$15,000 in fines, and \$68,300 in restitution. Sutton was sentenced to the maximum five year term and fined \$30,000.

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On March 14, 1991, James P. McClain, a former borrower of the above institutions, pled guilty to two separate one count informations charging him

with conspiring to conceal the true financial condition of Peoples from federal and state regulators, conspiring to commit bank fraud with respect to San Jacinto, conspiring to defraud Peoples and Security Savings through misapplication of funds, and conspiring to commit bank fraud. The informations charge that McClain and others agreed to participate in a scheme where the value of several real estate parcels was increased through land flips, resulting in the savings and loans overfunding the loans which provided \$1.6 million to McClain and others to purchase the stock of a savings and loan located in the Chicago area. In addition, it was charged that McClain and others participated in schemes involving sham sales of property and apartment complexes in order to remove them from the books of the savings and loans and avoid regulatory problems. McClain has agreed to cooperate in the continuing investigation. He faces a maximum penalty of ten years imprisonment and a fine of \$500,000 or both. McClain has already been convicted of making a false income tax return and has been sentenced to five years imprisonment and fined \$250,000 on that conviction.

Silver S.A., Silver City, NM

Beginning in February 1988 and continuing until December 1989, Jesus Perez transferred \$314,000 from various accounts to the accounts controlled by his wife and himself and used these funds for his own personal use. On October 24, 1990, Perez was indicted by a New Mexico grand jury on 15 felony counts of bank fraud. Perez has entered into plea negotiations with the assistant U.S. Attorney.

to Caprock, Mukesh G. Assomull, agreed on April 17, 1991, to plead guilty to one charge of money laundering in connection with the transfers of Caprock funds among accountants.

Century S&L, Baytown, TX

Anthony S. Rome, former president of Century, and Allison Spidelle Clover were indicted in May 1991, for conspiracy to commit bank fraud, misapplication of bank funds, and making false statements. Rome was indicted on fourteen counts and Clover on eight counts.

Century Federal S&L, Trenton,

TN

On May 17, 1991, six individuals pleaded guilty to bank fraud charge in connection with the 1989 failure of Century Federal. Between 1984 and 1987, Century made 776 mobile home loans valued at roughly \$15 million to purchasers in Tennessee, Mississippi, Alabama, and Florida. Many of the loans, which became extremely delinquent were refinanced using forged borrowers' signatures and misrepresented down payments. The six who pleaded guilty were John Leone, Linda Leone, Tom Ray, Catherine Jones, William A. Daugherty, and William R. Daugherty. A sentencing date has not been set.

City Federal Savings Bank,

Somerset, NJ

On February 5, 1991, William J. Spagnoli, a senior loan officer of City Federal Savings Bank (City) Somerset, NJ; Gerald Cernero, Charles Sicurrella,

Albert Bresnick, and Daniel Matthews, all real estate developers were indicted for misapplication of loan proceeds, false statements, and direct conflict of interest on Spagnoli's part. Spagnoli was indicted on 30 counts of bank fraud, money laundering and tax evasion. In addition to the 30 count indictment, the U.S. Attorney's office in Newark, New Jersey, filed a warrant seeking the forfeiture of Spagnoli's assets. If convicted on all counts, Spagnoli could face 100 years in prison and millions of dollars in restitution. On February 15, 1991, Spagnoli pled not guilty to the charges. A trial date has not been set. Cernero, Sicurrella, Bresnick, and Matthews pled guilty to paying kickbacks to Spagnoli in return for \$221 million in loans. Sentencing was originally scheduled for May 29, 1991, however, it has been delayed and a new date has not been scheduled.

Colonial Savings Association of
America, Liberal, KS

Michael R. Bosley, former senior vice president of Colonial Savings, and Larry D. Owsley, a Kansas real estate developer were charged February 27, 1991 with twelve counts involving falsification of loan applications to Colonial for borrowers who were purchasing homes from Owsley. Several of the borrowers were employees of Owsley. The grand jury also charged that Bosley, in a conspiracy with Owsley, made illegal disbursements on construction loans to Owsley and misapplied construction loan funds from the account of one borrower to another.

Colonial Federal Savings Association, Roselle Park, NJ

On March 21, 1991, a New York grand jury returned a 136 count indictment against former officers and directors of Colonial Federal, Michael and Stephanie Shea and former CEO Antonio Castellet charging a scheme to defraud a number of New York commercial and international banks of several million dollars. They were also charged with diverting \$2.5 million from Colonial.

Columbia Savings and Loan, Beverly Hills, CA

On February 27, 1991, charges were brought against a former vice president of Columbia Savings & Loan Association, Beverly Hills, California, and two executives of an automatic teller machine (ATM) leasing company with defrauding the thrift of more than \$12 million. Charges were filed against Jeffrey S. Worthy, former Vice President and Director of Financial Planning; Michael E. Parker, president of the bankrupt Parker North American Corp., and Brian W. Fink, its vice president. The 49 count indictment charges racketeering, money laundering, payment and receipt of kickbacks, bank fraud, and tax evasion in an alleged scheme the three created to sell Columbia 100 fraudulent ATM equipment lease packages.

The indictment alleges Parker sold \$166 million in leveraged lease packages to the thrift through Worthy, who received \$1.5 million in kickbacks for his assistance in reviewing and recommending that Columbia buy the packages. Reportedly, many of the leases sold to

Columbia did not exist or their value was greatly overstated. Columbia paid \$31 million in cash and the balance in non-recourse notes for the packages. Parker allegedly diverted \$11 million for himself, Worthy, and two others with lesser roles in the scheme. The net loss to Columbia is between \$11 and \$31 million. The OTS is seeking \$25 million in restitution from Worthy, Parker, and Fink and has requested that all three be banned from the federally insured financial industry.

On March 4, 1991, Parker pled not guilty to charges of bilking the institution of \$11 million. A trial date has not yet been scheduled. On May 21, 1991, Brian Fink pled guilty and has agreed to cooperate with the U.S. Attorney's office. Fink will be sentenced November 4, 1991.

Gilbert Fuentes, a former executive of Columbia, was sentenced on July 30, 1991, to thirty days in prison and ordered to perform 3,000 hours of community service for tax evasion.

Comfed Savings Bank, Boston, MA

Significant criminal activity was discovered at Comfed and a total of 119 criminal referrals have been filed. Already, there have been two criminal trials. Criminal investigations continue due to massive fraud in the loan portfolio. It is anticipated that total losses associated with the fraud will approach \$300 million. The fraud was perpetrated through schemes such as straw borrowers and false statements, and fraudulent appraisals.

Patricia Hajjar, a former vice president of Comfed was sentenced to

three years imprisonment, a \$7,000 fine, and \$8,000 in restitution. Hajjar and two others were convicted on 106 counts of bank fraud, false statements, and conspiracy.

On March 21, 1991, Frank A. Buco, a former executive vice president of Comfed, pled guilty in federal court to bank fraud, making false statements, and conspiracy. Buco was accused of defrauding Comfed by concealing second mortgages from Comfed's underwriting department. As a result, scores of unqualified buyers received 100 percent financing. Buco is the twelfth person convicted of fraud and other offenses connected to defrauding the bank. Comfed has reported 85 separate incidents of suspected criminal activity to authorities.

On May 23, 1991, William W. Lilly, Sheldon M. Stone, Gerald Sarro, Louis Bifolck, J. Barry Dwyer, and Peter Nuell were charged with defrauding ComFed and BayBank of more than \$2.6 million through a broad conspiracy to falsify loan documents and applications at a New Hampshire condominium project. Trial is scheduled for July 29, 1991

In 1989, RTC had filed a criminal referral on Lilly and other suspects at Royal Palm Federal S&L, West Palm Beach, Florida. Lilly was charged in December 1990, with 31 counts of bank fraud involving \$11 million in loans he had with First Mutual Savings of Boston and Royal Palm of West Palm Beach, FL.

Drexel Burnham Lambert

Michael Milken, the former head

of Drexel Burnham Lambert, was indicted on 98 felony counts in 1990. He pled guilty to six charges of securities fraud and on November 21, 1990, Milken was sentenced to ten years in prison, ordered to pay \$200 million in fines, and \$400 million in restitution. On March 19, 1991, the SEC permanently barred Milken from the securities industry.

Former Drexel official Alan E. Rosenthal was indicted on May 10, 1991, on 11 counts of conspiracy, fraud and embezzlement. The indictment alleges that Rosenthal conspired with Milken and others to create more than \$1.6 million in phony tax losses for David B. Solomon, the former head of Solomon Asset Management, Inc. Solomon, one of Drexel's clients, received immunity for criminal prosecution in exchange for his cooperation with the government. If convicted, Rosenthal faces as much as 51 years in prison and \$2.3 million in fines.

First Federal Savings & Loan Association, Bakersfield, CA

Rosa Castro, an employee of First Federal Savings and Loan Association, (First Federal), Bakersfield, California was sentenced on March 18, 1991, to 21 months imprisonment and ordered to pay restitution to the RTC in an amount of approximately \$575,000. Castro had previously entered into a plea agreement in which she admitted to embezzling funds from First Federal.

First Savings Association of East Texas, Houston, TX

Roy W. Dailey, former president and chief executive officer, was convicted

on six counts of bank fraud and making false statements to federally insured institutions on December 7, 1990. On March 9, 1991, Dalley was sentenced to 12 years in prison and ordered to pay \$5,548,037 in restitution.

Hill Financial, Red Hill, PA

On May 23, 1991, a one count information was filed against Gary H. McGill. The information charges that McGill submitted a financial statement which was false and fraudulent in that it underestimated McGill's liabilities by approximately \$700,000. The statement was submitted to Hill Financial in connection with McGill's personal guarantee of an \$825,000 loan made by Hill. McGill was the CEO of United Savings Bank in Wyoming. He faces charges related to the failure of that institution as well.

Imperial Federal Savings Association, San Diego, CA

There have been 10 convictions resulting from criminal activities involving Imperial Federal Savings Association, San Diego, California, and there are two indictments where the individuals are out of the country in fugitive status. In the latest conviction, Bruce Li was sentenced February 21, 1991, to five and one-half years in prison and ordered to pay a \$150,000 fine.

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with conspiring to conceal the true financial condition of Peoples from federal and state regulators, conspiring to commit bank fraud with respect to San Jacinto, conspiring to defraud Peoples and Security Savings through misapplication of funds, and conspiring to commit bank fraud. The informations charge that McClain and others agreed to participate in a scheme where the value of several real estate parcels was increased through land flips, resulting in the savings and loans overfunding the loans which provided \$1.6 million to McClain and others to purchase the stock of a savings and loan located in the Chicago area. In addition, it was charged that McClain and others participated in schemes involving sham sales of property and apartment complexes in order to remove them from the books of the savings and loans and avoid regulatory problems. McClain has agreed to cooperate in the continuing investigation. He faces a maximum penalty of ten years imprisonment and a fine of \$500,000 or both. McClain has already been convicted of making a false income tax return and has been sentenced to five years imprisonment and fined \$250,000 on that conviction.

Silver S.A., Silver City, NM

Beginning in February 1988 and continuing until December 1989, Jesus Perez transferred \$314,000 from various accounts to the accounts controlled by his wife and himself and used these funds for his own personal use. On October 24, 1990, Perez was indicted by a New Mexico grand jury on 15 felony counts of bank fraud. Perez has entered into plea negotiations with the assistant U.S. Attorney.

**Trinity Valley Savings & Loan,
Cleveland, TX**

Alan Rothery, former chairman of the board of Trinity, was indicted August 2, 1990, on charges of bank fraud, self dealing, misapplication of bank funds, and embezzlement. On April 4, 1991, Rothery pled guilty to two counts of bank fraud. He was accused of embezzling more than \$4 million from the institution by obtaining loans for himself or his associates. In June 1991, Rothery was sentenced to 12 years in prison, ordered to pay \$1 million in restitution, and fined \$50,000.

United Savings, Patterson, NJ

A criminal investigation was instituted by the FBI and the IRS before United Savings Bank, Patterson, NJ was placed in conservatorship. The former Chief Executive Officer, Donald Moskowitz, was convicted of bank fraud and tax evasion on September 27, 1990. Also, Ronald Rudd, former Comptroller, was convicted of bank fraud and tax evasion on November 27, 1990. Sentencing, originally scheduled for January 15, 1991, was postponed to April 24, 1991, which was delayed again and has not been re-scheduled. An outside vendor, Gordon Merrick, who paid kickbacks to Moskowitz, was convicted of tax evasion in November, 1990. The RTC petitioned the court for restitution to be awarded for claims against Moskowitz and Rudd.

Donald Biber, a Fort Lee, New Jersey developer, was sentenced on May 17, 1991, to 500 hours of community

service for helping obtain a no-show job for a banker's sister in exchange for a \$5.5 million loan. Biber was also fined \$10,000.

**Universal Savings Association,
Houston, TX**

On December 11, 1990, insiders from Universal Savings, former President and CEO J.D. Purdom, subsidiary President M.L. Schehin, and R.A. Hargrave were indicted on ten counts of income tax evasion and conspiracy. The trial began May 13, 1991 and on June 6, 1991, Martin Schehin was found guilty of one count of understating his income and two counts of making a false statement. Schehin faces up to thirteen years in prison and a \$750,000 fine. Sentencing is scheduled for August 23, 1991. Purdom was acquitted of tax and bank fraud charges and Hargrave was sentenced to two years probation. The RTC has requested that restitution be granted.

On September 17, 1990, Daniel Beszborn and Joseph Bailey Westmoreland, former borrowers of Universal, were indicted on six counts of bank fraud. Trial, which was scheduled for May 13, 1991, has been postponed until November 1991.

Westport Savings, Los Angeles, CA

Jordan F. Miller, the former President and CEO of Westport Savings Bank in Hanford, California, was indicted September 21, 1990 on one count of check kiting. Miller is alleged to have used a scheme to defraud the thrift on an almost daily basis from January through July 1987, by inflating his account as much as

\$1.2 million. Miller entered a guilty plea in January 1991 with sentencing originally scheduled for March 1991. This date has been moved up to July 15, 1991.

IX. BACKGROUND CHECKS AND CONTRACTOR VERIFICATION

The Financial Institutions Reform Recovery and Enforcement Act of 1989 ("FIRREA") sets standards of competence and integrity for individuals who intend to perform contract services for the RTC. One of FIRREA's fundamental standards prohibits anyone who has been convicted of a felony from contracting with the RTC. The RTC has issued a regulation entitled "Qualifications of Ethical Standards of Conduct for, and Restrictions on the use of Confidential Information by Independent Contractors", 12 CFR Part 1606. Prospective contractors "self-certify" that they are in compliance with these standards. The RTC believes it would be imprudent to rely solely on this self-certification process to ensure contractor compliance with FIRREA. Therefore, among other safeguards, the RTC has established a background check unit within its Office of Investigations to screen contractors and individuals prior to awarding contracts.

The RTC conducts routine background checks for two classes of individuals; RTC and conservatorship employees; and contractors (officials of the contracting firm and the individuals designated to work on the specific project).

Currently, the RTC works primarily with the Department of Treasury's Financial Crimes Enforcement Network ("FINCEN"), FBI, Secret Service,

regulatory agencies and private investigative firms to conduct comprehensive criminal history and background checks on organizations and individuals to be employed or hired by the RTC.

As of June 30, 1991, the Investigations Systems Section received and processed a total of 6,205 inquiries for the first half of 1991. Over 11,000 names of individuals and firms have been checked since the system was established.

X. CONCLUSION

During the first half of 1991, the RTC concentrated on setting case priorities; getting professional liability legal resources in place in consolidated field offices across the country; streamlining the process of hiring outside investigators; and refining the asset tracing, background check and contractor verification support functions provided by the Office of Investigations. Considerable time and effort has been put into standardizing policies, procedures and formats, establishing the underpinnings of an effective investigative organization. An automated case tracking system has been installed at the field and regional office levels and has undergone numerous refinements during the past six months.

During the remainder of this year our resources will be allocated to the production and litigation of claims leading to substantial asset recoveries in the coming months. We will continue to support criminal prosecutions and intend to recommend additional asset forfeiture proceedings.

Summary Statistics

The following table presents updated statistics as of August 10, 1991, concerning number of thrifts in conservatorship and number resolved; number and percentage of preliminary finding reports (PFRs) in RTC thrifts; fraud and abuse in thrifts; number of criminal referrals; and staffing information from the four regions:

	CNTRAL	EAST	STWST	WEST	TOTAL
THRIFTS					
No. Thrifts in cons/ship	49	69	21	15a	154
No. Thrifts resolved	183	103	111	87b	484
TOTAL:	232	172	132	102	638
PRELIMINARY FINDINGS REPT					
% of completed PFRs in cons/ship & resolved thrifts	94%	92%	98%	95%	94%
No. of completed PFRs	217	158	130	97	602
No. of PFRs in progress	14	14	2	5	35
FRAUD & ABUSE IN THRIFTS					
No. of thrifts where fraud/abuse contributed to failure.	58	51	74	52	235
CRIMINAL REFERRALS					
Criminal referrals - RTC	93	116	191	132	532
Crim. Referrals-Others	261	250	501	164	1176
TOTAL: (RTC & Others)	354	366	692	296	1708
No. of Thrifts with Criminal Referrals	125	84	95	64	368
STAFFING					
No. of Personnel Author.	112	167c	88d	104e	471
No. of Personnel Hired	106	121	79	77	383
No. of Vacancies	6	46	9	27	88

APPENDIX D

Suggested Legislative Changes

1. Amend § 11(e)(10) of the FDIA to clarify that a holder of a "Qualified Financial Contract" (which generally is a contract to buy and sell securities and other instruments) may not declare a default under the contract upon the appointment of a receiver, as long as the RTC or the FDIC notifies the holder by close of business the next business day after the appointment of the receiver. The amendment will also provide that the RTC or the FDIC will be deemed to have notified a person if it has taken reasonable steps to provide such notice. This corrects a drafting error which occurred in the Conference Committee on FIRREA.

2. Amend § 11(d)(5)(C)(ii) of the FDIA to provide that a receivership claimant discovered subsequent to the initial mailing of notice of the bar date to receivership claimants shall file a claim with the receiver by the later of 30 days after the original bar date or 30 days after notice was mailed to the discovered claimant. This provision does not now clearly provide a bar date for claimants discovered after the initial mailing of notice.

3. Amend § 21A of the FHLBA and § 11 of the FDIA to permit the RTC as conservator or receiver to substitute an RTC guarantee for the performing loans and other assets securing a Federal Home Loan Bank advance. This will permit the RTC to dispose of these assets while fully protecting the Federal Home Loan Banks from defaults on advances.

4. Amend § 11(c) of the FDIA and § 21A(b) of the FHLBA to clarify that after August 9, 1992, the RTC will continue to act as conservator and receiver for those institutions placed in its control prior to that date and will be appointed conservator or receiver for those same institutions after that date in order to facilitate resolutions.

5. Amend § 11(o) of the FDIA to preserve all privileges for all documents shared by government agencies in the pursuit of their mission. Currently, one such provision exists for supervisory records given by OTS to the RTC, but no similar provision protects the RTC when it gives information to OTS. Concern about the loss of attorney-client and attorney work product privileges has complicated information sharing between the RTC and the OTS and, consequently, slowed the pace of recoveries at both agencies.

6. Amend § 11(k) of the FDIA to eliminate any ambiguity about the intent of Congress in setting the standard of care for officers and directors at no less than gross negligence: amend to clarify that this provision does not bar suits based on simple negligence where state law permits.

7. Amend § 21A(1)(3) to permit the RTC, in any capacity, to remove a case to the DC District or the district in which the failed institution had its principal place of business.

8. Amend section 8(d)(14) of the FDIA to clarify that claims acquired by the RTC/FDIC from institutions in conservatorship or receivership, involving violations of federal or state statutory law, and securities fraud violations are subject to a six-year statute of limitations, rather than the three-year limit applicable to common law torts. This amendment would also allow the RTC/FDIC to revive claims, notwithstanding any provision of state or federal law that would set an earlier deadline for filing suit, if the claim could have been brought by the institution for which the FDIC/RTC has been named conservator or receiver, at any time within the six-year period prior to appointment, even though the claim could not have been brought by the institution at the time of the FDIC/RTC's appointment. This amendment is consistent with the approach taken with respect to defaulted student loans transferred to the government.

9. Amend 18 U.S.C. § 709 to include expressly the RTC in the list of federal government agencies for which it is a crime to misuse the name or acronym. Under existing law, last amended in 1988, the FDIC is expressly included as a covered agency, but not the RTC.

10. Amend section 5(e) of the FDIA to give the RTC the power to invoke the cross-guarantee protections. In FIRREA, this section was omitted from the list of FDIC powers available to the RTC, and this amendment would clarify that the RTC can also invoke these protections. This amendment would also allow the FDIC/RTC to invoke these protections merely by asserting formally the intention to provide assistance to a troubled institution to prevent holding companies from "parking" assets in one subsidiary institution and selling off the other institutions. Finally, this amendment would restrict the exemption for "debts previously contracted in good faith" to cases in which the exemption itself is invoked in good faith.

S A I F
 Savings Association Insurance Fund
Industry Advisory Committee
 Washington, DC 20429-9990

Larry A. Caldwell, Chairman
 & Cambridge Savings Bank
 814 Wheeling Avenue
 Cambridge, Ohio 43725
 Phone: 1-614-432-5641

September 11, 1991

The Honorable Frank Annunzio
 United States House of Representatives
 & Mr. Kenneth Swab
 Sub-Committee on Financial Institutions,
 Supervision, Regulation & Insurance
 212 O'Neill House Office Building
 New Jersey Avenue & C Streets S.E.
 Washington, D.C. 20515

RE: RESOLUTION TRUST CORPORATION (RTC) HEARINGS
SEPTEMBER 12, 17 AND 19, 1991

Dear Congressman Annunzio:

I am writing on behalf of the Savings Association Insurance Fund Industry Advisory Committee (SAIFIAC) consisting of six public interest members appointed by the Federal Deposit Insurance Corporation and one SAIF insured thrift member elected from each of the twelve District Federal Home Loan Banks.

SAIFIAC urges Congress to extend from August 9, 1992 to December 31, 1994, the date from which the SAIF Fund will be responsible for deposit insurance liability.

Please find attached "Statement in Support of Extension of the FIRREA August 9, 1992 Deadline" which we urge the Committee to study carefully.

Sincerely,



Larry A. Caldwell,
 Chairman

LAC/alf

Attachment

S A I F
Savings Association Insurance Fund
Industry Advisory Committee
 Washington, DC 20429-9990

STATEMENT IN SUPPORT OF EXTENSION
OF THE FIRREA AUGUST 9, 1992 DEADLINE

Prior to January 1, 1992, no premiums from SAIF-insured institutions go to the SAIF. All are paid to the FSLIC Resolution Fund.

Premiums payable to the SAIF from January 1, 1992 through December 31, 1992 will be less than \$2.0 billion.

A large portion of those premiums will not be retained by the SAIF but are earmarked for FICO and REFCORP. During 1990, approximately \$1.8 billion was paid by the SAIF to FICO and REFCORP.

AS A RESULT, PREMIUMS RETAINED BY THE SAIF PRIOR TO AUGUST 10, 1992 WILL BE INSIGNIFICANT IN AMOUNT.

Treasury payments mandated for fiscal 1992 to supplement SAIF revenues have not been appropriated and are not included in the fiscal 1992 budget. If action is not taken by September 30, 1991, such payments will not be available when the SAIF assumes its responsibilities on August 10, 1992.

ABSENT RECEIPT OF THE TREASURY REVENUE SUPPLEMENTS, VIRTUALLY NO FUNDS WILL BE AVAILABLE TO THE SAIF FOR RESOLUTION ACTIVITY IMMEDIATELY FOLLOWING AUGUST 9, 1992. EVEN IF THE TREASURY PAYMENTS ARE FORTHCOMING, THE SAIF WILL HAVE INADEQUATE FUNDS.

The GAO agrees: "...the Savings Association Insurance Fund may be close to, if not actually, insolvent when it assumes all the duties of deposit insurer." See the Committee's May 1991 Report at pages 7-8.

Treasury payments to maintain SAIF's net worth also are mandated by FIRREA, but such funds would need to be appropriated by Congress in the face of actual or pending insolvency of the SAIF.

The Committee assumes Congress would prefer not to address funding for the SAIF while it addresses funding for the BIF. An early insolvency of the SAIF must be avoided.

Proposals to increase SAIF assessment rates will not alleviate the short-term problem. The inability to build SAIF reserves is not due to inadequate assessment rates; assessments paid by SAIF-insured institutions are not going to the SAIF.

THE ONLY SOLUTION IS AN EXTENSION OF THE AUGUST 9, 1992 DEADLINE TO PROVIDE ADDITIONAL TIME TO BUILD SAIF RESERVES AND PROVIDE FOR SAIF FUNDING. THE COMMITTEE RECOMMENDS AN EXTENSION TO DECEMBER 31, 1994.

1412E

Question 11: Authorized Brokered Deposits



MEMORANDUM TO: William H. Roelle
Deputy Executive Director

FROM: Arthur G. Stow
Deputy Director, Regional Operations

SUBJECT: Congressman Annunzio's Data Request

We have attached the response to Item request (11) of Mr. Annunzio's letter of August 20, 1991. Using data as of July 31, 1991, we have created the RTC Authorized Brokered Deposit Schedule. The Schedule's "Total Amount" column reports the amount of brokered funds "authorized by the RTC" which is defined as any new or renewed brokered deposits received by the institution since the date of conservatorship. The "Fee Paid" relates to the amount of fees paid to the brokers for the "authorized" amount of funds deposited at the institutions. The Schedule contains data for the 63 outstanding conservatorship institutions reporting brokered deposit balances outstanding as of July 31, 1991.

We have gathered detailed information on the 9 largest institutions in volume of brokered deposits which have 90 percent of the national total of all brokered deposits in conservatorships. Brokered deposits at these 9 institutions represent almost 50% of their total deposit base. The brokered deposits in the other 54 institutions represent only 3% of their total deposit base. In my earlier memorandum I explained that to pursue broker deposit, broker name and fee information on those additional 54 shops would require time beyond the deadline for response to Mr. Annunzio, as those shops generally are less likely to have reporting mechanisms in place to produce the data quickly and would require significant resources to complete the request.

The Schedule separately reports the 9 largest institutions in volume of brokered deposits from the 54 other institutions with brokered deposits. For each "Top 9" institution, the Schedule contains the Brokers' names, deposit amounts, and fees received. For all 63 institutions, the Schedule contains the outstanding amount of brokered deposits and the highest rates offered by maturity for brokered Certificates of Deposit as reported by the conservatorships on July 31, 1991. Each institution set is segregated by RTC region with a grand total and regional total reported after the grouping of 9 and 54. An aggregate grand total and regional total is reported on the last page of the Schedule.

I hope this information is helpful. Please contact John Kotsiras of my staff at 416-7259 should you have any questions.

801 17th Street, NW ■ Washington, DC 20434-0001

RTC AUTHORIZED BROKER DEPOSIT SCHEDULE

ASSOCIATION NAME	CITY/STATE	BROKER NAME	TOTAL AMOUNT (1)	FEE PAID (2)	AMOUNT OUTSTANDING (in millions)	BROKERED CERT. OF DEPOSIT RATE(PERCENT) (3)				
						30 DAYS	60 DAYS	90 DAYS	180 DAYS	1 YEAR

As of 7/31/91

EASTERN REGION

1	First Federal	Raleigh, NC	American Cap Resources	\$198,000.00	\$192.86					
			Amurdon Associates	989,000.00	\$278.11					
			Financial Northeastern Corp.	\$16,909,856.00	\$12,271.47					
			First Empire Funding Corp.	\$790,000.00	\$652.81					
			Great Eastern Management, Inc.	\$16,832,860.00	\$10,819.53					
			High Yield Management Sec., Inc.	\$44,510,140.32	\$33,368.26					
			Mutual Money Desk	\$5,497,000.00	\$3,994.12					
			National Portfolio	\$3,965,000.00	\$2,141.74					
			Peak Financial Management, Inc.	\$60,000.00	\$61.03					
			Pioneer Services, Inc.	\$1,275,900.00	\$1,369.82					
			US Sterling Capital Corp.	\$195,000.00	\$181.09					
			FHLB As-Agent	\$65,342,276.08	\$50,808.95					
			TOTAL	\$146,094,302.30	\$95,848.39	\$128.0	6.25	6.25	5.8	6.5

2	United FIB	Vienna, VA	FAC	\$6,817,000.00	\$6,057.00					
			High Yield	\$7,384,000.00	\$12,175.00					
			Financial North	\$27,379,864.00	\$32,276.00					
			Federal Home Loan Bank of Dallas	\$60,240,848.00	Not Available					
			TOTAL	\$131,861,832.00	\$51,210.00	\$68.1	5.8	5.8	5.8	6.34

3	American Pioneer	Orlando, FL	Prudential-Bache	\$45,032,000.00	\$7,000.00					
			Smith Barney	\$49,429,000.00	\$9,948.00					
			TOTAL	\$90,461,000.00	\$14,448.00	\$386.9	N/A	N/A	N/A	N/A

NORTH-CENTRAL REGION

4	Sevens Federal	Little Rock, AR	FAC	\$13,635,197.00	\$11,197.00					
			Financial Northwest	\$6,277,368.00	\$8,181.00					
			High Yield	\$51,891,482.00	\$32,088.00					
			Professional Assets	\$1,921,000.00	\$1,916.00					
			U.S. Sterling	\$1,277,000.00	\$1,680.00					
			American Capital	\$597,000.00	\$1,351.00					

RTC AUTHORIZED BROKER DEPOSIT SCHEDULE

ASSOCIATION NAME	CITY/STATE	BROKER NAME	TOTAL AMOUNT (1)	FEE PAID (2)	AMOUNT OUTSTANDING (in millions)	BROKERED CERT. OF DEPOSIT RATES/PERCENT (3)				
						30 DAYS	60 DAYS	90 DAYS	180 DAYS	1 YEAR
As of 7/31/91										
SOUTHWEST REGION										
6	Franklin BA	Ottawa, KS								
		Prudential-Bache	\$2,787,794,800.00	\$16,727,040.00						
		Various Others	\$116,156,120.00	\$696,980.00						
		TOTAL	\$2,903,950,920.00	\$17,424,020.00	\$1,848.4	5.9	5.95	6.15	6.45	
SOUTHWEST REGION										
6	Blanchette Savings Pasadena, TX	American Capital Resources	\$10,096,063.00	\$28,358.00						
		FAC Securities, Inc.	\$44,135,026.00	\$75,195.00						
		Financial Northeastern Corporation	\$50,091,037.00	\$66,602.00						
		First Empire Funding Corporation	\$20,648,990.00	\$43,583.00						
		High Yield Management, Inc.	\$161,041,839.00	\$317,190.00						
		Peak Financial Management, Inc.	\$11,185,000.00	\$26,051.00						
		Pioneer Services, Inc.	\$37,868,860.00	\$67,598.00						
		Professional Assets Capital Mark	\$6,075,000.00	\$14,608.00						
		Financial Investments	\$63,114,397.00	\$156,973.00						
		United Savings Association of Te	\$70,094,014.00	\$114,808.00						
		Sale Deposit Investments, Inc.	\$43,648,971.00	\$80,470.00						
		TOTAL	\$638,898,960.00	\$1,054,400.00	\$118.4	5.50	5.50	5.90	6.00	5.95
WEST REGION										
7	San Jacinto	Houston, TX								
		Prudential-Bache	\$31,500,000.00	\$47,351.00						
		TOTAL	\$31,500,000.00	\$47,351.00	\$571.7	5.80	5.85	6.00	6.20	
WEST REGION										
8	Columbia Savings Irvine, CA		\$0.00	\$0.00	\$2,878.2	5.95	5.90	5.95	6.15	6.00

RTC AUTHORIZED BROKER DEPOSIT SCHEDULE

ASSOCIATION NAME	CITY/STATE	BROKER NAME	TOTAL AMOUNT (1)	FEE PAID (2)	AMOUNT OUTSTANDING (in millions)	BROKED CERT. OF DEPOSIT RATES (PERCENT) (3)				
						30 DAYS	60 DAYS	90 DAYS	180 DAYS	1 YEAR
9	Far West Savings Irvine, CA		\$0.00	\$0.00	\$740.8	N/A	N/A	6.1	6.35	7.25
TOTAL			\$0.00	\$0.00						
As of 7/31/91										
TOTALS:						AVERAGE RATES (4)				
TOP 9 INSTITUTIONS			\$7,829,000,672.40	\$37,407,102.78	\$6,575.1	5.80	5.82	5.94	6.11	6.37
EAST			\$398,417,132.20	\$151,801.39	\$571.0					
NORTHCENTRAL			\$2,975,827,714.00	\$17,485,190.00	\$1,097.0					
SOUTHWEST			\$670,590,900.00	\$1,101,751.00	\$688.1					
WEST			\$0.00	\$0.00	\$3,619.0					

EASTERN REGION:

10	American FSB	Santford, ME			\$3.2	N/A		6.13	N/A	N/A
11	Comfed Savings	Lowell, MA			\$19.3		5.60	5.60	5.75	5.85
12	Security SALA	Waterbury, CT			\$3.9		5.55	N/A	5.60	6
13	Center SALA	Cifton, NJ			\$9.9		5.25	5.25	N/A	5.5
14	Danbury SALA	Danbury, CT			\$1.4	N/A		N/A	5.85	6.3
15	Mainstay FedSav	Red Bank, NJ			\$11.2	N/A		N/A	5.45	5.83
16	Microbank FSB	Palladium Park, NJ			\$37.2		5.50	5.50	5.60	5.9
17	State SVG FSB	Jackson Heights, NY			\$31.2		5.60	5.60	5.69	6.1
18	Bell SVG BK	Upper Darby, PA			\$7.6		5.70	5.70	5.70	5.9
19	Colony SB	Monaca, PA			\$35.7	N/A		N/A	5.60	5.9
20	Coreast FSB	Richmond, VA			\$30.3		5.30	5.30	6.05	6.4
21	John Hanson FSB	Bellville, MD			\$10.0		5.60	5.60	5.60	6.4
22	Southeastern FS	Charlotte, NC			\$1.5		5.48	N/A	5.73	5.93
23	Surely FS&LA	Morganton, NC			\$7.9		5.85	5.85	5.85	6.1
24	Amerifirst	Miami, FL			\$19.9		5.30	5.50	5.60	5.75
25	Federal Sig Bank	Atlanta, GA			\$12.2	N/A		N/A	5.80	6.1
26	Louisiana Sig Bk	Metairie, LA			\$5.6		5.75	5.75	6.00	6.25
27	New Metropolitan	Hialeah, FL			\$1.3		5.85	N/A	6.15	6.35
28	Mercantile Sig Bk	Southaven, MS			\$13.8		5.00	5.00	5.00	5
29	Corn. FS&LA	Hartford, CT			\$0.6		5.60	5.60	5.60	5.7
30	First Atlantic	Plainfield, NJ			\$0.3		5.85	5.85	5.73	6.02
31	Sentry FSA	Norfolk, VA			\$0.9		5.75	5.75	5.75	6
32	Florida FSB	St. Pete, FL			\$0.6		5.70	5.60	5.90	6.1
33	Peoples FSA	Bay St. Louis, MS			\$0.4		5.25	5.35	5.45	5.6
34	Sovereign FSB	Palm Harbor, FL			\$0.1	N/A		N/A	5.70	5.9
TOTALS			N/A	N/A	\$284.2		5.55	5.60	5.66	7.12

RTC AUTHORIZED BROKER DEPOSIT SCHEDULE

ASSOCIATION NAME	CITY/STATE	BROKER NAME	TOTAL AMOUNT (1)	FEE PAID (2)	AMOUNT OUTSTANDING (in millions)	BROKED CERT. OF DEPOSIT RATES (PERCENT) (3)				
						30 DAYS	60 DAYS	90 DAYS	180 DAYS	1 YEAR
As of 7/31/91										
NORTHCENTRAL REGION										
35 Superior FSA	Cleveland, OH				\$8.2	N/A	N/A	N/A	N/A	N/A
36 Altus FSB	Mobile, AL				\$30.8	5.25	5.25	5.50	5.85	6.00
37 Dryades S&L Ass	New Orleans, LA				\$25.8	5.65	5.65	5.70	5.75	5.80
38 Metropolitan FSB	Nashville, TN				\$5.0	5.60	5.60	5.80	6.05	6.50
39 American Svc BK	Ada, OK				\$23.9	5.30	5.40	5.80	5.90	6.15
40 First Svc. Assoc	Paragould, AR				\$7.9	N/A	N/A	5.70	N/A	N/A
41 Progressive FSB	Natchitoches, LA				\$5.9	N/A	N/A	5.40	5.60	5.80
42 First FL&LA of Pitt	Pittsburg, KS				\$41.5	5.63	5.63	5.80	5.80	5.80
43 Home SB FSB	Salt Lake City, UT				\$42.5	N/A	N/A	6.13	6.35	N/A
44 Commerce FSB	Lowell, IN				\$1.0	N/A	N/A	5.45	5.75	5.95
45 Ludington FSB	Ludington, MI				\$1.0	N/A	N/A	5.50	6.00	6.15
46 Cimarron FSA	Muskegon, OK				\$0.1	4.95	5.15	5.50	5.65	6.10
47 Jonesboro FSB&L	Jonesboro, LA				\$0.4	N/A	N/A	5.50	5.75	5.75
TOTALS			N/A	N/A	\$145.8	5.40	5.45	5.63	5.85	6.00
SOUTHWEST REGION										
48 Citysavings	San Antonio, TX				\$5.7	5.75	5.90	6.00	6.10	6.10
49 Bayshore FSA	LaPorte, TX				\$3.9	5.50	5.50	5.75	5.95	6.20
50 Benjamin Franklin	Houston, TX				\$26.2	5.50	5.50	5.85	6.00	6.15
51 City Savings & LA	San Antonio, TX				\$5.7	5.75	5.90	6.00	6.10	6.10
52 Columbia FSA	Webster, TX				\$43.2	N/A	N/A	5.65	5.80	6.00
53 El Paso FSA	El Paso, TX				\$39.4	6.25	6.25	6.30	6.30	6.30
54 Sunbelt SVB	FSB Irving, TX				\$15.7	5.60	5.60	5.75	5.95	6.20
55 Victoria SA FA	Victoria, TX				\$27.5	N/A	N/A	N/A	N/A	N/A
56 Citizens Security	Borger, TX				\$0.5	5.50	5.70	5.85	6.00	5.95
57 Standard F&LA	Houston, TX				\$0.2	N/A	N/A	5.80	6.00	6.00
58 Timberland FSA	Nacodochas, TX				\$0.3	5.55	5.55	5.90	6.00	6.30
TOTALS			N/A	N/A	\$162.6	5.66	5.71	5.87	6.01	6.12
WESTERN REGION										
59 Guardian S&LA	Hunting Beach, CA				\$26.0	6.25	6.35	6.50	6.50	6.77
60 Executive SB	Marina Del Rey, CA				\$11.6	6.00	6.00	6.25	6.50	N/A
61 Security F&LA F	Albuquerque, NM				\$8.9	5.75	5.75	5.75	6.00	6.25
62 County Bank FSB	Santa Barbara, CA				\$11.0	N/A	N/A	N/A	N/A	N/A
63 Pan American SB	San Mateo, CA				\$0.1	5.80	5.80	6.22	6.32	6.64
TOTALS			N/A	N/A	\$11.5	5.95	5.96	6.16	6.33	6.55

RTC AUTHORIZED BROKER DEPOSIT SCHEDULE

ASSOCIATION NAME	CITY/STATE	BROKER NAME	TOTAL AMOUNT (1)	FEE PMD (2)	AMOUNT OUTSTANDING (in millions)	BROKERS CERT. OF DEPOSIT RATE (PERCENT) (3)	90 DAYS	180 DAYS	1 YEAR
AGGREGATE NATIONAL TOTALS:									
		TOP 8-OTHERS	\$7,829,809,872.40	\$37,487,102.76	As of 7/31/81				
		EAST	\$368,417,132.20	\$181,801.39					
		NORTH-CENTRAL	\$2,978,827,714.00	\$17,286,189.00					
		SOUTH-WEST	\$570,558,990.00	\$1,101,751.00					
		WEST	\$0.00	\$0.00					

Footnotes:

- (1) Reports the amount of brokered funds "authorized by the RTC" which is defined as any new or renewed brokered deposits received by the institution since the date of conservatorship.
- (2) Related to the amount of fees paid to the brokers for the "authorized" amount of funds deposited at the institutions.
- (3) Rate data represents the highest rates offered as of July 31, 1981 by maturity for brokered Certificates of Deposit.
- (4) Arithmetic Average. Not weighted average since required data for weighted average is not available.

SECTION-BY-SECTION DESCRIPTION
OF A PROPOSAL TO
RESTRUCTURE THE RTC

Sec. 1 Accountability of Oversight Board.

This section limits the Oversight Board's accountability to accountability for performing its duties under the § 21A of the Federal Home Loan Bank Act.

Sec. 2 Restructuring the Oversight Board.

This section changes the composition of the board from the current 5 members to 7 members by the addition of the Chairman of the FDIC and the chief executive officer of the RTC as nonvoting members.

Sec. 3 Oversight Board Duties and Authorities.

This section changes the current law by permitting the RTC to develop and establish overall goals and policies. The Oversight Board's role is to review and require modification of the overall goals and policies.

The Oversight Board will review financial plans and budgets of the RTC prior to implementation. Under current law the Oversight Board develops and establishes the RTC's financial plans and budgets.

Current law permits the Oversight Board to require modification of any RTC policy, procedure, guideline, rule or regulation. This section only permits the Oversight Board to require modification if the policy, procedure, guideline, rule or regulation is materially inconsistent with: 1) the RTC's overall goals and policies, 2) the policies and purposes of applicable law, 3) the economical discharge of the corporation's duties, or 4) sound public policy. All policies, regulations, guidelines, etc., regarding conservatorships and receiverships must be consistent with those of the FDIC. The Oversight Board will have no authority to require modification of internal administrative policies and procedures, including without limitation, personnel practices, staffing, delegations of authority, and day-to-day administrative practices, nor will it have authority over case specific matters.

This section also permits the Oversight Board to appoint a chief executive officer of the RTC and another citizen member to the Board of Directors of the RTC.

Sec. 4 Limitation on Oversight Board Authority.

This section makes a conforming change to reflect the fact that the Oversight Board approves the RTC's overall goals and policies instead of developing and establishing the same.

Sec. 5 Duties of the RTC.

This section transfers authority to develop overall strategies, policies and goals, subject to the review of Oversight Board.

Sec. 6 Management of the RTC.

The FDIC is removed as exclusive manager of the RTC . This section gives management authority to the RTC Board.

Sec. 7 Restructuring the RTC Board.

This section restructures the RTC Board to include: the FDIC Board; the CEO; and one other person appointed by the Oversight Board in consultation with the RTC, whose term is to be determined by the Oversight Board.

Sec. 8 RTC Staff/CEO.

This section provides that RTC is to use FDIC employees. FDIC employees assigned to the RTC shall be subject to the direction and control of the RTC. Those FDIC employees who are assigned to the RTC on the date of enactment of this Act may be returned to the FDIC at any time and are guaranteed a similar position in the FDIC. Provides for the RTC to continue using FDIC employees and reimbursing the FDIC's actual costs. In any ensuing RIF or reorganization, any RTC-assigned employee returned to the FDIC shall compete with the same rights as any other FDIC employee.

It also authorizes the Oversight Board to appoint the CEO and to remove him at any time. The CEO would be an employee of the FDIC, whose compensation would be determined by the RTC Board in accordance with the personnel practices of the FDIC. The RTC would define the CEO's authority in a manner adequate to allow his efficient management and administration of the Corporation's day-to-day activities, subject to the ultimate direction of the RTC Board and the exercise of the Oversight Board's statutory authority. It lists some of the CEO's powers.

Sec. 9 Employee Rights at Sunset

This section clarifies that all employees of the FDIC who are assigned to the RTC will be guaranteed a position within the FDIC at the termination of the RTC under § 21A(o) of the Federal Home Loan Bank Act in accordance with § 404(9) of FIRREA.

Sec. 10 Technical and Conforming Amendments

This section allows the Oversight Board to remove the RTC Board for cause and appoint a new Board. It includes other conforming amendments.

**LEGISLATIVE PROPOSAL FOR RESTRUCTURING
OF THE OVERSIGHT BOARD AND THE
RESOLUTION TRUST CORPORATION**

SEC. 1. ACCOUNTABILITY OF OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended in the first sentence by striking the words "and be accountable for" and by adding after the close parenthesis and before the period "and shall be accountable for the duties assigned to the Oversight Board by this Act".

SEC. 2. RESTRUCTURING OF OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended--

(1) in paragraph (A) by deleting "5 members" and inserting "5 voting members and 2 non-voting members. The non-voting members shall be the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Corporation. The voting members shall be"; and

(2) in paragraph (E) by deleting "3 members" and inserting "3 voting members".

SEC. 3. OVERSIGHT BOARD DUTIES AND AUTHORITIES.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended--

(1) so that paragraph (A) shall read: "(A) To review overall strategies, policies, and goals established by the Corporation for its activities. After consultation with the

1 Corporation, the Oversight Board may require the
2 modification of any such overall strategies, policies, and
3 goals. Overall strategies, policies, and goals shall
4 include such items as--

5 "(i) overall strategies, policies, and goals for
6 case resolutions, the management and disposition of
7 assets, the use of private contractors, and the use of
8 notes, guarantees or other obligations by the
9 Corporation;

10 "(ii) overall financial goals, plans, and budgets;
11 and

12 "(iii) restructuring agreements described in
13 subsection (b)(11)(B).";

14 (2) in paragraph (B) by inserting "financial plans,
15 budgets, and" after the word "implementation";

16 (3) so that paragraph (C) shall read: "(C) To review
17 all rules, regulations, standards, policies, principles,
18 procedures, guidelines, and statements that may be adopted
19 or announced by the Corporation. After consultation with
20 the Corporation, the Oversight Board may require the
21 modification of any such rules, regulations, standards,
22 policies, principles, procedures, guidelines, or statements
23 that it deems materially inconsistent with overall
24 strategies, policies, or goals established by or for the
25 Corporation, or with the policies or purposes of applicable
26 law, or with the efficient and economical discharge of the

Corporation's duties, or with sound public policy. In all cases, the rules, regulations, standards, policies, principles, procedures, guidelines, and statements relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including but not limited to such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8) of this subsection."; and

(4) by adding a new subparagraph (K) as follows: "(K) To appoint (and at any time to remove) a person as chief executive officer of the Corporation, to appoint a person as a member of the Board of Directors of the Corporation pursuant to subsection (b)(8)(A)(iii) of this section, and to appoint the successors to each.".

SEC. 4. LIMITATION OF OVERSIGHT BOARD AUTHORITY.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended --

(1) by striking "(i) involving" and inserting "involving (i)"; and

(2) by striking "provide general policies and procedures" and inserting "review overall strategies,

1 policies, and goals established by the Corporation".

2 **SEC. 5. DUTIES OF THE RESOLUTION TRUST CORPORATION.**

3 Section 21A(b)(3) of the Federal Home Loan Bank Act (12
4 U.S.C. 1441a(b)(3)) is amended--

5 (1) by redesignating paragraph (D) as paragraph (E);
6 and

7 (2) by adding a new paragraph (D) to read: "(D) To
8 develop and establish overall strategies, policies, and
9 goals for the Corporation, subject to review by the
10 Oversight Board pursuant to subsection (a)(6)(A) of this
11 section.".

12 **SEC. 6. MANAGEMENT OF THE RESOLUTION TRUST CORPORATION.**

13 Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12
14 U.S.C. 1441a(b)(1)(C)) is amended to read as follows: "(C)
15 MANAGEMENT BY BOARD OF DIRECTORS.--The Corporation shall be
16 managed by or under the direction of its Board of Directors.".

17 **SEC. 7. RESTRUCTURING OF THE RESOLUTION TRUST CORPORATION'S**
18 **BOARD OF DIRECTORS.**

19 Section 21A(b)(8) of the Federal Home Loan Bank Act (12
20 U.S.C. 1441a(b)(8)) is amended--

21 (1) so that subsection (A) shall read: "(A) IN
22 GENERAL.--Except as provided in subsection (m), the Board of
23 Directors of the Corporation shall consist of--

24 "(i) the members of the Board of Directors of the
25 Federal Deposit Insurance Corporation;

26 "(ii) the chief executive officer of the

1 Corporation; and

2 "(iii) one other person appointed by the Oversight
3 Board after consultation with the Corporation, such
4 person's term of office to be as determined by the
5 Oversight Board."; and

6 (2) so that subsection (B) shall read: "(B)

7 CHAIRPERSON.--The Corporation's chief executive officer
8 shall serve as the Chairperson of the Board of Directors of
9 the Corporation.".

10 **SEC. 8. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF**
11 **EXECUTIVE OFFICER.**

12 Section 21A(b)(9) of the Federal Home Loan Bank Act (12
13 U.S.C. 1441a(b)(9)) is amended--

14 (1) in subsection (A) by striking "Unless the Oversight
15 Board exercises its authority under subsection (m), the" and
16 inserting "The";

17 (2) so that subsection (B)(i) shall read: "(i) FDIC.--
18 The Corporation shall use employees (selected by the
19 Corporation) of the Federal Deposit Insurance Corporation
20 and the Federal Deposit Insurance Corporation shall provide
21 such personnel to the Corporation for its use.
22 Notwithstanding the foregoing, the Federal Deposit Insurance
23 Corporation need not provide to the Corporation any employee
24 of the Federal Deposit Insurance Corporation who was
25 employed by the Federal Deposit Insurance Corporation on the
26 date of enactment of [insert name of this act] and who had

1 not theretofore been provided to the Corporation by the
2 Federal Deposit Insurance Corporation. In addition to
3 persons otherwise employed by the Federal Deposit Insurance
4 Corporation, the Federal Deposit Insurance Corporation shall
5 employ, and shall provide to the Corporation, such persons
6 as the Corporation may request from time to time. Federal
7 Deposit Insurance Corporation employees provided to the
8 Corporation shall be subject to the direction and control of
9 the Corporation and any of them may be returned to the
10 Federal Deposit Insurance Corporation at any time by the
11 Corporation in the discretion of the Corporation. The
12 Corporation shall reimburse the Federal Deposit Insurance
13 Corporation for the actual costs incurred in providing such
14 employees. Any permanent employee of the Federal Deposit
15 Insurance Corporation who was performing services on behalf
16 of the Corporation immediately prior to the enactment of the
17 [insert name of this act] shall continue to be provided to
18 the Corporation after enactment unless the chief executive
19 officer determines the services of any such employee to be
20 unnecessary, in which case such employee shall be returned
21 to a similar position performing services on behalf of the
22 Federal Deposit Insurance Corporation. In any ensuing
23 reduction-in-force or reorganization within the Federal
24 Deposit Insurance Corporation, any such employee shall
25 compete with the same rights as any other Federal Deposit
26 Insurance Corporation employee. The Corporation may use

1 administrative services of the Federal Deposit Insurance
 2 Corporation and, if it does so, shall reimburse the Federal
 3 Deposit Insurance Corporation for the actual costs of
 4 providing such services."; and

5 (3) by adding a new subsection (C) to read as follows:

6 "(C) CHIEF EXECUTIVE OFFICER.--The Corporation shall have a
 7 chief executive officer appointed by, and removable at any
 8 time by, the Oversight Board. The chief executive officer
 9 shall be an employee of the Federal Deposit Insurance
 10 Corporation provided to the Corporation for that purpose and
 11 shall receive such compensation and benefits as the
 12 Corporation's Board of Directors may determine from time to
 13 time in accordance with the laws and regulations applicable
 14 to the personnel practices of the Federal Deposit Insurance
 15 Corporation. The Corporation shall define such chief
 16 executive officer's duties and authorities in such manner,
 17 and the Corporation's Board of Directors shall provide the
 18 chief executive officer with such powers, as shall be
 19 adequate for the chief executive officer's efficient
 20 management and administration of the Corporation's day-to-
 21 day affairs. Among such duties, authorities, and powers
 22 shall be the duty, authority, and power, subject to the
 23 ultimate direction of the Corporation's Board of Directors
 24 (and subject to the exercise by the Oversight Board of its
 25 powers, duties, and authorities with respect to the
 26 Corporation):

1 "(i) To specify the duties, authorities, and
2 powers of other officers of the Corporation and the
3 duties, authorities, and powers of other persons,
4 including employees of the Federal Deposit Insurance
5 Corporation, acting on behalf of the Corporation.

6 "(ii) To make and modify staffing plans and
7 organizational and management structures of the
8 Corporation to meet the goals of this Act and other
9 applicable laws.

10 "(iii) To direct all aspects of the Corporation's
11 operations in a manner consistent with general
12 practices of the private sector and with this Act and
13 other applicable law.

14 "(iv) To modify and implement existing standards,
15 policies, principles, procedures, guidelines, and
16 statements in order to optimize the Corporation's
17 performance, including but not limited to its
18 performance in the disposition of assets.

19 "(v) To develop, adopt, and implement new
20 standards, policies, principles, procedures,
21 guidelines, and statements in order to optimize the
22 Corporation's performance, including but not limited to
23 its performance in the disposition of assets.

24 "(vi) To set and adjust the compensation and
25 benefits of persons (other than the chief executive
26 officer) acting on behalf of the Corporation in

8

accordance with laws and regulations applicable to the personnel practices of the Federal Deposit Insurance Corporation.

"(vii) To choose employees of the Federal Deposit Insurance Corporation to be provided to the Corporation by the Federal Deposit Insurance Corporation, to request that the Federal Deposit Insurance Corporation employ specified persons for that purpose, and to return at any time to the Federal Deposit Insurance Corporation any such employee so provided.".

SEC. 9. RIGHTS OF EMPLOYEES UPON SUNSET.

(1) Section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, is amended by --

(a) striking "21A(m)" and inserting "21A(o)";

(b) replacing the phrase "of such Corporation shall be transferred to" with the phrase "of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within"; and

(c) replacing the phrase "of this subsection" with the phrase "of this section".

(2) Section 404(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, is amended --

(a) by adding, in the first sentence thereof after the phrase "status, tenure," the word "grade,"; and

(b) by inserting in the second sentence thereof after the word "cause" and before the period the following phrase "or, if the employee is a temporary employee, separated in accordance with the terms of the appointment".

SEC. 10. CONFORMING AND TECHNICAL AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended--

(1) in subsection (a)(9) by inserting "voting" after "preclude a";

(2) in subsection (a)(10)--

(a) by striking "establish and review the general policy of" and inserting "review overall strategies, policies, and goals established by"; and

(b) by striking "standards, policies, and procedures necessary to carry out" and inserting "matters as pertain to";

(3) in subsection (b)(3) by deleting "and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))";

(4) in subsection (b)(10)(B) so that that subsection shall read: "(B) To provide for a chief executive officer to be appointed by the Oversight Board.";

(5) in subsection (b)(10)(N) by deleting "on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager";

(6) in subsection (b)(12)(A) so that the last sentence

1 thereof shall read: "The Corporation may establish overall
 2 strategies, policies, and goals for its activities and may
 3 issue such rules, regulations, standards, policies,
 4 principles, procedures, guidelines, and statements as the
 5 Corporation considers necessary or appropriate to carry out
 6 its duties.";

7 (7) in subsection (b)(12)(B) so that that subsection
 8 shall read: "(B) REVIEW, ETC.--Such overall strategies,
 9 policies, and goals, and such rules, regulations, standards,
 10 policies, principles, procedures, guidelines, and
 11 statements--

12 "(i) shall be provided by the Corporation to the
 13 Oversight Board promptly or prior to publication or
 14 announcement to the extent practicable;

15 "(ii) shall be subject to the review of the
 16 Oversight Board as provided in subsection (a)(6)(A)
 17 (with respect to overall strategies, policies, and
 18 goals) or subsection (a)(6)(C) (with respect to rules,
 19 regulations, standards, policies, principles,
 20 procedures, guidelines, and statements); and

21 "(iii) shall be promulgated pursuant to subchapter
 22 II of chapter 5 of title 5, United States Code.";

23 (8) in subsection (m)(1)--

24 (a) by deleting "Notwithstanding any other
 25 provision of law, the Oversight Board has the ultimate
 26 authority to supervise the Corporation and is

1 ultimately accountable for the administration of the
2 Corporation."; and

3 (b) by deleting "Federal Deposit Insurance
4 Corporation (or any replacement) from its position as
5 exclusive manager of the Corporation and from all of
6 its responsibilities and authorities to act for the
7 Corporation," and inserting "entire Board of Directors
8 of the Corporation";

9 (9) in subsection (m)(3) by deleting "Federal Deposit
10 Insurance" and inserting "entire Board of Directors of the";
11 and

12 (10) so that subsection (n) shall read: "(n) OPERATION
13 OF CORPORATION AFTER EXERCISE OF POWERS UNDER SUBSECTION
14 (m).--If the Oversight Board exercises authority under
15 subsection (m), the Oversight Board shall--

16 "(1) select a new Board of Directors and a new
17 chief executive officer for the Corporation; and

18 "(2) provide to Congress, not later than 60 days
19 before the removal of the Board of Directors of the
20 Corporation, the identity of the new Board of Directors
21 and the new chief executive officer selected pursuant
22 to paragraph (1).".

Resolution Trust Corporation's response for the record to questions asked during the hearing on the Resolution Trust Corporation Refinancing and Restructuring Issues, before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, September 12, 1991.

In response to Mr. Seidman's statement on page 63, a copy of the Legislative Proposal for Restructuring of the Oversight Board and the Resolution Trust Corporation.

Response to Congressman Bacchus' questions on pages 119 and 120:

We are having a special computer program written to extract this data from our system. We will be provide the information as soon as it is available.

Response to Congressman Cox's questions on pages 129 and 130:

The Resolution Trust Corporation released a press release dated October 10, 1991 announcing that it met is asset reduction and cash collection goals for the first nine months of 1991 one month ahead of schedule. Highlights from the attached release address specific asset reduction and cash collection goals set by the Corporation:

"From January through August, the RTC disposed of assets originally carried on the books of thrifts at \$75 billion. This result matched the goal set earlier this year for the entire nine-month period through September. Recoveries on the \$75 billion amounted to \$70 billion, or about 94 percent of the assets' book value. Receivership income during the first eight months of 1991 totaled \$4 billion, raising total cash collections (principal and income) to \$74 billion."

"After taking account of \$9 billion of asset putbacks, net sales and principal collections totaled \$66 billion from January through August, compared with a goal of \$65 billion for the period January through September."

Attachments



Resolution Trust Corporation
Office of Corporate Communications
801 17th St., N.W.
Washington, DC 20434
(202) 416-7667

News Release

FOR IMMEDIATE RELEASE

PR-443-91 (10-10-91)

RTC MEETS ASSET REDUCTION AND CASH COLLECTION GOALS ONE MONTH EARLY

The Resolution Trust Corporation (RTC) met its asset reduction and cash collection goals for the first nine months of 1991 one month ahead of schedule.

From January through August, the RTC disposed of assets originally carried on the books of thrifts at \$75 billion. This result matched the goal set earlier this year for the entire nine-month period through September. Recoveries on the \$75 billion amounted to \$70 billion, or about 94 percent of the assets' book value. Receivership income during the first eight months of 1991 totaled \$4 billion, raising total cash collections (principal and income) to \$74 billion.

"The RTC reached its sales and collection goal with a month to spare," said RTC Executive Director David C. Cooke. "This results from strong sales efforts throughout the Corporation, and a variety of initiatives for both good and lower quality assets."

Sales and collections of assets with a book value of \$9 billion to \$11 billion are expected to be posted for September alone. While September data are not yet available, it is clear that the RTC will surpass its nine-month asset reduction goal by a substantial margin.

-More-

After taking account of \$9 billion of asset putbacks, net sales and principal collections totaled \$66 billion from January through August, compared with a goal of \$65 billion for the period January through September.

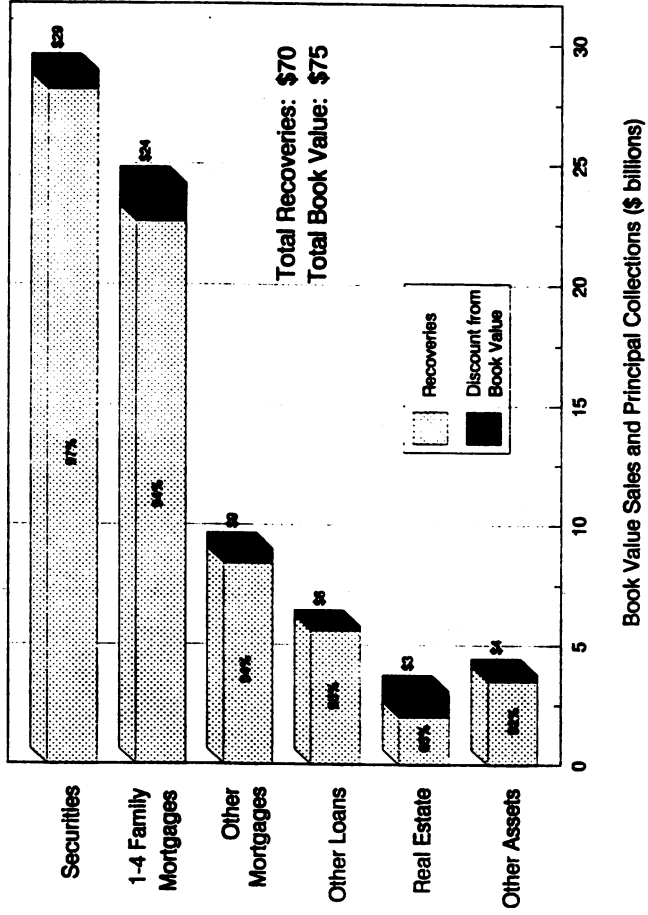
The \$75 billion of book value sales and principal collections included \$29 billion in securities, \$24 billion in one- to four-family mortgages, \$9 billion in other mortgages, \$6 billion in other loans, \$3 billion in real estate, and \$4 billion in other assets.

Since the inception of the RTC in August 1989, sales and collections totaled \$187 billion, more than one-half of the \$341 billion (book value) of assets held by institutions taken over by the Corporation.

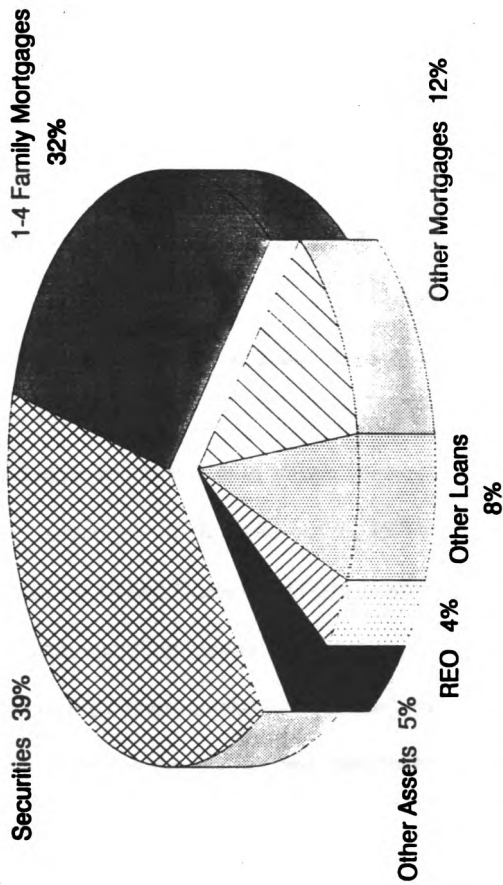
The RTC was established by Congress in August 1989 to contain, manage, and sell failed savings institutions and recover taxpayer funds through the management and sale of the institutions' assets. To date, the RTC has closed or sold 564 savings institutions. Approximately 18.3 million depositors and approximately \$179.3 billion in deposits have been protected by the RTC's closing of insolvent thrifts. The estimated cost to taxpayers for these transactions is approximately \$75.1 billion.

###

During January-August, recoveries from sales and principal collections were over 90% of original book value for all major asset types except real estate.



While securities and 1-4 family mortgages dominated January-August asset reductions, sales and principal collections of other assets were also substantial.



Total Book Value Sales and Principal Collections: \$75 Billion

APPENDIX

September 17, 1991

**STATEMENT OF THE HONORABLE FRANK ANNUNZIO
AT RESOLUTION TRUST CORPORATION
REFINANCING AND RESTRUCTURING HEARING
TUESDAY, SEPTEMBER 17, 1991**

Today marks the second of three hearings into the funding needs for the Resolution Trust Corporation (RTC). We will hear testimony that questions whether the Administration's request for an additional \$80 billion will provide sufficient funding for the RTC.

Eighty billion dollars will buy a lot of things. It could pay for the War on Drugs for the next seven years. It could buy 47 billion school lunches. It could fly everyone in the United States round-trip from Washington to San Francisco, and give them spending money while there.

There are those in the Congress who say that we have no choice but to pass the \$80 billion to continue the savings and loan bailout. They suggest that without the new money, depositors in failed thrifts will not be paid off.

I can certainly understand that concern, but my concern is that a large segment of the funds is not being used to pay off depositors, but rather to fund a bloated bureaucracy of more than 7500 employees; to pay more than \$35 million in fees for brokered deposits; and to hire do-nothing contractors who are paid not to sell assets.

Yesterday I released a report detailing some of the RTC's spending. Instead of paying off depositors, the RTC spent thousands of dollars buying such non-essential items such as golf shirts, coffee mugs and pool towels. The RTC buys pool towels, vodka and tennis court time, and then comes before this Subcommittee and blames Congress for not having sufficient funds to pay off depositors. It is going to be hard to vote to give this agency 80 cents, let alone \$80 billion, unless its spending excesses are reined in.

It may be that cable television should have a new series based on the lavish spending of the FDIC as the manager of the RTC. The series could be called Lifestyles of the BIF and Shameless. From what the Subcommittee staff study found, it will be a long-running show, not a mini-series.

Even the staff study only scratched the surface of the RTC's excesses. It did not attempt to evaluate the cost-effectiveness of the one billion dollars in legal fees spent by the RTC and the FDIC this year, or the millions of dollars in asset management contracts that the RTC has awarded. The very same chaotic RTC record-keeping that has frustrated the GAO in its efforts to audit the RTC makes evaluating the record of RTC contractors extremely difficult.

And many of the contract awards, I am convinced, are being done on the buddy system. A handful of contractors get the bulk of RTC contracts, while tens of thousands of others who are well-qualified and on the RTC bidders lists, never get an opportunity to get any RTC business.

As I indicated, the GAO has not been able to provide an audit of the RTC for 1990, largely because of the horrible records of the RTC. Yet the RTC expects Congress to simply give it more money on a "trust us" basis. RTC funding must be contingent on the RTC having a meaningful audit.

It would be far easier for me to vote for RTC funding if the funds were going to pay depositors in failed thrifts. But without such assurances, it will be very difficult for me to give away \$80 billion of the taxpayers money to an agency more interested in buying art than selling assets.



United States General Accounting Office

Testimony

For Release
on Delivery
Expected at
10:00 a.m. EDT
Tuesday,
September 17, 1991

**Resolution Trust Corporation:
Funding, Asset Disposition, and Structure Issues**

Statement of
Charles A. Bowsher
Comptroller General of the United States

Before the
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
Committee on Banking, Finance and Urban Affairs
House of Representatives



GAO/T-GGD-91-67

GAO Form 100 (12-87)

Mr. Chairman and Members of the Committee:

We are pleased to be here today to discuss the Resolution Trust Corporation's (RTC) current and future funding needs, its progress in disposing of assets, and issues related to restructuring RTC.

RTC is now about 2 years old. During this time it has struggled with the tasks of resolving a large number of thrifts and selling assets. The management initiatives contained in the RTC Funding Act of 1991 have helped RTC focus on making needed improvements in several of its operations and programs. The act requires RTC to report to Congress by September 30, 1991, on the progress being made in implementing the initiatives. We are currently reviewing RTC's efforts to make these improvements and will be in a position to analyze and comment on RTC's report to Congress. At this time, we can report that RTC has made progress in implementing the funding act initiatives, and I will address some of them throughout my statement.

But even though some progress is being made, very much more remains to be done, and the challenges facing RTC continue to change and grow. More failed institutions will need to be resolved in an environment of shrinking demand. Also, less marketable assets will require RTC to continue to enhance its strategies to sell them. While facing these challenges, RTC will need to assure Congress and the taxpayers that it can

efficiently and effectively carry out its multibillion dollar operations without fraud, waste, and mismanagement.

RTC FUNDING NEEDS

On September 12, 1991, RTC and its Oversight Board testified before this Subcommittee and requested that the Congress appropriate \$80 billion in loss funds in addition to the \$80 billion already provided. They also requested that RTC's working capital borrowing authority be increased to \$160 billion. In addition, the Oversight Board sought a one year extension of the August 8, 1992, deadline for transferring thrifts to RTC for resolution. These requests were intended to complete the clean up of insolvent thrifts and allow the Savings Association Insurance Fund to assume its responsibilities without a backlog of troubled thrifts to resolve.

Precisely when and how much additional funding RTC will require-- as well as whether RTC's authority for resolving troubled thrifts should be extended--depends on a number of factors that are subject to significant uncertainties. These factors include the number and timing of additional thrift failures; the duration and extent of problems in the economy, particularly the real estate markets; and the recovery value of receivership assets. Faced with these uncertainties, neither the Oversight Board nor RTC can provide assurance that the \$80 billion loss fund request

will be the final installment in resolving the thrift industry crisis.

RTC testified that it expects to resolve 569 institutions with \$182 billion in assets by September 30, 1991, at a cost of \$76 billion. RTC's current resolution plans indicate that it will need additional loss funds before the beginning of November 1991 or be forced to cease closing institutions. RTC also testified on September 12, 1991, that it used \$59 billion in working capital and expects to need another \$58 billion to carry it through fiscal year 1992. If RTC adheres to its plan, it will exceed its current borrowing authority by \$17 billion in 1992. Thus new funding legislation to provide additional loss monies and raise the limit on borrowings needs to be in place soon or RTC will face resolution delays and their associated costs. But, RTC's funding requests go beyond its needs for the next year.

The \$160 billion resolution cost funding requested by RTC and its Oversight Board assumes that RTC will resolve a total of more than 900 institutions and will incur high level losses on asset sales. Today, more than 300 institutions included in the Oversight Board's projection are still open. Most of these institutions are still operating in the private sector and nearly half have positive capital. If and when these institutions will become RTC's responsibility are critical questions also subject to uncertainties.

Under FIRREA, the Office of Thrift Supervision (OTS) has the authority to close institutions and appoint RTC conservator or receiver. In its most recent thrift quarterly reports, OTS has declared 118 open institutions (Group IV) as "likely to be transferred to RTC." As a group, these institutions have negative tangible capital and are consistently unprofitable. OTS expects to transfer these thrifts to RTC for resolution over the next fiscal year. RTC has estimated that it will resolve all remaining institutions in conservatorship and in Group IV during fiscal year 1992 at a cost of approximately \$30 billion to \$40 billion in loss funds and \$30 billion to \$45 billion in additional working capital borrowings.

RTC also estimated it would resolve 60 institutions during the next year that are currently in OTS's Group III. With these additional resolutions, RTC estimates its total loss funds needs through September 30, 1992, will be between \$40 billion and \$50 billion. OTS has categorized Group III institutions as "troubled with poor earnings and low capital" but has also defined them as "not expected to require government assistance." According to OTS, these institutions have "reasonable prospects of meeting the 3 percent capital requirement through retention of earnings, restructuring or recapitalization." Although the institutions considered for resolution within the next year have the lowest net worth and poorest earnings of Group III thrifts,

it is hard to determine exactly when these thrifts will meet OTS's criteria for closing and be transferred to RTC.

In addition, RTC has requested funds for resolving another approximately 100 Group III thrifts at an estimated cost of between \$5 billion and \$25 billion. These institutions currently have tangible capital of between 1 and 2 percent and are profitable or have tangible capital greater than 2 percent but are unprofitable. RTC does not expect these institutions to be resolved before fiscal year 1993. At this time, it is difficult to predict with reasonable certainty whether and when OTS will close these institutions and how much assistance will then be needed.

Obviously, how much money to give RTC now is a difficult decision. No one wants to provide insufficient funding and thereby slow down the required resolution process but, at the same time, no one should be lulled into thinking that providing an additional \$80 billion to RTC today guarantees an end to RTC funding requests. Again, the reliability of long term predictions regarding how many thrifts will fail and when they will require RTC assistance is affected by significant uncertainties. Until all the assets are sold from all the receiverships, RTC's--and the government's--final cost will be unknown. Depressed market conditions and RTC's strategy of aggressively discounting selected assets to encourage sales make

it highly likely that receivership assets will sell for less than anticipated. In that case, RTC may need to request additional funds from the Congress to repay working capital borrowed from the Federal Financing Bank.

Determining whether and how long to extend RTC's responsibility for resolving failed thrifts are also difficult decisions. Nothing we have seen indicates that a one year extension will guarantee that all thrifts needing assistance will have failed within the extension period. If the interest rate spread continues to be favorable, many poorly capitalized thrifts may remain marginally viable long after their current expected failure dates. If this happens, RTC may be holding funds intended for resolving thrifts that will become the responsibility of the Savings Association Insurance Fund after 1993.

Therefore, we believe that at this time the Congress has two funding options.

- Provide RTC with an \$80 billion loss funds appropriation and increase its borrowing authority to \$160 billion as requested by RTC and its Oversight Board. In addition, extend the deadline for RTC to accept thrifts for resolution so that RTC has the time necessary to handle all the thrift failures envisioned in its funding request. If

this option is selected, the Congress needs to reassess the responsibilities of and funding mechanisms for the Savings Association Insurance Fund.

- Provide RTC with sufficient funding and borrowing authority to continue operations through August 8, 1992. RTC now estimates it will need \$50 billion in loss funds and \$117 billion in borrowing authority for fiscal year 1992. Under this option, the Congress would give greater recognition to the many uncertainties regarding the number, timing and cost of expected thrift failures. Also, RTC, its Oversight Board and the Congress would be able to reassess RTC's funding needs in June 1992 after evaluating current economic conditions, the viability of various thrift institutions and RTC's progress in improving its operations.

STATUS OF THE

1990 FINANCIAL AUDIT

Our audit of RTC's financial statements for the year ending December 31, 1990, is not yet complete. We are currently conducting tests to evaluate the methodology RTC used to estimate recoveries for its receivership assets. It should be noted that RTC only applied its valuation methodology to 20 selected receiverships holding approximately 60 percent of the book value of assets; therefore, even if we found that the methodology and

resulting recorded values for the selected receiverships were reasonable, we would be unable to project those findings to the assets of the other 332 institutions in receivership.

In addition to the limitations inherent in RTC's valuation methodology, its lack of historical data regarding asset sales and its present strategy for aggressively discounting selected assets to encourage sales may preclude determination of whether recorded market values can, in fact, be realized. The government's large portfolio of troubled assets and RTC's need to sell in a soft market could also result in substantial losses not considered in the valuation process. Therefore, it is likely that we will report that the values shown in the financial statements are uncertain and subject to significant reduction, the amount of which cannot be reasonably estimated now.

SELLING ASSETS

Disposing of the assets of failed thrifts is the largest challenge facing RTC, both now and in the next several years. Figure 1 shows the cumulative total assets taken under RTC's control, reductions in that total, and the inventory remaining. From its inception to June 1990, RTC had taken a total of nearly \$244 billion in assets under its control, and at that time had liquidated 31 percent of those assets. By June 1991, RTC had taken a total of about \$328 billion in assets under its control

and liquidated 51 percent.

Selling Financial Assets

As figure 2 shows, the largest asset category is still financial assets. These assets include cash and securities, mortgages and other loans. From RTC's inception to June 30, 1991, the cumulative value of the financial assets taken under RTC's control was about \$275 billion. As of June 30, 1991, about \$124 billion remained in RTC's inventory--about 78 percent of RTC's total assets. As shown in Figure 3, RTC has been making steady progress in loan sales and collections.

Securities sales by RTC's Capital Markets Branch continue at a steady pace. From July through December 1990, RTC sold about \$11 billion in various securities. From January through June 1991, RTC sold an additional \$10.6 billion. The remaining inventory in both conservatorships and receiverships as of June 30, 1991, was about \$29 billion, or 18 percent of RTC's total assets of \$160 billion.

The Funding Act of 1991 required RTC to develop and implement a centralized securities portfolio management system not later than September 30, 1991. In April 1991, a solicitation for this system was sent to 175 interested firms, and the contract was awarded in August 1991. RTC officials think this off-the-shelf

system can be operational by the September 30 deadline.

RTC's National Sales Center located in Washington, D.C., is the principal advisor for the disposition of financial instruments and real estate held by RTC nationwide. The National Sales Center coordinates the selection and marketing of these assets through portfolio sales, large auctions, sealed bids, and other transactions. It has completed six large loan portfolio sales aggregating about \$1.7 billion, and several other transactions are in different stages of completion. In addition, many other loan sales have been arranged by RTC's regional sales centers. For example, the Chicago, Denver, and Dallas sales centers sponsored auctions of smaller portfolios of non-performing loans. These auctions resulted in gross sales proceeds of about \$63 million with prices ranging from 10 percent to 69 percent of book value. We believe that further centralization and coordination of these loan sales efforts would be beneficial because it would allow RTC to respond to the marketplace preference for larger scheduled offerings.

RTC's securitization program has also made progress. Six transactions aggregating about \$2.5 billion have been completed in the past 3 months. RTC officials expect to close another \$7 billion to \$9 billion in transactions by the end of the calendar year. In addition, RTC has continued to execute agency swap transactions with the secondary mortgage market agencies, Fannie

Mae and Freddie Mac. As a result of better training, improved policies and procedures, and increased regional activity, RTC officials expect to execute a total of about \$6.6 billion in agency swap contracts by December 31, 1991.

Real Estate Sales

The pace of real estate sales has been slow. As of June 30, 1991, RTC had realized about \$5.4 billion on the sale of real estate assets. Figure 4 shows the relationship between real estate sales and real estate inventory which is currently at \$20.7 billion. The figure clearly illustrates the difficult challenge that lies before RTC.

Commercial properties represent a large portion of RTC's real estate portfolio--about \$7.9 billion. The commercial real estate market is in a dismal state. A major market imbalance and other economic factors have resulted in asset devaluation and a dramatic increase in foreclosures on a national basis. Considering the size of RTC's growing inventory and the current depressed market environment, RTC will need market-responsive disposition strategies to meet this mammoth challenge.

A variety of disposition methods are being used by RTC to support its sales efforts including individual sales, auctions, and portfolio offerings. We support the use of these methods

including RTC's increased emphasis on portfolio sales as a cost-effective and expedient means to achieve its liquidation goals.

Although it is too early to judge results, recently there has been increasing activity in portfolio transactions with several large sales recently announced. Equally important, RTC has reported that it is scheduling portfolio sales, including real estate and non-performing loans valued at \$10 billion, over the next 6 months.

A key to the success of these initiatives will be RTC's ability to attract major investors through the development of market-responsive sales and financing programs. Flexible financing programs will be an important tool to induce sales of RTC's non-performing and distressed commercial assets given the current limited supply of traditional real estate funding sources. However, in developing these new financing programs, such as the recently announced participating cash flow mortgages, RTC will need to maintain tight control over these transactions and develop diligent oversight procedures in order to minimize taxpayer risk.

Although these financing programs may be more acceptable than the alternatives that are realistically available to RTC now, such as substantial price reductions or continuing to hold assets, we believe it is important for RTC to take advantage of

opportunities for cash sales whenever possible and continue to develop other disposition strategies that are responsive to the marketplace.

Affordable Housing Disposition Program

RTC's Affordable Housing program has had mixed results. The program has primarily focused on the sale of eligible single family properties and only recently begun to sell eligible multifamily properties. As a result, multifamily property sales have lagged behind single family sales.

As of June 30, 1991, 17,293 single family properties and 485 multifamily properties had been listed with clearinghouses. Figure 5 shows that RTC has closed sales on 3,882 (22 percent) of its eligible single family properties, and 47 (10 percent) of its eligible multifamily properties. Also, RTC has offers still in process on 5,895 (34 percent) of its single family properties and 64 (13 percent) of its multifamily properties. But, unfortunately for both types of properties, the largest inventory category is properties with no offers.

According to RTC officials, the decision to focus efforts on single family sales was based on several factors. First, the Oversight Board wanted the corporation to move slowly into the sale of multifamily properties. Second, RTC wanted to have a

consistent set of procedures and policies in place before large numbers of multifamily properties were sold. Finally, single family properties would be subject to considerably more deterioration than multifamily properties.

Although FIRREA gave RTC the authority to sell its affordable housing multifamily properties, RTC is only now developing a national strategy for marketing these properties. This strategy includes defining the intended sales market and providing policy and guidance for making sales decisions. Because of the delay in providing this guidance, RTC's various field offices have made different, and often inconsistent, sales decisions on matters such as marketing periods, comparing similar bids, the treatment of non-profit organizations, and emphasizing preservation of low-income housing. RTC officials plan to issue a national directive addressing these issues in the near future.

Similarly, RTC has not made use of the special financing and pricing options made available by FIRREA to facilitate multifamily sales to non-profit organizations. Specifically, RTC has not provided 100 percent seller financing, below market rate interest, and price discounting for non-profit organizations.

CONTRACTING

A sound contracting system is vital to RTC's operations because contracting is its principal tool for managing and disposing of assets. The Funding Act of 1991 mandated that RTC take several actions to enhance accountability, fairness, and effectiveness of the contracting process. Specifically, it required RTC to

- develop a manual with policies and procedures;
- define contracting roles and responsibilities;
- prescribe standard proposal evaluation procedures;
- develop standardized contract documents;
- develop training for RTC employees and contractors; and
- implement several requirements relating to minority- and women-owned business contracting policy.

Since the act's passage, RTC has taken steps to implement these requirements. Just this month, RTC published the first edition of its comprehensive contracting manual. The manual defines RTC staff's contracting roles and responsibilities including basic procedures for contract oversight. RTC also developed a standardized solicitation for its Standard Asset Management Disposition Agreements (SAMDA) and is developing standardized training courses.

Additionally, RTC's Office of Contractor Oversight and

Surveillance (OCOS) has started to review asset manager contractor performance. Recently, OCOS completed a handbook entitled Contractor Responsibilities Under the Anti-Kickback Act of 1986.¹ OCOS also is providing fraud awareness training for each RTC office and has completed the fieldwork for trial reviews of internal control and cash management reviews for 2 of the 133 SAMDA contractors. Clearly, much more needs to be accomplished and OCOS has proposed initiating similar reviews of 25 contractors by the end of 1991.

Overall, RTC is moving in the right direction, but progress has not been adequate in some fundamental areas, and much more will need to be done before RTC has a complete contracting system. For example, RTC has not completed work on developing objective standards to evaluate SAMDA technical proposals, and work on financial resource qualification standards has been slow. Without these standards, RTC can not be assured that it will select contractors who have the technical and financial capabilities to fulfill the scope and terms of contracts.

In the contract administration area, RTC still needs to create a system of penalties, short of contract termination or partial termination, to motivate contractors to comply with contract provisions. In other words, as the SAMDA contract is now structured, a contractor is entitled to its entire management

¹41 U.S.C. 51-58.

fee--even if the contractor does not meet all of the contract requirements--unless RTC withdraws the asset for cause or terminates the agreement for cause. To correct this situation, penalties short of termination should be developed for lack of performance such as failing to conduct the initial inspections of real estate assets within the required period.

Further, several fundamental tools for contractor oversight are not in place and operating. Currently, RTC does not have a system to ensure that field staff, especially SAMDA oversight managers, are complying with the requirements to monitor contract performance. Further, RTC has not developed a training course on SAMDA contract oversight to provide field staff. Also, the primary information system to be used by the field staff for SAMDA oversight, the Asset Manager System, is still only in the early stages of implementation. Getting all of these aspects of the program operating effectively is vital to assuring that the taxpayers' dollars are protected against fraud and waste.

Minority and Women Outreach Program

FIRREA required RTC to include minority- and women-owned businesses in all contracting opportunities to the maximum extent possible. At the request of Congressman Mfume, we reviewed RTC's minority- and women-owned business programs for outside legal counsel and asset management activities.

We found that RTC got off to a very slow start in implementing these programs. This has resulted in inconsistent implementation among offices as well as indications that minority- and women-owned businesses have been included in contracting opportunities to the maximum extent possible as shown in figure 6. However, in the last 4 months, RTC has undertaken several initiatives that, if fully implemented, should improve these programs.

On August 15, 1991, RTC published interim final regulations for both minority- and women-owned business contracting programs in The Federal Register. Also, RTC has plans to increase staffing levels for both programs, and program directives have been prepared that define roles and responsibilities for field staff and outline procedures for verifying and certifying the eligibility of firms being considered for contracts over \$25,000. In addition, several training seminars have been conducted, and staff have participated in other outreach efforts.

Although RTC has recently taken steps in the right direction in both of the minority- and women-owned business contracting programs, it needs to continue enhancing its ability to achieve the objectives of these programs. We have recommended that RTC continue to assess the adequacy of staffing levels, enhance oversight, and improve the accuracy of the list used to select

its outside legal counsels.² We also recommended that RTC reexamine both its technical and cost preferences to ensure that they are applied consistently across regions and are meeting their objectives. RTC has agreed to act on our recommendations.

MANAGING INFORMATION

RTC is making progress in developing a sound information resources management (IRM) program, but continued leadership and management attention will be needed to sustain and enhance the progress RTC has made. A sound IRM strategic plan, as well as smooth-functioning information systems, are crucial to oversee the resolution of thrifts and to manage and dispose of assets.

The Funding Act required that RTC establish an IRM program by developing a strategic plan to include a translation of program goals into automation needs, a system architecture, and an identification of corporation information and systems needs at all operational levels. To meet this requirement, RTC's Office of Corporate Information completed a strategic IRM plan in June 1991.

RTC has drafted an update to the June 1991 plan that it expects to complete by September 30, 1991. We are currently studying

²Resolution Trust Corporation: Progress Under Way in Minority and Women Outreach Program for Outside Counsel (GAO/GGD-91-121; August 30, 1991).

this draft in detail, but our initial review suggests RTC is addressing both the Oversight Board's and our concerns.

Both we and the Oversight Board had similar concerns with the June 1991 plan. The concerns included (1) the need to define the expected contribution of its systems to RTC's business operations, (2) the inability to determine whether systems were going to be integrated by function or would stand alone, and (3) the absence of a description of how RTC's systems would be used by all RTC operational levels, including failed thrifts and SAMDA contractors.

With respect to its asset systems, RTC is taking steps to ensure that the systems are being completed in accordance with sound systems development principles. For example, RTC published sound system development principles in June 1991 and established an independent quality assurance function last spring to ensure the needed systems were being properly developed. Nevertheless, our ongoing work has led us to be concerned about how the systems are being developed and implemented. Specifically, we are concerned about whether all of the asset systems will meet user and management needs at operating levels, and have sufficient network and system capacity and responsiveness to adequately support all users. We are also concerned about whether asset systems will have sufficient internal controls to provide reasonable assurance the information will be secure, accurate,

and complete. Finally, we are concerned about RTC properly managing the systems to control the cost, schedule, and performance of systems development efforts.

For example, RTC's Real Estate Owned Management System was designed to provide its managers with current and accurate real estate asset information, including centralized information needed for property sales and contractor oversight. The system was accepted from the contractor on July 15, 1991, but because of development problems related to data integrity it is not yet implemented nationwide.

Because difficulties and potential delays are inherent in putting in extensive information systems, we will continue to carefully monitor RTC's progress in acquiring its asset information systems.

RESTRUCTURING RTC

Last February, in testimony before the House Banking Committee, we raised the need to consider separating the leadership of the FDIC and RTC because of the formidable tasks facing both agencies. We said it was time to consider a CEO for RTC. In testimony last week, the Administration agreed that a separate CEO is needed for RTC.

this draft in detail, but our initial review of other proposals addressing both the Oversight Board

Both we and the Oversight June 1991 plan. The expected contribution

operations, (2) the going to be introduced by all RTC SAMDA co

With the s-

The second concept is the need for strong oversight by an entity independent of the day-to-day operations of the RTC. Special attention is needed because of the magnitude of both the overall operations of RTC and the funding required. An oversight board meets this criteria, and could help assure that the effort does not get off track.

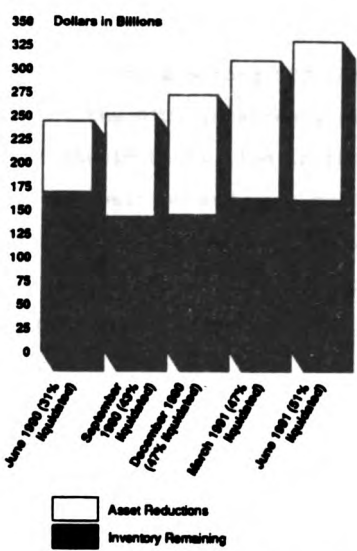
In pursuing restructuring, careful attention needs to be given to avoiding changes or delays that would be counter-productive to the progress RTC is making in improving both its operations and asset disposition strategies.

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This concludes our prepared remarks. We would be pleased to answer any questions.

FIGURE 1

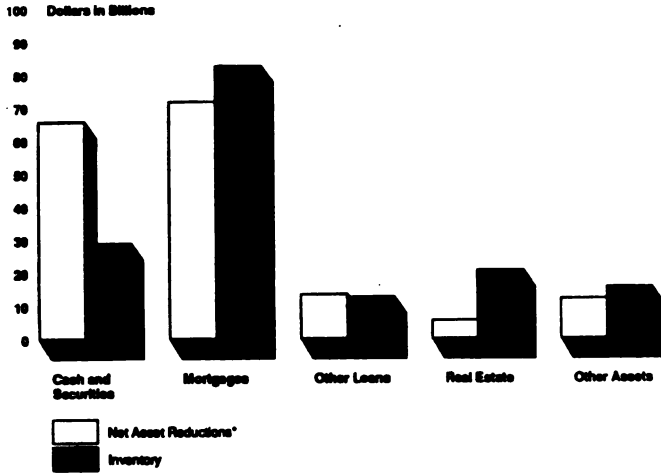
GAO Cumulative Assets Under RTC Control & Inventory Remaining



"% liquidated" refers to total asset reduction divided by the total assets put under RTC's control at any given point in time.

FIGURE 2

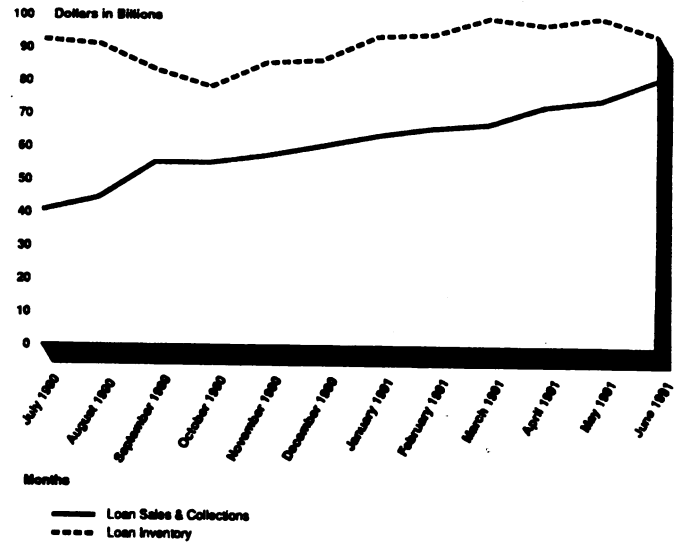
GAO Status of RTC Assets as of June 30, 1991



*Net Asset Reduction figure equals (1) sales; (2) collections; and (3) other changes that include net losses on sales, charge-offs of goodwill, accumulation and investment of cash, and adjustments of assets.

Total asset reductions equaled \$168.3 billion and total inventory holdings (book value) equaled \$160 billion as of June 30, 1991.

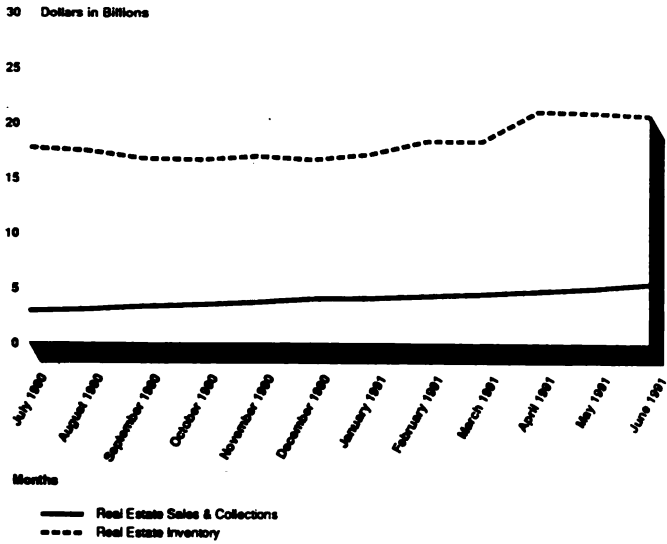
GAO RTC Loan Inventory and Sales & Collection Changes



Loan Inventory includes mortgages and other loans

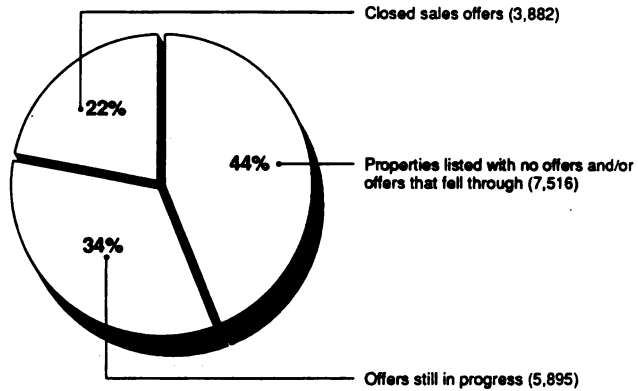
FIGURE 4

GAO RTC Real Estate Inventory and Sales & Collection Changes

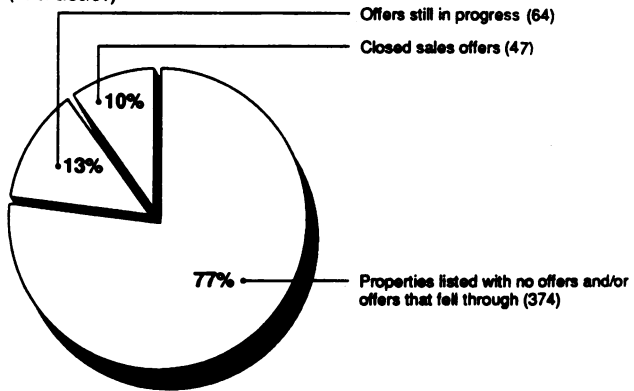


GAO RTC Affordable Housing Sales as of June 30, 1991

Single Family Affordable Housing Sales
(as of 6/30/91)



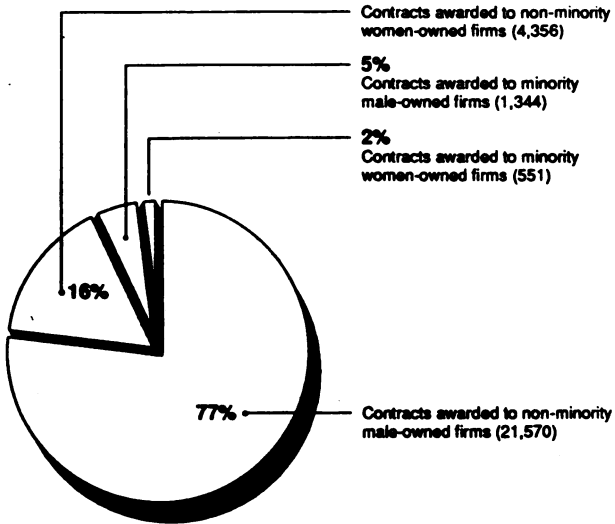
Multi-Family Affordable Housing Sales
(as of 6/30/91)



Based on historical data, only an average of 40 percent of the "offers in progress" will eventually be closed sales.

FIGURE 6

GAO Percent Contracts Awarded to Minority & Women Owned Firms



Total number of contracts as of 7/31/91 = 27,821

CBO TESTIMONY

Statement of
Robert D. Reischauer
Director
Congressional Budget Office

before the
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
of the
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives

September 17, 1991

NOTICE

This statement is not available for
public release until it is delivered at
10:00 a.m. (EDT), on Tuesday,
September 17, 1991.



CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, S.W.
WASHINGTON, D.C. 20515

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee to discuss the Congressional Budget Office's (CBO's) assessment of the financial condition of the Resolution Trust Corporation (RTC).

In my testimony I will deal with three aspects of CBO's assessment:

- RTC spending to date, reviewing CBO's cost estimates as published in our summer budget update last month and comparing them with those the Administration recently made;
- The effect that any delay in funding can have on the pace and cost of future resolutions and;
- The implications of legislation restructuring the RTC.

RTC SPENDING TO DATE AND FUNDING NEEDS

To date, the Congress has provided the RTC with \$80 billion to use in covering losses incurred in resolving failed thrift institutions: \$50 billion under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and \$30 billion under the RTC Funding Act of 1991. If the Congress votes no further funding before the end of the calendar year, the RTC will have exhausted this authority. Last week Chairman William Seidman, in testimony before your Subcommittee, indicated that losses incurred through early September total \$67 billion, and that by the end of the fiscal year, the RTC expects to use \$76 billion of the \$80 billion appropriated for insurance losses. The RTC's proposed operating

plan, which assumes that the corporation will not be constrained by lack of funds, anticipates that the RTC's losses will total \$130 billion by September 30, 1992. CBO expects that the losses will amount to about \$73 billion by September 30, 1991, and that the remaining \$7 billion in loss funds will be disbursed early in the first quarter of fiscal year 1992. We estimate that RTC spending for thrift losses will total \$120 billion by the end of fiscal year 1992.

The timing of RTC's disbursements is highly uncertain. It depends on when resolution contracts are signed and how much will be lost on each institution. As a result, some losses that we expect to be recorded in fiscal year 1991 could slip into the following year, or actual 1991 spending could exceed our current estimates. More certain is that the RTC will soon exhaust its authority to incur additional losses. Although all the loss money has not yet been disbursed, the agency has effectively committed all of those funds to resolving institutions over the next few months. Without knowing the amount and timing of additional funding, the RTC will not be able to solicit bids for the sale of additional thrifts.

In the next few years, the RTC will receive increasing income from the sale of assets it has acquired. This income, however, cannot be used to pay insurance losses. The assets acquired in closing failed thrifts can be viewed as collateral for RTC borrowing from the Federal Financing Bank (FFB) for working capital. In the short term, the RTC will use net recoveries from asset sales to acquire new assets instead of borrowing more from the FFB. Later, the RTC will use the recoveries to repay its loans from the FFB. Thus, the Treasury remains the only source of

funds to pay for insurance losses. The value that the RTC receives for the assets it sells is important, however, because RTC's recorded losses are only estimates based on assumptions about asset value, and the final price tag will not be known until all assets are sold.

PROJECTED COSTS OF RESOLVING THE SAVINGS AND LOAN CRISIS

For purposes of summarizing the costs of the savings and loan debacle, the single most useful figure is the present value of future costs, which indicates the value in current dollars of past, present, and future net costs of resolving failed thrifts. CBO estimates that the present-value cost of resolving the savings and loan crisis is \$215 billion. That figure includes the \$60 billion that will be charged to the Federal Savings and Loan Insurance Fund and the FSLIC Resolution Fund for those institutions that the regulators had closed before the RTC was established. We estimate that the cleanup, expressed in terms of 1990 dollars, will cost the RTC or its successor \$155 billion. CBO derives this estimate from cash flow projections through the year 2004 and assumes that about 1,500 institutions will ultimately be resolved.

The budget, by contrast, does not reflect present-value estimates. Instead, it records the yearly net flows of cash in the deposit insurance accounts. CBO's most recent budget projections are summarized in Table 1. We estimate that outlays for RTC's insurance losses, including on-budget administrative costs, will total

\$191 billion over the 1989-1996 period. Disbursements of working capital will total \$357 billion, including interest costs on working capital borrowed from the FFB. Receipts from the disposal of assets acquired through the resolution process are estimated to total \$298 billion. Additional sales of assets are projected to be made after 1996 until the assets acquired by the disbursements of working capital are sold.

However, all of these estimates are very uncertain because they depend on regulatory actions, availability of funding, economic conditions, and other variables. No one can predict how many thrifts the regulators will decide to close, or how fast the RTC will resolve failed or failing institutions. For example, over the last year, CBO has reduced from 1,700 to 1,500 the expected number of thrifts that will become insolvent and must be merged or closed over the next four years.

Despite this reduction in the caseload, CBO's present-value estimate of total losses has not changed significantly. Many of the thrifts on the edge of insolvency have relatively few assets, and the cost of resolving them is small. Alternatively, the unexpected failure or recovery of just a few large institutions can change the estimate of losses substantially. Recently, the RTC revised upward by \$6.4 billion its estimates of losses for thrifts closed before 1990. CBO had predicted losses of that order of magnitude.

Fluctuations in the economy also contribute to the uncertainty. The financial health of banks and thrifts is sensitive to the pace of economic activity, and to such conditions as the level of interest rates. While CBO has not developed a precise

**TABLE 1. OUTLAYS FOR SAVINGS-AND-LOAN-RELATED
DEPOSIT INSURANCE IN THE BASELINE**
(By fiscal year, in billions of dollars)

	<u>Estimate</u>		1991	1992	1993	1994	1995	1996
	1989	1990						
Resolution Trust Corporation								
Insurance losses ^a	1	35	37	47	32	31	8	b
Working capital								
Disbursements	9	33	50	78	64	60	14	0
Receipts	0	-3	-24	-42	-58	-65	-61	-45
Interest costs	b	b	4	7	10	11	11	8
Payments from Federal Home Loan Banks	-1	0	0	0	0	0	0	0
Receipts from Resolution Funding Corporation (REFCORP)	0	-18	-12	0	0	0	0	0
Total Budget Outlays	9	47	55	90	47	37	-28	-37
Total Including REFCORP	9	65	67	90	47	37	-28	-37
Federal Savings and Loan Insurance Corporation (FSLIC)	10	c	c	c	c	c	c	c
FSLIC Resolution Fund	b	5	9	7	6	1	1	1
Savings Association Insurance Fund (SAIF)	b	b	b	-1	b	-1	1	2

SOURCE: Congressional Budget Office, *The Economic and Budget Outlook: An Update* (August 1991).

NOTE: Budget outlays reflect the treatment of the Resolution Funding Corporation (REFCORP) and Financing Corporation (FICO), shell corporations created solely to borrow funds for savings and loan resolutions, as government-sponsored enterprises. This treatment permits their borrowing to reduce the deficit. CBO has long viewed this treatment as inappropriate. The estimates assume that RTC will be provided with resources beyond those available under current law.

- a. Includes less than \$500 million per year in administrative costs.
- b. Less than \$500 million.
- c. Defunct.

method of accounting for such economic impacts, and hence cannot offer a rule of thumb, a significant change in the economy's course could clearly affect the government's costs.

Fluctuations of interest rates are a particular source of uncertainty, partly because of their effect on real estate values. Because of these fluctuations, it is difficult to project how much the RTC will recoup from disposing of the assets of failed thrifts. As a result, the actual cost of resolving failed savings and loan institutions will not be known until the last asset has been disposed of, which probably will be well beyond the year 2000. The actual cost could easily vary from our current estimate by \$30 billion in either direction.

COMPARING CBO AND ADMINISTRATION ESTIMATES

While CBO does not have enough information about the Administration's latest estimates to make a precise comparison, our analysis suggests that the final costs of resolution will be higher, more institutions will be closed, and the cleanup job will take longer than the Administration anticipates.

The Administration has estimated that the cost of the savings and loan cleanup will be in the range of \$90 billion to \$130 billion (in 1989 dollars). This range is lower than CBO's present-value estimate (in 1990 dollars) of \$155 billion. In nominal or budget dollars, the Administration has projected that as much as

\$160 billion in loss funds would be needed for the RTC to complete its work. CBO foresees nominal losses of \$191 billion.

Of the additional \$80 billion it is requesting, the Administration expects that \$50 billion would be needed in fiscal year 1992. CBO expects that about \$40 billion in additional loss money will be needed for fiscal year 1992, though the amount could easily vary by several billion dollars in either direction. The Administration has also requested that the authority of the RTC to borrow from the FFB be increased from \$125 billion to \$160 billion. CBO estimates that the requested borrowing authority would be sufficient to cover RTC's needs for working capital.

The Administration apparently expects that the RTC may have to resolve between 900 and 1,000 thrifts, and that the job can be completed by the end of fiscal year 1993. CBO believes that the RTC or its successor will most likely have to resolve as many as 1,500 thrift institutions, or between 500 and 600 more than the number the Administration anticipates.

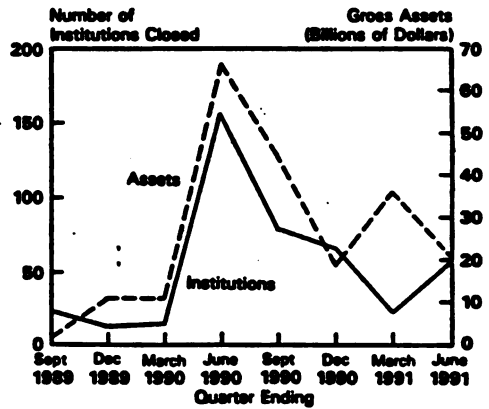
Under current law, the RTC's authority to resolve institutions ends on August 9, 1992, except for those thrifts already placed in conservatorship. The Administration has requested that the Office of Thrift Supervision be authorized to continue transferring failed thrifts to the RTC through September 30, 1993. Our August estimates assume that the RTC would remain active through early 1995, three years beyond the period contemplated by FIRREA.

THE PACE OF RESOLUTIONS AND THE COST OF DELAY

CBO's estimates assume that the RTC would receive adequate funds on a timely basis. Funding delays, such as those that occurred in fiscal year 1991, could affect the amount of disbursements and receipts in any given time period, the length of time needed to complete the resolution process, and the final cost of the thrift crisis. After experiencing start-up pains, the RTC has built a staff and developed procedures that allow the agency to close about 75 or more thrifts each quarter, depending on asset size and assuming adequate resources. The actual quarterly pattern to date has been far more erratic: 155 institutions were closed during April 1990 through June 1990, while only 22 institutions were closed between January 1991 and the end of March 1991 (see the Figure below).

Figure
Caseload of the
Resolution Trust
Corporation,
by Quarter

SOURCES: Congressional
Budget Office;
Resolution Trust
Corporation.



NOTE: The RTC began operations in August 1989.

The Budget Enforcement Act of 1990 places no impediments in the way of RTC recapitalization. Legislation providing more funding to the deposit insurance agencies is specifically exempt from the pay-as-you-go discipline as long as it merely honors the government's existing commitment. The budget estimates of both CBO and the Administration assume that deposit insurance agencies will be given sufficient resources to handle future caseloads.

Allowing ailing institutions to stay in business can drive up the ultimate cost of resolution. A recent CBO study concluded that as a result of forbearance--the policy of delaying the resolution of thrift institutions--insolvent thrifts remained open for an average of 38 months, and the resolution of 1,130 thrift institutions between 1980 and 1991 cost an extra \$66 billion (in 1990 dollars), roughly doubling the total cost of their resolution. While some of the sources of these costs--undertaking highly risky projects and paying premium rates for deposits, for example--may now be under better regulatory scrutiny, they cannot all have been eliminated.

We estimate that the 900 thrifts that will have to be resolved, but that the RTC had not taken over as of June 30, 1991, lost about \$17 billion in market value during 1990. Only part of this loss could have been avoided by earlier action. Nevertheless, any further delays, caused by lack of funding or other factors, could add significantly to the ultimate costs that the taxpayers will bear.

EFFECTS OF RESTRUCTURING THE RTC

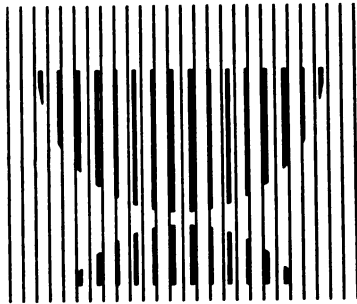
Current law assigns the responsibility and accountability for policy and operations of the RTC to both the RTC Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation. The Secretary of the Treasury is Chairman of the Oversight Board, and the Treasury staff plays a major role in developing and coordinating federal policy affecting financial institutions. We believe that the division of responsibility and accountability among these agencies has at times led to confusion, and that streamlining the decision process would increase efficiency and accountability.

Proposed changes in the organization of the RTC vary in design and scope. We have not studied these proposals, and I have no basis for commenting on their relative merits. It is critical, though, to avoid potential delays and disruptions, and thus minimize the added cost of further delays. Therefore, the Congress should ensure that the RTC can continue closing failed thrifts and selling assets during any transition to a new structure. Adequate funding, well-defined lines of authority in any new organizational structure, and a transition process that would not disrupt the RTC's resolution activity will help to minimize the costs that the government must pay to protect deposits in failed institutions.

CBO STAFF MEMORANDUM

**THE COST OF FORBEARANCE
DURING THE THRIFT CRISIS**

JUNE 1991



**CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, S.W.
WASHINGTON, D.C. 20515**

This memorandum was prepared by Philip F. Bartholomew under the supervision of Elliot Schwartz. Emily Kolinski and David Whidbee provided research assistance. Michael Crider, Kim Kowalewski, Thomas Lutton, Larry Mote, Sherry Snyder, and Bob Sunshine made substantial contributions to this memorandum. This analysis was conducted at the request of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives. It provides an estimate of the cost of delay in closing failed thrift institutions resulting from the policy of forbearance. In accordance with the Congressional Budget Office's mandate to provide objective and impartial analysis, the memorandum contains no recommendations.

NOTE: All years are calendar years, unless otherwise stated.

SUMMARY

Several federal regulators of depository institutions recently have suggested that a policy of regulatory forbearance might be granted to currently troubled banks and thrifts. Regulatory forbearance would permit these troubled depositories to remain open. Regulators argue that these institutions are suffering temporary financial setbacks and that, given sufficient time, they will be able to restore themselves to sound financial condition. This same argument was made during the early part of the thrift crisis. The Congressional Budget Office estimates that this policy increased the eventual bill for resolving failed thrift institutions by about \$66 billion (in 1990 dollars).

To estimate the additional cost incurred because of the policy of forbearance, CBO examined data for 1,130 thrifts that were either resolved during the period 1980 through 1990 or are projected to be resolved in 1991. Of these failed thrifts, 57 percent had become insolvent on a book-value basis by year-end 1984, and 80 percent had become insolvent by year-end 1987. Although the federal regulators were aware of the insolvency of these institutions at the time, it took an average of 38 months to close and resolve them from 1980 through 1990.

The cost of not closing thrifts when they first became book-value insolvent represents over half of the estimated \$127 billion cost (in 1990 dollars) of resolving the 1,130 thrifts. Thus, forbearance may have doubled the cost of the thrift bailout. The average failed thrift deteriorated in value at an annual rate of 37 percent between the time it first became book-value insolvent and when it was closed and resolved by the federal regulator.

INTRODUCTION

At year-end 1980, there were 3,993 thrift institutions with assets of \$604 billion whose deposits were insured by the Federal Savings and Loan Insurance Corporation (FSLIC). By year-end 1990, the number of thrifts had declined to 2,342; the nominal value of their assets had grown to about \$1 trillion.¹ Most of this consolidation came through government closure rather than voluntary merger. During this 10-year period, 842 thrifts were closed and resolved at a cost to the government estimated at the time to be \$80.1 billion (approximately \$85.4 billion in 1990 dollars) on a present-value basis.² At year-end 1990, 179 thrifts were in government conservatorships and 109 institutions were insolvent, judged by the book value of their tangible capital.³ The Congressional Budget Office (CBO) projects that these 288 thrifts will be resolved in 1991 at an estimated cost of about \$44

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1. See Tables A-1 and A-2 for a detailed accounting of changes in the thrift industry from 1980 through 1990.
 2. Additional thrifts were merged with regulatory supervision at no insurance cost to the government.
 3. Tangible capital excludes the value of goodwill created through merger transactions.

billion, or about \$42 billion in 1990 dollars. Thus, the estimated cost of resolving these 1,130 thrifts exceeds \$125 billion in 1990 dollars.⁴

FORBEARANCE

Forbearance is the discretionary practice of not enforcing an existing rule. In the 1980s, thrift regulators elevated forbearance to a general policy for the entire thrift industry—they did not close institutions when they became insolvent. Regulators did not violate statutes; rather, in altering agency regulations they interpreted those statutes in the most liberal way possible, thereby allowing themselves to avoid closing insolvent institutions.

In 1982, approximately 85 percent of all thrifts reported negative net income; 415 thrifts reported themselves to be insolvent on a tangible basis (see Table A-1). Regulators initially responded to this problem by closing increasing numbers of insolvent thrifts. The number of annual thrift resolutions more than doubled between 1981 and 1982, from 28 to 63.

At the time, however, many observers argued that the thrifts' problems were temporary, brought on by high interest rates and the deep recession. When interest rates declined, it was argued, and the economy recovered, thrifts would be able to regain solvency. Indeed, the industry as a whole experienced positive net after-tax income for the years 1983 through 1986. Net operating income, which measures the difference between interest earned on assets and interest paid on borrowing, was only slightly negative for the industry in 1983, and was positive and substantially improving for 1984 through 1986.

It was also anticipated that the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St Germain Act of 1982 would provide additional relief to the thrifts by reducing regulatory burdens. Interest rate ceilings on deposits were phased out, and thrifts were permitted to engage in a wider variety of investment activities. Several states afforded their chartered thrifts more liberal investment options. Many observers thought that this deregulation would allow thrifts to diversify their investments and reduce the overall level of risk of their portfolios.

The forbearance policy in part grew out of the recognition that the combined effects of economic recovery, lower interest rates, and statutory deregulation would take some time to affect the financial health of the thrifts. Thus, it was argued, regulators should not necessarily close troubled thrifts as quickly as strict accounting

4. CBO currently projects that an additional 887 thrifts that are now solvent when measured on a book-value basis will need to be resolved by year-end 1995, because of their financial problems. If closed today, these thrifts would cost, on a present-value basis, an additional \$33 billion to resolve.

measures of solvency would indicate. Indeed, some thrifts benefited from this policy. Of the 112 thrifts that were tangibly insolvent in 1981, 16 were restored to solvency in 1982. Of the 415 thrifts that were tangibly insolvent in 1982, 51 were restored to solvency in 1983.

Another reason for granting forbearance was that the FSLIC did not have sufficient cash resources to close all insolvent institutions. Closure of all institutions that were tangibly insolvent in 1982 probably would have depleted the fund's cash. The required outlays for deposit insurance would have increased an already record federal budget deficit. Policymakers wanted to avoid asking taxpayers to foot the bill for FSLIC's losses, if the industry's problems were only temporary. Thus, regulators avoided closing institutions or arranging supervisory mergers. Losses were not recognized and the FSLIC remained financially solvent, at least until 1987 when the magnitude of the losses finally forced the recognition of the FSLIC's insolvency.

By the mid-1980s, however, many thrifts were still experiencing problems, and thrift regulators offered a new argument to avoid closing troubled institutions—that troubled thrifts could "grow out of their problems." Unfortunately, allowing them to do so did not anticipate either the subsequent decline in energy prices and its effect on the collapse of the credit quality of thrifts in the Southwest or the Tax Reform Act of 1986, which affected real estate values. By 1986, many thrifts that had previously been restored to financial health now suffered from a reduction in their asset values. In 1986, thrifts lost more than \$1 billion in net nonoperating income, the accounting measure that best reflects asset losses. In 1987 and 1988 combined, thrifts lost \$19 billion in net nonoperating income.

Thus, regulatory forbearance permitted the thrift industry to deteriorate. By not closing insolvent thrifts or requiring them to recapitalize, the regulators exacerbated the problem—inherent in insurance relationships—of moral hazard. Moral hazard is the term economists use to describe the reduced incentive of insured parties to protect themselves against risk if the potential losses associated with that risk are guaranteed (or insured) by another party. The U.S. system of deposit insurance addresses the risk of moral hazard through regulation and prudential supervision. When those safeguards failed, the adverse incentives of moral hazard were given free play.

Forbearance, therefore, set the stage for rampant investment speculation and fraudulent practices, all of which added to the ultimate cost of resolving the thrift crisis.

ESTIMATING THE COST OF FORBEARANCE

Recent studies of government accounting for deposit insurance suggest a method of estimating the cost to the government of the regulatory forbearance policies of the

1980s.⁵ This method would recognize losses on a more timely basis by requiring the deposit insurer to record losses on the government's books once a depository was insolvent on a book-value basis.⁶ Thus, a depository would be recognized as having failed when it became insolvent on a book-value basis, rather than when it was closed, as is current practice. In the unlikely event that an institution that was insolvent on a book-value basis recovered, the avoided resolution costs would be recorded as a receipt.

Retiming Resolutions Based on a Tangible Solvency Rule

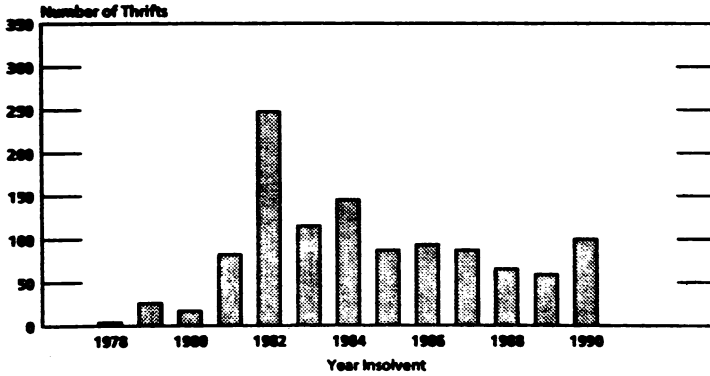
Financial statements (call reports) from all thrifts regulated by the Federal Home Loan Bank Board or insured by the FSLIC contain information that can be used to estimate the cost of resolving failed thrifts, if they had been closed when they were reported to be insolvent. The best available measure of solvency, which is contained in call reports, is tangible capital—the value of tangible assets minus liabilities. When tangible capital equals zero, an institution is effectively insolvent.

The effects of this insolvency criterion can be analyzed by applying it to the 1,130 thrifts that already have been or are expected to be resolved. This set of institutions includes 842 thrifts that were resolved by the FSLIC or its successor, the Resolution Trust Corporation (RTC), during the period 1980 through 1990. It also includes 288 unresolved thrifts that are projected to be resolved sometime in calendar year 1991—179 thrifts that were in RTC-conservatorships at year-end 1990, and 109 thrifts that were tangibly insolvent but not in government hands at the end of 1990.⁷

Most failed thrifts were not resolved until long after they became tangibly insolvent. Figures 1 and 2 compare the timing of when these 1,130 thrifts first became insolvent on a tangible basis with when they were resolved; Figure 3 shows the average length of time institutions were insolvent. About 57 percent of these thrifts were insolvent before 1985, yet the FSLIC had resolved only 15 percent. By year-end 1987, 80 percent were insolvent, but only 26 percent had been resolved. The average duration of insolvency before closure and resolution for the entire 1,130

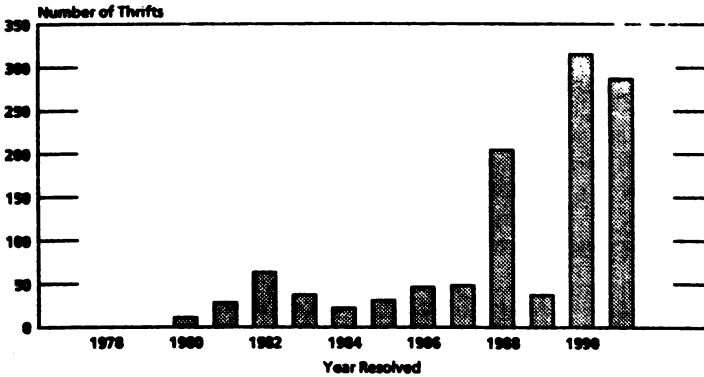
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5. The Omnibus Budget Reconciliation Act of 1990 mandated the study of government accounting for deposit insurance by CBO and the Office of Management and Budget (OMB). Both agencies presented their mandated studies to the Congress at the end of May 1991. The studies included numerous options for reforming the accounting treatment of government deposit insurance.
 6. See Congressional Budget Office, *Budgetary Treatment of Deposit Insurance: A Framework for Reform* (May 1991).
 7. CBO currently projects that an additional 887 thrifts will require resolution by either the RTC or the Savings Association Insurance Fund by 1996. These 887 thrifts are currently operating in a tangibly solvent condition, but based on the poor quality of their asset portfolio these thrifts will most likely fail and require government resolution in the near future.

Figure 1.
When Resolved Thrifts Became Tangibly Insolvent, 1978-1990



SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

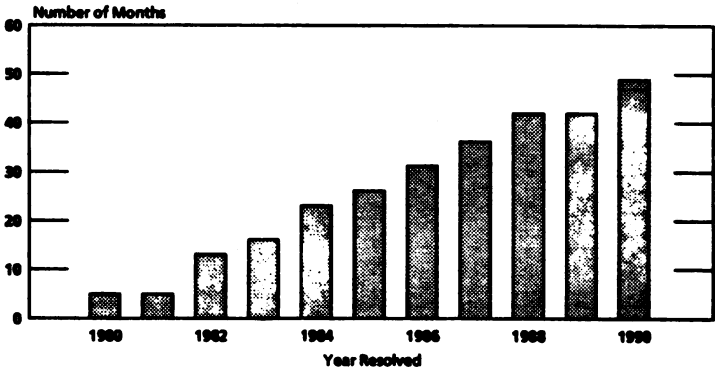
Figure 2.
When Thrifts Were Resolved at a Cost to the Government, 1978-1991



SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

NOTE: Number of thrifts resolved in 1991 is a projection.

Figure 3.
Average Number of Months of Thrifts' Tangible
Insolvency Before Resolution, 1980-1990



SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

thrifts was 38 months. Thrifts resolved in 1990 were, on average, insolvent for 49 months. Thus, by 1990, thrift owners, managers, and directors had had more than four years of forbearance to try to salvage their institutions and for moral hazard incentives to operate.

At the time an institution is closed, the RTC estimates—as did the FSLIC before it—the present-value cost of resolving the institution's assets and liabilities. This is the agency's best estimate of the cost of resolution. Thus, FSLIC and RTC estimates of resolution costs can be used to determine the final cost of resolving failed thrifts. Table 1 shows aggregate information on the 1,130 thrifts closed and projected to be resolved during the period 1980 through 1991. The estimated present-value costs of resolution are shown in nominal terms and recalculated in 1990 dollars. The estimated constant dollar cost of resolution totaled more than \$125 billion over the 1980-1991 period.

Estimating the Cost of Delay in Closing and Resolving Failed Thrifts

A simple method to determine the cost of forbearance (or the cost of delaying the closure of insolvent thrifts) would appear to be to subtract the originally reported negative amount of insolvency from the estimated cost of resolution, which occurred some time later. This calculation, however, would misstate the losses incurred after an institution became insolvent on a book-value basis because of the inclusion of administrative costs in the resolution cost estimates and the exclusion of embedded market-value losses that are unrecognized in the book-value measure of tangible capital.

To account for both the administrative costs and the embedded losses, CBO calculated what the cost of resolution would have been had insolvent institutions been resolved when they reported negative tangible capital.⁸ This calculated resolution cost was then compared with the actual estimated resolution cost made by the resolving agency (either FSLIC or RTC) when the institution was resolved. The difference between these two amounts represents the estimated cost of delay resulting from forbearance (see Figures 4 and 5). After adjusting for inflation, this calculation produces an aggregate estimated cost of delay, in 1990 dollars, of approximately \$66 billion for the 1,130 thrifts.

The \$66 billion cost of forbearance can be used to calculate the annual real rate of deterioration of the troubled thrifts that were allowed to remain open. The cost of resolving failed thrifts increased, in real terms, an average of 37 percent in each year that they were left open to operate. The median annual increase in costs for the 1,130 thrifts was 51 percent. The estimated resolution costs increased for

8. The calculation of what resolution costs would have been relies on data for reported levels of tangible net worth, both at the time of insolvency and at the time of resolution.

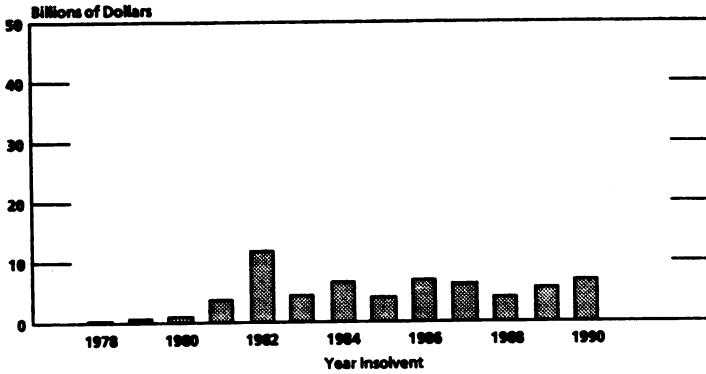
TABLE 1. CHARACTERISTICS OF INSTITUTIONS RESOLVED, 1980-1991

Year	Number of Resolutions	Total Assets (Millions of dollars)	Average Number of Months of Tangible Insolvency	Resolution Cost per Dollar of Assets (Percent)	Estimated Present-Value Cost of Resolution	
					Millions of Current Dollars	Millions of 1990 Dollars
1980	11	1,458	5.4	11.5	167	262
1981	28	13,908	5.2	5.5	759	1,091
1982	63	17,662	12.9	4.6	803	1,087
1983	36	4,631	16.4	5.9	275	357
1984	22	5,080	23.4	14.6	743	928
1985	31	5,601	25.9	17.5	979	1,238
1986	46	12,455	30.6	24.6	3,065	3,609
1987	47	10,660	35.7	34.8	3,704	4,208
1988	205	100,660	42.0	31.0	31,180	33,994
1989	37	11,019	42.4	58.0	5,399	5,641
1990	316	117,191	49.0	28.4	33,031	33,031
1991(a)	288	167,542	55.0	26.1	43,782	41,687
Total	1,130	467,867	42.1	26.5	123,887	127,133

SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

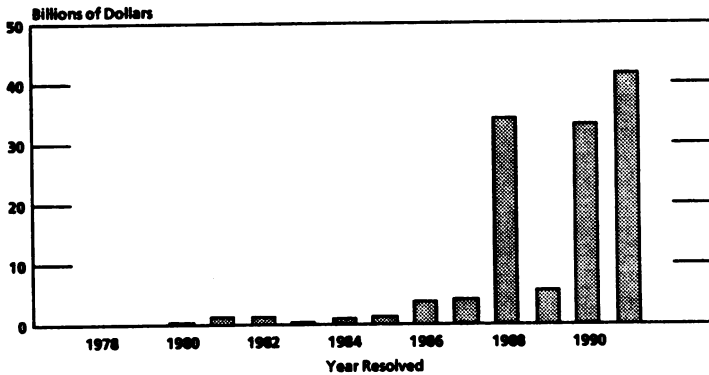
(a) Projected.

Figure 4.
Cost of Resolution If Thrifts Had Been Closed
When They Became Insolvent, 1978-1990



SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Figure 5.
Cost of Resolution When Thrifts Were Closed, 1978-1991



SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

NOTE: Cost for 1991 is a projection.

513 thrifts. The remaining thrifts either were resolved at no additional costs or were resolved in the year they became insolvent.

Calculating the cost of delay requires a number of simplifying assumptions. One assumption is implicit—that certain costs incurred in the process of resolving a failed thrift are the same whether it would have been resolved when it first became insolvent, or later, when it actually was resolved. These costs come from the government's administration of resolutions and the possible loss of franchise value that may take place if regulators act precipitously.⁹

The most important assumption is that the costs remaining after the calculated resolution costs are subtracted from the reported resolution costs represent the deterioration in net worth that could have been avoided if the institution had been shut down at the time of insolvency. Although the estimated cost of delay attempts to incorporate a write-down of the embedded losses, some of these losses may still be represented in the estimate. There is, however, sufficient reason to believe that a substantial portion of those losses represent additional costs that could have been avoided if institutions had been closed earlier. Many troubled thrifts attempted to increase their assets and funded that growth by borrowing at high rates. Undercapitalized thrifts paid costly premiums for their deposits and other borrowings. Financing growth in this way only reduced or made negative their net operating profits. Fraud and negligence, fueled by the incentive of moral hazard, have been well documented. On balance, the weight of available evidence indicates that much of the estimated \$66 billion in added costs that occurred between the time of insolvency and the time of closure was the result of actions and investments made by thrift officials during the intervening period.

Two factors associated with calculating the cost of forbearance based on tangible solvency could change the estimated cost. First, some tangibly insolvent thrifts did recover. About 345 thrifts currently operating and tangibly solvent on a book-value basis were technically insolvent at some time during the 1980s. CBO projects that 70 percent of the 345 thrifts will ultimately fail and require resolution. Adjusting the earlier calculations of the cost of forbearance to account for the possible continued recovery of the surviving institutions would lower the estimate by only \$1.5 billion.

A second factor, however, could raise the estimate of forbearance costs. Many analysts have suggested that earlier closure of failed thrifts might have benefited other, healthy, thrifts that subsequently also failed. Because undercapitalized or insolvent thrifts were permitted to compete with healthy thrifts (and banks), they bid up interest rates offered to depositors and bid down rates required of borrowers. The resulting squeeze on the profits of all financial competitors ran up the cost of the thrift debacle.

9. The calculation also assumes that the time value of money and the resolution's cash flow were unchanged over time.

Thus, on balance, the forbearance policy practiced by thrift regulators during the 1980s must carry a large portion of the burden for escalating the cost of the thrift bailout. Had regulators acted more promptly, as much as \$66 billion might have been saved.

TABLE A-1. Year-End Thrift Information, 1980-1990

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Assets and Net Worth (Billions of dollars)											
Number of Institutions	3,993	3,751	3,287	3,146	3,136	3,246	3,220	3,147	2,949	2,597	2,342
Total Assets (RAP Basis)	604	640	686	814	978	1,070	1,164	1,251	1,352	1,157	1,005
Net Worth (GAAP Basis)	32	27	20	25	27	34	39	34	46	51	NA
Tangible Net Worth	32	25	4	4	3	9	15	9	23	36	38
Income (Millions of dollars)											
Net After-Tax Income	781	-4,631	-4,142	1,945	1,022	3,728	131	-7,779	-12,057	-3,124	-964
Net Operating Income	790	-7,114	-8,761	-46	990	3,601	4,562	2,850	907	-3,549	-1,099
Net Nonoperating Income	398	964	3,041	2,567	796	2,215	-1,290	-7,930	-11,012	316	428
Taxes	407	-1,519	-1,578	576	764	2,867	3,141	2,699	1,952	-109	331
Asset Portfolio (Percentage of total)											
Home Mortgages	66.5	65.0	56.3	49.8	44.9	42.4	38.9	37.8	38.6	42.9	44.5
Mortgage-Backed Securities	4.4	5.0	8.6	10.9	11.1	10.4	13.1	15.6	15.4	14.0	14.5
Mortgage Assets	70.9	70.0	64.9	60.7	56.0	52.8	52.0	53.4	54.0	56.9	59.0
Institution Type											
Stock Institutions											
As a percentage of all institutions	20.0	21.0	23.0	24.0	30.0	33.0	37.0	40.0	44.0	44.0	44.0
As a percentage of total assets	27.0	29.0	30.0	40.0	52.0	56.0	62.0	70.0	74.0	75.0	75.0
Federally-Chartered											
As a percentage of all institutions	50.0	51.0	51.0	51.0	54.0	53.0	54.0	56.0	58.0	60.0	64.0
As a percentage of total assets	56.0	63.0	70.0	66.0	64.0	64.0	64.0	65.0	71.0	75.0	83.0
Tangible Capital-to-Asset Ratio (Assets in billions of dollars)											
Greater Than 6 Percent											
Number of thrifts	1,701	1,171	787	661	643	806	972	1,113	1,136	1,180	1,132
Total tangible assets	181	101	59	84	62	95	156	188	196	206	195
Between 3 Percent and 6 Percent											
Number of thrifts	1,956	1,766	1,202	1,091	945	1,009	995	891	864	813	837
Total tangible assets	379	348	190	222	227	259	316	356	418	480	484
Between 1.5 Percent and 3 Percent											
Number of thrifts	230	524	592	569	526	460	354	277	281	245	163
Total tangible assets	39	113	136	185	168	212	191	196	244	206	154
Between 0 Percent and 1.5 Percent											
Number of thrifts	63	178	291	310	327	266	227	194	160	120	101
Total tangible assets	4	50	81	88	153	135	144	143	182	59	83
Less than 0 Percent											
Number of thrifts	43	112	415	515	695	705	672	672	508	239	109
Total tangible assets	0.4	29	220	234	336	335	324	336	283	192	89
Conservatorships (Assets in billions of dollars)											
Number of Thrifts	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	281	179
Total Tangible Assets	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	93	79
Resolutions (Millions of dollars)											
Number of Thrifts	11	28	63	36	22	31	46	47	205	37	316
Total Assets	1,458	13,908	17,662	4,631	5,080	5,601	12,455	10,660	100,660	11,019	117,191
Estimated Present-Value Cost	167	759	803	275	743	1,822	3,065	3,704	31,180	5,399	33,031
Estimated Present-Value Cost, in 1990 Dollars	262	1,091	1,067	357	928	1,238	3,609	4,208	33,994	5,641	33,031

SOURCE: Congressional Budget Office using data from Federal Home Loan Bank Board, Office of Thrift Supervision, Resolution Trust Corporation, and Ferguson and Company. The format of this table is adapted from James R. Barth, Philip F. Bartholomew, and Carol J. Labich, "Moral Hazard and the Thrift Crisis: An Empirical Analysis," *Consumer Finance Law Quarterly Report*, vol. 44, no. 1 (Winter 1990), p. 23.

NOTES: Data for 1990 are preliminary. For 1989 and 1990, industry data do not include those thrifts in conservatorships at year-end (the thrifts included are referred to as private-sector thrifts by the Office of Thrift Supervision).

Resolutions in 1988 do not include 18 "stabilizations" that had assets of \$7,463 million and tangible net worth of negative \$3,348 million, and an estimated present-value resolution cost of \$6,838 million. Resolutions in 1989 do not include seven resolutions by the Federal Savings and Loan Insurance Corporation (reportedly at no cost to FSLIC) and two by the Resolution Trust Corporation (reportedly at no cost to the RTC). Home mortgages exclude multifamily and nonresidential mortgages.

RAP= Regulatory Accounting Practice; GAAP= Generally Accepted Accounting Principles; n.a.= not applicable.

TABLE A-2. **ATTRITION AMONG INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1980-1990**
(Assets and costs in millions of dollars)

Year	Resolutions Requiring FSLIC or RTC Assistance										Resolutions Requiring No Assistance		
	Liquidations					Mergers and Other Types of Assisted Resolutions					Management Consignment Cases and RTC Conservatorships (a)		Supervisory Assisted Mergers
	Total		Total		Number	Total		Total		Number	Total		Total
	Assets	Cost	Assets	Cost		Assets	Cost	Assets	Cost		Assets	Cost	
1980	0	0	0	0	11	1,457.6	166.6	11	1,457.6	166.6	0	0	21
1981	1	88.5	30.4	27	27	13,819.7	728.3	28	13,908.2	758.7	0	0	54
1982	1	36.1	2.9	62	62	17,626.0	800.4	63	17,662.1	803.3	0	0	184
1983	5	262.6	60.6	31	31	4,368.5	214.1	36	4,631.1	274.7	0	0	34
1984	9	1,497.7	583.3	13	13	3,582.5	159.3	22	5,080.2	742.6	0	0	14
1985	9	2,141.3	630.1	22	22	4,227.0	391.5	31	6,368.3	1,021.6	23	23	10
1986	10	583.8	253.7	36	36	11,871.3	2,811.3	46	12,455.1	3,065.0	29	29	5
1987	17	3,043.8	2,277.5	30	30	7,616.6	1,426.1	47	10,660.4	3,703.6	25	25	5
1988	26	2,965.2	2,831.7	179	179	97,694.7	28,347.8	205	100,659.9	31,179.5	18 (b)	18 (b)	6
1989	30	2,294.7	1,406.7	7	7	8,724.5	3,992.5	37	9,662.0	5,608.0	281	281	0
1990	144	22,544.6	10,685.5	172	172	94,646.2	22,345.9	316	110,253.0	31,305.0	179	179	0
Total	252	35,458.3	18,762.4	590	590	265,634.6	61,383.8	842	292,797.9	78,628.6	555	555	333

SOURCE: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

NOTE: Costs are estimated present-value costs of resolution.

(a) After 1988, thrifts were placed into Resolution Trust Corporation (RTC) conservatorship before resolution; before 1989, many thrifts were placed into a management consignment program.

(b) Resolution of these institutions --- called stabilizations by the Federal Home Loan Bank Board --- was incomplete.

TESTIMONY BY RALPH NADER
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
OF THE
BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
SEPTEMBER 19, 1991

Mr. Chairman, Members of the Subcommittee:

Thank you for the opportunity to testify today regarding the issue of funding and restructuring of the Resolution Trust Corporation (RTC). This committee should seriously consider what are in fact the most important continuing issues in the savings and loan bailout -- who is going to pay for it and how do we make the savings and loans and the RTC more accountable.

Indeed, in most discussions about paying for this scandal it is assumed that there is only one way to pay for it -- by borrowing the money and sending the bill to our children and grandchildren. These funds come from working Americans who neither caused nor benefitted from the S&L collapse and their payout is dramatically increased by the cost of interest on borrowed funds. The S&L bailout, and now the commercial bank bailout, are severely regressive and unfair.

Each time we hear from another government official the cost estimate for the savings and loan bailout escalates. In 1989 the Administration claimed \$50 billion would be enough. The RTC has already received \$80 billion and has spent \$146 billion including borrowed funds for working capital. The Administration now says the RTC will need an additional \$80 billion for FY 1992 claiming that will be enough. Yet, the Congressional Budget Office estimates that an additional \$100 to 140 billion will be necessary after 1992. The Administration is avoiding its obligation to formally seek new funds for the RTC in a timely fashion.

Worse yet, Congress and the Bush Administration are proposing to deregulate the banks while at the same time providing the commercial banks with a \$70 billion bailout.

Indeed, according to the New York Times, the FDIC has already begun to borrow almost \$3 billion from the taxpayers to bail out failed banks.

The RTC is a scandal in the making as this committee has learned through testimony and studies. From the beginning, the General Accounting Office has been concerned about the RTC's vulnerability to fraud, waste, and mismanagement. And, in June of this year, GAO was unable to present an audit of the RTC to Congress because the RTC could not reconcile its accounts.

Taken together the S&L collapse and bailout, the pending bank bailout, possible bank deregulation, and the ongoing mess at the RTC, all argue for dramatically strengthened oversight and control to stop this disastrous hemorrhage of red ink.

This Committee must not approve any further funding for the RTC without fundamental reforms in how the agency operates and is funded, going far beyond any enacted to date. I commend you, Mr. Chairman, for opposing additional funding in March of this year because the funding proposal lacked adequate reforms.

To avoid these questions on jurisdictional grounds as has been done before, would be an abdication of responsibility. One funding proposal, explained below, is clearly within the jurisdiction of this Committee as it merely imposes a user fee on the users of the financial industry. To hastily enact RTC funding because of a suddenly discovered emergency would be to follow the Bush White House's script for a political cover up of its budgetary complicity in this scandal. It certainly goes without saying that this Committee has jurisdiction over issues concerning the accountability of financial regulatory agencies.

It is long overdue for this Committee to finally stand up for taxpayers and protect their interests instead of continuing to enact the agenda of the bankers and the Treasury Department.

I. Cut the cost of the bailout by paying for it fairly.

The S&L bailout plan enacted in 1989 and additional funds authorized in 1991 place a heavy burden on taxpayers and consumers. This burden is both inequitable and needlessly expensive.

The bailout law provided \$50 billion for the RTC; and in March of this year Congress authorized an additional \$30 billion. (These figures do not include the billions of dollars borrowed for working capital or to pay interest). The entire amount is borrowed over the next 40 years. In addition, the Administration, has hinted at the need for an additional \$80 billion for FY 1992 to bring the total amount for the S&L bailout (in current dollars) to \$160 billion for three years. The

Administration claims this will be the last year funds will be necessary. The Congressional Budget Office disagrees saying that another \$100 - 140 billion will be necessary beyond 1992.

Remarkably, in this time of tight budgets the Administration proposes to borrow the money to pay for the bailout. Borrowing money to pay for financial bailouts is outrageously unfair for taxpayers for three reasons:

First, funding the bailout through Treasury Department borrowing is much more expensive than paying for it now. As a result of this deficit financing, taxpayers will be forced to pay billions of dollars extra each year in interest payments alone.

According to the Stanford Journal of Law and Policy, the total cost of the S&L bailout over forty years could amount to \$1.3 trillion. Of that mind-boggling sum, over \$913 billion will be used to pay interest. The upsurge in federal borrowing has already helped keep interest rates high.

Second, borrowing the funds to pay for the bailout places the burden on the backs of the middle class and poor. It is one of the most regressive transfers of wealth in U.S. history. Average citizens neither caused nor benefitted from the policies that led to the industry's collapse. They did not benefit from the widespread looting of the S&Ls nor did they benefit from the unprecedented wave of financial deregulation. Those in the upper economic income brackets did benefit from these policies, through higher interest payments and expanded investment choices. But most families are net debtors, who suffer when real interest rates rise. Whatever benefits they gain from greater interest on savings accounts was overwhelmed by the higher interest they had to pay on their houses, cars, and credit cards or student loans. Average citizens should not get stuck with paying for fiascos they neither caused nor profited from.

Third, it is utterly irresponsible for the government to undertake this new monumental spending without regard for the impact on the federal budget deficit. The new request -- \$80 billion -- is larger than the annual budgets of every federal cabinet department except the Department of Defense and the Department of Health and Human Services. Indeed, under the Budget Agreement when new spending is proposed -- for education, child care, transportation, or law enforcement -- it must be accompanied by new revenue to pay for it. But the S&L bailout and the bank bailout have thus far been treated as if they were minor technicalities, instead of the massive new government spending that they are. Earlier this year, Congress hastily passed the funding legislation with few reforms. And, the issue of the \$70 billion bailout within the bank deregulation legislation was hardly discussed in this Committee.

All financial bailouts should be funded on a "pay-as-you-go" basis.

II. Require the Administration to provide a plan to raise the necessary funds for financial bailouts.

When the Administration formally requests additional funding for the RTC, Congress should require that it be accompanied with a plan to raise the revenues to pay for it just as all other government programs require. No new funds should be authorized until the Administration presents its plan to pay for the bailout in the same year as Congress authorized the funds for it.

The House of Representatives came close to injecting a dose of fiscal responsibility earlier this year when it nearly adopted the "pay-as-you-go" amendment offered by Reps. Joseph Kennedy and Jim Slattery. This amendment would have required the President to include a "pay-as-you-go" plan with any new RTC funding request. (The House Banking Committee, of course, voted for such an approach by a strong and bipartisan margin.) Had this plan passed, it would have marked the beginning of the end of the bipartisan S&L cover up. I urge this committee to refuse to enact any financial bailouts unless they are honestly and fairly paid for up front.

III. Require the financial industry to pay to clean up the industry -- enact the Kerry Plan.

One plan that I urge the Administration, as well as Congress and this Committee, to seriously consider is being offered by Senator John Kerry (D-MA).

Senator Kerry's plan would put an end to taxpayer-funded financial bailouts -- after all, deposit insurance is supposed to be funded by the financial industry -- and it would enable the Congress to institute a "pay-as-you-go" method of funding. This plan would fund the bailout without spending tax dollars or adding to the deficit. Under his plan, all financial bailouts would be funded the same as all other government programs such as education, health care, and law enforcement -- on a "pay-as-you-go" basis.

Instead of having average taxpayers paying to bail out the savings and loans and the banks, those who control most of the dollars and thus the capital would bear most of the burden for the bailout. It is this same group of people who benefit the most from a safe and sound financial industry.

Under this "pay-as-you-go" proposal, any payments made to assist S&Ls and banks would be made by the Treasury. The Treasury would raise the necessary funds through a clearance fee imposed on all users of the U.S. dollar around the world. The

fee imposed would be determined by the Federal Reserve based on a percentage of the transaction. Approximately \$1.7 trillion moves through the clearance system each day. Assessing a user fee of about two-hundredths of one percent would generate almost \$85 billion a year which is more than enough to meet the needs of the RTC and the FDIC.

Under this plan, consumers would pay only a few pennies on every \$100 check they write. A business that writes a \$10,000 check would pay only \$2.00. Thus, instead of average Americans bailing out the financial industry at a cost of \$3600 or more per taxpayer, those who control most of the dollars would bear most of the burden for the bailouts, i.e. large corporations and foreign and domestic financial institutions.

These financial scandals have a devastating effect on the economy and should be dealt with promptly and efficiently. Putting off the cost of the bailout onto future generations only makes matters worse. This "pay-as-you-go" plan would put an end to the Administration's economically senseless and unjust "borrow and spend" policy.

In addition, this plan would end one of the most unfair aspects of the bailout. Currently, banks pay 23 cents in premiums for federal deposit insurance for every \$100 that is federally insured but do not pay a penny in deposit insurance premiums on their foreign deposits. Yet, for all practical purposes foreign depositors are bailed out just as domestic depositors. Is this what Congress considers part of the foreign aid subsidy? Congress should move to change this blatant inequity. This plan would certainly move in that direction.

This plan will ensure that the cost of the bailout is shared by those who are in the best position to pay for it, instead of our children and our children's children. These financial bailouts are already the biggest taxpayer ripoff of our time. It is time for Congress to act honestly and responsibly in dealing with these financial crises.

IV. Require the RTC to be more accountable through the establishment of a citizen watchdog group.

The lessons of the S&L system breakdown are clear: At each causepoint, an opportunity for greed and thievery to develop, and at each checkpoint, a safeguard that would have stopped the nation's biggest bank robbery, the people were betrayed.

Causepoint. For some forty years, the S&Ls were nearly all mutuals -- legally owned by their depositors and prevented from "playing" in money markets. In the seventies, federal banking agencies succumbed to industry demands for conversion from mutuals to stock cooperations, which then could raise more

capital from the money markets. These conversions opened the door to risk-taking high rollers. There was no organized opposition by depositors to this conversion movement.

Causepoint. In 1980, legislators well connected to the banking lobbies pushed through Congress a \$100,000 per-bank-account insurance guarantee. In 1982, Reagan and his bank allies got Congress to enact a deregulation bill that allowed the S&Ls to invest these growing pools of Uncle Sam-insured money in junk bonds, risky real estate investments, and so on. This trail led many S&Ls down the path to bankruptcy. There was no organized opposition to these actions by bank consumers.

Causepoint. In 1989, Congress curtsied to George Bush's demands and millions of S&L-PAC dollars by passing the first stage of the \$500 billion S&L bailout. No special tax on banks and other corporations was considered. Apart from a few scattered consumer groups, there was no organized opposition.

Checkpoint. From the beginning Congress, especially the Banking committees, did not conduct the visible investigation and oversight to foresee and forestall the looming debacle. There were only a few scattered voices pushing Congress to act.

Checkpoint. The state bank regulatory agencies in key states like Texas, California, and Florida received authority and leeway from their legislatures to loosen bank standards and investment criteria. There was no organized citizen group in these states to watch those agencies and legislatures.

Checkpoint. Throughout the Reagan eighties, the president insisted on deregulation. This meant abandoning historic bank safeguards -- bank examiners learned that the best way to lose their jobs was to do their job. There was no organized citizen group to watch these "sentinels."

Checkpoint. Outside accounting firms passed hundreds of S&L financial statements that glared with phoniness. Hundreds of appraisers inflated real-estate values in order to remain in favor with banking clients. There was no organized depositor group with a skilled staff to blow the whistle on professionals who lucratively slept at the switch.

Checkpoint. Outside directors of the S&Ls were handpicked for their sycophancy, or they were rife with conflicts of interest, a la Neil Bush. There was no organized group representing small shareholders and homeowners.

It was a systematic and institutional sequence of events that has led us to such horrific and costly financial crises. These events were allowed to take place because there was no organized citizen opposition or watchdog to hold the private and

public sector accountable.

The RTC, the agency charged with cleaning up after one of the worst financial disasters in U.S. history, is fast becoming a disaster in itself. We are now witnessing similar mismanagement, secrecy, self-dealing, institutional and regulatory failures at the RTC.

- * RTC pays up to \$600/hr in legal fees -- New York Times, April 5, 1991.
- * RTC rate of recovery on assets is 60 cents on the dollar -- Los Angeles Times, July 1991.
- * RTC sells a loan portfolio for 30 cents on the dollar -- Washington Post, September 14, 1991.
- * RTC sells \$1.1 billion loan portfolio for \$527 million -- Wall Street Journal, September 11, 1991.
- * RTC field office in Kansas pays \$26,000 for art work to decorate the RTC office and raise morale -- Washington Post, July 9, 1991.
- * RTC is unable to provide Congress with an up-to-date audit of its books -- General Accounting Office, July 17, 1991.

The RTC is now the largest seller of real estate in the United States. It has approximately \$160 billion in assets from failed S&Ls. Since its inception in 1989 it has spent more than \$140 billion. Yet, according to the General Accounting Office (GAO) the RTC has had a great deal of difficulty reconciling its accounts. Thus, the GAO has been unable to provide an accurate audit explaining to Congress and the American people about how the RTC has been spending its money.

Clearly, we need a new breed of citizen watchdog groups to monitor, educate, and advocate on behalf of the broad public interest in financial regulation and performance. Thus I have long proposed an inexpensive and fundamental reform to the RTC and the rest of the financial industry which would institutionalize enduring citizen participation in policy and regulatory decisions, and oversight. As part of any funding package for the RTC, Congress should charter a national Financial Consumer Association (FCA), a voluntary, citizen-run and funded watchdog over the financial system.

When the totality of institutional and professional checkpoints fail to meet their well paid responsibilities, legislators should no longer ignore facing the need to provide new facilities of democratic organization for the people who are forced to pay the bills for these appalling failures by the

appointed sentinels.

A Financial Consumer Association would be a federally-chartered, membership-run organization. Citizens would be notified of their ability to join the FCA through a neutrally worded government insert in federally-insured bank and S&L deposit statements. I estimate that more than 2 million consumers would contribute to and join the FCA within the first year. The FCA then would be able to amass the necessary resources to hire economists, experts, organizers and attorneys to represent taxpayers and compete with the bankers (who use our money) in the policy arena. The full-time staff of the FCA would represent consumers before state legislatures, Congress, regulatory agencies and the courts.

The FCA proposal is modeled after the successful Citizen Utility Boards (CUBs), that operate in Illinois, Wisconsin and San Diego, and that are being established in New York and elsewhere. CUBs have enjoyed a large degree of success. The Illinois CUB, with 200,000 dues paying members, has saved ratepayers over \$3 billion since 1983, among other accomplishments.

Mr. Chairman, the public has shown that it wants a voice in financial policy matters. The voters in your state of Illinois in particular have strongly shown their support for a Financial Consumer Association. In November, 1990, on an advisory referendum in five major counties, Illinois voters overwhelmingly supported the creation of a statewide FCA. With the backing of Illinois' newly elected Treasurer, Pat Quinn, FCA legislation is moving through the state assembly. The Chicago City Council is also considering this proposal. I commend both you and your constituents for their support of this important proposal.

To date, however, both the House and Senate banking committees have listened far more to banking lobbyists and contributors than to citizen constituents. Despite the support of yourself, and other members of Congress such as Rep. Esteban Torres, Rep. Richard Neal, Rep. Marcy Kaptur, and Rep. Nancy Pelosi, a proposal for a national FCA, introduced by Rep. Charles Schumer and Joe Kennedy, was shouted down in 1989 during consideration of the \$50 billion first installment of the S&L bailout, and earlier this year during consideration of the bank deregulation plan. By this action, the majority of the House Banking Committee together with its Senate counterpart -- responsible more than any other panel for these debacles -- showed unparalleled reckless arrogance where deep embarrassment would have been appropriate.

Had consumers and taxpayers been represented throughout the process by their full time, skilled advocates, the financial industry would be more accountable and effective and we would not

be experiencing crises of this magnitude in our economy. Had they been equipped with the tools and resources to oversee the workings of the RTC since its inception the RTC would be better serving the taxpayers instead of making sweetheart deals.

Given the history of the past decade, what other than an informed and organized citizenry can ensure that the RTC operates in the sunlight and is held accountable? An FCA, at no expense to the taxpayer, would provide that opportunity.

Only if Congress provides citizens with the convenient mechanism to band together and become effective watchdogs will we prevent these fiascos from happening again. I strongly urge Congress and this committee to make the 1992 funding for the RTC contingent on the establishment of a national FCA.

V. Require the RTC to be accountable through effective public access to information at the RTC.

Access to information is essential to making the RTC operate in the sunlight of public accountability. It is also essential for effective citizen participation and oversight. Yet, despite the staggering cost to taxpayers and the immense responsibilities entrusted to the RTC, much of the RTC's critical work is kept secret.

Ironically, only one industry has a blanket exemption from the Freedom of Information Act (FOIA), and only one industry's failure has led to a \$1.3 trillion dollar taxpayer-funded bailout. Not surprisingly it is the same industry -- financial banking services.

For more than 20 years the Freedom of Information Act has enabled American citizens to inform themselves about the government's activities and to participate more effectively in public debate. The FOIA creates a public right of access to government information, enforceable in court, unless that information falls within a specific exemption.

Wisely, however, the House Banking Committee, as part of their report accompanying the 1989 bailout legislation, stated that for purposes of the FOIA the RTC is not an agency that regulates or supervises financial institutions. Thus the banking exemption did not apply to the newly created RTC.

Yet, despite this report language, the RTC still claimed the banking exemption to the FOIA as a reason to deny access to important documents including those concerning officers and directors placed on administrative leave as well as information regarding losing bidders. In May, the RTC issued proposed regulations for comment regarding disclosure of information but

has yet to issue the final regulations.

Recently, more information has become available. However, the RTC has become so backlogged with requests for information that some of the information that eventually is released loses most of its value because it is no longer current. This backlog applies especially to property sales information including the purchaser of the property and the price it sold for. This information should not be difficult for the RTC staff to retrieve. Current sales information is contained in sales reports that are sent periodically to the home office. It should be made available in a timely and useful fashion.

Since taxpayers are currently footing the bill for the bailout and continue to insure deposits, they have a compelling interest in protecting against fraud, mismanagement, and agency failure -- access to information is critical to do the job. As we saw in the S&L crisis, this veil of secrecy serves to undermine the integrity and security of financial institutions.

I urge this committee to put in statute the report language that accompanied the S&L bailout legislation regarding the FOIA. And, require the RTC to provide information regarding its operations in a timely fashion.

Indeed, as we face one of the worst financial crises in U.S. history, the financial industry and the public would be well served if the bankers exemption were completely repealed. Or, at least, the incredibly broad reach of this exemption should be cut back to include only information pertaining to the solvency and soundness of particular financial institutions.

VI. Conclusion

The RTC is quickly turning into the next financial scandal. It is unaccountable to the public and it is unfairly paid for. The current system offers enormous opportunity for insider abuse and fraud. I urge Congress and this Committee to enact fundamental reforms before any further funding of financial bailouts is enacted. Otherwise what have you learned from history other than to repeat it.

It is time to end the silence and require the funding for the RTC and all subsequent financial bailouts be paid for fairly. And, consumers must be provided an effective voice to watch the RTC, hold it accountable and prevent it from becoming a scandal in itself.

STATEMENT OF
HAROLD SEIDMAN, SENIOR FELLOW
NATIONAL ACADEMY OF PUBLIC ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS,
SUPERVISION, REGULATION AND INSURANCE
HOUSE COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS
ON THE
RESOLUTION TRUST CORPORATION

SEPTEMBER 19, 1991

Mr. Chairman and Members of the Subcommittee:

I am pleased to accept your invitation to discuss restructuring the Resolution Trust Corporation (RTC), including the structure of the Oversight Board and the role of the Federal Deposit Insurance Corporation (FDIC) as the exclusive manager of the RTC. The inadequacies resulting from deficiencies in the present structure have been well documented. These problems may be attributed in part to the failure, in designing the present structure, to observe what are generally considered to be fundamental principles of sound organization.

Instead of establishing a clear link of authority and accountability, the authority and accountability for the policies and operations of RTC are divided between the Oversight Board and the Board of Directors of the FDIC. The Oversight Board by law is to be held accountable for the RTC, although exclusive authority for management of the corporation is vested in the FDIC. The FDIC board of directors is subject to Oversight Board supervision for some of its functions but not for others. The division of functions among the Oversight Board, FDIC, and RTC inevitably causes confusion, generates conflicts, encourages second guessing and buck-

passing, and makes it impossible to hold any one individual or organization accountable for the effective performance of the important tasks assigned to the RTC.

The legal status of the Oversight Board is unclear. The board is defined by law as a "body corporate" with certain enumerated corporate powers, although the board meets none of the established tests for use of a government corporation. The board is not revenue-producing, nor is it engaged in business-type operations. Its duties are confined mainly to prescribing overall strategies, policies and goals for the RTC. The board is further defined as an "instrumentality of the United States," thus exempting it from all laws applicable to executive agencies except where otherwise specifically provided by law.

Title 5 of the U.S. Code includes in its definition of an "agency" -- not an instrumentality -- "a corporation owned or controlled by the government of the United States." Designation as an instrumentality is highly inappropriate for a board composed of the secretaries of the Treasury and Housing and Urban Development, the chairman of the Board of Governors of the Federal Reserve System, and two independent members appointed by the president with the advice and consent of the Senate. The board, supplemented by a full-time senior staff, is performing functions indistinguishable from those of other executive agencies. The rationale for classifying the board as an "instrumentality" is not evident. The classification serves no constructive purpose and merely adds to the confusion inherent in the present structure.

Comparable problems are created by misclassification of the RTC as a mixed-ownership corporation and instrumentality when, it is in fact, a wholly-owned government corporation which should be subject to the provisions of the Government Corporation Control Act applicable to wholly-owned government corporations.

Experience demonstrates that boards are best suited for the performance of deliberative functions such as rule-making, adjudication and regulation, but they rarely do well when called upon to engage in complex operations. These deficiencies are compounded when boards have agency heads as members who have other responsibilities which may or may not be compatible with their board duties. Organizations such as the Oversight Board tend to act in the same

manner as interagency committees with the authority of the principals being delegated to subordinate agency officials.

The FDIC was well designed to carry out its basic mission: bank supervision and regulation and protection of the insurance fund. It is not well designed to manage the RTC whose principal job is asset disposal, not bank regulation. Effective administration of the RTC requires a staff with a different set of skills, outlook, priorities and goals than those which have historically influenced the way FDIC conducts its business.

In summary, we believe the current structure should be reorganized for the following reasons:

1. The division of responsibility among the Oversight Board, FDIC and RTC is counter-productive and obscures accountability.
2. The magnitude and importance of the job calls for establishment of an agency, comparable to the War Assets Administration following World War II, adapted to the unique requirements of the RTC. Bank supervision and asset disposition are distinct functions requiring different kinds of personnel and procedures. Separation of these two functions would be in the best interests of both the FDIC and the RTC.
3. Designation of the Oversight Board and the RTC as instrumentalities raises serious questions as to their legal status without compensating benefits.
4. Coordination among RTC, FDIC, Treasury, and HUD may be more effectively achieved by means other than making federal officers *ex officio* members of an oversight board. When deemed necessary and appropriate, language may be included in the enabling act requiring RTC to consult with other agencies before taking specific actions.

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MR. CHARLES A. BOWSER, COMPTROLLER GENERAL
GENERAL ACCOUNTING OFFICE

QUESTIONS SUBMITTED BY HONORABLE LARRY LAROCCO

- 1) The Justice Department reports monthly on prosecutions, but it is difficult to know whether 597 convictions in two years constitutes good or bad performance without knowing how many more S&L crooks are escaping charges. Has GAO studied the Justice Department's performance? What is your opinion of the Justice Department's record? How can it be improved?
- 2) The Justice Department is focusing on savings and loan officials. Should Justice be going after regulators as well?
- 3) The Justice Department reports a 92 percent conviction rate. Does that mean that they are doing a great job of getting convictions or does it mean that they are only taking on the easy cases?

RESPONSES TO QUESTIONS SUBMITTED BY THE HONORABLE LARRY LAROCCO

Question 1:

The Justice Department reports monthly on prosecutions, but it is difficult to know whether 597 convictions in two years constitutes good or bad performance without knowing how many more S&L crooks are escaping charges. Has GAO studied the Justice Department's performance? What is your opinion of the Justice Department's record? How can it be improved?

Answer 1:

GAO is currently studying the Federal Government's efforts to investigate and prosecute financial institution fraud. We agree that it is difficult to judge how successful the Government's efforts have been. Although the Justice Department provides monthly reports on major financial institution fraud investigations to the Congress, overall information on the Government's efforts is limited. The FBI maintains data on major financial institution fraud cases¹ which can be tracked over time and, in our opinion, provides a somewhat better basis to judge Justice efforts. The FBI reports that major financial institution fraud felony convictions increased from 692 in fiscal year 1987 to 982 in fiscal year 1990. During the first nine months of fiscal year 1991, FBI reported 660 felony convictions. If fiscal year 91 data on convictions are annualized, this would represent a 27 percent increase over fiscal year 1987. FBI resources devoted to major financial institutions investigations nearly doubled over the same period.

Financial institution investigations are complicated and require a thorough understanding of accounting and banking/S&L procedures. In our opinion, U.S. Attorneys and FBI agents need to increasingly work with other agency personnel, particularly IRS agents and supervisory examiners and investigators, to effectively pursue fraud against the nation's financial industry.

¹. The FBI defines major cases as those involving failed institutions or those involving on-going institutions that allege losses of \$100,000 or more. This includes Savings and Loans, Banks, and Credit Unions.

Question 2:

The Justice Department is focusing on savings and loan officials. Should Justice be going after regulators as well?

Answer 2:

Justice and FBI data show that most resources are devoted to Bank, not to Savings and Loan investigations. FBI data as of June 30, 1991 reveals the following:

	Major Cases <u>On-Going</u>	Fiscal Year 1991 FBI Agent Years Charged <u>to Major Cases</u>
Banks	3,098	265
Savings and Loans	897	197
<u>Credit Unions</u>	<u>132</u>	<u>12</u>
Totals	4,127	474

We do not have information on whether Justice has any on-going investigations involving regulators. However, we have no indication that Justice should be focusing its criminal investigations on regulators.

Question 3:

The Justice Department reports a 92 percent conviction rate. Does that mean that they are doing a great job of getting convictions or does it mean that they are only taking on the easy cases?

Answer 3:

Justice Department data do show that once an indictment or information is obtained, a conviction is very likely. However, most major financial institution fraud cases opened by the FBI do not result in indictments or informations. Although specific information on the results of cases is not available to us at this time, we are able to glean some information from FBI data comparing case openings, closings, indictments/informations, and convictions. For example in fiscal year 1990, the FBI opened nearly 3,500 cases and closed about 2,900. During this same period, FBI recorded 1,066 indictments and informations, and obtained felony convictions

on 982 individuals. At this time, we do not have data to compare financial institution fraud investigations with other types of investigations.



CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Robert D. Reischauer
Director


December 19, 1991

**Honorable Frank Annunzio
Chairman
Subcommittee on Financial Institutions
Supervision, Regulation and Insurance
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515**

Dear Mr. Chairman:

Attached please find a response to a question raised by Congressman Larry LaRocco during a hearing held before your Subcommittee back in September. The response to this question required careful research, and we have been in touch with your staff, indicating that it would take time before we could provide an answer.

Please contact me should you have questions or you may wish to have your staff contact Bob Sunshine (x62860) in our Budget Analysis Division where the response was prepared.

Sincerely,

Robert D. Reischauer

Attachment

cc: Honorable Larry LaRocco

QUESTION SUBMITTED BY HONORABLE LARRY LAROCCO

The Justice Department reports that fines and restitution have been ordered. Does this money actually get collected and applied to the cost of the S&L cleanup? How do sums collected as fines or restitution affect the budget and the deficit?

The government can collect money in two ways from those involved in savings and loan failures. The Department of Justice prosecutes criminal conduct. The Resolution Trust Corporation (RTC) and the Federal Deposit Insurance Corporation (FDIC), on behalf of the FSLIC Resolution Fund (FRF), initiate civil actions against individuals for negligent or fraudulent conduct that caused losses to the thrift industry.

Criminal Penalties. According to the Department of Justice, the courts have ordered the payment of \$13 million in fines over the fiscal years 1989-1991. The Congressional Budget Office has been unable to determine how much of this amount has been paid. Such criminal fines are recorded as revenues on the federal budget. They are generally deposited into the Crime Victims Fund, which has permanent spending authority to make grants to programs that provide compensation and assistance to crime victims.

In addition, defendants can be ordered to pay restitution either to crime victims directly or to the federal government to disburse to victims. Such payments do not affect the federal budget. During the past three fiscal years, the courts have ordered restitution payments of \$372 million as a result of major prosecutions involving savings and loans. Very little of this restitution appears to have been paid.

Civil Penalties. The RTC and the FDIC can order individuals to pay restitution for negligent or fraudulent activities leading to thrift failures. Such orders primarily involve claims for liability against directors and managers of thrifts and against professionals associated with thrifts, such as accountants and attorneys.

Information from the FDIC indicates that such payments to thrifts in receivership totaled \$404 million from 1989 through September 1991. RTC receiverships collected \$6 million in 1990 and \$5 million from January 1991 through September 1991. (The RTC publishes the Semi-Annual Report on Investigations--Progress to Date, which provides some useful detail on its litigation and settlements.) FRF receiverships collected \$19 million in 1989, \$199 million in 1990, and \$175 million from January 1991 through September 1991. Additional claims for much larger amounts are in the final stage of settlement.

These payments are not counted directly on the federal budget, but rather are paid to the receiverships that manage assets of the failed thrifts. After expenses, including legal costs, the

settlements must be shared proportionately with other claimants, including bondholders. Nevertheless, the government ends up with most of the payments when the receiverships periodically remit their net cash balances to the Treasury. At that time, the payments appear as offsetting collections to the RTC, thereby reducing the federal budget deficit. Along with other proceeds from the receiverships, these collections reduce RTC's losses and are available for spending by the RTC. There is currently no way to identify exactly how much of these payments the government receives.

The courts may also award civil judgments, but the RTC has yet to collect any such awards from defendants, who are typically incarcerated and/or have few assets.



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