TREASURY'S POLICY ON HOUSING GSE's

HEARING

BEFORE THE

SUBCOMMITTEE ON
CAPITAL MARKETS, INSURANCE, AND
GOVERNMENT SPONSORED ENTERPRISES

OF THE

COMMITTEE ON
FINANCIAL SERVICES

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TREASURY'S POLICY ON HOUSING GSE's

TUESDAY, JULY 16, 2002

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE
AND GOVERNMENT SPONSORED ENTERPRISES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:05 p.m., in Room 2128, Rayburn House Office Building, Hon. Richard H. Baker [chairman of the subcommittee] presiding.

Present: Representatives Baker, Ney, Shays, Paul, Miller, Hart, Kanjorski, Bentsen, Sandlin, Maloney of Connecticut, Jones, LaFalce, Sherman, Meeks, Moore, Hinojosa, Lucas of Kentucky, and Shows.

Also Present: Representative Maloney of New York.

Chairman BAKER. I would like to call this meeting of the Capital Markets Subcommittee meeting to order. This is the first hearing of this session with regard to the issue of GSE governance, and we are here today to receive testimony from the Department of Treasury with regard to their recommendations.

In a relatively unexpected development last Friday, the GSE's have announced a willingness to work with the SEC to comply for the first time with the 1934 act registration requirements. This is an important step toward important progress, and I am sure that the announcement came without consideration of this committee hearing, and was hammered out after lengthy discussions between all affected parties. Even though I just heard about the plan late in the afternoon before the day it was to be announced, I found it to be a very positive step.

As to the elements of the plan, it is clear that this appears, at least from the GSEs' perspective, to be somewhat of a modest improvement. They have over time continually expressed that they not only meet all current reporting standards for other corporations, but in fact exceed those requirements. Assuming their claim is valid, this announcement may not result in any significant new data flowing to the markets. If that claim is proven to be without foundation, it may provide shareholders and others needed information to make appropriate judgments.

On the other hand, there appears to be agreement between the GSEs and regulators that conformity with the 1933 act is not found to be advisable. I think that is unfortunate, as information clearly indicates the growth of GSE debt has been significant. Failing to disclose the manner in which mortgage-backed securities are constructed, I think, could be troublesome especially since it is now

necessary for triple-A-rated private mortgage labeled securities to make such disclosures.

In essence, the GSEs have agreed to standards of disclosure that I think is a positive change, acknowledging that the current regulatory system does need additional fine-tuning. But at the end of the day, it is my understanding that before any other action may be recommended by any regulator, more study may be required.

One can only imagine my enthusiasm—after waiting on OFHEO for an 11-year work product to be released next week as the principal regulator to tell us about the GSEs' capital adequacy—how excited I was to contemplate additional study. In the last 2 years since the previous Treasury administration testified before this committee, I have introduced two different comprehensive reform proposals. The committee has had nine hearings, one roundtable at the suggestion of Mr. Kanjorski, plus numerous comments from the GAO, CBO, and others. All have concluded that some meaningful regulatory reform is appropriate.

It is my intention in the time we have available today to understand what, if any, new direction that the Treasury may be considering, especially in knowledge of the tremendous growth of the debt issuances of these agencies. I look forward to exploring the future of regulatory structuring, understanding why registration under the 1933 act is not advisable, and, of course, eagerly awaiting OFHEO to appear next week to hear the long-awaited stress test results.

Chairman BAKER. Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, I would like to yield to Mrs. Jones because she is in another hearing that has got some priorities.

Chairman BAKER. Mrs. Jones.

Mrs. JONES OF OHIO. Mr. Kanjorski, Mr. Chairman, thank you very much to my colleagues.

And Mr. Fisher, I don't mean any disrespect but I have another hearing I am involved in, but I wanted to be on the record in this hearing; so let me go very quickly to my opening statement.

This committee has previously and exhaustively examined the government-sponsored enterprises, Fannie Mae and Freddie Mac. While recent events have underscored the need for reform in financial firms that operate without any financial regulator, Fannie Mae and Freddie Mac provide a strong example of sound reporting and management controls. These controls provide a measure of safety and soundness that is unmatched by unregulated financial firms. I am on the record as opposing efforts to disrupt housing markets by changing the GSEs' congressional charter and requiring the registration of their MBS securities. What Fannie Mae and Freddie Mac have achieved together with the administration is a nonlegislative way to assure their investors and policy-makers once and for all that their disclosures meet the same standard to which other publicly held companies are held. Their goal was to improve investor confidence without limiting their ability to fulfill the vital mission Congress has given them.

Let me take a look for a moment just at what disclosure means. The only distinction that we have here is whether or not the securities are registered. This is an important distinction. The SEC had

110 issuances during the last year. Fannie Mae had 1,500 debt issuances and 40,000 mortgage-backed security issuances. It is not a small matter to register all of those securities. Of the 40,000, almost all of them were sold in a forward market prior to the time that the mortgages in them were identified, what they call their TBA or "to be announced" market.

When you go to get a mortgage and you lock the rate, that means that your lender is selling forward your mortgage. That is why they can tell you, quote, "We will close your loan in 2 months and it is going to be 7 percent." they are not guessing. They actually sold that mortgage "forward," unquote.

The last point is critical because there isn't a "to be announced" market in the registration world, because you can only register after you know exactly what the mortgages are.

On Friday, July 12, Fannie Mae and Freddie Mac announced that they would voluntarily register their common stock under the Securities and Exchange Act of 1934. Voluntarily register. The result will require Fannie and Freddie to comply with the act's periodic disclosure requirements. Once these filings are made, Fannie and Freddie will be bound as a matter of Federal law to continue to make their filings.

I will leave the rest of my opening statement for the record, and I hope I am going to be able to get back and have an opportunity, Mr. Chairman, to ask some questions on the break from the other hearing. I thank you both for the opportunity to be heard out of order and I yield the balance of my time.

Chairman BAKER. Thank you Mrs. Jones.

[The prepared statement of Hon. Stephanie Tubbs Jones can be found on page XX in the appendix.]

Chairman BAKER. Mr. Shays.

Mr. SHAYS. Mr. Chairman, I want to thank you for having this hearing. I have been eager to have you have this hearing for months and months and months—.

Chairman BAKER. I am aware.

Mr. SHAYS. —because I just admire so much your focus on this very important question of Fannie Mae and Freddie Mac and why they don't have to do business like everyone else; why they would be exempt from just basic disclosures; and why we would be content to say, well, if they do it voluntarily, that is good enough. I salute the Treasury Department and all the parties for moving forward with having registration under the 1934 act. I am eager to know what that means, and I am eager to see how it would be implemented and who would implement it. But I also know that this kind of moves us away from the soundness issue that was really the thrust of your focus, and so I am hoping it won't be just two hearings that we have and that we will have others.

But thank you for having this hearing. I welcome our witness. He has a great reputation and I look forward to hearing from him.

Chairman BAKER. Thank you, Mr. Shays. Chairman BAKER. Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, thank you for the opportunity to comment before we begin today's hearing to learn more about the Bush administration's views and policies regarding the housing government-sponsored enterprises or GSEs.

As you know, Mr. Chairman, I am one of the few remaining members of this committee who participated in the entire congressional battle to resolve the savings and loan crisis. I am therefore acutely aware of the need to protect taxpayers from risk. It is in the public's interest that we ensure that the GSEs, like Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, continue to operate safely and soundly. We can best achieve this goal by pursuing a three-pronged supervisory approach that includes regular congressional oversight of, continued effective government regulation over, and increased market discipline for the housing GSEs. We are from my perspective making continued progress in each of these areas.

In particular I expect we will spend considerable time today discussing the disclosure practices of the GSEs. Last week, Fannie Mae and Freddie Mac declared that they would voluntarily register their common stock with the Securities and Exchange Commission. As a result of this announcement, the two GSEs will file public financial disclosures with the Securities and Exchange Commission. Their decision is virtually irrevocable.

The two GSEs, as I understand, developed this new policy after consulting with officials at the Treasury Department, the Securities and Exchange Commission, and the Office of Federal Housing Enterprise and Oversight. These disclosures, in my view, will help to reassure investors by providing them with accurate, timely, and useful information. These public filings should also help to strengthen the housing marketplace.

Throughout our lengthy deliberations over GSE policy during the last two-and-a-half years, I have consistently noted that we must move forward cautiously in this area so as to ensure that we maintain the delicate balance that has led to more than 67 percent of American families owning their homes. On at least one occasion, however, our committee's actions discouraged investors and raised homeownership costs. As we proceed today, we must renew our efforts to ensure that we do not repeat that mistake.

Moreover, the housing marketplace has remained the most vibrant sector of our Nation's struggling economy during the last 18 months. We must therefore move carefully, deliberately, and objectively in examining these issues.

In closing, Mr. Chairman, I continue to share your desire to conduct effective oversight over the housing GSEs and to ensure that we maintain an appropriate and sufficiently strong supervisory system for them. Accordingly, I look forward to hearing from our distinguished witness about the Bush administration's views on these matters. Thank you.

Chairman BAKER. Thank you, Mr. Kanjorski.

[The prepared statement of Hon. Paul E. Kanjorski can be found on page XX in the appendix.]

Chairman BAKER. Mr. Paul.

Mr. PAUL. Thank you, Mr. Chairman. I want to thank the chairman for dealing with this subject. The GSEs need to be addressed. I believe they play a significant role in the ongoing housing bubble. Unfortunately, I do not see the solution on the horizon, additional regulations will not solve this problem, so I am not leaning in that direction. I have recently introduced a bill called the Free Housing

Market Enhancement Act, which would suggest that we should move toward a freer market rather than an overly regulated market.

The two main things my bill would do—and I would like to get some discussion later, because my written statement is detailed and I will submit that for the record—but the two major points I want to make is that the GSEs have had this tremendous advantage over the private markets because of this line of credit, as well as the Fed's ability to monetize GSE debt. My bill would eliminate both. It would take away the line of credit and would also prohibit the Fed from buying these debt instruments and using them as collateral in the monetary system, because this has done nothing more than say this debt is much more valuable than it really is, even to the point where foreign central banks now own well over $120 billion of these GSE securities. I think that has done a lot to encourage the housing bubble, with artificially low interest rates, and that mere tinkering with some regulations I don't think will solve the problem.

And as I mentioned, I will submit my written statement for the record and I yield back the balance of my time.

Chairman BAKER. Thank you, Mr. Paul.

[The prepared statement of Hon. Ron Paul can be found on page XX in the appendix.]

Chairman BAKER. Mr. LaFalce.

Mr. LAFALCE. Thank you, Mr. Chairman. And I again congratulate you. You have had a number of hearings on this issue and I think they have been productive and there are so many people I want to give a little pat on the back to. First of all, Treasury; Mr. Fisher in particular. I think you took the lead in this issue and you got an excellent result. I certainly want to commend both OFHEO and the SEC. I think you have come up with maintenance of the jurisdiction of OFHEO, but new jurisdiction for the SEC that serves the public good.

And I also want to commend Fannie Mae and Freddie Mac for going along with this voluntarily or being dragged along voluntarily, as the case may be, but I want to commend you for stepping up to the plate and seeing that this was a public interest action. I also think it is something that should serve as a model for the other GSEs. There is no reason why all GSEs, even those who were not publicly traded, shouldn't be following suit, and I would encourage Treasury to encourage other GSEs to follow suit.

Now, with respect to the issue of mortgage-backed securities, I suppose you can never make everybody happy, especially the editors of the Wall Street Journal, but I think if you look from a prudential perspective, you have probably gone as far as you should at this stage of the game, and you wisely decided to study that issue.

I don't think that is inappropriate. In fact, I think it is most appropriate, and I don't prejudge that issue one way or the other, but I think a study of its ramifications should precede any decision. And again I commend the Treasury for that perspective. I thank the Chair.

Chairman BAKER. Thank you Mr. LaFalce.

Chairman BAKER. Mr. Ney.

Mr. NEY. Thank you, Mr. Chairman. I want to thank you, Mr. Chairman, for holding what I think is an important hearing and for all the previous hearings that you have held on these subjects because you have established, obviously, a very lengthy track record of diligence in overseeing our Nation's government-sponsored enterprises, and you need to be credited for it.

I want to make a couple points, and I have a lengthy statement, so, without objection, I would like to place it in the record.

Chairman BAKER. Without objection.

Mr. NEY. In recent months, no doubt this committee has held a number of hearings that demonstrated how vital it is for corporations to be transparent and open, and we know that from WorldCom and a lot of other cases in the recent months that we can cite. President Bush highlighted this as part of his comprehensive corporate governance plan.

The Financial Services Committee passed H.R. 3763, which would increase corporate accountability and transparency, to which I think no one objects. And also I would like to that state Friday's announcement was the second time in less than a month that Fannie and Freddie have stepped up to the plate and I think are responding with a lot of leadership ability to what the President also has stated that he would like to see. And with their commitment to provide more than $700 billion for minority home ownership, those companies would be a vital part in closing the home ownership gap which is so important to many members of this committee.

I am for transparency, but also I want to emphasize that because of Fannie Mae and Freddie Mac's critical role in the United States housing finance system, I don't believe the Congress supports repealing the SEC registration exemption. That is my opinion. I am sure some people would disagree with that statement, obviously. I think the right steps have been taken.

I commend you again, Mr. Chairman, and I would like to submit the rest of my statement for the record. Thank you.

Chairman BAKER. Thank you, Mr. Ney.

Chairman BAKER. Mr. Bentsen.

If I may interrupt, Mr. Bentsen, I need to put Mr. Ney in the chair for a moment, and I will return in a moment.

Mr. BENTSEN. Thank you, Mr. Chairman.

And, Mr. Fisher, thank you for being here today. I will be brief. I want to make a couple of observations. Number one, I am eager to hear the administration's position with respect to GSEs and disclosure, particularly Fannie Mae and Freddie Mac. This is a long-running story with respect to those who like what the GSEs are doing and those who don't.

I would make one observation to you, that when your predecessor spoke before this panel, I believe it was 2 years ago, with respect to the then-Clinton administration's position, his candor and bluntness—which was appreciated—also led to one of the largest drops in the value of the GSE stock I think in one day. So you have to sort of weigh what your approach is going to be, but I think we would like to hear what exactly the administration's position is with the future of the GSEs.

The other thing—I would make an observation and I may ask you to comment on this later. And that is that in the last year, what I would consider some of the hype from the opponents of the GSEs, that they were rising in volume of debt and soon would supplant the Treasury market as the standard bearer debt, because we were going to pay off all the national debt and therefore increase the potential risk of the GSEs, has apparently gone by the boards; because in our meeting with your colleague, Mr. Daniels, this morning before the Budget Committee, he explained to us that we would have plenty of public debt outstanding for the forseeable future, and in fact you may be wanting to bring back the 30-year bond the way things are going.

But in any event, we are happy to have you here today and we look forward to talking to you in great detail with respect to these two institutions. I yield back.

Mr. NEY. [Presiding.] The gentleman yields back.

Mr. Sandlin.

Mr. SANDLIN. Thank you, Mr. Chairman. Mr. Chairman and ranking member Kanjorski, I commend you for holding this important hearing today to ascertain for the first time the Bush administration's position regarding housing GSEs.

Mr. Fisher, I particularly appreciate your appearance before our subcommittee today and look forward to hearing your testimony.

As we all know, Congress chartered Fannie Mae and Freddie Mac in 1938 and 1970 respectively, with the goal of increasing the supply of money available for low- and middle-income families to buy homes. Over the years, Congress' goal of creating a healthy and stable secondary mortgage market has led to the creation and growth of the strongest housing market in the world. Over the past year, some economists and financial analysts have asserted that our country's strong housing market has prevented our economy from slipping into a full-scale recession. At the very least, it is safe to say that without an active secondary mortgage constant, which ensures that banks and other lending institutions have a constant supply of money to lend home buyers, our economy would not be performing as well as it is today.

Mr. Fisher, I will be particularly interested in hearing the administration's position on legislative attempts to repeal the congressional charters on Fannie Mae and Freddie Mac. I believe that efforts to repeal the GSEs' charters would serve only to increase uncertainty in our housing markets, which is dangerous in good economic times and it is potentially devastating during our Nation's current economic situation. As our country has clearly witnessed over the last several months, however, accurate financial disclosure and transparency is essential to the efficient functioning of our capital markets.

To that end, I applaud Fannie Mae and Freddie Mac's recent announcement in conjunction with the Treasury Department, the SEC, and the Office of Federal Housing Enterprise Oversight, that they will submit voluntarily to section 12(g) disclosure requirements of the SEC Act of 1934.

While Fannie Mae and Freddie Mac have voluntarily disclosed their financial statements with their Federal regulator for several years, voluntary registration of their common stock with the SEC

will provide additional reassurance to the investors if Fannie Mae and Freddie Mac are financially sound. Fannie Mae and Freddie Mac's recent voluntary announcement in continuing good-faith efforts to increase transparency precludes the need for Federal legislation to accomplish that very goal.

Mr. Fisher, I appreciate all of your hard work with Fannie Mae and Freddie Mac in their efforts to disclose their financial statements with SEC, and I look forward to the administration's continued role in assuring affordable housing for all Americans.

I yield back the balance of my time, Mr. Chairman. Thank you.

Mr. NEY. Thank you.

Mr. NEY. Mr. Sherman.

Mr. SHERMAN. Mr. Chairman, thank you for holding these hearings, although our subcommittee could be engaged also in important work. In looking at the corporate calamities of the last few months at the full committee level, have gone right from Enron to WorldCom and haven't had enough time to look at Quest, Xerox, and some of the others. This means some major corporate leaders have not had an opportunity to explore their fifth amendment rights, and perhaps this subcommittee would want to explore those parts of this corporate debacle that the full committee has not had a chance to deal with.

Looking at these two GSEs, it is vitally important that the administration understand, demonstrate, its understanding and appreciation for the role that the housing GSEs play in our economy and the fact that housing right now is kind of the sole ray of hope as we try to pull ourselves out of this economic downturn.

This subcommittee has a long and exhaustive history of oversight of Fannie Mae and Freddie Mac. In the course of these hearings over the past 2 years, we have learned an awful lot about these GSEs. Their announcement on Friday to voluntarily register their common stock is consistent with many of the things they have undertaken in an effort to be responsive on policy issues, the latest being Congress and the President's role for increased corporate accountability, including voluntary initiatives undertaken by these companies in October of 2000 and the recent completion of the risk-based capital role by the regulator, the OFHEO.

Now they are going to register with the SEC, which begs the question of all of the issues that we have dealt with there, the latest being stock options, and whether those stock options would be expensed. Right now, we have the absurd system where the incredibly timid FASB says that expensing stock options is the preferred approach but we won't make anybody do it. And now a corporation to be commended, Coke, has agreed to take the preferred approach, creating a circumstance where every American can compare Coke with Pepsi. But investors will not be able to compare Coke with Pepsi, because we have got the preferred accounting rule and then the widely used accounting rule.

My hope is that these two GSEs will disclose what their earnings per share would be under both methods, so that earnings per share could be compared with both those that are following the most widely used approach and those that are following the better approach, which begs the question: What is generally accepted accounting principles when this Congress has not yet compelled the

use of best accounting principles, namely the expensing of stock options?

I also want to point out that some critics of Fannie Mae and Freddie Mac have suggested that they be called upon to register their mortgage-backed securities and their debt, and I hope in the course of these hearings to get the information necessary to evaluate that issue. However, we should not be pushing for anything that slows the process by which capital is accumulated and made available to home buyers, that being so important to our economy, particularly at this time.

I yield back.

Mr. NEY. The time of the gentleman has expired. Mr. Lucas.

Mr. LUCAS OF KENTUCKY. I am just looking forward to Mr. Fisher's testimony. Thank you.

Mr. NEY. I thank the gentleman.

Mr. NEY. Mr. Maloney.

Mr. MALONEY. I thank the gentleman.

Mr. NEY. We will proceed now to testimony. Thank you. Mr. Fisher.

STATEMENT OF PETER R. FISHER, UNDER SECRETARY FOR DOMESTIC FINANCE, U.S. DEPARTMENT OF THE TREASURY

Mr. FISHER. Thank you, Mr. Chairman, Representative Kanjorski, and members of the committee. I appreciate this opportunity to provide the administration's views on government-sponsored enterprises in general, and on H.R. 4071, the Uniform Securities Disclosure Act in particular.

I want to commend the Chairman and members of the committee for your careful consideration of GSE issues in recent years. You have recognized that in a constantly changing financial world, we need to pay continuous attention to ensure that these organizations continue to serve our objectives as effectively over the coming years as they have in the past.

We share the concerns of the authors of H.R. 4071 about the importance of providing investors with assurance as to the comparability, consistency, and sufficiency of GSE financial disclosures, but the administration cannot support H.R. 4071 because it focuses too narrowly on only two of the GSEs, and because we are not prepared to support repeal of their exemptions from the Securities Act of 1933.

The administration believes that all GSEs should comply with the same corporate disclosure requirements of the Securities Exchange Act of 1934 as interpreted and applied by the Securities and Exchange Commission. The administration believes that this can be accomplished without the necessity of legislation.

For this reason, the administration is pleased that Fannie Mae and Freddie Mac agreed to voluntarily register their common stock under section 12(g) of the 1934 act, which will ensure that they are required as a matter of Federal law to meet current and future SEC requirements for financial disclosure under the 1934 act. Their disclosures will be subject to the regulatory framework established by the SEC and the Office of Federal Housing Enterprise Oversight. We are requesting that the other currently exempt

GSEs make similar arrangements to voluntarily register with the SEC under the 1934 act.

Last Friday's announcement was made possible by the leadership of Chairman Pitt and Director Falcon and also by Frank Raines and Leland Brendsel. It seems to me, though, that this accomplishment would not have been possible without the leadership that you, Mr. Chairman, and the members of the subcommittee have shown over the last several years on GSE issues.

Mr. Chairman, this administration is committed to the objective of affordable housing for all Americans and as a means to that end to improving home ownership opportunities for minorities. This administration is also committed to the objective of a sound and resilient financial system and as a means to that end to protecting investors by improving the clarity of disclosures about the risks and rewards to which their investments are exposed. The question is not whether we are committed to either of these objectives, but rather how we strive to achieve them both simultaneously.

To do this, we look to mobilize the private sector, to bring even more capital to bear both in creating housing opportunities and in the financial intermediation that supports and prices the relevant risks and rewards. If we are going to rely on private capital to achieve these objectives, then we need to work even harder to improve the quality of the information that shareholders and creditors receive. And if we are going to rely in part on the vehicle of GSEs, we have no less of a need to inspire confidence in the sufficiency and comparability of the disclosures by GSEs to the investors whose capital we seek to employ.

The GSEs are privately owned but federally chartered companies created by Congress to help overcome barriers to the flow of credit into certain segments of the economy: housing, agriculture, and education. They are private companies that are not backed by the full faith and credit of the Federal Government. Today the largest GSEs, Fannie Mae, Freddie Mac, and the Federal Home Loan Bank System are focused on housing. Two other GSEs, Farmer Mac and the Farm Credit System, are focused on agriculture. One GSE, the Student Loan Marketing Association, is focused on education and is now in the process of a congressionally mandated transition to full privatization.

Although GSEs were created to help bring the capital of private investors to bear on these societal goals, only Farmer Mac, the most recently created GSE, is fully subject to the disclosure regime that informs investors and is administered by the SEC under our Nation's securities laws. Given the size and importance of each of the GSE's operations in our capital markets and banking system, continued operation outside of the SEC-administered corporate disclosure regime is inconsistent with our objective for investor protection and a sound and resilient financial system, and will only hamper our efforts to bring even more capital to bear on the objective of affordable housing and more generally on all the objectives served by GSEs.

In sum, the GSEs, and particularly the three housing GSEs, are no longer modest experiments on the fringes of our financial system. They are large, rapidly growing, and important players in our capital markets and in our banking system. As such, they need to

be role models for our system of investor protection, not exceptions to it.

H.R. 4071, the Uniform Securities Disclosure Act, would repeal Fannie Mae's and Freddie Mac's exemptions from both the Securities Act of 1933 and the Securities Exchange Act of 1934. The 1933 act requires a public company to submit a registration statement and prospectus when bringing new issues to market. Registration under the 1934 act triggers periodic disclosure requirements about the financial condition and management of companies that issue securities.

We do not see a basis for removing the 1934 act exemptions only for Fannie Mae and Freddie Mac. Instead, we support the application of the 1934 act disclosure requirements to all currently exempt GSEs, triggered by their voluntary registration under the 1934 act.

Fannie Mae and Freddie Mac are two well-run companies that have done much in recent years to provide their investors with high-quality financial disclosures. However, as they have recognized and the administration has agreed, the time has come for their investors to be assured that the level and quality of the corporate disclosure they receive are the same as those that are made by any other company that actively participates in our capital markets.

The only way to achieve this assurance of comparability is to have each GSE agree to comply with the disclosure requirements of the 1934 act as interpreted and applied by the SEC. This ensures that investors will receive the benefit of knowing that GSE disclosures are consistent with those of other companies as determined by the SEC, consistent with the changes in disclosure requirements as they are implemented over time by the SEC, and that GSE disclosures are available on a consistent basis through the SEC's EDGAR system.

To accomplish this, the administration is requesting that each of the GSEs initiate a process with the SEC that will result in the application of the disclosures required under the 1934 act. The administration is pleased that Fannie Mae and Freddie Mac reached agreement last Friday with the SEC and OFHEO to do exactly this: to establish a regulatory framework that will ensure their complete compliance with the requirements of the 1934 act.

As Secretary O'Neill stated, we applaud Fannie Mae's and Freddie Mac's self-initiated compliance with the corporate disclosure requirements of the Securities Exchange Act of 1934. This arrangement, as SEC Chairman Pitt observed at his press conference on Friday, reflects a commitment to the goals the President has called upon us to meet and toward which we are working—exemplary corporate governance, complete transparency of financial information, and full and fair disclosure.

Under section 12(g) of the 1934 act, an issuer that is not otherwise subject to the requirements of the act may register its common stock with the SEC, thereby triggering obligations under section 13 of the act to file periodic financial and material event disclosures with the SEC on an ongoing basis. Although the process begins at the initiative of the company, once the initial filing is made, the issuer is henceforth required to make all appropriate fil-

ings, reports, and disclosures in the same manner as any other company subject to the 1934 act.

Fannie Mae and Freddie Mac have agreed with the SEC to register their common stock under section 12(g). In addition, to ensure compliance with all the provisions of the 1934 act, as part of the regulatory framework agreed last week, OFHEO has agreed to promulgate a rule requiring that Fannie Mae and Freddie Mac and their respective officers and directors file with the SEC all statements, reports, and forms required by sections 14 and 16 of the 1934 act and to file the same concurrently with OFHEO. The effect of this rule will be that Fannie Mae and Freddie Mac will have to comply with the SEC's requirements that officers and directors report any purchases or sales of common stock of the companies, and that the companies file with the SEC proxy statements relating to annual or special shareholder meetings, and that their proxy statements be subject to review and comments by the staff of the SEC.

The SEC and OFHEO and Fannie Mae and Freddie Mac have worked hard so that this framework can provide a role model for smart, efficient regulation. This arrangement reinforces the principle of functional regulation, ensuring that the SEC administers and enforces our regime for investor protection, that OFHEO maintains its responsibilities for the safety and soundness of the housing enterprises operation, and that there will be no duplication or overlap between them.

It should be noted that OFHEO retains its own authority to require such disclosures from Fannie Mae and Freddie Mac as it deems necessary or appropriate under its safety and soundness mandate to regulate the enterprises. This is an area of some considerable interest to me, having worked on several projects to develop and enhance risk disclosures for financial intermediaries prior to my service at the Treasury. I look forward to working with Director Falcon to consider whether and how enhanced risk disclosure concepts might be applied to the housing enterprises.

We have requested that the other GSEs begin working with the SEC and their regulators to achieve a comparable arrangement with the SEC that would subject them to the same set of disclosure requirements.

Finally, the administration is not prepared to support repeal of the GSEs' exemptions from the 1933 act, and OFHEO is not pursuing a securities registration regime for Fannie Mae and Freddie Mac. The administration would like to promote a more level playing field with respect to initial offering disclosures between GSE and non-GSE mortgage-backed securities issuers, and wants to ensure the adequacy of disclosures to investors in all mortgage-backed securities.

As announced last Friday, the Treasury, SEC, and OFHEO will conduct a study of how this can best be achieved consistent with the administration's objectives for both affordable housing and a sound and resilient financial system. The three agencies will study the disclosures now provided by mortgage-backed security issuers with a view to ensuring that our mortgage-backed security market continues to function smoothly, that investors receive the information they need to price these instruments, and that issuers do not face duplicative requirements. We will also study how we can cre-

ate a more level playing field and greater comparability of disclosures.

Requiring the GSEs to register their securities under the 1933 act could have certain benefits, including uniformity and consistency of disclosures for new offerings, but such a change has the potential for disrupting a large and well functioning market and imposing burdens and added costs. Consequently, application of the 1933 act to the GSEs' mortgage-backed market, without much greater consideration of the costs of moving from one regime to the other, would likely in the short run compromise our objectives for both affordable housing and for a sound and resilient financial system.

We would like to a fresh look at the initial offering materials of all mortgage-backed securities. To do this, the Treasury, SEC, and OFHEO will conduct a joint study. We will listen carefully to the securities industry, investors, Fannie Mae, Freddie Mac, Ginnie Mae, private label issuers, and others in the regulatory community to gain a fuller understanding of the market structure, the nature of competition, and the risks being priced and transferred. This will serve as background to a fundamental reconsideration of the initial offering disclosures that would best serve all the participants in mortgage-backed markets and be most consistent with our twin objectives. Our overall aim will be to recommend how investors can receive clear, concise, and useful information about the risks and rewards of mortgage-backed securities.

We will complete our review of initial offering disclosures of all mortgage-backed security issuers and report back to this committee and other interested congressional committees early in the first session of the next Congress.

In closing, Mr. Chairman, we must recognize that our system of regulating securities markets has served our country well for almost 70 years. That does not mean we can be content. Our financial markets and financial institutions have evolved and expanded in ways that were unimaginable just a few decades ago. Constant attention is necessary to ensure that our system of investor protection and our system of government-sponsored enterprises continues to serve us as well in the future as it has in the past.

Thank you again for this opportunity, Mr. Chairman.

Chairman BAKER. [Presiding.] Thank you very much, Mr. Fisher.

[The prepared statement of Hon. Peter R. Fisher can be found on page XX in the appendix.]

Chairman BAKER. We do appreciate your willingness to participate in our hearing today and to bring forward your thoughts with regard to the GSE governance.

I know Mr. Shays has interest in understanding more fully, and will take his time to discuss the elements of compliance with the 1934 act and noncompliance with the 1933 act, and I wanted to take my time to focus more on where we might go next. One of the reasons for my concern is that—I usually do this at all hearings relative to GSEs. I have absolute confidence in current management. They are currently profitable. They are well-managed institutions which do not present an immediate risk to the shareholders or the American taxpayer.

However, in light of the growth of the GSEs over the last couple of years, I will have for distribution in a minute, charts for members on an 8-1/2 by 11, but the red line is the big one which represents the aggregate debt in MBS issuances by both Fannie Mae and Freddie Mac in 2001 on the left side, and 2002 on the right side, as of March of each reporting year. And what is intriguing is the purple bar on the right represents the total United States debt, so that the debt in MBS issuances are already twice that of the United States Government. And regardless of who they are, you have to look at the regulatory adequacy of the organizations charged with the duty of overseeing their rate of growth. And those are CBO certified numbers by the way, and the resources of OFHEO.

Your office does not engage in day-to-day capital or safety and soundness analysis. Your charge is with the overall governance and broad policy. That being the case, then, if OFHEO were an OCC-like organization with a formula assessment on the bank, OFHEO's regulatory budget would be in excess of $60 million. Today it is around 21 million. Just on its face, there appears to be some mismatch with resources to agency complexity if they were viewed as an international bank with complicated internals.

You are not suggesting with this testimony that compliance with the 1934 act registration is the only and sufficient step needed by the Congress in gauging that risk, are you?

Mr. FISHER. Mr. Chairman, no, I am not. Let me be clear. I come today with the administration's position on H.R. 4071. We don't have an administration position on bills that you brought—.

Chairman BAKER. Few people do.

Mr. FISHER. —forward over the last several years. I want to be clear about that, and I hope we will get to those issues.

I would like to be clear also that I think we made three important steps over the last few days. First is bringing Fannie Mae and Freddie Mac within the 1934 act. That is one step.

A second step we will be considering is with respect to the Home Loan Bank System, the Farm Credit System, and Sallie Mae. We look to also bring them within the SEC's ambit under the 1934 act, and we will be working with those GSEs and the regulators, and I think that is a big step. And I think that with respect to the MBS market, we take on today—and I can understand your frustration with studies—but we take on today a commitment to come back to you early in the next Congress with a very hard look at the disclosure requirements that are applicable to all of the mortgage-backed securities market. Now, that is a very big issue. Those are three important issues.

Chairman BAKER. I don't dispute that, and I certainly join with your interest in seeing all GSEs subject to appropriate governance. There may be some governmentally sponsored opportunities that are not GSEs in the technical sense, that also warrant similar analysis, which I would be happy to discuss that issue with you at a later time.

With regard to the study that is contemplated, my understanding is that you have today a February report in mind, correct?

Mr. FISHER. That is roughly what we have in mind, yes.

Chairman BAKER. If we could refine it a bit, I would hope for the purposes of the committee, we understand there is a great deal of work on the library shelf that could be referenced. That work could be concluded by the end of the calendar year because it gives us a little time. If we get a February reporting date, we are going to be very late in the year before we can act, and I would hate to see another year go by without taking additional action.

So on this round, I would like to say thank you for the inclusion of the additional GSEs for consideration. Thank you for considering other regulatory modifications that may be required with regard to Fannie Mae and Freddie Mac. And I request that you consider moving the initial reporting date to the end of the calendar year, as opposed to February, which would be of great help to the committee in its work.

But I would also indicate that, awaiting the outcome of OFHEO's assessment which will be public next week, I have grave concerns about what they may or may not be able to tell us. Pending that outcome, I may have additional recommendations to you in the near term that may change the scope of our analysis.

With that, let me yield back my time. Mr. Kanjorski.

Mr. KANJORSKI. I guess, to be a little facetious, I could say that the Bush administration is in support of increased regulation, Mr. Fisher.

Mr. FISHER. We are in favor of Fannie Mae and Freddie Mac coming within the 1934 act.

Mr. KANJORSKI. Well, it just makes me feel less lonesome on this side of the aisle when we hear the administration supports greater regulation. I do not have a dog in that fight. So if this policy change accomplishes something, I am certainly for it.

I do have an interest in the Federal Home Loan Bank System, as we have previously discussed. I am not sure, because of the nature of that system, what we will accomplish and what the expense attendant thereto will be by requiring the system to conport with the 1934 Act. Has that analysis been made?

Maybe you can also fill us in how this will impact on the Federal Home Loan Banks, and what kind of an expense they will incur as a result of increased disclosures. They really are a cooperative of existing financial institutions that are fairly sophisticated and do not issue stock to the general public but only to themselves.

Mr. FISHER. Yes. We have had some preliminary discussions with representatives of the Finance Board, and I think one should understand that the Home Loan Banks are in compliance with 1934 act-like regime—some components but not all—that has been put in place by rule by the Finance Board. But I think, again, our objective that we have had here is not maybe or kind of compliance with the 1934 act, but 1934 act compliance as an objective.

Now, there are over 7,000, almost 8,000, members of the Home Loan Bank System that is divided up among the 12 Homeland Banks. I believe some Home Loan Banks have approximately 300 members; others have over 1,000 members. I personally think of that as a widely held equity position, even if it is not publicly traded, and I think given the rapid growth of the Home Loan Bank System over the last several years, I think there are benefits. And it is the administration's position that there is no reason why the

Home Loan Banks couldn't also be in compliance with the 1934 act in providing the corporate level disclosures to their members, and I think it would be a good step for them to take.

Mr. KANJORSKI. One of the fears that some of us have is could increased regulation of the Federal Home Loan Bank System encourage a consolidation to occur that may disadvantage certain regions of the country? And as you know, I represent Pennsylvania, and Pennsylvania has the Pittsburgh Federal Home Loan Bank. We certainly do not want regulatory pressure being applied from the SEC or their own regulator to cause consolidation and, of course, that potentially is a power that could be abused. How do you see that we would handle that structurally within the government to be certain that there is not an undue pressure or expense being applied to the smaller Federal Home Loan Banks to encourage them to be consolidated into the larger ones?

Mr. FISHER. I want to assure you that our objective is strictly about corporate governance and disclosure to the member shareholders of the Home Loan Banks and as a matter also of good governance for our capital markets, given their presence. As with the SEC and OFHEO relationship, we have been striving to make sure that there is a clear distinction on functional regulatory grounds; the SEC administering the securities laws; OFHEO, safety and soundness. I assume when we say put in place a similar arrangement, we would be looking for the same division of labor between the Finance Board and the Securities and Exchange Commission.

Mr. KANJORSKI. I want you to watch over that concern closely so we do not have a consolidation that would disadvantage certain regions of the country if that were to occur.

Thank you, Mr. Chairman.

Chairman BAKER. Thank you, Mr. Kanjorski. Mr. Paul.

Mr. PAUL. Thank you, Mr. Chairman.

I want to follow up on my comments I made at the opening part. I do want to challenge your conclusion. You say, "Our system of regulating security markets has served our country well." and if you look around today, I don't know how many people would be convinced that the SEC prevented very many problems.

I understand Enron and WorldCom were supervised and they had to make their reports, and it didn't do any good. So I don't see how expanding reporting requirements will do much good if we ignore the real cause of the bubble.

The chairman pointed out very clearly where the problem is, and there it is. I mean that chart is fantastic, showing what is happening. And you need two things to do that. First you need a lot of easy credit. That is not the Treasury's responsibility, but it is the Fed's responsibility, and they have created all the credit that everybody ever wanted. But when you provide subsidies to one group of people or organizations, then you allocate the credit, and that is where the problem is. We are involved in credit allocation. The Fed creates the credit and the credit creates the allocation by these guarantees, this line of credit, and also this guarantee that the Fed will buy up these securities, if need be, and prop them up, as well as telling the world that these are guaranteed securities as good as a Treasury bill.

You can expect that kind of artificial debt to grow, and this little bit of regulation is going to do zero. And we have a bubble, we have a financial bubble which was discovered in the dot-coms for some of the same, similar reasons, and that has collapsed and now people want to put their money into something with a little more safety and has a little bit more assets related to it; buy houses, and they have all the credit they want, and now we have a housing bubble going.

So the way I see it, the GSEs are our new savings and loans and we ought to be thinking about what we are going to do about it when the bubble bursts, because it is going to come. It will have a collapsing bubble and someone is going to get hurt. You cannot keep a financial bubble going on forever.

And I was wondering if the administration has ever even considered the necessity of dealing with the problem, and that is this line of credit which is artificial, as well the fact that the Fed can monetize this debt.

Mr. FISHER. Yes. Well, Congressman, I am afraid I don't share some of the opinions you have expressed, but I don't think that will surprise you. I feel rather strongly about the importance of disclosure. It is a subject I have worked on for almost 10 years now. I know that may be a frustration to some, but I would like to clarify my view.

I think disclosure as a form of investor protection is something like Winston Churchill felt about democracy as a form of government: It is the worst one we can imagine except for all others.

If we are going to have a system in which we ask private participants to invest their own capital, then the best we can hope for is to give them a clear picture of the risks and rewards of doing so. We can have a system of government allocation of credit and government investment, and we do that all the time. We have NASA. We send rockets to the Moon. We build highways. We have an army. We make lots of investments for the government. But when we want to have the private sector make investments, I think the most forceful thing we can do is keep working on improving the disclosure regime so that the risks and rewards of making those investments are clear to investors, and I think that is the most important statement we can make for the subject.

Mr. PAUL. Why couldn't this work in exactly opposite of what you would like it to do? Because in a way you are trying to get assurance to the market that the SEC is going to do it, and then you send this message to the investors that Big Brother is going to take care of it and watch after you, and you get your stamp of approval from the SEC keeping, buying it nonstop. It seems to me that it backfires on you. And right now there is a healthy distrust of the markets. They don't trust the SEC, and they don't trust the market to help them. I think it could work exactly the opposite.

I know what the intentions are, I know the line, but I think we have to consider the fact that it could do exactly the opposite of what you want it to do.

Mr. FISHER. Well, I think we have all known for many years that SEC regulation is not a guarantee that a company's stock will go any particular way, and that is something we need to keep driving home to investors. I think it is important for all government offi-

cials to make that clear. Our securities laws and a lot of our financial supervision are about trying to make a system work, and it is not about particular outcomes for particular stocks. We certainly can't guarantee those.

Chairman BAKER. Thank you, Mr. Paul.

Mr. Meeks asked unanimous consent to insert his written statement into the record; and, without objection, it is inserted. Thank you, Mr. Meeks.

Mr. MEEKS. Thank you.

Chairman BAKER. Mr. Bentsen.

Mr. BENTSEN. Thank you, Mr. Chairman.

Mr. Fisher, I don't want to put you on the spot, but I don't think I heard. Mr. Paul did ask about the question of the line of credit that is provided for under the charter for Fannie Mae and Freddie Mac, and in my statement I alluded to the comments of your predecessor Mr. Gensler a couple of years ago and the position of the Clinton administration or the Clinton Treasury Department, I guess, at the time.

Does the Bush administration have a position with respect to the charter for the G S Es and the line of credit that they have with the Treasury at this point?

Mr. FISHER. Two points. First, no, the administration does not have a position on the issues you raised. And I want to be very clear, the line of credit is a misnomer. A line of credit in financial markets means that the holder of the line has the right to draw on it, against a bank usually. In this case there is a facility, a very narrow one, that is entirely in the Secretary of the Treasury's discretion whether to, in effect, undertake a repurchase agreement for, I think, 2.25 billion for each of Fannie Mae's and Freddie Mac' securities. That is not a line of credit; it is entirely in the Secretary's discretion.

There are hosts of things we have buried in the statute that are in the Secretary's discretion that Secretaries can use or not use if they choose. Some of them are anachronistic. We don't have a view on this one. There is no administration position on this one, and at present I don't think there is a need for one.

Mr. BENTSEN. Thank you.

With respect to the review proposal that you are going to come back with next year, and looking at all the GSEs and disclosure for the purpose of whether or not mortgaged-back securities or other debt instruments related to mortgages should be registered, will you take into consideration at that point in time the State and local housing finance corporations and the issuance of tax-exempt debt for mortgaged-back securities? And if you don't have the answer, you can get back with me for the record.

Mr. FISHER. Our effort is to take a complete blank piece of paper and complete open mind of the entire subject. So I am not—I want to be clear, one reason we may have to take a fresh start is I am not an expert in this subject. We are going to take up every aspect that influences the pricing of these instruments and try to get every piece of information out. So, yes, we are going to have as broad an inquiry as we possibly can into all aspects of the mortgaged-back market.

Now, the first part of your question, I am afraid I have lost track of it.

Mr. BENTSEN. No, that was it. But if you would get back to me, if you all would look at that and get back to me.

Mr. FISHER. Yes, we certainly would.

Mr. BENTSEN. Because now they are not currently to be registered.

Mr. BENTSEN. The agreement worked out with Fannie Mae and Freddie Mac puts their common stock issuance under the 1934 act, so they voluntarily registered their common stock, And that is effectively permanent based upon the rules with which one can withdraw. Otherwise the companies would have to go through a colossal change. The 1934 act also applies to the issuance of corporate debt as well, or any other type of security.

Now, I understand the reason for the carving out mortgage-backed securities and debt issued for the purposes of holding mortgages for your own account. Was consideration given to the issuance of corporate debt as a form of capital, operating capital, in the same way as equity, or was there a concern that by putting corporate guaranteed debt under this, that you would trip the wire, if you will, to mortgage-backed securities and other forms of guarantees?

Mr. FISHER. I would like to be clear. I don't think of myself as a securities lawyer, and I may be beyond my pay grade here. We did talk about the issues you have raised with respect to the 1933 act—excuse me. The 1934 Act has a provision for bringing one's common stock within that act voluntarily. I don't believe there is such a provision for bringing your debt within it voluntarily. It is about bringing your common stock. So, without the necessity for legislation, the means of bringing both of the enterprises stocks within the entire 1934 act regime was available.

Now, as a matter of market practice and disclosure, that actually accomplishes most of what is necessary for the straight debt-holders, because the corporate-level disclosures of the enterprisers, their balance sheets, their income statements, their proxy statements, all of the information that influences the value of the firm as a whole will be there as a consequence of their registration of their common stock.

Now, the separate issue has to do with the 1934 act and the registration requirements for each new offering, whether of debt or equity, and that is where the administration does not support repealing that exemption. And we think the substance of that issue is really fully addressed by looking at the disclosure norms for all mortgage-backed securities that will get to the question of what individual investors will know about individual pools of mortgage-backed securities in which they are investing.

Mr. BENTSEN. Thank you, Mr. Chairman.

And I want to thank the witness for the specificity in his answers, particularly to that question and explaining what the intent was. Thank you, Mr. Chairman.

Chairman BAKER. Thank you.

Mr. Ney.

Mr. NEY. Thank you, Mr. Chairman.

Secretary, I am curious about the announcement you made on Friday and what that means for the GSE disclosure. Does the voluntary disclosure under the 1934 Exchange Act mean that the disclosure will be comparable to other financial firms and entities?

Mr. FISHER. Yes. My understanding is that a combination of their voluntary registration under 12(g) and the framework that the SEC and OFHEO worked out means that all aspects of the 1934 act will be enforceable by the SEC on the two enterprises.

Mr. NEY. And another area. What about the liquidity in the tight—type pricing on Fannie and Freddie MBS? Is that about the suggestion that the investors have critical information they need to determine the prepayment? Do you want to comment on that?

Mr. FISHER. There are two different substantive issues, I think, on disclosure on mortgage-backed—.

Mr. NEY. Of the securities they would be purchasing.

Mr. FISHER. Yeah. The individual security pool, you mean—.

Mr. NEY. Right.

Mr. FISHER. —on mortgage-backed securities. There are credit risk issues, and there are prepayment risk issues, and we will be looking at both of those sets of issues in our joint study with the three agencies, looking at current practices by all types of issuers, and trying to understand both categories and to see what we think will be most useful to investors and to the continued smooth functioning of that market.

Mr. NEY. Back to the 1934 act. Are you able to tell me what would be included in the filings of the GSEs and how that would defer from other companies? What would be included?

Mr. FISHER. All of the standard quarterly and annual reports that the SEC requires and the material event reports. When some extraordinary event happens, they are required to come forward. Proxy statements, special shareholder meetings, annual shareholder meetings. And the SEC staff will be able to review proxy statements in advance of their going out. There may be others at a level of detail that I am not familiar with.

Mr. NEY. Thank you.

Chairman BAKER. Thank you, Mr. Ney.

Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Mr. Chairman.

We thank you, Mr. Fisher, for coming to visit with us and talk to us and give clarification to some of the questions we have. Part of the administration's push to increase minority home ownership enlists Fannie Mae and Freddie Mac's assistance with reaching this goal. Doesn't this action demonstrate the administration's support of the housing's government-sponsored entities?

Mr. FISHER. As I made clear in my opening remarks, we see twin objectives here: one for affordable housing in America, and another for a sound and resilient financial system. We have both of those objectives here.

Mr. HINOJOSA. Well, that is a good answer, because I have several requests of the Secretary in HUD to make some things happen in my district, so I am pleased to hear your answer.

Mr. Fisher, some supporters of H.R. 4071 assert that OFHEO lacks the resources and authorities needed to effectively supervise the GSEs. And Congressman Paul, Ron Paul, certainly did address

that when he made his remarks. What are the administration's views on this issue? Does OFHEO have sufficient resources to regulate Fannie Mae and Freddie Mac? Does it have sufficient statutory authorities? What are their plans?

Mr. FISHER. Congressman, I don't have an administration position on the adequacy of OFHEO's supervisory and regulatory ambit at this time. I understand you will be hearing from its Director a week from today.

I think that you may know in the sequence of events that led up to Friday's announcement, OMB put out a letter to OFHEO asking it to address a number of areas of disclosure. And we think that the framework that they worked out with the SEC, where the SEC can bring its resources to bear on some of the corporate governance and securities disclosure issues is an important step toward responding to the President's request that we all look at these issues.

So, that is a partial answer, that we think perhaps some of these disclosure issues are best addressed by the Securities and Exchange Commission. And that is the extent of the answer I have today, sir.

Mr. HINOJOSA. I look forward to a complete one.

Finally, I am pleased at the announcement that we heard Friday, and it is not every day that a company volunteers for greater regulation, and Fannie Mae and Freddie Mac will now have an unprecedented four layers of oversight. Their example should be emulated and not criticized. And so I am pleased that we are having this hearing and that we can all better understand how we can make this housing goal a reality.

And, Mr. Chairman, if I may, I came in late because I was at another meeting on education, and I would like to ask unanimous consent that my opening statement be made a part of the record.

Chairman BAKER. Without objection.

Mr. HINOJOSA. Thank you.

Chairman BAKER. Thank you, Mr. Hinojosa.

Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman. It is good to have you here today.

Mr. Paul raised some concerns, but I think they were rather misplaced as he applied them to Fannie and Freddie when he talked about market structure and housing bubbles and collapses. The market structure, if it is sound—lines of credit don't bother me, available capital. I mean, those are very reasonable. But as it applies to the lending institution, I don't think there is a concern today about a housing bubble. My concern is the housing bubble is an artificially inflated market, and for those reasons I guess anything could be bothersome. And it has nothing to do with the lending institutions; it has to do with what is artificially inflating the market today.

I witnessed this back through the 1980s, 1987 through 1990, in California as an example. You had—at that point in time, demand just absolutely outpaced supply. We are dealing with the same thing in California today. And you have seen many communities that homes are inflating 16, 18 20 percent a year, and it has nothing to do with the lending industry, it has nothing to do with Fannie or Freddie, it has nothing to do with lines of credit, it has

nothing to do with available credit. It has to do with the available process that builders have to go through to bring their product on the market. And we are witnessing in California situations where there is just no way in the world, based on the process they have to go—through not only local process, but the Endangered Species Act and all the other issues they are having to do, there is no way in the world that builders can keep up with the demand being placed upon the housing industry. And that is artificially inflating the prices of homes, and there is nothing you can do about that.

I mean, you base your appraisals on the market at that time and what units are selling for. We witnessed the same thing back in the 1980s, And I know homes that sold in 1989 that weren't worth what they sold for in 1989 until 2000, because the market collapsed and then they had to start from the bottom up.

I am pleased to see that last Friday Fannie and Freddie announced to the Security Exchange mandatory financial disclosures. I think that is really good. I don't see a problem with that at all. The only concern I have, do you feel that these additional disclosure requirements will distract the Housing GSEs from meeting their federally chartered mission of expanding home ownership opportunity?

Mr. FISHER. No, sir. I think the two are entirely consistent, as I said in my prepared remarks. I think, if they are going to meet the challenge of expanding home ownership, as they have committed to the President, they are going to have to draw a lot more capital into these markets overall, and I think the best way to do that is to make sure they are in compliance with all of the disclosure rules we have for all investments more generally.

So I think the two in this—it is not always the case we can say this, but in this case they seem to work together.

Mr. MILLER. The President has proposed a new tax credit for single-family housing developments, and I think that is great, but we have a low-income housing tax credit targeted towards multifamily developments that is currently on the books, but that doesn't work in California, as you know, because I haven't seen a condo or townhome built in California for 10 years. And I am talking to Secretary Martinez about coming forward with a bill to try to change this where a developer can process a development through HUD, meet all of HUD's requirements, or the local requirements if they are greater, and if there are any defects—as you know, that has been the problem in California, defect litigations—any defects litigation, they are bound by mandatory arbitration. And that is the only way we are ever going to get the market changed in California to be able to really provide entry-level housing, and Freddie and Fannie should be behind it. But what is your opinion on that type of an approach?

Mr. FISHER. I am afraid you are beyond my expertise, sir, in that question of that tax credit, and I daren't go toward the tax side.

Mr. MILLER. Well, then I will make it easy. Do you believe that the tax credits as they are proposed can help affordable housing in California in general?

Mr. FISHER. That may be, sir. I really am going to be very careful as there are two places I don't go: the dollar and tax.

Mr. MILLER. We are going to get you there somehow. God bless you. Thank you very much.

Chairman BAKER. Thank you, Mr. Miller.

Mr. Shays?

Mr. SHAYS. Thank you, Mr. Chairman. And, Mr. Chairman, again, thank you for having this hearing; and, Mr. Fisher, thank you for being here.

I would like to hopefully, before we go—we will have second and third rounds; is that correct, Mr. Chairman?

Chairman BAKER. Yes.

Mr. SHAYS. I would like to talk about the agreement; I would like to talk about investor protection; I would like to talk about the mortgage-backed securities and the interagency review of mortgage-backed securities, if I am able to.

First, with the agreement, can you walk me through what it means to be under the full panoply of the securities laws as it relates to the Friday's agreement? In other words, is it all aspects of the law? There is nothing that will be exempt from the 1934 act?

Mr. FISHER. That is my understanding. In this regard I am relying on SEC staff who I was speaking to to help prepare my testimony. They have assured me that this is compliance with all components of the 1934 act, and I must rely on them. So I believe it is compliance with all aspects.

Mr. SHAYS. So in other words, the trade restrictions in the 1934 act relating to, say, short swing profit disgorgement requirements as well as the short sale prohibition, that would be part of it?

Mr. FISHER. That is my understanding. I think this is a major step and really a change in the regulatory landscape. These two major companies are going to be subject to SEC jurisdiction on 1934 act compliance. And I think the appropriate thing for me to do is defer to the SEC on the interpretation of that as it applies to the two companies.

Mr. SHAYS. I would just suggest, Mr. Chairman, that it may be appropriate for us to have Mr. Pitt in to just verify what—since in effect he will have to make that decision.

Chairman BAKER. Mr. Shays, if the gentleman would yield. I would like to suggest that we just simply get a copy of the written document that represents the understandings. Does the gentleman have such a copy of the agreement?

Mr. FISHER. I do not. It was among the four parties. I know that such a document exists as an outline as they go forward to try to frame it out. It will require rulemaking on the part of OFHEO as Director—.

Chairman BAKER. Sure. I understand. But if I may suggest that if there is a copy lying around somewhere, we would like to get it. If not, Mr. Shays, what we might do is formally request the SEC to forward whatever their understandings are. As I understand it, as of this time attorneys for OFHEO and attorneys for the SEC are trying to hammer out agreements, but I am not exactly sure where the written document exists, and I think it is a little premature to celebrate until we get something to read. But thank you for yielding.

Mr. SHAYS. Thank you.

On August 14th, the CEOs and CFOs of some of the country's largest public trading companies are required by the SEC to certify their 2001 financial statements are accurate. Will this requirement apply to Fannie and Freddie, the 20th and 42nd largest companies?

Mr. FISHER. I don't know the answer to that. The precise timetable as to them coming into compliance with the 1934 act is something they will be working out.

Mr. SHAYS. Who would know that?

Mr. FISHER. I believe the SEC is the appropriate place to address that question.

Mr. SHAYS. Mr. Chairman, I would just renew my request. I think we are going to have to have someone from the SEC, and I would imagine it would be Mr. Pitt, come in and explain to us what that means.

Chairman BAKER. The gentleman's point is well taken. I would just suggest that if we can get whatever it is in writing first, then that would enable the committee to have understandings before we have such a review. But the gentleman's point is well taken.

Mr. SHAYS. Let me just ask one or two more questions, and it may make sense just to defer them to others.

Turning to, say, investor protection, let us suppose that Fannie Mae or Freddie Mac failed to make adequate disclosure. In such an instance could you advise me as to whether the SEC would have the same enforcement powers as it would for any other SEC registrant?

Mr. FISHER. Yes, that is the case.

Mr. SHAYS. Okay. In the same vein, what recourse would farm investors have? Would they enjoy the full panoply of legal rights and specifically the right to sue?

Mr. FISHER. I am not certain of that, so I best leave that unsaid.

Mr. SHAYS. Okay. With regards to the mortgage-backed securities, you have—this is a study work in process. I would like to ask you, is there any reason why it couldn't be completed before Congress takes up the next session, before the next session of Congress begins?

Mr. FISHER. The Chairman asked me the same question. Let me assure you both that we haven't yet sat down with the other two agencies, and as soon as we do, the first topic on the agenda will be your suggestion and that of the Chairman that perhaps the study could be finished a little sooner.

Mr. SHAYS. With regard to how this came about, I am interested to know how this agreement came about, because it will help me understand the veracity of the participants in terms of their ability to enforce this. It bothers me, it has bothered me for a long time, that Fannie Mae and Freddie Mac have not been under the 1933 law or the 1934 law. And let me just say parenthetically, I think it is huge that they will be under the 1934 law. So I am seeing the glass three-quarters full, and I am not at all critical of what has happened. I think it is a gigantic step in the right direction, and a hats off to everyone.

But what I am interested to know is was this an initiative that was among equal partners, or was this basically—in other words, did the Treasury Department indicate to Fannie Mae that they thought it was advisable for them to be under the 1934 act?

Mr. FISHER. I want to respond fully to your question. Since I first came to Washington about a year ago, I am just finishing my rookie season here, I have been discussing with people in the administration and at each of the GSEs how we can improve on their disclosures, their corporate disclosures. This is something I mentioned in my testimony I have been working on since 1994, my prior service, trying to improve disclosures by financial intermediaries.

So over a year ago when I—when people would ask me what I thought about the GSEs, I would say let's see if we can't move them toward 1934 act disclosures and improving their corporate disclosures. The dialogue has gone back and forth.

Mr. SHAYS. Can I just interrupt there to not—make sure we are precise? Did you at that time say just the 1934 disclosure, or did you just say disclosure in general?

Mr. FISHER. In my prior incarnation, I ran the open market desk of the Federal Reserve System. I am intimately aware with their securities, how they trade in the market, and with the entire subject matter of the mortgaged-back market and their debt markets. So I have an acute understanding of their longstanding concerns, shared by—.

Mr. SHAYS. I don't know if this can be answered yes or no. My question was I am getting the sense that Fannie Mae and Freddie Mac knew that you were interested in disclosure, but you describe it as saying, I am interested in the 1934 disclosure. There has been a sense that—I just want to be clear. Did you say disclosure in general and then settled on 1934, or have you always only advocated 1934?

Mr. FISHER. I have understood for several years the concerns that they and other participants in this market, non-GSEs, have with respect to the concept of trying to apply the registration requirements of the 1933 act to the mortgage-backed market. There are many of us who understand the bond market and how it works, who understand that that could disrupt—and I think it likely that it would disrupt, but we are never certain about these things.

Mr. SHAYS. Let me ask you, I mean, with all due respect, when you say could disrupt, don't we have others who go and assemble mortgage-backed securities? Does it disrupt them?

Mr. FISHER. It is a question of the size and the scale of their operations. And I think that even some of the harshest critics of these two enterprises will tell you that it is a fair question as to whether this would be disruptive to the mortgage-backed securities market, and it is my opinion that it would be.

Chairman BAKER. Mr. Shays, if I may, we will come back for another shot at this.

Mr. SHAYS. Sure.

Chairman BAKER. Mrs. Tubbs Jones.

Mrs. JONES OF OHIO. Thank you, Mr. Chairman.

Following the logic of Mr. Shays, would SEC registration have prevented the collapse of Enron, Qwest, Tyco or WorldCom, or protected the people involved, the investors involved at all?

Mr. FISHER. No. I think we all understand that SEC regulation of compliance with disclosure requirements is no guarantee of an investment outcome.

Mrs. JONES OF OHIO. Do you have any idea—based on your experience at the Federal Reserve and your knowledge—of the requirement or the number of issuances of Fannie Mae or Freddie Mac, what SEC regulation or how SEC registration would either adversely or not adversely affect the company's housing mission and issues on housing affordability?

Mr. FISHER. I don't think it will adversely affect their missions, but I want to be clear, I am not an expert in housing. But I believe it would indeed be a hollow victory for investor protection and corporate government if I were to think that they had done something that was not in their shareholders' interest and consistent with their mission that they have from the Department of Housing and Urban Development.

Mrs. JONES OF OHIO. Do you want to say that in a different way for me, sir, so I have a little clearer understanding of what your answer is?

Mr. FISHER. I have no basis for believing and I do not believe it is inconsistent with their mandate. I thought I said that clearly, ma'am.

Mrs. JONES OF OHIO. Okay. Well, and upon what do you base that answer, sir? You did say you were not familiar with housing issues. Is that what you said at the beginning of your answer?

Mr. FISHER. Yes, I did, ma'am.

Mrs. JONES OF OHIO. So are you saying that you don't have a basis upon which to answer my question?

Mr. FISHER. No. I said I was relying on them. And I believe that they have a statutory mandate they need to fulfill, and they have a duty to their shareholders. And I told you candidly, I believe, that I was relying on them. But I also believe that by putting forward the testimony of this administration, that we have twin objectives. We have objectives for affordable housing in America, and we have objectives for a sound and resilient financial future, and we believe that—.

Mrs. JONES OF OHIO. And you believe that they are not—based as the missions or the assignments currently exist, they can coexist?

Mr. FISHER. I believe we serve both those objectives here.

Mrs. JONES OF OHIO. And that is why you have proposed the 1934 registration?

Mr. FISHER. Yes, ma'am. As my testimony elaborated on, I believe that in order to serve their mandate going forward—.

Mrs. JONES OF OHIO. Now, let me ask you, with regard to the 1933 registration of the—in light of the large number of issuances that Fannie Mae and Freddie Mac have, can you see that that could have an impact upon their ability to do their job, sir?

Mr. FISHER. Yes. And that is why this administration is not in favor of repealing their 1933 act exemptions, and why we are going to study disclosure and not registration.

Mrs. JONES OF OHIO. I missed your other testimony, Mr. Fisher. Is there anything that you would have wanted to say that you did not have an opportunity to say under any other questions?

Mr. FISHER. No.

Mrs. JONES OF OHIO. Well, I thank you very much.

And I thank you, Mr. Chairman, for yielding the time.

Chairman BAKER. Thank you, Mrs. Tubbs Jones.

We will take a brief second round here, Mr. Fisher.

By not requiring registration of debt offerings, by allowing their debt offerings to be utilized as collateral for public deposits, by allowing federally insured deposits or institutions to hold without limit the only—besides the U.S. Treasury, the only security which falls with that designation, as of the last time I looked at the numbers about 40 percent of the institutions federally insured in the country held 100 to 500 percent of the total capital in GSEs securities. My concern is that if there were to be a stumble, not necessarily the 1979 bankruptcy, but merely a deterioration in quality of assets, a short-term run-up of rates, the impact that would be adverse not to Fannie shareholders, but to Federal depositories would be rather dramatic. That has been the principal reason for my insistence over the years on having adequate regulatory oversight.

Today's developments, sir, are deep and official, and I don't want to minimize them at all. Apparently somebody has been able to at least get this done when I have been unable to achieve it. So congratulations. My point is that it clearly does not go far enough to give me—and I modestly suggest many others—comfort that we truly understand the risks inherent in the management of these portfolios.

For example, I don't have it on that chart, but I have a chart somewhere that shows Fannie's size in relation to Freddie with debt issuances and the amount of hedges in place, where Fannie is almost twice the size of Freddie, but has half as much hedging in effect. Just on its face, there appears to be reasons to enhance our regulatory adequacy, and I don't know how we get there, but the other sort of measure that imbalances market equities is in response to the line of questioning by Mr. Bentsen relative to the line of credit and characterizing it as not truly a line of credit that could be called on as a traditional corporate line of credit. It is true that market participants view that line of credit and its relation to the values of the GSEs as an implicit government guarantee, and even though the debt issuances are clearly stamped and the line of credit is clearly conditional, that the perception by the markets that the Federal Government stands behind these does create an imbalance in the marketplace.

If somehow we find out that all the concerns I have raised are without foundation, I would be very happy and very relieved. If, however, there is any possibility for some sideways movement in the market that results in a housing surplus and interest rate run-up and an inability of the agencies to spread their risk in new and innovative ways, we really need to have a regulator on deck who can come to the committee and tell us that our concerns are not warranted. And as I said—and not to prejudge the outcome of next week's hearing, because we have to see what the work product looks like, but it certainly appears to me that values have been created that may or may not be accurate. And given the current corporate environment where restatements are all too common and the consequences far too dramatic, one holds his breath contemplating what would happen should either of these agencies find themselves in a similar circumstance.

And I appreciate your testimony and your willingness to examine these issues, but it adds some level of concern that we are not able to come to conclusions in light of what the obvious market conditions are like.

I don't really have a comment with regard to the 1933 registration. I understand the reasons why you think it ill-advised. I don't necessarily agree, but I understand your explanation. I don't understand how private label and triple-A-rated M B S should be viewed any differently. As I understand your philosophy, all corporations should look the same to the investor, and although we are getting closer, I still think there are distinctions of significance from the outside looking in with respect to GSEs.

I don't have a specific question in this round, I really wanted to facilitate Mr. Shays' questions, but just to express the overall concerns about where we are and the need for us act in a more timely manner, hoping that a study won't be all that we see in the coming months, that there will be some reason to act beyond what I believe is an appropriate and advisable step, but certainly not the last.

I don't know if you have a comment or not.

Mr. FISHER. If I could comment, Mr. Chairman. I want to be clear that I think all of the issues that you have just touched upon are important ones, and I think they are ones that are deserving of yours and our attention. And while we don't have an administration position on the bills that you have put forward with regard to those broader issues, I want you to know that I think those are important topics, and I hope that we can at some point have an administration position on those issues, and it is one I would heartily enjoy working on.

I should be clear, certainly before this committee there are many speeches I have given and talks I have had with bankers in this town and around the country. People know that I am frustrated with the state of regulation in general in America, well beyond GSE issues, looking at all of our financial services regulation. I think there are some simple propositions that we all can aspire to that, like products and like services, should get a like regulatory treatment. And we are so far away from that that I don't think there are a lot of people in this country who understand that we really look silly from the rest of the world, where we have so many different financial regulators. People from abroad looking in can't figure out who is on first.

When you look with that broad issue, I think it is dramatic, and important and deserving of all of our attention. I am not a fan of saying let us all roll it up into one single all-powerful regulator. I don't think Americans will ever tolerate that; I don't think we should. But I also don't think we can sit by and have the fractured system we have today endure.

Now, in a microcosm I think that some of the issues you are touching on are the same with respect to our thrift and our housing finance industries in this country. Now, we have several different regulators. It isn't looked at in a coherent way. And I think of the question of housing and thrift finance in America as a coherent issue, particularly looking at it through the prism of the growing

importance of the mortgage-backed securities market, is certainly worthy of your attention.

I think the substance—if you will give me one more moment, Mr. Chairman. The substance of these concerns is the question of the functioning of the mortgage-backed securities market among investors, and that is an area where I think if we hadn't even made the other steps we are making today, I think the agreement of the SEC, OFHEO, and the Treasury to work together on that issue alone would be deserving of recognition as a major accomplishment.

Chairman BAKER. Thank you, sir.

Mr. Bentsen?

Mr. BENTSEN. Thank you, Mr. Chairman. And a couple more questions for Mr. Fisher, and I want to follow up on Mr. Baker's comments with respect to debt.

In my previous line of questioning, Mr. Fisher, you did state that—if I recall correctly, that following the 1934 act and registration of common stock would, in fact, provide investors with a significant amount of information they may not already have access to in the form of the stock prospectus, proxy, 10(k)s and 10(q)s. So—which would be similar, except for the particular offering information with respect to a common debt issuance, except for the fact that presumably and I think practically they—Fannie and Freddie have to put debt issuance papers out there anyway.

And you mentioned one other thing that caught my ear, and that is your experience on running the open market operations for the Feds; that you had a chance to see this debt in action, if you will. And would it be your—based upon your experience, impression that there is a good deal—maybe not a sufficient level, but a good deal of transparency within the GSE mortgage-backed securities market, given that it does appear to—there is a lot of debt out there, and it does trade quite a bit?

Mr. FISHER. Let me try to draw a couple distinctions. I think you have touched upon some very important questions, and I want to be very careful with them.

I think that the corporate disclosures that their compliance with the 1934 act will now engender will provide a standardization of disclosure that will permit the enterprises to be comparable with any other company in America, which is particularly important for assessing credit risks. While some people, some commentators, have observed this is not a, quote, big deal, I think it is a big deal because the comparability improvement is particularly important for the assessment of credit risk. And I think that will help the debt market, the straight debt market, by being subject to the 1934 act disclosures.

The mortgage-backed securities market is something that has both a credit component, as I mentioned earlier, and a prepayment component. There is something of a debate going on about what is the necessary level of disclosure. It is a fair debate, the necessary and appropriate level of disclosure on both of those components to tell you about the particular credit attributes and prepayment attributes of a given mortgage-backed pool. The more disclosure you make, the better informed an investor is. But at some level, if pools are entirely different, one may impair the liquidity and the functioning of that market.

Now, that is a very delicate trade-off, and I think that may be at the heart of some of the issues that we try to look at. I think there is a fair argument that more information is better. I am usually a proponent of that, but because of my experience with these debt markets, liquidity also is important, and it helps all investors in the market get in and out of securities if they like. That is also something that benefits the individual investor, the liquidity of an instrument. So we will be looking at all of those issues in our study.

Mr. BENTSEN. If I might, because my time is about to run out. Three quick questions that I would ask you. One is as a follow-up to what you just said, though, is it has become a pretty mature and sophisticated market with information that is posted on—in terms of liquidity and prepayment and all that as compared to maybe some other debt markets.

The second thing I would ask is—and you can just restate this for the record because I think this is correct— the administration's position with respect to OFHEO and its funding is that you would prefer to see it become a mandatory funding item, not subject to annual appropriations, that would free up some of the shackles on OFHEO so that we could treat them somewhat similar that we do to the SEC?

Mr. FISHER. Yes. Thank you for bringing that up. That was in the President's budget, and, of course, that is part of the administration's position.

Mr. BENTSEN. That is one of the items of the President's budget I agree with myself.

The third thing is, and Mr. Baker—I think Mr. Baker underestimated some of the work that he has done. A year or a couple of years ago, Mr. Baker and others were able to reach an agreement with the GSEs to have them get ratings on their subordinated debt and follow other, you know, stand-alone ratings on their subordinated debt and make some other disclosure requirements.

A lot has been written recently about another GSE, Farmer Mac, which is in a somewhat different business, but I think there should be sufficient concern within the GSE world that if one GSE is maybe going the wrong direction, that could impair other GSEs either economically or perhaps politically. It is my understanding that whereas there is—there have been ratings given on the housing GSEs, that has not been the case with respect to Farmer Mac; that it has not—in fact, it apparently was refused to get some sort of rating or stand-alone rating even though, as our discussion earlier, Farmer Mac is under the 1933 and 1934 acts as per the legislation back in the 1980s.

Given the amount of press and issues that have been raised with respect to Farmer Mac, is the administration and in particular is the Treasury Department taking a look at its operations based upon what has been written in the press?

Mr. FISHER. No. We have all been observing the press reports that have been going on and are familiar with Farmer Mac's operation. We have a role in reviewing some semiannual reports, but I wouldn't say we have taken an initiative in that area. But it is certainly an issue worthy of consideration.

Mr. BENTSEN. Well, I would just—Mr. Chairman, if I might, I would just—I mean, I think some of the press—I mean, obviously—and, you know, just because there is a story in the newspaper doesn't mean everybody should jump through hoops, but when there are numerous stories in the credible press, it does raise a concern that ought to be looked at. And I would hope that you all might well take a look at some of this and get back to the committee. We don't actually have jurisdiction, but we do look at GSEs.

Chairman BAKER. It has never bothered this committee.

Mr. BENTSEN. Well, it shouldn't. It shouldn't, Mr. Chairman.

Chairman BAKER. Thank you, Mr. Bentsen.

Mr. Ney?

Mr. NEY. Thank you. Mr. Chairman—and I wanted to prestate before I ask this question, I am not trying to be a wise guy with this question. It might come off that way to my colleague from Connecticut. I want to ask, I think, a legitimate question. Everybody is worried about transparency these days and disclosures, and there is complex companies, complex entities. And if you look at G.E. Capital and if you look at what Fannie and Freddie said, and the writing has got to come yet, as the Chairman said, where does that put those companies that are looked at by a lot of people and questioned? Where does that put them on par of disclosure with each other, those three entities?

Mr. FISHER. I am confident that General Electric Corporation is in compliance with all aspects, I mean, that they fall under the jurisdiction of the SEC.

Mr. NEY. Oh, yeah. I am not saying -.

Mr. FISHER. I don't mean—about to make a value judgment.

Mr. NEY. I am not, either.

Mr. FISHER. Under the 1934 and 1933 act, I would not want to represent that I would know precisely the status of G.E. Capital, which I believe is a fully-owned subsidiary, with respect to whether it comes forward independently and to what extent. I am just ignorant of that subject. But with respect to General Electric Corporation, I do assume that this puts Fannie Mae and Freddie Mac in compliance with the 1934 act. I can only but presume that G.E. Corporation is under the jurisdiction of the SEC with respect to both the 1933 and the 1934 act, but I would not present myself as an expert in that subject.

Mr. NEY. That is fair. I am just trying to get clear in my mind that they—after the announcement they have basically in general about the same amount. And once the—you know, the Ts are crossed, they have about the same amount of regulation and disclosure for that particular area of the stock? That is what I am trying to say.

Mr. FISHER. Yeah. At the level of corporate disclosure about the company coming out of the 1934 act and the normal quarterly and annual and proxy results, they would be comparable, entirely comparable.

Mr. NEY. Okay.

Mr. FISHER. With respect to individual security issuance, which is a 1933 act matter, there would still be a distinction.

Mr. NEY. You want to clarify that, that distinction?

Mr. FISHER. I am now beyond my expertise, but I am going to presume that when General Electric Corporation brings new issues of securities and debt to market, they fall under the 1933 act, whereas Fannie Mae and Freddie Mac continue to have their exemption to the 1933 act.

Mr. NEY. Thank you.

Chairman BAKER. Thank you, Mr. Ney.

Mrs. Maloney?

Mrs. MALONEY OF NEW YORK. Thank the Chairman for his leadership on this issue and so many others, and for allowing me to ask a question since I am not even on this subcommittee. I would have liked very much to have been on it. But, first of all, I want to certainly welcome Under Secretary Fisher, who happens to be a constituent from the great State of New York before he decided to move to Washington. And congratulations on your appointment.

Fannie and Freddie have shown responsible leadership, in my opinion, in their disclosures beginning in October of the year 2000 when they said they would disclose credit risk and interest rate risk, and would publish a corporate rating, by rating agency. And this is somewhat similar to what Mr. Ney was asking about G.E. Now they have offered to give up part of their statutory exemption from securities registration by voluntarily registering their common stock with the SEC. So this means they will file the same regular financial reports with the SEC that every other public company files, and I applaud these companies for their efforts in financial disclosure. Transparency is something that both sides of the aisle are particularly interested in these days.

In addition, they are required to meet the strongest risk-based capital standards; yet we know that the housing GSEs are investing in probably the safest asset in the world of people's homes and their mortgages.

Under Secretary Fisher, what I am concerned about are the unregulated financial entities who are engaged in lending and banking activities of every sort, and they have no regulation. And I will give the example of Enron. Enron is—actually was bigger than most banks; yet I would say most banks will be regulated possibly in 14 different ways. And the growth in these nonbank lending institutions and their lack of disclosure means that we have an inability to assess the financial stability of these firms, and we really have no way to ensure that they are capitalized adequately to meet their obligations. And is this something that the Treasury Department has looked at? Is this something that you are concerned about?

Mr. FISHER. I certainly share a concern with respect to what I will call aggressive financial activities of nonfinancial companies, and I think it is a fair area of inquiry for us all, for this committee and for us all to think long and hard as more and more companies look at the question of becoming, in effect, financial brokers of one type or another. But I think that is a fair inquiry.

Now, I don't have a simple answer to that, and I don't think there is one, because there is always going to be a distinction between banks and their customers, and there is kind of a level of activity challenge that we face. At some level of activity, financial activities of nonfinancial companies appear to go over a line.

I want to be clear with you, I have thought a lot about that issue, and I have not been able to come to an answer that satisfies me, but I think it is a fair subject matter.

Mrs. MALONEY OF NEW YORK. Well, I know that you have a particular experience with nonbank financial service companies and the risks that they pose, given your experience with long-term capital. And I know that it is not really the focus of this hearing today, so I would appreciate it, if you would, an expanded reply in writing to the Chairman. I know that I wrote Treasury earlier on this aspect. I know you have been busy, but I was hoping if you could give me your best thoughts on it. Thank you very much.

Mr. FISHER. I would be happy to do that.

Mrs. MALONEY OF NEW YORK. And I yield back the balance of my time.

Chairman BAKER. Thank you, Mrs. Maloney.

Mr. Shays.

Mr. SHAYS. One of the amazing things for me is to be a new member of this committee. I realize that I am not ready for prime time yet, but coming in as someone who has spent 10 years on the Budget Committee and has an MBA and an MPA, I find it amazing that when we looked at Enron, we saw a breakdown of the directors, the management. The employees didn't even speak out, the banks didn't do diligence, the rating agencies weren't doing their job. Every professional—lawyers were in there sucking up money as well. No profession looked good. I don't see anyone who looks good at WorldCom, either.

So, we as a Congress decide we are going to have more disclosure, and we are going to clamp down. And, guess what? Fannie Mae and Freddie Mac don't come under either the Sarbanes bill or under CARTA. They don't really kind of show up as being impacted in any real way. In fact, when we wanted to do it, there was a lobby that made an impact on CARTA to make sure that we didn't have that kind of oversight.

So, I am just saying to you that I have a little bit of uneasiness when I think of Fannie Mae and Freddie Mac because they play by different rules. And I love Frank Raines. I think he did a terrific job as Budget Director. He is doing a good job right now running the company, I expect. But both Fannie Mae and Freddie Mac simply want to play by different rules, and what I want to do is understand the substance, and then I want to understand the process of how they came under it. The substance obviously is more important than how this all happened, but that is still important to me.

So, dealing with the substance, you have said pretty uncategorically, I mean, pretty clearly, that they are under the 19—1934 act, period, and that you affirmed that when you spoke with the SEC. Now, you are saying that you didn't put this agreement together, but you were the host of it Treasury-wise, the host of it. So you had the four parties come together, and you rightfully saluted Chairman Pitt and Director Falcon and Frank Raines and Leland Brendsel. You congratulated them. But some of this is going to be worked out by the SEC, and OFHEO is getting involved.

What is not clear, and I will have to wait to ask the head of the SEC, what is the time schedule for getting them under this? That is not something you have the expertise. But, regretfully, you did

have a—make a comment that in your opinion—and that is your opinion. And, I mean, I respect your opinion. Regretfully, you have made the point, though, you don't think they should be under the 1934 act—1933 act. Excuse me, the 1933 act.

The 1933 act is the act, I gather, that requires mortgage-backed securities to be registered; is that correct?

Mr. FISHER. If it applied. It applies to individual security issuance—issues coming to market.

Mr. SHAYS. And you have already in a sense kind of not prejudged it, but you have said you want to have a study, but don't think they should come under it. And so I just want to be clear as to whether you speak with expertise on this, or whether it is a general opinion. I want to examine what under the 1933 act you don't think Fannie Mae and Freddie Mac should be under. And then I would love you to explain to me why they shouldn't be under it, but everyone else in the Fortune 500 should be.

That is what I wrestle with. I just don't see the logic. Wells Fargo has to go out and they have to register their mortgage-backed securities. Whether they are jumbo loans or not jumbo loans, they have got to do it. And why is it—and by the way, you have the private sector creating lots of opportunity for housing here.

So, I just want to be clear first, under the 1933 act, you have said they shouldn't be under it. Do you mean until the study is done, or period?

Mr. FISHER. I mean period is my current judgment. As my testimony makes clear, one can see there are potential benefits. One could—.

Mr. SHAYS. But let us explore it then. Why? Why not?

Mr. FISHER. The—.

Mr. SHAYS. And I want to ask if you speak with expertise on this, or is it just an opinion, because you didn't have certain expertise in housing. I want to know if it is your fear, or you are speaking as a professional telling this committee they shouldn't be under it, period.

Mr. FISHER. I believe that trying to move the mortgage-backed market that the GSEs issue to the 1933 act, as my testimony says, could—would be likely to create disruptions that would serve neither of this administration's objectives in this area.

Mr. SHAYS. Why?

Mr. FISHER. Because of the way that these securities come to market and the volume with which they come to market. The requirements for registration as they currently exist would be, in my view, disruptive.

Mr. SHAYS. What is the—.

Mr. FISHER. Now, the Chairman has put up a chart but I don't have the figures in my head. Mr. Shays, Congressman Shays, I believe that most of the substantive issue that concerns me is that I am in favor of a more level playing field with respect to all mortgage-backed security issues. Most of the substance has to do with differential disclosure requirements that could improve a level playing field for all investors. That is what—.

Mr. SHAYS. If you gave me a choice between the 1933 or 1934 act, I would probably say to have them under the 1934 act, but I

don't understand why we have that choice and the reason why—why they are mutually exclusive. The reason why I wanted to ask you how much mortgage-backed securities we are talking about is that the more it is, it would strike me, the more reason to do it, not the less reason to do it. If it was just a few, who gives a darn? But it is so much money. We are talking potentially about trillions of dollars that we have no disclosure on.

Chairman BAKER. Mr. Shays, just for the sake of clarification, it is—in 2002, it is approximately—or in the year preceding 2002, approximately 1.5 trillion in total MBS between Fannie and Freddie.

Mr. SHAYS. Right. And so my point is—I am not trying to put you on the spot, I am just trying to understand it, because, unfortunately, Fannie Mae and Freddie Mac are going to use you for the next 10 years. And I just want to understand, explore with you, why you think such a trillion dollars of nondisclosed collection of securities shouldn't have to be disclosed. It blows me away to think of that.

Mr. FISHER. I have not said that there should not be additional disclosures. I want to be very clear.

Mr. SHAYS. Okay.

Mr. FISHER. The 1933 act provides some mortgage-related securities exemptions to all of the provisions of the 1933 act that the SEC administers. So non-GSE issuers are not currently the under the full force of the 1933 act, but have their own exemptions.

Now, with respect to disclosures that all issuers make of mortgage-backed securities, GSE and non-GSE, that issue is what the three agencies are going to study.

So we are going to take on the issue you have just identified with a complete fresh look, and take that on to consider all of the disclosures that securities issuers today make, that they might make, that anyone who wants to the talk to us thinks they should make, and we will try to create as level a playing field as we can with respect to disclosures.

With respect to registration, I would like to be clear with the consistency in my views. In 1992, the Federal Reserve, the Securities and Exchange Commission, and the Treasury, as part of a study they did at the time of our government's securities markets, reiterated the view at that time, which had been of some standing already, that bringing the mortgage-backed securities market into the registration process would be counterproductive.

So the view I am expressing today with respect to mortgage-backed securities is that it would be potentially disruptive and not useful to bring mortgage-backed securities into the—.

Mr. SHAYS. So there is part of the 1933 act that you do think they potentially should be under?

Mr. FISHER. I just—.

Mr. SHAYS. I want to explain to you, I am not trying to—I want you to be a friend here. I am not trying to back you against the wall, but I just don't want you to be misinterpreted and misused for the next 10 years.

Mr. FISHER. I appreciate that. There is a linguistic problem here. Let me try to pinpoint it. For some people, the word "registration" as applied to our security laws conjures up all of the good things that our securities and investor protection regime brings to bear in

protecting investors. So when you say the word "registration," that means the whole process. For others—and I would say myself included—the word "registration" conjures up a much narrower subject matter, simply the act of registering, of bringing your documents to the SEC and saying, may I issue these securities.

Now, the topic that I think is in the broader subject, but not the narrower, is that of disclosure to investors. What should investors know when they buy mortgage-backed securities? That issue is front and center of our concerns, and I think it is the overwhelmingly important subject when you look at the MBS market.

Mr. SHAYS. So that very helpful answer is a yes? In other words, some parts to the 1933 act Fannie Mae and Freddie Mac should be under?

Mr. FISHER. I have not reached that conclusion.

Mr. SHAYS. But you are not saying conversely that they should not be under any part of the 1933 law? That is—.

Chairman BAKER. With that, your time has expired.

Mr. SHAYS. The word was yes?

Mr. FISHER. That is correct.

Mr. SHAYS. Okay. Thank you.

Chairman BAKER. Thank you, Mr. Shays.

Mrs. Tubbs Jones?

Mrs. JONES OF OHIO. But you haven't reached the conclusion that they should be either, have you, sir?

Mr. FISHER. No, I have not.

Mrs. JONES OF OHIO. And let me be clear so the record is clear. Mr. Shays said to you that you would be used by Fannie Mae or Freddie Mac for the next 10 years. You are not being used by anybody in your testimony. In your testimony it is the truth as you know it is to be; is that correct, sir?

Mr. FISHER. That is correct.

Mrs. JONES OF OHIO. And would you allow anybody to use you for purposes of your testimony in this hearing, sir?

Mr. SHAYS. How can he stop it?

Mrs. JONES OF OHIO. Mr. Shays, I didn't interrupt you, sir.

Mr. FISHER. Well—.

Mrs. JONES OF OHIO. I am, too. I am having a great time.

Mr. Fisher, would you answer my question, please?

Mr. FISHER. No, I would not, and I have given my views as I believe them to be.

Mrs. JONES OF OHIO. Thank you.

There seems to be some question of the GSE's agreement to comply with all the provisions of the 1934 act. Could you explain how the 12((g) provision works, please, sir?

Mr. FISHER. My understanding as detailed in my written testimony is that the 1934 act provides that any issuer not subject to the act can bring its common stock within the 1934 act by voluntarily registering that stock with the SEC. Now, that will bring them as a matter of Federal law into compliance under the jurisdiction of the SEC with most but not all of the terms of the 1934 act.

There are two other sections of the act, sections 14 and 16, which would not be so covered, and that is of importance in the regulatory framework that the SEC worked out with OFHEO that now will bring those areas into compliance as well.

Mrs. JONES OF OHIO. The fact is that the GSEs are voluntarily complying; is that correct, sir? They didn't have to do any of this. This is voluntary compliance that they have entered into—and let me strike that question. In fact let us go back for a moment.

I recall earlier in Mr. Shays' questioning some question about motivation or inclination. Do you see some nefarious motivation on behalf of the GSEs to agree to enter into some kind of voluntary compliance, sir?

Mr. FISHER. No.

Mrs. JONES OF OHIO. And the agencies along with your own agency sat down with the GSEs and you all reached a voluntary agreement that in your opinion is in the interest of all the parties involved; is that a fair statement, sir?

Mr. FISHER. I rely on the other parties to state their interest. I believe their voluntary initiative to come into compliance with the 1934 act is in the public interest.

Mrs. JONES OF OHIO. But when you sit at the table as a member of Treasury, you are sitting there on behalf of the public interest; is that correct? So therefore you are sitting at the table accepting this voluntariness as a basic public interest, as good for the public interest for lack of a better term?

Mr. FISHER. Yes. I believe, as I said earlier, there are three major steps that we have made in the last few days. One is their self-initiated compliance with the 1934 act; two is the administration's position that all other GSEs should do the same; and three, our commitment to a zero-based review of disclosure requirements for the mortgage backed market. All three of these things are in the public interest in my view.

Mrs. JONES OF OHIO. So the record is clear, Mr. Shays, I am having as much fun as you are with this and I am just running back between hearings. If I offended you in any way, please let the record be clear that I did not intend to offend you, but I think it is very important that the record be clear that there is no one involved in this process intended by their conduct to be nefarious in any way.

And I yield back the balance of my time. If you are going to do another round, holler at me so I can run back would you, please?

Chairman BAKER. Certainly. With that, I would suggest we leave the record open—.

Mr. SHAYS. I have more—.

Chairman BAKER. You do?

Mr. BENTSEN. Mr. Chairman, I just have a comment in response to Mr. Shays if I can.

Chairman BAKER. Mr. Bentsen.

Mr. BENTSEN. I want to follow up Mr. Shays because even though I don't always agree with him I think Mr. Shays is sincere in what he is trying to get at. I would remind him, though, to keep in mind a couple of facts. One is that the GSEs did not occur by immaculate conception. They were created by Congress, in fact after the 1933 and 1934 acts. So theoretically Congress knew what it was doing at the time it exempted. They were also created with a specific mission in mind, and while it is a much maligned agency, perhaps unfairly I would say, they do have their own regulator that Congress created in addition to having HUD, which was their ini-

tial regulator, and there are rules for at least institutional purchasers of mortgage backed securities as per either FDICIA or FIRREA in looking at the risks associated with that.

So I think the record needs to be clear that these are not wholly unregulated entities out there that are somehow exempted from all of the securities laws and make them up as they go along, but I do think the gentleman is sincere in his pursuit figuring out what is the most appropriate needs of disclosure.

And I yield back.

Chairman BAKER. Thank you, Mr. Bentsen. Mr. Shays, you have one supporter and one critic. The time is yours.

Mr. SHAYS. That was a modified supporter. I want to say for the record that when we sought to have Fannie Mae and Freddie Mac come under all the laws that everyone else has to come under that in the process of talking to different groups, we had some people say we support the bill but we can't be for it publicly because Fannie Mae and Freddie Mac are so big that we think we will be hurt in the marketplace.

Now, that is said sincerely because it happens to be the truth. And when I told my wife at around 11 o'clock at night in bed that I was thinking of introducing a bill requiring Fannie Mae and Freddie Mac to register, I got a call about 10 o'clock the next morning from Fannie Mae saying can we meet, what is this about your introducing a bill wanting us to have to disclose? So I called up my wife and said is there anything you need to tell me?

But each is significant. They are respected by so many and I respect them, and in the State of Connecticut they have been the finest organization to work with. That doesn't negate the fact that they have been given a special privilege in which they are allowed to be private but not have to deal with the requirements of the private side, and that is the basis for this, and frankly it is the very reason why you wanted to encourage Fannie Mae and Freddie Mac to come under the 1934 act and they have resisted it for 10 years. That is also a fact, or longer.

So hats off to you and everyone else, but I want to understand how it happened. I want to understand if it is Fannie Mae and Freddie Mac telling the government what they are willing to do, what they should do and forget it, drop dead, if you want them to do more, or I want to know if this was a healthy dialogue among participants who basically were able to go toe to toe. Was the government kind of wimpish in this effort just allowing Fannie Mae and Freddie Mac to do it? If they had said no, was the government interested in encouraging them to do it or were they saying fine, if you want to register, fine; if you don't it is up to you? I want to know.

Mr. FISHER. Those are very fair and important questions, Congressman, and there has been some good levity in the last few moments. I hope you wouldn't think me flip if I say I think you have probably met Secretary O'Neill and I don't think he is someone who is going to be anybody's—I don't remember the word you used, patsy or whatever. Secretary O'Neill and I have strong feelings—

Mr. SHAYS. Let me interrupt a second. The dialogue about my good friend Secretary O'Neill and Mr. Raines, that they are close personal friends, it does bother me a little bit that there is that

kind of dialogue and there was this concern and I am being serious, there was this concern that that relationship might get in the way so, yes, let us throw it out.

Mr. FISHER. Sir, over 2 months ago, I believe, Secretary O'Neill was being interviewed on a television show and he said he thought that the GSEs would come forward and be able to do a lot more disclosure on their own initiative that would improve matters considerably. This is something we have been working on for some time. This was not something that was a flash in the pan last week. This is a serious matter of public policy. My whole career is premised on disclosure.

Paul O'Neill's career in the corporate sphere has been one of rectitude on matters of disclosure and good corporate governance, and I think he is respected around the world in that regard. This is not something where the administration rolled over, sir. There is everything that I think is important in the sphere of disclosure and to help make our securities markets trade more efficiently is on the table here, and that has been achieved.

Mr. SHAYS. I am told you are a protege of Alan Greenspan. When Alan Greenspan is finished in the Budget Committee, both sides go away thinking that he agreed with them. You weren't quite speaking in tongues but can you be more specific? Did the Department of Treasury initiate meetings encouraging Fannie Mae and Freddie Mac to come under the 1934 law?

Mr. FISHER. Yes, we have, and I think I have been clear about that.

Mr. SHAYS. Fine, that is all I needed. Thank you.

Chairman BAKER. Thank you. Is Mrs. Tubbs-Jones within hearing distance? I know she is very busy. I wouldn't want to overlook her. Is that fair, Mr. Shays?

Mr. SHAYS. That is fair.

Chairman BAKER. Mr. Bentsen, any further comments?

Let me express to you, Mr. Fisher, my appreciation for your introduction to GSE Governance 101. I am sure it is a topic that you will return to with eager enthusiasm as the months roll by, but assure you, as I stated once long ago, I feel like I was previously alone in the dark in front of a very large iceberg holding a handheld blow dryer of 400 watts. I am proud to report to you that for the first time in my legislative career I now see two drops of water and for that I am appreciative.

Thank you sir. The hearing is adjourned.

[Whereupon, at 4:10 p.m., the subcommittee was adjourned.]

A P P E N D I X

July 16, 2002

Congressman Harold Ford, Jr.
Capital Markets Subcommittee
Hearing on Housing Government-Sponsored Enterprises
July 16, 2002

Mr. Chairman, thank you for holding this hearing on the housing GSEs, which are a critical part of our effort to expand homeownership in America.

I would first like to commend Fannie Mae and Freddie Mac for taking this bold voluntary step to provide additional disclosures.

By voluntarily registering their common stock with the SEC, both companies have provided a measure of transparency and responsibility to a shaky marketplace. At a time when corporate America seems to be doing very little to comfort and reassure investors, Fannie and Freddie's actions serve as a model for proactive business conduct.

These voluntary disclosures will increase the information available to investors without unnecessarily burdening the GSEs as they pursue their housing mission. The number of debt offerings made by Fannie and Freddie is in the thousands -- on a different order than other companies. The SEC exemption is appropriate for the unique role that Fannie and Freddie play in the housing market. With these new voluntary disclosures, there is even less to be accomplished by removing the SEC exemption.

I would like to point out that Fannie Mae and Freddie Mac are now regulated by Congress, OFHEO, HUD, Treasury, OMB, and now the SEC. It is time to allow them to perform their mission.

That mission includes making homeownership available to all Americans. The homeownership rate is now 68 percent -- the highest levels ever. This is due in no small part to the liquidity these companies have provided to the primary mortgage market.

As we know, however, homeownership rates for minorities are much lower -- 49 percent. Fannie and Freddie have pledged to invest $700 million to increase minority homeownership by the end of the decade.

Mr. Chairman, I look forward to working with you, the members of this Committee, the Treasury, and the GSEs to expand homeownership in America.

July 16, 2002

Opening Statement for Congressman Paul E. Gillmor
House Financial Services Committee Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises
Hearing on the Department of the Treasury's policy concerning the housing Government Sponsored Enterprises (GSEs)

I would like to thank Chairman Baker for holding this important hearing and continuing his leadership in this subcommittee's consideration of the current effect of the GSEs on the overall US housing market, and specifically, market competition.

Given the unique nature of the GSEs, as federally chartered and privately owned corporations, it is important that this subcommittee upholds its oversight responsibility and continues its evaluation of their government-authorized public purposes.

I look forward to learning the opinion of the Treasury Department on the current standing of the housing GSEs and any recommendations they may have regarding the continued applicability of their special status.

I would also like to take this opportunity to commend both Fannie Mae and Freddie Mac on their decision of July 12, 2002 to begin filing their financial statements with the Securities and Exchange Commission (SEC), possibly as early as 2003. This voluntary decision will make great strides in increasing the transparency of the housing GSEs and reassure investors of their financial strength.

Again, I thank the Chairman for calling this hearing and look forward to an informative session.

Statement

Congresswoman Stephanie Tubbs Jones

Committee on Financial Services
Subcommittee on Capital Markets, Insurance,
and Government Sponsored Enterprises

July 16, 2002

Mr. Chairman, Ranking Member Kanjorski, Colleagues, and Guests:

This Committee has previously and exhaustively examined the Government Sponsored Enterprises (GSE's), Fannie Mae and Freddie Mac. While recent events have underscored the need for reform in financial firms that operate without any financial regulator, Fannie Mae and Freddie Mac provide a strong example of sound reporting and management controls. These controls provide a measure of safety and soundness that is unmatched by unregulated financial firms.

On Friday, July 12, 2002, Fannie Mae and Freddie Mac announced that they would voluntarily register their common stock under the Securities and Exchange Act of 1934. The result will require Fannie and Freddie to comply with the Act's periodic disclosure requirements. Once these filings are made, Fannie and Freddie will be bound as a matter of federal law to continue to make their filings.

Fannie Mae and Freddie Mac negotiated this agreement even though they are already scrutinized by the Treasury Department, the Securities and Exchange Commission, the Office of Federal Housing Enterprise Oversight, and the Department of Housing and Urban Development.

Friday's action was consistent with Fannie Mae and Freddie Mac's announcement in October of 2000 to set in place financial reports and securities offering disclosures that meet or exceed the requirements of the Securities and Exchange Commission.

While recent events reinforce the need for sound operations and financial practices at major corporations, let's not lose sight of Fannie Mae and Freddie Mac's real mission of providing housing affordability to my constituents who have previously been denied access to home ownership. I have seen firsthand in my district the tangible results of their efforts. Furthermore, Fannie Mae and Freddie Mac have worked to execute their mission in a manner that enables many to reach the goal of home ownership without overly burdensome fees and costs.

I am on the Record as opposing efforts to disrupt housing markets by changing the GSE's Congressional charter to require the registration of their MBS securities. What Fannie Mae and Freddie Mac have achieved together with the Administration is a non-legislative way to assure their investors and policymakers once and for all that their disclosures meet the same

standard to which other publicly held companies are held. Their goal was to improve investor confidence without limiting their ability to fulfill the vital mission Congress has given them.

Let me make sure that we are clear on what disclosure means:
The disclosure requirement applies to everything they issue. When they enter into registration of their common stock, they will have to put their financial statements in the form that's acceptable to the SEC. Take financial statements and put them into offering documents for mortgage-backed securities. So, the disclosure rule with regards to Fannie Mae and Freddie Mac will be exactly the same, all of which will be defined by SEC requirements.

The only distinction that we have is whether or not the securities are registered. This is an important distinction. Last year, the Securities and Exchange Commission had 110 issuances during the year. Last year, Fannie Mae had 1,500 debt issuances and 40,000 mortgage-backed security issuances. It is easy to see that it would not be a small matter to register all of those securities. Of the 40,000 issuances, almost all of them were sold in a forward market prior to the time that the mortgages in them were identified – what they call their TBA or To-Be-Announced market.

When a buyer goes to get a mortgage and "locks in the rate" - that means that a lender is selling forward a mortgage. That's why a lender can tell a buyer, "We'll close your loan in two months and it's going to be 7 percent. They are not guessing; they've actually sold that mortgage forward.

This last point is critical because there isn't a To-Be-Announced market in a registration world because you can only register after you know exactly what the mortgages are. Therefore, it is clear that registration would have a detrimental effect on the availability of mortgages and the purchase of homes.

In real-world effects, Fannie Mae and Freddie Mac are the only companies with a corporate mission that focuses on helping American families purchase homes. Fannie Mae and Freddie Mac focus on low-moderate income and minority consumers who aspire to achieve the goal of homeownership. Homeownership is an important step toward building wealth in families.

Mr. Chairman, I believe that the time this Committee spends examining GSE's could better be used to examine unregulated financial firms. Recent events have proven that unregulated firms create significant systemic risk. Fannie Mae and Freddie Mac do not.

Mr. Chairman, I thank you for the opportunity to be heard.

OPENING STATEMENT OF
RANKING DEMOCRATIC MEMBER PAUL E. KANJORSKI

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES

HEARING ON THE TREASURY DEPARTMENT'S POLICIES REGARDING THE HOUSING GOVERNMENT SPONSORED ENTERPRISES

TUESDAY, JULY 16, 2002

Mr. Chairman, thank you for the opportunity to comment before we begin today's hearing to learn more about the Bush Administration's views and policies regarding the housing government-sponsored enterprises or GSEs.

As you know, Mr. Chairman, I am one of the few remaining Members of this Committee who participated in the entire congressional battle to resolve the savings and loan crisis. I am therefore acutely aware of the need to protect taxpayers from risk. It is in the public's interest that we ensure that the GSEs like Fannie Mae, Freddie Mac, and the Federal Home Loan Banks continue to operate safely and soundly. We can best achieve this goal by pursuing a three-pronged supervisory approach that includes regular congressional oversight of, continued effective government regulation over, and increased market discipline for the housing GSEs. We are, from my perspective, making continued progress in each of these areas.

In particular, I expect that we will spend considerable time today discussing the disclosure practices of the GSEs. Last week, Fannie Mae and Freddie Mac declared that they would voluntarily register their common stock with the Securities and Exchange Commission. As a result of this announcement, the two GSEs will file periodic financial disclosures with the Securities and Exchange Commission. Their decision is virtually irrevocable.

The two GSEs, as I understand, developed this new policy after consulting with officials at the Treasury Department, the Securities and Exchange Commission, and the Office of Federal Housing Enterprise Oversight. These disclosures will, in my view, help to reassure investors by providing them with accurate, timely, and useful information. These public filings should also help to strengthen the housing marketplace.

Throughout our lengthy deliberations over GSE policy during the last two-and-a-half years, I have consistently noted that we must move forward cautiously in this area so as to ensure that we maintain the delicate balance that has led to more than 67 percent of American families owning their homes. On at least one occasion, however, our Committee's actions discouraged investors and raised homeownership costs. As we proceed today, we must renew our efforts to ensure that we do not repeat that mistake. Moreover, the housing marketplace has remained the most vibrant sector of our nation's struggling economy during the last eighteen months. We must, therefore, move carefully, deliberately, and objectively in examining these issues.

In closing, Mr. Chairman, I continue to share your desire to conduct effective oversight over the housing GSEs and to ensure that we maintain an appropriate and sufficiently strong supervisory system for them. Accordingly, I look forward to hearing from our distinguished witness about the Bush Administration's views on these matters.

Statement of Ron Paul
before the House Financial Services Committee
Hearing on Government-Sponsored Enterprises
7-15-02

Mr. Chairman, I thank the Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee for holding this hearing on the Treasury Department's policies regarding the government sponsored enterprises (GSE). I would also like to thank Under Secretary Fisher for taking time out of his busy schedule to appear before the Committee and share the administration's views on this important subject.

I hope this Committee spends some time examining the special privileges provided the GSEs by the federal government. According to the Congressional Budget Office, the housing-related GSEs received 13.6 billion worth of indirect federal subsidies in Fiscal Year 2000 alone. Just yesterday, I introduced the Free Housing Market Enhancement Act, which removes government subsidies from the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the National Home Loan Bank Board.

One of the major government privileges granted the GSEs is a line of credit to the United States Treasury. According to some estimates, the line of credit may be worth over $2 billion dollars. This explicit promise by the Treasury to bail out the GSEs in times of economic difficulty helps the GSEs attract investors who are willing to settle for lower yields than they would demand in the absence of the subsidy. Thus, the line of credit distorts the allocation of capital. More importantly, the line of credit is a promise on behalf of the government to engage in a massive unconstitutional and immoral income transfer from working Americans to holders of GSE debt.

The Free Housing Market Enhancement Act also repeals the explicit grant of legal authority given to the Federal Reserve to purchase the debt of the GSE. GSEs are the only institutions besides the United States Treasury granted explicit statutory authority to monetarize their debt through the Federal Reserve. This provision gives the GSEs a source of liquidity unavailable to their competitors.

Ironically, by transferring the risk of a widespread mortgage default, the government increases the likelihood of a painful crash in the housing market. This is because the special privileges of Fannie and Freddie have distorted the housing market by allowing Fannie, Freddie and the home loan bank board to attract capital they could not attract under pure market conditions. As a result, capitol is diverted from its most productive use into housing. This reduces the efficacy of the entire market and thus reduces the standard of living of all Americans.

However, despite the long-term damage to the economy inflicted by the government's interference in the housing market, the government's policies of diverting capital to other uses creates a short-term boom in housing. Like all artificially-created bubbles, the boom in housing prices cannot last forever. When housing prices fall, homeowners will experience difficulty as their equity is wiped out. Furthermore, the holders of the mortgage debt will also have a loss. These losses will be greater than they would have otherwise been had government policy not actively encouraged over-investment in housing.

Perhaps the Federal Reserve can stave off the day of reckoning by purchasing the GSE's debt and pumping liquidity into the housing market, but this cannot hold off the inevitable drop in the housing market forever. In fact, postponing the necessary, but painful market corrections will only deepen the inevitable fall. The more people invested in the market, the greater the effects across the economy when the bubble bursts.

No less an authority than Federal Reserve Chairman Alan Greenspan has expressed concern that the government subsidies provided to the GSEs make investors underestimate the risk of investing in Fannie Mae and Freddie Mac.

Mr Chairman, I would like to once again thank the Financial Services Committee for holding this hearing. I would also like to thank Under Secretary Fisher for his presence here today. I hope today's hearing sheds light on how special privileges granted the GSEs distort the housing market and endanger American taxpayers. Congress should act to remove taxpayer support from the housing GSEs before the bubble bursts and taxpayers are once again forced to bail out investors who were misled by foolish government interference in the market. I therefore hope this Committee will soon stand up for American taxpayers and investors by acting on my Free Housing Market Enhancement Act.

Statement of Congresswoman Maxine Waters
For Hearing on Housing Government Sponsored Enterprises
July 16, 2002

Good afternoon. I would like to first begin by thanking Chairman Baker and Ranking Member Kanjorski for holding this important hearing. The recent saga of corporate fraud and malfeasance has raised serious concerns about corporate transparency. Investors' confidence in our markets has declined considerably, and the net result of this turmoil is the further impairment of our already sluggish and frail economy.

Over the past four months or so, a great deal of attention has been given to a perceived lack of disclosures by FannieMae and FreddieMac. Attempts has been made by critics of these two Government Sponsored Enterprises (GSEs), namely by FM Watch (which represents General Electric, Citigroup, J.P. Morgan Chase & Company, PNC Financial Services, Wells Fargo, Household International, American International Group, among others), to repeal the Federal securities laws relating to housing-related GSEs which exempt them from the Securities Act of 1933. Recently, a bill, H.R. 4071, authored by Shays and Markey was introduced to this effect.

In light of fraud, which is becoming a pattern in Corporate America and impacting severely our economy, we share the concerns of those who would want to see more legislation. However, we must look at this disclosure issue relating to GSEs, objectively. Over the last several years, we have had at least a dozen GSE hearings. The latest one has been a call by some for greater financial disclosures. I am pleased to say that even though there was no concern by any of the stockholders, investors, or stock analysts about the quality and quantity of Fannie Mae or Freddie Mac's disclosures, these companies announced last Friday, July 12, 2002, that they will register their common stock with the SEC and become subject to the same financial disclosure reporting regime as every other company in the U.S.

I don't see many companies stepping up to the challenge of voluntarily submitting themselves to great regulation. But these companies have. And they should be applauded for their initiative.

Congress created these two entities to help overcome barriers to the flow of credit into segments of the economy. Today, the strongest segment of our economy is housing. Our housing finance system is the envy of the world, thanks to Fannie Mae and Freddie Mac and we should not disrupt it. In the case of the companies' mortgage-backed securities (MBS) and debt, I believe these companies have to stand their ground.

Fannie Mae and Freddie Mac are well run companies that have a very high quality of financial disclosures. In fact, they exceed the SEC requirements by providing monthly disclosures to their investors. In addition, they took several voluntary initiatives in the past, with the most recent one on July 12, 2002, to register their common stock under the Securities and Exchange Act of 1934.

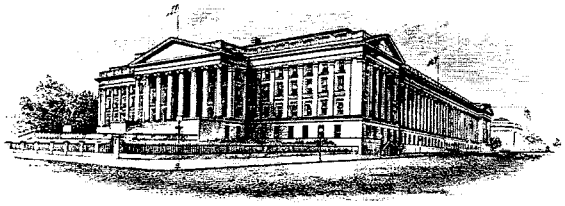
I also want to point out that these companies have recently committed to providing $1.1 billion in capital for minority housing by the end of the decade. They are fulfilling their mission.

Let us not be distracted from all the good things they do. Why don't we allow them to perform their mission? Why don't we allow them to focus on serving the markets targeted by subprime and predatory lenders?

In closing, I would like to say: "If it is not broken, why fix it?" This should, instead, be our approach in considering this important matter.

I look forward to Mr. Fisher's testimony today, and I urge Congress to focus its efforts one more important matters such as finding solutions to promote corporate transparency and accountability, to eliminate fraud in Corporate America, and to establish adequate punishment measures to deter fraud and malfeasance in Corporate America, among other things.

I yield back the remaining of my time.



DEPARTMENT OF THE TREASURY
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Before the Subcommittee on Capital Markets,
Insurance and Government Sponsored Enterprises
United States House of Representatives

GOVERNMENT SPONSORED ENTERPRISES
AND FINANCIAL DISCLOSURE

Mr. Chairman, Representative Kanjorski, and Members of the Committee, I appreciate the opportunity to provide the Administration's views on government sponsored enterprises (GSEs), in general, and H.R. 4071, the Uniform Securities Disclosure Act, in particular.

I want to commend you, Mr. Chairman, and Members of the Committee for your careful consideration of GSE issues in recent years. You have recognized that, in a constantly changing financial world, we need to pay continuous attention to ensure these organizations continue to serve our objectives as effectively over the coming years as they have in the past.

We share the concerns of the authors of H.R. 4071 about the importance of providing investors with assurance as to the comparability, consistency and sufficiency of GSE financial disclosures. But the Administration cannot support H.R. 4071 because it focuses too narrowly on only two of the GSEs and because we are not prepared to support repeal of their exemptions from the Securities Act of 1933.

The Administration believes that all GSEs should comply with the same corporate disclosure requirements of the Securities Exchange Act of 1934, as interpreted and applied by the Securities and Exchange Commission (SEC). The Administration believes that this can be accomplished without the necessity of legislation.

For this reason, the Administration is pleased that Fannie Mae and Freddie Mac agreed to voluntarily register their common stock under Section 12(g) of the '34 Act, which will ensure that they are required as a matter of federal law to meet current and future SEC requirements for financial disclosure under the '34 Act. Their disclosures will be subject to the regulatory framework established by the SEC and the Office of Federal Housing Enterprise Oversight (OFHEO). We are requesting that other currently exempt GSEs make similar arrangements to voluntarily register with the SEC under the '34 Act.

Last Friday's announcement was made possible by the leadership of Chairman Pitt and Director Falcon and also by Frank Raines and Leland Brendsel. It seems to me though, that this accomplishment would not have been possible without the leadership that you, Mr. Chairman, and the members of this Subcommittee have shown over the last several years on GSE issues.

The Challenge of Multiple Objectives

This Administration is committed to the objective of affordable housing for all Americans and, as a means to that end, to improving homeownership opportunities for minorities. This Administration is also committed to the objective of a sound and resilient financial system and, as a means to that end, to protecting investors by improving the clarity of disclosures about the risks and the rewards to which their investments are exposed. The question is not whether we are committed to either of these objectives but, rather, how we strive to achieve them both simultaneously.

To do this we look to mobilize the private sector to bring even more capital to bear both in creating housing opportunities and in the financial intermediation that supports and prices the relevant risks and rewards. If we are going to rely on private capital to achieve these objectives then we need to work even harder to improve the quality of the information that shareholders and creditors receive. And if we are going to rely, in part, on the vehicle of GSEs, we have no less of a need to inspire confidence in the sufficiency and comparability of the disclosures by GSEs to the investors whose capital we seek to employ.

The GSEs are privately owned but federally-chartered companies, created by Congress to help overcome barriers to the flow of credit into certain segments of the economy – housing, agriculture, and education. They are private companies that are not backed by the full faith and credit of the federal government. Today, the largest GSEs – Fannie Mae, Freddie Mac, and the Federal Home Loan Bank System – are focused on housing. Two other GSEs – Farmer Mac and the Farm Credit System – are focused on agriculture. One GSE –the Student Loan Marketing Association – is focused on education and is now in the process of a congressionally mandated transition to full privatization.

Although GSEs were created to help bring the capital of private investors to bear on these societal goals, only Farmer Mac – the most recently created GSE – is fully subject to the disclosure regime that informs investors and is administered by the SEC under our nation's securities laws.

Given the size and importance of each of the GSE's operations in our capital markets and banking system, continued operation outside of the SEC-administered corporate disclosure regime is inconsistent with our objective for investor protection and for a sound and resilient financial system and will only hamper our efforts to bring even more capital to bear on the objective of affordable housing and, more generally, on all the objectives served by GSEs.

In sum, the GSEs – and particularly the three housing GSEs – are no longer modest experiments on the fringes of our financial system. They are large, rapidly growing and important players in our capital markets and in our banking system. As such, they need to be role models for our system of investor protection, not exceptions to it.

All GSEs Should Be In Compliance With the '34 Act

H.R. 4071 – the Uniform Securities Disclosure Act – would repeal Fannie Mae's and Freddie Mac's exemptions from both the Securities Act of 1933 and the Securities Exchange Act of 1934. The '33 Act requires a public company to submit a registration statement and prospectus when bringing new issues to market. Registration under the '34 Act triggers periodic disclosure requirements about the financial condition and management of companies that issue securities.

We do not see a basis for removing the '34 Act exemptions only for Fannie Mae and Freddie Mac. Instead, we support the application of the '34 Act disclosure requirements to all currently exempt GSEs, triggered by their voluntary registration under the '34 Act.

Fannie Mae and Freddie Mac are two well run companies that have done much in recent years to provide their investors with high quality financial disclosures. However, as they have recognized and the Administration has agreed, the time has come for their investors to be assured that the level and quality of the corporate disclosures they receive are the same as those that are made by any other company that actively participates in our capital markets.

The only way to achieve this assurance of comparability is to have each GSE agree to comply with the disclosure requirements of the '34 Act as interpreted and applied by the SEC. This ensures that investors will receive the benefit of knowing that GSE disclosures are consistent with those of other companies as determined by the SEC, consistent with the changes in disclosure requirements as they are implemented over time by the SEC, and that GSE disclosures are available on a consistent basis through the SEC's EDGAR system. To accomplish this, the Administration is requesting that each of the GSEs initiate a process with the SEC that will result in the application of the disclosures required under the '34 Act.

The Administration is pleased that Fannie Mae and Freddie Mac reached agreement last Friday with the SEC and the OFHEO to do exactly this – to establish a regulatory framework

that will ensure their complete compliance with the requirements of the '34 Act. As Secretary O'Neill said, we applaud "Fannie Mae and Freddie Mac's self-initiated compliance with the corporate disclosure requirements of the Securities Exchange Act of 1934. The President has called on corporate leaders across the nation to examine their disclosure practices and ensure that they are doing everything they can to provide investors with accurate, timely and useful information consistent with best practices. Frank Raines and Leland Brendsel are stepping up to that challenge."

Under Section 12(g) of the '34 Act an issuer that is not otherwise subject to the requirements of the Act may register its common stock with the SEC, thereby triggering obligations under Section 13 of the Act to file periodic financial and material event disclosures with the SEC on an ongoing basis. The Section 13 disclosure requirements include filing 10-K annual reports, 10-Q quarterly reports, and 8-K material event reports.

Although the process begins at the initiative of the company, once the initial filing is made, the issuer is henceforth required to make all the appropriate filings, reports and disclosures in the same manner as any other company subject to the '34 Act. Fannie Mae and Freddie Mac have agreed with the SEC to register their common stock under Section 12(g) of the '34 Act.

In addition, to ensure compliance with all of the provisions of the '34 Act, as part of the regulatory framework agreed last week, OFHEO has agreed to promulgate a rule requiring that Fannie Mae and Freddie Mac, and their respective officers and directors, file all statements, reports and forms required by Sections 14 and 16 of the '34 Act with the SEC (and concurrently with OFHEO). The effect of this rule will be that Fannie Mae and Freddie Mac will have to comply with the SEC's requirements that officers and directors report any purchases or sales of common stock of the companies, that the companies file with the SEC proxy statements relating to annual or special shareholder meetings, and that their proxy statements be subject to review and comment by the staff of the SEC. As SEC Chairman Pitt said on Friday, "[t]his agreement also reflects a commitment to the goals the President has called upon us to meet, and toward which we are working: exemplary corporate governance, complete transparency of financial information and full and fair disclosure."

The SEC and OFHEO, and Fannie Mae and Freddie Mac, have worked hard so that this framework can provide a role model for smart, efficient regulation. This arrangement reinforces the principle of functional regulation, ensuring that the SEC administers and enforces our regime for investor protection, that OFHEO maintains its responsibilities for the safety and soundness of the housing enterprises' operations and that there will no duplication or overlap between them.

It should be noted that OFHEO, of course, retains its own authority to require such public disclosures of Fannie Mae and Freddie Mac as it deems necessary or appropriate under its safety and soundness mandate to regulate the enterprises. This is an area of some considerable interest to me, having worked on several projects to develop enhanced risk disclosures for financial intermediaries prior to my service at the Treasury. I look forward to working with Director Falcon to consider whether and how enhanced risk disclosure concepts might be applied to the housing enterprises.

We have requested the other GSEs to begin working with the SEC and their regulators to achieve a comparable arrangement with the SEC that would subject them to the same set of disclosure requirements.

A Study of Initial Offering Disclosures for All Issuers of Mortgage-Backed Securities

The Administration is not prepared to support repeal of the GSEs' exemptions from the '33 Act, and the Office of Federal Housing Enterprise Oversight is not pursuing a securities registration regime for Fannie Mae and Freddie Mac.

However, the Administration would like to promote a more level-playing field with respect to initial offering disclosures between GSE and non-GSE mortgage-backed securities (MBS) issuers and wants to ensure the adequacy of disclosures to investors in all mortgage-backed securities. As announced last Friday, the Treasury, SEC, and OFHEO will conduct a study of how this can best be achieved consistent with the Administration's objectives for both affordable housing and a sound and resilient financial system. The three agencies will study the disclosures now provided by MBS issuers with a view to ensuring that our MBS market continues to function smoothly, that investors receive the information they need to price these instruments, and that issuers do not face duplicative requirements. We will study how we can create a more level playing field and greater comparability of disclosures.

Requiring the GSEs to register their securities under the '33 Act could have certain benefits, including uniformity and consistency of disclosures for new offerings. But such a change has the potential for disrupting a large and well-functioning market and imposing burdens and added costs. Consequently, application of the '33 Act to the GSEs mortgage-backed market without much greater consideration of the costs of moving from one regime to the other would likely, in the short run, compromise our objectives for both affordable housing and for a sound and resilient financial system.

At present, out of a total mortgage-backed market of $3.9 trillion, there are over $2.3 trillion in GSE issued mortgage-backed securities outstanding that have come into the market completely outside of the requirements of the '33 Act. There are also, at present, $916 billion in mortgage-backed securities issued by non-GSEs that are subject to some but not all of the provisions of the '33 Act, under certain limited exemptions for "mortgage-related securities."

We would like to take a fresh look at the initial offering materials of mortgage-backed securities. To do this, the Treasury, SEC, and OFHEO will conduct a joint study. Together we will listen carefully to the securities industry, investors, Fannie Mae, Freddie Mac, Ginnie Mae, private-label issuers and others in the regulatory community to gain a fuller understanding of the market structure, the nature of competition, and the risks being priced and transferred. This will serve as background to a fundamental reconsideration of the initial offering disclosures that would best serve all of the participants in mortgage-backed markets and be most consistent with our twin objectives for affordable housing and a sound and resilient financial system. Our overall aim will be to recommend how investors can receive clear, concise and useful information about the risks and rewards of MBS.

We will complete our review of initial offering disclosures of all MBS issuers, and report back to this Committee, and other interested congressional committees, early in the first session of the next Congress.

Conclusion

Our system of regulating securities markets has served our country well for almost seventy years. That does not mean that we can be content. Our financial markets and financial institutions have evolved and expanded in ways that were unimaginable just a few decades ago. Constant attention is necessary to ensure that our system of investor protection and our system of government sponsored enterprises continues to serve us as well in the future as they have in the past.

Thank you again for providing me with the opportunity to discuss these important issues with the Committee today.

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