<u>Statement of Ellen Harnick</u>
Center for Responsible Lending

House Judiciary Committee Field Briefing on
The Mortgage Crisis and Its Impact on the Economy:
One Solution With an Immediate Effect

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Congressman Delahunt, Speaker DiMasi, Attorney General Coakley, Secretary Galvin, Chairman Honan, Chairman O'Flaherty, Chairman Mariano, thank you for the opportunity to speak with you today about the foreclosure crisis that is impacting families and communities throughout Massachusetts and across the country, and destabilizing the economy as a whole.

I am Senior Policy Counsel at the Center For Responsible Lending (CRL), (www.responsiblelending.org), a not-for-profit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help (www.self-help.org), a nonprofit community development financial institution that consists of a credit union and a non-profit loan fund.

For close to 30 years, Self-Help has focused on creating homeownership opportunities for low-wealth families, primarily through financing home loans to low-income and minority families who otherwise might not have been able to get home loans. We work to provide fair and sensible loans to the people most frequently targeted for predatory and abusive subprime mortgages. In total, Self-Help has provided over $5 billion in financing to 55,000 low-wealth families, small businesses, and nonprofit organizations in North Carolina and across America. Self-Help's lending record includes our secondary market program, which encourages other lenders to make sustainable loans to borrowers with blemished credit. Self-Help buys these loans from banks, holds on to the credit risk, and resells them to Fannie Mae. Self-Help's loans have performed well – our loan losses have been under 1% per year – and increased these families' wealth.

Faced with a rising tide of foreclosures that will get worse before getting better and inflicting harsh spillover effects on whole communities, there is now broad consensus that stabilizing the housing sector is essential to overall economic recovery and that this necessitates strong measures to prevent foreclosures that are readily preventable. This means, at a minimum, restructuring failing mortgage loans in those cases where the homeowner is willing and able to sustain the loan on economically rational terms, and where these terms would provide at least as much return to the mortgage-holder as could be obtained through a foreclosure sale.

Unfortunately, despite more than a year of effort to encourage the voluntary modification of failing mortgage loans, industry's ability to accomplish this has proved to be unequal to the task. For a number of reasons, including external obstacles confronting even those lenders who want to modify failing loans, the number of loan modifications to date has been negligible in comparison with the growing number of foreclosures. These obstacles are not mitigated by recent government efforts to further encourage loan modifications, including the newly expanded FHA Secure program created by the Housing and Economic Recovery Act of 2008 ((HERA), and the loan modification provisions of the Emergency Economic Stabilization Act of 2008 (ESSA).

What is needed now is a mechanism to break the deadlock caused by the structural barriers to loan modification where the parties are unable to do so themselves. The most efficient and cost-effective way to accomplish this is to lift the ban on judicial modification of primary residence mortgages so that a court can provide an economically rational solution where the parties cannot do so. Bankruptcy courts do this for all manner of other debts, including mortgages on vacation homes and investment properties, and they should be permitted to do so for primary residences.

In fact, Congress provided this very solution during the farm crisis of the 1980s, when it enacted the Family Farmer Bankruptcy Act of 1986 to help distressed farmers avoid foreclosure, including on their primary residence. At that time, family farmers were facing declines in property values and unaffordable mortgages, and the bill did for them what court-supervised loan modifications would do for ordinary homeowners facing the same issues.

This relief would be available only as a last chance to avoid foreclosure and would apply only where the homeowner has the ability and motivation to sustain an economically rational loan. Court supervision would provide an added safeguard against potential abuse. Working through the existing infrastructure of the bankruptcy court system, the solution could take effect immediately, would leverage the expertise of the bankruptcy courts, and would not impose any new costs or burdens on the taxpayers.

I. Current and projected foreclosures.

A year ago, some mortgage lenders still insisted that the number of coming foreclosures would be too small to have a significant impact on the economy overall.[1] No one makes that claim today. Today, with foreclosures at an all-time high and projected to go higher,[2] the "worst case is not a recession but a housing depression."[3] According to Credit Suisse, at least two million American families are expected to lose their homes to foreclosures on subprime loans, most of them by the end of 2009. This is in addition to the 700,000 homes already in foreclosure or owned post-foreclosure by the mortgagee.[4] According to industry projections, all told (taking account of subprime, "Alt-A" and prime foreclosures), 6.5 million homes – that's one in eight outstanding mortgages – will be lost to foreclosure over the next five years.[5]

Robert Schiller recently noted that the meltdown and resulting crisis has erased any gains in the homeownership rate made since 2001, and the rate stands to fall further yet.[6]

The negative effects of foreclosures are not confined to the families who lose their homes. Forty million of their neighbors – those who are paying their mortgages on time – will see their property values decline, as a result, by over $350 billion. In Massachusetts, over one million homeowners will lose, collectively, over $8 billion due to nearby foreclosures on subprime loans.[7] And these are just the effects of subprime foreclosures; foreclosures on prime and “Alt-A” loans will push the losses much higher. Other ripple effects include a reduced tax base, increased crime, further downward pressure on housing prices, and loss of jobs in the industry. According to the IMF, direct economic losses stemming from this crisis will likely top $500 billion, and consequential costs will total close to a trillion dollars.[8] Federal Reserve Chairman Ben Bernanke recently noted, “At the level of the individual community, increases in foreclosed-upon and vacant properties tend to reduce house prices in the local area, affecting other homeowners and municipal tax bases. At the national level, the rise in expected foreclosures could add significantly to the inventory of vacant unsold homes – already at more than 2 million units at the end of 2007 – putting further pressure on house prices and housing construction.”[9]

II. How we got here.

The flood of foreclosures we see today goes beyond the typical foreclosures of years past, which were precipitated by catastrophic and unforeseen events such as job loss, divorce, illness or death. The current foreclosure crisis is characterized by losses triggered by the unsustainability of the mortgage itself, even without any changes in the families' situation, and even where the family qualified for, but was not offered, a loan that would have been sustainable.

These losses started in the subprime market, where the most common loan marketed during the past four years is a highly risky loan called a hybrid adjustable-rate mortgage (ARM), often known as a 2/28 or 3/27 because the interest rate is fixed for either two or three years, and then is adjusts typically every six months for the balance of the 30-year term. The three particularly tricky aspects of this loan are: first, that the rate jumps up, often sharply, at the end of the initial period, and often without regard to whether interest rates in the economy stay the same or even decline; second, lenders typically made these loans with the understanding that the borrower could not afford the rate increase and would have to refinance before the rate reset; and third, refinancing before reset entails the payment of a steep “prepayment” penalty – typically equaling three to four percent of the loan balance.[10]

Sadly, many of the borrowers who are losing their homes to foreclosure qualified for better loans that they would be sustaining today. A study for the *Wall Street Journal* found that of the subprime loans originated in 2006 that were packaged into securities and sold to investors, 61% "went to people with credit scores high enough to often qualify for conventional [i.e., prime] loans with far better terms."[11] And even those borrowers who did not qualify for prime loans could have received sustainable, 30-year fixed-rate loans, for, at most, 50 to 80 basis points above the “teaser rate” on the unsustainable exploding ARM loans they were given.[12] Had these borrowers received the sustainable loans they qualified for, we would not be facing the foreclosure crisis we are in today.

Wall Street's appetite for risky loans incentivized mortgage brokers and lenders to aggressively market highly risky exploding ARM loans instead of the sustainable loans for which borrowers qualified.[13] As Alan Greenspan told *Newsweek*, "The big demand was not so much on the part of the borrowers as it was on the part of the suppliers who were giving loans which really most people couldn't afford. We created something which was unsustainable. And it eventually broke. If it weren't for securitization, the subprime loan market would have been very significantly less than it is in size."[14]

Market participants readily admit that they were motivated by the increased profits offered by Wall Street in return for risky loans. After filing for bankruptcy, the CEO of one mortgage lender explained it this way to the *New York Times*, "The market is paying me to do a no-income-verification loan more than it is paying me to do the full documentation loans," he said. "What would you do?"[15] Even the chief economist of the Mortgage Bankers Association, when asked why lenders made so many loans that were unsustainable, replied, "Because investors continued to buy the loans."[16]

III. The key to stabilizing the economy is the prevention of avoidable foreclosures.

Beyond the individual families and communities immediately at risk, the rising tide of foreclosures threatens the economy as a whole, as the economy cannot stabilize while the housing market remains in free-fall. Stabilizing the housing sector requires effective measures to avoid unnecessary foreclosures – meaning those foreclosures resulting from the homeowner's inability to afford the current monthly loan payments, where the homeowner is willing and able to remain in the home if the loan is modified on an economically rational basis to make it affordable to the homeowner, and financially, at least, as beneficial to the creditor as a foreclosure sale.

Currently, 30% of families holding recent subprime mortgages now owe more on their mortgage than their home is worth.[17] These families are at an increased risk of foreclosure because "negative equity" precludes the homeowner from selling, refinancing, or getting a home equity loan or other mechanism for weathering short-term financial difficulty.[18] Regulators and economists are increasingly cautioning that loan balances must be reduced to avoid unnecessary foreclosures that will further damage the economy.[19]

Federal Reserve Board Chairman Ben Bernanke recently observed, "[T]he current housing difficulties differ from those in the past, largely because of the pervasiveness of negative equity positions. With low or negative equity, as I have mentioned, a stressed borrower has less ability, because there is no home equity to tap, and less financial incentive to try to remain in the home. In this environment, principal reductions that restore some equity for the homeowner may be a relatively more effective means of avoiding delinquency and foreclosure."[20]

For over a year, Congress and the Administration have urged lenders to modify troubled mortgage loans where a reasonable modification would be affordable for the homeowner, would avoid foreclosure, and would lead to a recovery for the lender that is as good as or better than what could be recovered at a foreclosure sale. Over a year ago, in May 2007, Senator Dodd convened a Homeownership Preservation Summit, which established a set of Homeownership Preservation Principles[21] that called upon lenders to modify loans to ensure long-term sustainability by reducing loan balances and switching to lower cost fixed-rate loans.

Unfortunately, notwithstanding industry leaders' public endorsements of the principles, as well as widespread support for loan modification from President Bush,[22] and all of the federal banking agencies, and the Conference of State Banking Supervisors,[23] voluntary efforts by lenders, servicers, and investors have been minimal relative to the number of loans heading toward foreclosure.

A recent report by Credit Suisse determined that as of August 2008, modifications account for just 3.5% of the loans that are delinquent for 60 days or more. Alarmingly, of the various types of modification that lenders have provided, the second largest category of modification actually *increased* the homeowner's monthly mortgage payments.[24] These figures include modifications done by the Hope Now Alliance, the program convened by the Treasury Department to encourage loan modification. As acknowledged by the vice chair of Washington Mutual, which helped run the program, many of the homeowners who have sought assistance from Hope Now "will not receive long-term relief and could ultimately face higher total costs."[25] Chairman Bernanke noted that loan modifications involving "reductions of principal balance have been quite rare."[26]

There are a number of reasons why voluntary loss mitigation cannot keep up with demand. One reason is that the way servicers are compensated by lenders often creates a bias for moving forward with foreclosure rather than engaging in foreclosure prevention. As reported in *Inside B&C Lending*, "Servicers are generally dis-incented to do loan modifications because they don't get paid for them but they do get paid for foreclosures."[27] Even when a loan modification would better serve investors and homeowners, some loan servicers have an economic incentive to proceed as quickly as possible to foreclosure.

But even those servicers who want to engage in effective loss mitigation face other structural obstacles. One major obstacle is the number of homes that have more than one mortgage or lien against the home. Between one-third and one-half of the homes purchased in 2006 with subprime mortgages have second mortgages,[28] and many more homeowners have open home equity lines of credit secured by their home. The holder of the first mortgage will not generally want to provide modifications that would simply free up homeowner resources to make payments on a formerly worthless junior lien, nor to modify a loan where there is a second mortgage in default. But as Credit Suisse reports, "It is often difficult, if not impossible, to force a second-lien holder to take the pain prior to a first-lien holder when it comes to modifications," thereby dooming the effort.[29]

Another structural obstacle is posed by securitization. When servicing securitized loans, servicers are bound by the terms of the agreement with investors (called the “pooling and servicing agreement” (PSA)), which may limit what they can do by way of modification. For example, some PSAs limit the number or percentage of loans in a pool that can be modified.[30] Moreover, even if the PSA is not a problem, most modifications will have differing impacts on different groups of investors; for example, a change in interest rate may impact different investors than a waiver of a prepayment penalty. Servicers may shy away from modifications fearing investor lawsuits.

There is an emerging consensus that reliance on industry’s voluntary efforts will not suffice. FDIC Chairman Sheila Bair recently said that the current economic situation calls for a stronger government response, since voluntary loan modifications are not sufficient.[31] The necessity of government action also is gaining recognition among Wall Street leaders. A senior economic advisor at UBS Investment Bank has observed that, “When markets fail, lenders and borrowers need some sort of regulatory and legislative framework within which to manage problems, rather than be forced to act in the chaos of the moment.”[32] Moreover, as former Federal Reserve Board Vice Chairman Alan Blinder recently noted, the fact that most of the mortgages at issue have been securitized and sold to investors across the globe “bolsters the case for government intervention rather than undermining it. After all, how do you renegotiate terms of a mortgage when the borrower and the lender don’t even know each other’s names?”[33]

Neither the Housing and Economic Recovery Act of 2008 (HERA) nor the Emergency Economic Stabilization Act of 2008 (ESSA) requires more than voluntary modifications. HERA creates an expanded FHA program that will help facilitate refinancing of troubled mortgages, but use of that program is voluntary and left entirely up to individual lenders and servicers. EESA, the legislation that permits the Treasury to buy troubled assets, also relies on Treasury working with servicers to encourage them to voluntarily modify the loans that it buys. Neither piece of legislation provides the tools to overcome the barriers that have hindered voluntary loan modification efforts to date.

What is needed is a mechanism for enabling a court to break the deadlock and provide an economically rational solution that avoids foreclosure and nets the lender at least as much as would be recovered through a foreclosure sale.

IV. Court-supervised loan modification is the only mechanism proposed to date that could address the key obstacles to voluntary loan modification.

Even with the interventions to date, a significant proportion of troubled homeowners, who could afford to sustain a mortgage on economically rational terms, will be forced into foreclosure because the loan servicer cannot or will not agree to modify the loan. Often this result will be to the clear detriment of investors as a whole. In such cases, as a last alternative to foreclosure, a court should be able to adjust the mortgage if the borrower is willing and able to handle a market rate loan. Currently, bankruptcy courts can modify any type of loan, including mortgages on vacation homes, investment properties and yachts, with the exception of one type: loans secured by primary residences. Removing this exclusion would help homeowners, but not speculators, who are committed to staying in their homes, without bailing out investors and without imposing costs on the taxpayers.

This same relief was provided to family farmers through the Family Farmer Bankruptcy Act of 1986. That legislation enacted what is now Chapter 12 of the Bankruptcy Code for the specific and express purpose of permitting bankruptcy judges to modify mortgages on family farms, permitting adjustment of interest rates and the "cram-down" of principal. After being extended several times, the Family Farmer Bankruptcy Act was made a permanent part of the Bankruptcy Code in 2005.

The bankruptcy legislation currently proposed is in fact narrower than the Family Farmer legislation, in that the current proposal applies only to people who meet a strict means test to establish their inability to make their mortgage payments, whereas the Family Farmer legislation applied to all family farmers. The proposal also provides substantially greater guidance, i.e., limitations, on bankruptcy judges in setting the new loan terms. These limitations provide greater certainty and protection for lenders, ensuring them control over the homeowner's ability to obtain such relief at all, as a sustainable loan modification offered by the lender will disqualify the homeowner for bankruptcy relief.

Conclusion

The foreclosure crisis will get worse before it gets better, harming neighbors, communities, and the economy as a whole. Our economic recovery depends upon stabilizing the housing sector, and this requires urgent measures to stop the flood of foreclosures. Voluntary loan modification efforts are not working. A mechanism is needed to enable courts to implement economically rational loan modifications where the parties are unwilling or unable to do so. Court-supervised loan modifications through the bankruptcy courts are the only solution proposed that can accomplish this on a sufficient scale and timeframe to have a meaningful impact.

We applaud this Committee for its leadership in pursuing this urgently needed relief. Congress should lift the ban on judicial modification of primary residence mortgages, as the most effective means of stemming the tide of avoidable foreclosures and stabilizing the housing market and the broader economy.

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[1] See, e.g., Statement of John M. Robbins, CMB, Chairman, Mortgage Bankers Association at the National Press Club's Newsmakers' Lunch – Washington, DC (May 22, 2007). (Speaking of predicted foreclosures, Mr. Robbins stated: "As we can clearly see, this is not a macro-economic event. No seismic financial occurrence is about to overwhelm the U.S. economy."); see also, Julia A. Seymour, "Subprime Reporting: Networks Blame Lenders, Not Borrowers for Foreclosure 'Epidemic,'" in Business & Media Institute (March 28, 2007). Excerpt: "[T]here are experts who say the subprime 'meltdown' is not the catastrophe reporters and legislators are making it out to be. 'We don't believe it will spill over into the prime market or the U.S. economy,' said [Laura] Armstrong [Vice President, Public Affairs] of the Mortgage Bankers Association."

[2] Renae Merle, "Home Foreclosures Hit Record High," Washington Post (March 6, 2008).

[3] David M. Herszenhorn and Vikas Bajaj, "Tricky Task of Offering Aid to Homeowners," The New York Times (April 6, 2008), quoting Susan M. Wachter, a real estate finance professor at the Wharton School of the University of Pennsylvania. According to Professor Wachter, "In the market that we have in front of us, prices decline and supply increases, driving prices down further."
[4] Rod Dubitsky et al., "Foreclosure Trends – A Sobering Reality, Credit Suisse, Fixed Income Research," (April 28, 2008); see also Written Testimony of Mark Zandi, Moody's Economy.com before House Subcommittee on Commercial and Administrative Law (January 28, 2008), available at: http://judiciary.house.gov/media/pdfs/Zandi080129.pdf; see also Center for Responsible Lending, "Subprime Spillover" (Rev. January 18, 2008) at http://www.responsiblelending.org/issues/mortgage/research/subprime-spillover.html.
[5] Rod Dubitsky et al., "Foreclosure Trends – A Sobering Reality," Credit Suisse, Fixed Income Research, (April 28, 2008) at p. 2.
[6] Robert J. Schiller, "The Scars of Losing a Home," New York Times, May 18, 2008 (Noting that the homeownership rate has fallen from 69.1 percent in 2005 to 67.8 percent in the first quarter of 2008, nearly the 67.5 percent rate at the beginning of 2001).
[7] See Center for Responsible Lending, "Updated Projections of Subprime Foreclosures in the United States and Their Impact on Home Values and Communities" (revised August 2008), available at http://www.responsiblelending.org/pdfs/updated-foreclosure-and-spillover-brief-8-18.pdf.
[8] Christopher Swann, "IMF Says Financial Losses May Swell to $945 Billion" (April 8, 2008), available at http://www.bloomberg.com/apps/news?pid=email_en&refer=home&sid=aK1zAj5FZ9Io.
[9] Statement of Federal Reserve Chairman Ben Bernanke (March 4, 2008), reprinted by Bloomberg.com and available at http://www.bloomberg.com/apps/news?pid=newsarchive&sid=apeU.0IaETdM ("Bernanke statement").
[10] Additionally, subprime lenders generally did not escrow for taxes and insurance as prime lenders do, which left many families reeling when those bills came due. This practice gives the borrower the impression that the payment is affordable when, in fact, there are significant additional costs. A study by the Home Ownership Preservation Initiative in Chicago found that for as many as one in seven low-income borrowers facing difficulty in managing their mortgage payments, the lack of escrow of tax and insurance payments were a contributing factor. Partnership Lessons and Results: Three Year Final Report, p. 31 Home Ownership Preservation Initiative, (July 17, 2006) at www.nhschicago.org/downloads/82HOPI3YearReport_Jul17-06.pdf.
[11] Rick Brooks and Ruth Simon, "Subprime Debacle Traps Even Very Credit-Worthy As Housing Boomed, Industry Pushed Loans To a Broader Market," The Wall Street Journal at A1 (December 3, 2007).
[12] Letter from CFAL to Ben S. Bernanke, Sheila C. Bair, John C. Dugan, John M. Reich, JoAnn Johnson, and Neil Milner (January 25, 2007) at p 3.
[13] Mortgage brokers play a key role in today's mortgage market. According to the Mortgage Bankers Association, in 2006, mortgage brokers originated 45 percent of all mortgages, and 71 percent of subprime loans. See MBA Research Data Notes, "Residential Mortgage Origination Channels," September 2006.
[14] "The Oracle Reveals All," Newsweek (September 24, 2007) p. 32-33.
[15]Vikas Bajaj and Christine Haughney, "Tremors At the Door: More People with Weak Credit Are Defaulting on Mortgages," The New York Times (January 26, 2007) C1, C4.
[16] "Subprime Loans Defaulting Even Before Resets," CNNMoney.com (February 20, 2008).
[17] Edmund Andrews, "Relief for Homeowners is Given to a Relative Few," New York Times (March 4, 2008) (loans originated in 2005 and 2006).
[18] Kristopher Gerardi, Adam Hale Shapiro & Paul S. Willen, "Subprime Outcomes: Risky Mortgages, Homeownership Experiences, and Foreclosures," Federal Reserve Bank of Boston Working Papers, No 07-15 (December 3, 2007) at p. 3-4 (This otherwise good article misses the fact that certain loans themselves can create the cash flow shortfall that cause underwater loans to fail, when they are structured with initial low payments that are scheduled to rise, such as subprime 2/28 hybrid ARMs, and that certain loan terms have been statistically demonstrated to increase foreclosures, such as prepayment penalties).
[19] Federal Reserve Chairman Ben Bernanke recently said, "When the mortgage is 'underwater,' a reduction in [loan] principal may increase the expected payoff by reducing the risk of default and foreclosure." "Preventable foreclosures" could be reduced, he said, by enabling loan servicers to "accept a principal writedown by an amount at least sufficient to allow the borrower to refinance into a new loan from another source." This would "remove the downside risk to investors of additional writedowns or a re-default." See

Bernanke statement.; see also, Edmund L. Andrews, “Fed Chief Urges Breaks for Some Home Borrowers,” The New York Times (March 4, 2008); John Brinsley, Bernanke Call for Mortgage Forgiveness Puts Pressure on Paulson, Bloomberg.com (March 5, 2008).; see also Phil Izzo, “Housing Market Has Further to Fall,” The Wall Street Journal (March 13, 2008). Excerpt: "Last week, Federal Reserve Chairman Ben Bernanke suggested that lenders could aid struggling homeowners by reducing their principal — the sum of money they borrowed — to lessen the likelihood of foreclosure. Some 71% of respondents [i.e., economists surveyed by the NYT] agreed with the suggestion."

[20] Bernanke Statement, note 8.

[21] Homeownership Preservation Summit Statement of Principles (May 2, 2007), http://dodd.senate.gov/index.php?q=node/3870/print. The Principles were announced by Chairman Dodd, and endorsed by the Mortgage Bankers Association, CitiGroup, Chase, Litton, HSBC, Countrywide, Wells, AFSA, Option One, Freddie Mac, and Fannie Mae.

[22] White House press release (August 31, 2007). See also the Interagency Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages at http://www.federalreserve.gov/newsevents/press/bcreg/20070904a.htm. (Encouraging lenders to address subprime hybrid ARM resets by pursuing “appropriate loss mitigation strategies designed to preserve homeownership. Appropriate loss mitigation strategies may include, for example, loan modifications, deferral of payments, or a reduction of principal.”)

[23] Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages at http://www.federalreserve.gov/boarddocs/srletters/2007/SR0716.htm.

[24] Rod Dubitsky et al, “Subprime Loan Modifications Update,” Credit Suisse Fixed Income Research (October 1, 2008) at p. 2.

[25] David Cho and Renae Merle, “Merits of New Mortgage Aid Are Debate – Critics Say Treasury Plan Won’t Bring Long-Term Relief,” The Washington Post (March 4, 2008) (Citing remarks of Bill Longbrake, senior policy adviser for the Financial Services Roundtable and vice chair of Washington Mutual).

[26] Bernanke statement.

[27] Inside Mortgage Finance Reprints, “Subprime Debt Outstanding Falls, Servicers Pushed on Loan Mods” (November 16, 2007) (Quoting Karen Weaver, a managing director and global head of securitization research at Deutsche Bank Securities).

[28] Credit Suisse, “Mortgage Liquidity du Jour: Underestimated No More” (March 12, 2007) at p. 5.

[29] Credit Suisse, “Subprime Loan Modifications Update” (October 1, 2008) at p. 8.

[30] See Credit Suisse, “The Day After Tomorrow: Payment Shock and Loan Modifications” (April 5, 2007) (Noting specific examples of PSAs with various modification restrictions, including 5% by balance, 5% by loan count, limits on frequency, and limits on interest rate).

[31] FDIC Chairwoman Sheila Bair (Stating “We’ve got a real problem. And I do think we need to have more activist approaches. And I think it will be something we need to be honest with the American public about. We do need more intervention. It probably will cost some money.”) in “Real Time Economics,” The Wall St. Journal (April 7, 2008) available at http://blogs.wsj.com/economics/2008/04/07/fdic-chairwoman-calls-for-activism/?mod=google_newsThe

[32] George Magnus, “Large-scale Action Is Needed to Tackle the Credit Crisis,” Financial Times (April 8, 2008).

[33] Alan S. Blinder, “From the New Deal, a Way Out of a Mess,” The New York Times (February 24, 2008).