113TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 113–381
Part 1

H.R. 1872, BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2014

R E P O R T

OF THE

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 1872

together with

MINORITY VIEWS

MARCH 18, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2014

MARCH 18, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on the Budget, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1872]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom was referred the bill (H.R. 1872) to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to increase transparency in Federal budgeting, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Budget and Accounting Transparency Act of 2014".

TITLE I—FAIR VALUE ESTIMATES

SEC. 101. CREDIT REFORM.

(a) IN GENERAL.—Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—FAIR VALUE

"SEC. 500. SHORT TITLE.

"This title may be cited as the 'Fair Value Accounting Act of 2014'.

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

"(4) improve the allocation of resources among Federal programs.

"SEC. 502. DEFINITIONS.

"For purposes of this title:

"(1) The term 'direct loan' means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

"(2) The term 'direct loan obligation' means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

"(3) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

"(4) The term 'loan guarantee commitment' means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(5)(A) The term 'cost' means the sum of the Treasury discounting component and the risk component of a direct loan or loan guarantee, or a modification thereof.

"(B) The Treasury discounting component shall be the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

"(C) The risk component shall be an amount equal to the difference between—

"(i) the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standards #157, or a successor thereto, excluding administrative costs and any incidental effects on governmental receipts or outlays; and

"(ii) the Treasury discounting component of such direct loan or loan guarantee, or modification thereof.

"(D) The Treasury discounting component of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

"(i) Loan disbursements.

"(ii) Repayments of principal.

"(iii) Essential preservation expenses, payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries, including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

"(E) The Treasury discounting component of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

"(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, essential preservation expenses, or other payments.

"(ii) Payments to the Government including origination and other fees, penalties, and recoveries, including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

"(F) The cost of a modification is the sum of—

"(i) the difference between the current estimate of the Treasury discounting component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the Treasury discounting component of the remaining cash flows under the terms of the contract, as modified; and

"(ii) the difference between the current estimate of the risk component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the risk component of the remaining cash flows under the terms of the contract as modified.

"(G) In estimating Treasury discounting components, the discount rate shall be the average interest rate on marketable Treasury securities of similar duration to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

"(H) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

"(6) The term 'program account' means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

"(7) The term 'financing account' means the nonbudget account or accounts associated with each program account which holds balances, receives the cost payment from the program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(8) The term 'liquidating account' means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

"(9) The term 'modification' means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

"(10) The term 'current' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(11) The term 'Director' means the Director of the Office of Management and Budget.

"(12) The term 'administrative costs' means costs related to program management activities, but does not include essential preservation expenses.

"(13) The term 'essential preservation expenses' means servicing and other costs that are essential to preserve the value of loan assets or collateral.

"SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

"(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

"(e) HISTORICAL CREDIT PROGRAMS COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"SEC. 504. BUDGETARY TREATMENT.

"(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 2017, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request. For each fiscal year within the five-fiscal year period beginning with fiscal year 2017, such budget shall include, on an agency-by-agency basis, subsidy estimates and costs of direct loan and loan guarantee programs with and without the risk component.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 2017 and thereafter only to the extent that—

"(1) new budget authority to cover their costs is provided in advance in an appropriation Act;

"(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriation Act; or

"(3) authority is otherwise provided in appropriation Acts.

"(c) EXEMPTION FOR DIRECT SPENDING PROGRAMS.—Subsections (b) and (e) shall not apply to—

"(1) any direct loan or loan guarantee program that constitutes an entitlement (such as the guaranteed student loan program or the veteran's home loan guaranty program);

"(2) the credit programs of the Commodity Credit Corporation existing on the date of enactment of this title; or

"(3) any direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(d) BUDGET ACCOUNTING.—

"(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the program account to pay to the financing account.

"(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

"(3) All collections and payments of the financing accounts shall be a means of financing.

"(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriation Act.

"(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given program made in a single fiscal year is re-estimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these re-estimates.

"(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administrative costs associated with a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

"SEC. 505. AUTHORIZATIONS.

"(a) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(b) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described in the preceding sentence, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the 'Bank') pursuant to section 405(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(G).

"(2) LOANS.—For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(G) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account.

"(3) REIMBURSEMENT.—The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(4) AUTHORITY.—The authorities provided in this subsection shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program.

"(5) TITLE 31.—All of the transactions provided in the subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(6) TREATMENT OF CASH BALANCES.—Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds. The Secretary of the Treasury shall charge (or pay if the amount is negative) financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. Such amount received by the Secretary of the Treasury shall be a means of financing and shall not be considered a cash flow of the Government for the purposes of section 502(5).

"(c) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

"(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

"(B) disbursements of loans;

"(C) default and other guarantee claim payments;

"(D) interest supplement payments;

"(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

"(F) payments to financing accounts when required for modifications;

"(G) administrative costs and essential preservation expenses, if—

"(i) amounts credited to the liquidating account would have been available for administrative costs and essential preservation expenses under a provision of law in effect prior to October 1, 1991; and

"(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

"(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

"(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

"(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

"(d) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

"(e) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

"SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

"This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

"SEC. 507. EFFECT ON OTHER LAWS.

"(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the items relating to title V and inserting the following:

"TITLE V—FAIR VALUE

SEC. 102. BUDGETARY ADJUSTMENT.

(a) IN GENERAL.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "A change in discretionary spending solely as a result of the amendment to title V of the Congressional Budget Act of 1974 made by the Budget and Accounting Transparency Act of 2014 shall be treated as a change of concept under this paragraph.".

(b) REPORT.—Before adjusting the discretionary caps pursuant to the authority provided in subsection (a), the Office of Management and Budget shall report to the Committees on the Budget of the House of Representatives and the Senate on the amount of that adjustment, the methodology used in determining the size of that adjustment, and a program-by-program itemization of the components of that adjustment.

(c) SCHEDULE.—The Office of Management and Budget shall not make an adjustment pursuant to the authority provided in subsection (a) sooner than 60 days after providing the report required in subsection (b).

SEC. 103. EFFECTIVE DATE.

The amendments made by section 101 shall take effect beginning with fiscal year 2017.

TITLE II—BUDGETARY TREATMENT

SEC. 201. CBO AND OMB STUDIES RESPECTING BUDGETING FOR COSTS OF FEDERAL INSURANCE PROGRAMS.

Not later than 1 year after the date of enactment of this Act, the Directors of the Congressional Budget Office and of the Office of Management and Budget shall each prepare a study and make recommendations to the Committees on the Budget of the House of Representatives and the Senate as to the feasability of applying fair value concepts to budgeting for the costs of Federal insurance programs.

SEC. 202. ON-BUDGET STATUS OF FANNIE MAE AND FREDDIE MAC.

Notwithstanding any other provision of law, the receipts and disbursements, including the administrative expenses, of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 203. EFFECTIVE DATE.

Section 202 shall not apply with respect to an enterprise (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502)) after the date that all of the following have occurred:

(1) The conservatorship for such enterprise under section 1367 of such Act (12 U.S.C. 4617) has been terminated.

(2) The Director of the Federal Housing Finance Agency has certified in writing that such enterprise has repaid to the Federal Government the maximum amount consistent with minimizing total cost to the Federal Government of the financial assistance provided to the enterprise by the Federal Government pursuant to the amendments made by section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2683) or otherwise.

(3) The charter for the enterprise has been revoked, annulled, or terminated and the authorizing statute (as such term is defined in such section 1303) with respect to the enterprise has been repealed.

TITLE III—BUDGET REVIEW AND ANALYSIS

SEC. 301. CBO AND OMB REVIEW AND RECOMMENDATIONS RESPECTING RECEIPTS AND COLLECTIONS.

Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare a study of the history of offsetting collections against expenditures and the amount of receipts collected annually, the historical application of the budgetary terms "revenue", "offsetting collections", and "offsetting receipts", and review the application of those terms and make recommendations to the Committees on the Budget of the House of Representatives and the Senate of whether such usage should be continued or modified. The Director of the Congressional Budget Office shall review the history and recommendations prepared by the Director of the Office of Management and Budget and shall submit comments and recommendations to such Committees.

SEC. 302. AGENCY BUDGET JUSTIFICATIONS.

Section 1108 of title 31, United States Code, is amended by inserting at the end the following new subsections:

"(h)(1) Whenever any agency prepares and submits written budget justification materials for any committee of the House of Representatives or the Senate, such agency shall post such budget justification on the same day of such submission on the 'open' page of the public website of the agency, and the Office of Management and Budget shall post such budget justification in a centralized location on its website, in the format developed under paragraph (2). Each agency shall include with its written budget justification the process and methodology the agency is using to comply with the Fair Value Accounting Act of 2014.

"(2) The Office of Management and Budget, in consultation with the Congressional Budget Office and the Government Accountability Office, shall develop and notify each agency of the format in which to post a budget justification under paragraph (1). Such format shall be designed to ensure that posted budget justifications for all agencies—

"(A) are searchable, sortable, and downloadable by the public;

"(B) are consistent with generally accepted standards and practices for machine-discoverability;

"(C) are organized uniformly, in a logical manner that makes clear the contents of a budget justification and relationships between data elements within the budget justification and among similar documents; and

"(D) use uniform identifiers, including for agencies, bureaus, programs, and projects.

"(i)(1) Not later than the day that the Office of Management and Budget issues guidelines, regulations, or criteria to agencies on how to calculate the risk component under the Fair Value Accounting Act of 2014, it shall submit a written report to the Committees on the Budget of the House of Representatives and the Senate containing all such guidelines, regulations, or criteria.

"(2) For fiscal year 2017 and each of the next four fiscal years thereafter, the Comptroller General shall submit an annual report to the Committees on the Budget of the House of Representatives and the Senate reviewing and evaluating the progress of agencies in the implementation of the Fair Value Accounting Act of 2014.

"(3) Such guidelines, regulations, or criteria shall be deemed to be a rule for purposes of section 553 of title 5 and shall be issued after notice and opportunity for public comment in accordance with the procedures under such section.".

INTRODUCTION

Transparency and sound accounting are the bedrocks of efficient and effective budgeting. The "Budget and Accounting Transparency Act of 2014" (H.R. 1872) was introduced by Representative Scott Garrett of New Jersey on May 8, 2013. The bill increases the transparency of Federal budgeting by bringing off-budget entities on-budget, reforms the accounting methodology used for Federal credit programs to reflect best practices from the private sector, and requires agencies to promptly make public the budget justification materials they submit to Congress in support of their requests for public funds. It also commissions two studies in furtherance of the Budget Committees' ongoing review of potential improvements to the congressional budget process.

SUMMARY OF PROPOSED CHANGES

Fair Value Accounting

Beginning with fiscal year 2017, the bill reforms the budgetary treatment of Federal credit programs to provide a more accurate and comprehensive reporting of the cost these programs pose to taxpayers.

The Federal Credit Reform Act of 1990 (FCRA) reformed the budgetary treatment of Federal direct loans and loan guarantees to account for the cost of these programs on an accrual basis. Under the 1990 bill, the cost of these programs is developed by producing a net present value of cash flows using a discount rate based on the Federal Government's borrowing costs. Over time, CBO has concluded that the Treasury discount rate does not fully capture the cost of credit programs:

"Fair-value estimates differ from estimates produced using the FCRA methodology in an important way: By incorporating a market-based risk premium, fair value estimates recognize that the financial risk that the government assumes when issuing credit guarantees is more costly to taxpayers than FCRA-based estimates suggest." [1]

In addition to CBO's conclusion that fair value accounting provides a comprehensive measure of the Federal Government's financial risk, other entities have recommended this reform. For example, a panel composed of former CBO Directors, OMB Directors, and other budget experts recommended moving to fair value accounting after concluding:

"Two decades of experience with accrual treatment of Federal credit has demonstrated that current valuation rules understate the subsidies that government provides through direct and guaranteed loans and other activities that shift risk to taxpayers. To correct this understatement, the budget should use fair-market values in calculating costs for financial guarantees, insurance, direct loans, loan guarantees, and programs that invest in risky financial assets. Fair value accounting would make clear that the Federal Government cannot invest in risky assets more cheaply nor earn a higher rate of return than do private firms or individuals. Ulti-

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[1] Letter from CBO Director Douglas W. Elmendorf to Paul Ryan, Chairman of the Committee on the Budget, House of Representatives, May 18, 2011, *http://www.cbo.gov/ftpdocs/120xx/doc12054/05-18-FHA_Letter.pdf.*

mately, taxpayers bear all the costs of investing, and this fact should be explicitly reflected in the budget. Accounting for financial guarantees, insurance, direct loans, and loan guarantees on an accrual basis is the first step in measuring the cost of these activities in a timely manner. But the cost measure must also include risk. Without that component, the budget understates the cost of these programs."[2]

The bill corrects this current flaw by amending FCRA to ensure the full exposure to the taxpayer is recorded in the budget by providing that fair value estimates be used in calculating the cost of Federal credit programs. It also provides for a one-time adjustment to the statutory caps on discretionary spending contained in the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177) to ensure the caps are held harmless for this accounting change.

Accounting for Fannie Mae and Freddie Mac

The bill requires that the receipts and disbursements of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) be counted as new budget authority, outlays, receipts, deficits or surpluses for purposes of the President's budget request, the congressional budget resolution, and the Balanced Budget and Emergency Deficit Control Act of 1985.

While the Congressional Budget Office (CBO) and Congress have already adopted this approach the Administration has not. Section 202 rectifies this disparity by bringing Fannie Mae and Freddie Mac (the GSEs) on-budget and consistent with CBO's current practice.

On September 6, 2008, using the authority provided under the Housing and Economic Recovery Act of 2008 (P.L. 110–289), the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorships. The purpose of the conservatorships is to "stabilize [the] troubled institutions with the objective of maintaining normal business operations and restoring financial safety and soundness."[3] At the same time, the Department of the Treasury entered into agreements with the GSEs known as Senior Preferred Stock Purchase Agreements (PSPA). The PSPAs are legally binding agreements by which the Treasury is obligated to provide sufficient capital to keep the net worth of Fannie Mae and Freddie Mac from falling below zero.

Given the conservatorship and the Treasury's commitment to maintain a positive net value for the GSEs, their agency debt now has a certain public character. Consistent with other "agency debt" it is the expectation of the Committee that OMB will include the GSEs' agency debt in its Analytical Perspectives volume together with other agency debt issued by entities such as the Tennessee Valley Authority. Under the terms of the PSPA, the GSEs are required to reduce the size of their investment portfolios until they reach $250 billion. Because the primary purpose of the agency debt issued by the GSEs is to finance this portfolio, it is expected that

[2] A Peterson-Pew Commission Report on Budget Reform, "Getting Back in the Black," p. 29, Nov. 2010, *http://budgetreform.org/sites/default/files/Getting_Back_in_the_Black.pdf.*

[3] Federal Housing Finance Agency—Office of Conservatorship Operations, *http://www.fhfa.gov/Default.aspx?Page=344, (accessed Jan. 20, 2012).*

their debt issuances will decline with the size of the investment portfolio. The bill does not establish a statutory cap on the issuance of agency debt by the GSEs nor does it include such debt issuances in the Federal debt ceiling.

Finally, section 203 allows for the removal of the GSEs from the Federal budget if three conditions are satisfied. These conditions are designed to ensure that a GSE is removed from the Federal budget if it becomes a fully private entity with no explicit or implicit guarantee from the Federal Government.

First, the conservatorship of the entity must be terminated.

Second, the Director of the FHFA must have certified that the GSE has repaid as much of the funds received from the Federal Government as is consistent with minimizing the total losses to the Federal Government. This condition recognizes that the Federal Government may not receive full repayment. It should, though, ensure the Federal Government recovers the full remaining value of these enterprises if they are privatized.

Third, the charter of the enterprise and authorizing statute must be repealed.

Transparency in Agency Budget Requests

The bill requires Federal agencies to publish their budget justification materials on their official websites on the same day those materials are provided to Congress. OMB currently requires agencies to post these materials to their websites within two weeks of transmittal to Congress.[4] As under current practice, materials should not be released if the materials are so classified in order to protect the national security.

Studies in Support of Future Reform

The legislation commissions two studies on areas of the budget process that may warrant reform in future legislation. These studies will support the Budget Committees in fulfillment of their ongoing responsibility under Sec. 703 of the Congressional Budget Act to "study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking."

First, the Directors of the CBO and OMB are directed in section 201 to independently conduct studies and provide recommendations to the Budget Committees on the feasibility of applying fair value concepts (or some similar accrual methodology) to budgeting for the costs of Federal insurance programs, such as pension insurance and political risk insurance. These programs are currently budgeted for on a cash-flow basis, meaning that a program's cost is the net cash spent in a fiscal year. Income is recorded in the budget when received, and expenses are recorded when paid, regardless of when the income is earned or the expense incurred.

The Directors of the CBO and OMB are directed to report back to the Budget Committees within one year of enactment of this bill on the feasibility of addressing this shortcoming in the current budgeting methodology for Federal insurance programs through a move to a fair value-based accrual budgeting system.

Second, the Director of OMB is directed (sec. 301) to prepare a study on the historical use of various terms relating to the collec-

[4] OMB Circular A-11, 22.6.

tion of monies by the Federal Government. The Director of CBO is required to review the OMB report and provide recommendations to Congress.

The budget displays revenues (primarily tax collections) and outlays (primarily disbursements of cash). The proper characterization of revenues and spending is important both for the purposes of Congress' carrying out its power of the purse, and also provides important information to the public regarding the amount of money collected from the private sector and how this money is spent.

The 1967 President's Commission on Budget Concepts continues to provide the foundation for determining the treatment of transactions in the Federal budget. Generally, Federal collections resulting from the exercise of the Federal Government's sovereign power are classified as revenues (or "receipts"). Those collections resulting from business-like activity performed by the Federal Government are recorded as negative spending (or "offsetting collections"). Over the years, however, these terms have become jumbled as programs have evolved and as statutes have dictated the budgetary treatment of Federal collections. Increasingly, collections that result from the government's sovereign power are being classified as offsetting collections (negative spending). The study should review the theoretical bases of these terms, the evolution of the classification of collections, the current classification of Federal collections, and provide recommendations on the future application of such terms.

LEGISLATIVE HISTORY

Fair Value Accounting

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) added the Federal Credit Reform Act of 1990 (FCRA) as Title V of the Congressional Budget and Impoundment Control Act of 1974 (Congressional Budget Act). FCRA changed how the unified budget reports the cost of Federal credit activities. Prior to fiscal year 1992, the unified budget measured the cost of Federal credit on a cash-flow basis. This methodology did not accurately portray the true cost of a loan or loan guarantee when the obligation is incurred.

Under cash-flow budgeting, disbursements of a direct loan are recorded upfront as outlays at the time of disbursement, while repayments are recorded over the life of the loan. By contrast, an economically equivalent loan guarantee would show no upfront cost and might even show an upfront savings because of origination fees paid by the loan guarantee recipient. Cash-flow accounting thus favored loan guarantees over direct loans even though both could be structured to pose an equivalent financial risk to the Federal Government.

Cash-flow accounting also failed to accurately capture the full costs of credit programs generally and increased the difficulty of comparing the costs of credit programs and non-credit programs thus distorting fiscal decision-making. The economically accurate budgetary measure of the costs of supplying Federal credit is the net present value of the subsidies to credit recipients measured at the time the credit is advanced, re-estimated over the life of the credit extension. FCRA was enacted in order to achieve this more economically appropriate budgetary treatment.

FCRA, however, understates the true cost to the Federal Government because it discounts the cash flows over the life of a loan or loan guarantee using interest rates on Treasury securities. This is essentially the risk-free rate of interest.

The loans and loan guarantees issued by the Federal Government are not free of risk. To the contrary, the extension of Federal credit to the private sector entails the assumption by the Federal Government of market risk. Market risk is in addition to the risk that a credit beneficiary may default, because of individual circumstances. Market risk, also known as systematic risk, arises from the correlation between broader market and economic conditions and the probability of any particular credit program performing as predicted. In order to capture the cost to the Federal Government of this risk, fair value accounting is a better approach. The principal difference between the FCRA approach and a fair value approach is the discount rate used to calculate the present value of the future costs of the extension of credit by the Federal Government. As CBO has testified, "The fair-value approach produces estimates of the value of assets and liabilities that either correspond to or approximate market prices." [5]

In 2008, Congress enacted the "Emergency Economic Stabilization Act of 2008" (EESA) (P.L. 110–343). EESA authorized the Federal Government to purchase troubled mortgage-related assets, under the Troubled Assets Relief Program (TARP) of that bill. Congress recognized that recording these transactions on a cash basis would over-state their actual cost, but recording them under FCRA would not fully account for their costs. As a result, the EESA provides that the activities under TARP would be recorded in the Federal budget under the Federal Credit Reform Act of 1990 modified to use a risk-adjusted discount rate.

In the President's fiscal year 2010 budget, the administration proposed there be no budget impact recorded from U.S. contributions to the International Monetary Fund (IMF). The Budget Committees rejected this proposal, but recognized that the current budgetary treatment of recording budget authority with zero impact on spending and deficits was flawed. After reviewing the issue, the Budget Committees concluded that FCRA adjusted for market risk was the best measure of recording the impact of contributions to the IMF on the budget.

The Supplemental Appropriations Act of 2009 (P.L. 111–32) included a provision incorporating fair value accounting standards to adequately account for market risk for the purposes of transactions dealing with the IMF.[6] That measure included the following language modifying the application of current law Federal Credit Reform Act accounting:

[F]or purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for

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[5] Statement of Deborah Lucas, Assistant Director for Financial Analysis, "The Budgetary Cost of Fannie Mae and Freddie Mac and Options for the Future Federal Role in the Secondary Mortgage Market," p. 3 June 2, 2011, *http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/122xx/doc12213/06-02-gses_testimony.pdf.*

[6] Supplemental Appropriations Act, 2009 (H.R. 2346), Public Law 111–32, June 24, 2009. In addition, additional information on the budgetary treatment of the IMF can be found at: Congressional Budget Office, "Budget Implications of U.S. Contributions to the International Monetary Fund," Director's Blog, May 19, 2009, *http://cboblog.cbo.gov/?p=270.*

market risks: Provided further, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

Government-Sponsored Enterprises

Fannie Mae and Freddie Mac are government-sponsored enterprises (GSEs) that were chartered by Congress to facilitate the availability of financing for home mortgages. Fannie Mae was first established as a government agency in 1938 as part of the New Deal. In 1968, it was removed from the Federal budget and recreated as a government-sponsored enterprise and became a publicly traded company. Though there was widely assumed to be an "implicit" Federal guarantee of Fannie Mae's and Freddie Mac's debt, their securities are denied an explicit guarantee.

They carry out the function of financing home mortgages by purchasing home loans from mortgage originators and packaging those loans into mortgage-backed securities, which are then sold on to private sector investors with a guarantee from Fannie Mae or Freddie Mac against losses from any defaults on the underlying mortgages. Fannie Mae and Freddie Mac also keep a portion of these MBS in their own investment portfolio, which they finance through the issuance of debt securities, widely known as "agency debt." This agency debt is required by statute to include a disclaimer that such obligations together with the interest thereon are not guaranteed by the United States and do not constitute a debt obligation of the United States.[7]

On September 6, 2008, using the authority provided under the Housing and Economic Recovery Act of 2008 (P.L. 110–289), the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorships. The purpose of the conservatorships is to "stabilize [the] troubled institutions with the objective of maintaining normal business operations and restoring financial safety and soundness."[8] At the same time, the Department of the Treasury entered into agreements with the GSEs known as Senior Preferred Stock Purchase Agreements (PSPA). The PSPAs are legally binding agreements by which Treasury is obligated to provide sufficient capital to keep the net worth of Fannie Mae and Freddie Mac from falling below zero. In return, the government received senior preferred stock and warrants making the Treasury the effective owner of the GSEs. The Committee received testimony in June 2011 from the Congressional Budget Office stating that:

Between November 2008 and the end of March 2011, the government provided about $154 billion in capital to Fannie Mae and Freddie Mac and received more than $24 billion in dividends on its preferred stock, resulting in net payments to the GSEs of $130 billion. CBO expects additional net cash payments from the government over the next several years.

In CBO's judgment, the Federal conservatorship of Fannie Mae and Freddie Mac and their resulting ownership and control by the Treasury make the two entities effectively part of the government

[7] See 12 U.S.C. 1721 and 12 U.S.C. 1455.

[8] Federal Housing Finance Agency—Office of Conservatorship Operations *http://www.fhfa.gov/Default.aspx?Page=344, (accessed Jan. 20, 2012).*

and imply that their operations should be reflected in the Federal budget.[9]

After consultation with the Budget Committees, CBO began to include the operations of Fannie Mae and Freddie Mac in its baseline budget projections and chose to use fair value methodology for estimating. By contrast, the Obama Administration has continued to regard these entities as non-governmental for budgetary purposes and records in the budget only the cash transfers between the Treasury and the GSEs. This treatment understates the costs of these entities to the Federal Government. As CBO testified: "That approach can postpone for many years the recognition of the costs of new obligations. Subsidized mortgage guarantees may even show gains for the government in the short term because fees are collected up front but losses are realized over time as defaults occur."[10] In 2013, the GSEs made $97 billion of payments to the Treasury, which were recorded as reducing the budget deficit. However, the $104.4 billion increase in contingent liabilities assumed by the GSEs during this period are nowhere reflected in the budget as maintained by the Administration.

Studies Conducted by the OMB and CBO on Fair Value Concepts

The bill calls on CBO and OMB to review other insurance programs to determine the possible application of fair value accounting to record their costs in a full and transparent manner.

As this Committee noted in 1998:

Cash budgeting provides incomplete and misleading cost information for those programs because, for most insurance contracts, premiums are paid long before claims are made. Under current budget conventions, legislation affecting Federal insurance programs often is seen as providing savings even though it expands insurance coverage and increases the likelihood that the cost of claims over time will be higher than expected in the absence of the legislation. Such situations can occur when the legislation increases premiums today; but claims due under the higher coverage would not be paid until future fiscal years—often well beyond the budget window although over the years there has been a growing trend in moving to accrual budgeting for the contingent liabilities of the Federal Government.[11]

In the same report, the Committee noted:

Interest in budgeting for contingent liabilities predates the congressional budget process. In August 1956, Congress enacted a bill that required agency accounts to be maintained on an accrual basis '[a]s soon as practicable * * *' (S. 3897, Ch. 814-P.L. 863). The issue of unfunded liabilities and accrual budgeting was addressed in hearings of the Joint Committee on Budget Control in 1973.

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[9] Statement of Deborah Lucas, Assistant Director for Financial Analysis, "The Budgetary Cost of Fannie Mae and Freddie Mac and Options for the Future Federal Role in the Secondary Mortgage Market," p. 2, June 2, 2011, available at *http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/122xx/doc12213/06-02-gses_testimony.pdf.*

[10] Ibid.

[11] House Report 106–198—Part 2—p. 58, The Comprehensive Budget Process Reform Act of 1999, available at *http://www.gpo.gov/fdsys/pkg/CRPT-106hrpt198/pdf/CRPT-106hrpt198-pt2.pdf.*

Legislation in the 112th Congress

On December 7, 2011, Members of the House Budget Committee introduced a comprehensive package of ten legislative budget process reform bills designed to fundamentally reform the budget process. Included in this package was H.R. 3581, the "Budget and Accounting Transparency Act of 2012," introduced by Representative Scott Garrett of New Jersey. On February 7, 2012, H.R. 3581, the "Budget and Accounting Transparency Act of 2012," passed the House of Representatives by a 245–180 vote.

Legislation in the 113th Congress

On May 8, 2013, Members of the House Budget Committee introduced a comprehensive package of seven legislative budget process reform bills designed to fundamentally reform the budget process. Included in this package was H.R. 1872, the "Budget and Accounting Transparency Act of 2014," introduced by Representative Scott Garrett of New Jersey.

Hearings

In 2011, the House Budget Committee held hearings on budget process reform and one of those hearings focused on the Federal Credit Reform Act and its application to housing programs.

The hearing involving fair value, "Fannie Mae, Freddie Mac and FHA: Taxpayer Exposure in the Housing Markets," was held on June 2, 2011, with Deborah J. Lucas (Congressional Budget Office), Alex J. Pollock (American Enterprise Institute) and Sarah Rosen Wartell (Center for American Progress and Center for American Progress Action Fund).

The first budget process hearing, "The Broken Budget Process: Perspectives From Former CBO Directors," was held on September 21, 2011, with former CBO Directors Rudolph Penner and Alice Rivlin testifying.

The second budget process hearing, "The Broken Budget Process: Perspectives From Budget Experts," was held on September 22, 2011, with Philip Joyce (University of Maryland), the Honorable Jim Nussle (Chairman of the Committee on the Budget, 2001 through 2007, United States House of Representatives) and the Honorable Phil Gramm (former United States Senator, 1985–2002) testifying.

Section by Section

Section 1. Short Title.

Section 1 establishes the short title of the bill as the "Budget and Accounting Transparency Act of 2014".

Title I—Fair Value Estimates

Section 101. Credit Reform.

Section 101 amends the Congressional Budget Act of 1974 (CBA) by striking the existing Title V and replacing it with the following new text:

Section 500. Short Title.

This section establishes the short title of this title as the "Fair Value Accounting Act of 2014".

Section 501. Purposes.

Section 501 sets forth the purposes of this title are to (1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis, (2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending, (3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries, and (4) improve the allocation of resources among Federal programs.

Section 502. Definitions.

Section 502 defines the following terms used in this title: direct loan, direct loan obligation, loan guarantee, loan guarantee commitment, cost, program account, financing account, liquidating account, modification, current, Director, administrative costs, and essential preservation expenses.

"Cost" is defined as the sum of (1) the Treasury discounting component and (2) the risk component of a direct loan or loan guarantee, or a modification thereof. The Treasury discounting component is the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis discounted at the Treasury borrowing rate. The risk component is the amount equal to the difference between the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standard Statement #157 and the Treasury discounting component of such a direct loan or loan guarantee, or modification thereof. Both components exclude administrative costs and any incidental effects on Government receipts or outlays.

Section 503. OMB and CBO Analysis, Coordination, and Review.

Subsection (a) requires, for the executive branch, the OMB Director to coordinate estimates and consult with agencies that administer direct loans or loan guarantee programs.

Subsection (b) permits the OMB Director to delegate to agencies the authority to make estimates of costs as long as such delegation of authority is based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

Subsections (c) and (d) require the OMB Director, in developing estimation guidelines, regulations, or criteria to be used by Federal agencies, to consult with the CBO Director and to coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. Subsection (d) also requires the Directors of OMB and CBO to annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs.

Subsection (e) requires the OMB Director to review historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

Section 504. Budgetary Treatment.

Subsection (a) requires that beginning with fiscal year 2017, the President's budget shall reflect the costs of direct loan and loan guarantee programs and include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request. Additionally, subsection (a) requires for each fiscal year, within the five-fiscal year period for such budget to include, on an agency-by-agency basis, subsidy estimates and costs of direct loan and loan guarantee programs with and without the risk component. This five-year requirement may be satisfied by including this information in the Federal Credit Supplement to the President's budget request.

Subsection (b) requires that new budget authority be provided by appropriation in advance before new direct loans or loan guarantee commitments are incurred.

Subsection (c) provides that direct loan or loan guarantee programs constituting an entitlement, or existing credit programs of the Commodity Credit Corporation on the date of enactment of this title, or made by Fannie Mae or Freddie Mac are exempt from the requirements of subsection (b), which requires the appropriation of new budget authority for direct loans and loan guarantees, and of subsection (e), which prohibits modifications of direct loans or loan guarantees in a manner that increases costs unless additional budget authority has been appropriated in advance.

Subsection (d) provides that the authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans or loan guarantees constitutes new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority constitutes an obligation of the program account to pay to the financing account. The outlays resulting from new budget authority for the cost of direct loans or loan guarantees will be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or guaranteed loan is disbursed or its costs altered.

Subsection (e) prohibits modifications of direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) in a manner that increases costs unless additional budget authority has been appropriated in advance.

Subsection (f) provides that when the estimated cost for a group of direct loans or loan guarantees for a specific program made in a fiscal year is re-estimated in a subsequent year, that the additional cost will be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. Subsection (f) also provides permanent indefinite authority for these re-estimates.

Subsection (g) requires all funding for an agency's administrative costs associated with a direct loan or loan guarantee program to be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

Section 505. Authorizations.

Subsections (a) and (b) authorize the President to establish nonbudgetary accounts as may be appropriate to implement the accounting required and direct the Secretary of the Treasury to borrow, receive, lend, or pay to the financing accounts such amounts as may be appropriate.

Subsection (b) requires for guaranteed loans financed by the Federal Financing Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (that exceeds the Treasury discounting component of the cost) the Federal Financing Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account.

Subsection (b) also authorizes the Federal Financing Bank to require reimbursement from a Federal agency to cover the administrative expenses of the Federal Financing Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g) and apply to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. Subsection (b) also provides that the authorities provided in this subsection shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program.

Subsection (b) also requires that these transactions be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code, dealing with the apportionment of funds.

Subsection (b) also requires that excess cash balances be maintained in a form of un-invested funds and the Secretary of the Treasury shall pay interest on these funds. The Secretary shall charge (or pay if the amount is negative) financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. This amount shall be a means of financing and shall not be considered a cash flow of the Government for the purposes of section 502(5).

Subsection (c) requires that amounts in liquidating accounts only be available for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for payments necessary for the liquidation of such direct loan obligations and loan guarantee commitments. The amounts credited to liquidating accounts are available only for payments required in that year and shall be transferred to miscellaneous receipts after the end of the fiscal year.

Subsection (c) also provides permanent, indefinite authority to make any payments required if the funds in the liquidating accounts are insufficient to satisfy obligations and commitments of such accounts.

Subsection (d) provides that nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

Subsection (e) provides that nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or loan guarantee.

Section 506. Treatment of Deposit Insurance and Agencies and Other Insurance Programs.

Section 506 provides that this title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

Section 507. Effect on Other Laws.

Subsection (a) provides that this title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title and that nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

Subsection (b) provides that collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies.

This section also makes a technical and conforming amendment to the table of contents of the CBA.

Section 102. Budgetary Adjustment.

Subsection (a) makes explicit that the move from accounting for loans and loan guarantees on a Federal Credit Reform basis to a fair value basis constitutes a change in concept for purposes of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985. This will result in the Director of OMB adjusting the caps on discretionary spending in section 251(c) of that Act to account for the change in concept.

Subsection (b) requires OMB, before adjusting the discretionary caps, to report to the House and Senate Budget Committees the amount of the prospective adjustment, the methodology used in determining the size of that adjustment, and provide a program-by-program itemization of the components of the adjustment.

Subsection (c) prohibits OMB from making an adjustment sooner than 60 days after providing the report required above.

Section 103. Effective Date.

Section 103 provides that the amendments made by section 101 shall take effect beginning with fiscal year 2017.

TITLE II—BUDGETARY TREATMENT.

Section 201. CBO and OMB Studies Respecting Budgeting for Costs of Federal Insurance Programs.

Section 201 requires CBO and OMB to each prepare a study and make recommendations to the House and Senate Budget Committees as to the feasibility of applying fair value concepts to budgeting for the costs of Federal insurance programs. The report is due within one year of the enactment of this bill.

Section 202. On-Budget Status of Fannie Mae and Freddie Mac.

Section 202 requires the receipts and disbursements, including the administrative expenses, of Fannie Mae and Freddie Mac to be counted as new budget authority, outlays, receipts, or deficit or surplus for the purposes of the budget of the US government as submitted by the President; the congressional budget; and the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 203. Effective Date.

Section 203 allows for the removal of Fannie Mae and Freddie Mac from the Federal budget once three conditions are met: (1) the conservatorship for such enterprise has been terminated; (2) the regulator of the enterprise has certified in writing that the enterprise has repaid as much aid to the Federal Government as is consistent with minimizing the total cost to the Federal Government of the conservatorship; and (3) the charter for the enterprise has been revoked, annulled, or terminated and the authorizing statute with respect to the enterprise has been repealed.

TITLE III—BUDGET REVIEW AND ANALYSIS.

Section 301. CBO and OMB Review and Recommendations Respecting Receipts and Collections.

Section 301 requires OMB to prepare a study of the history of offsetting collections against expenditures and the amount of receipts collected annually, the historical application of the budgetary terms “revenue”, “offsetting collections” and “offsetting receipts”, and review the current application of those terms. CBO is required to review this study. Both CBO and OMB are then each required to make recommendations to the House and Senate Budget Committees of whether such usage should be continued or modified. The report is due within one year of the enactment of this bill.

Section 302. Agency Budget Justifications.

Section 302 requires agencies to make available on its public website all budget justification materials provided to Congress on the same day such justification is submitted to Congress. These materials are required to include information on the process and methodology the agency is using to comply with the Fair Value Accounting Act of 2014. OMB is also required to post these materials in a central location on its website. The materials must be searchable, sortable, and downloadable by the public; consistent with generally accepted standards and practices for machine-discoverability; organized uniformly; and use uniform identifiers.

Section 302 also requires OMB to submit a written report to the House and Senate Budget Committees containing the OMB issued guidance to agencies on how to calculate the risk component under the Fair Value Accounting Act of 2014 no later than the day OMB issues such guidance to agencies. Such guidance is deemed to be a rule for purposes of section 553 of title 5 and can be issued only through a notice and comment rulemaking procedure.

Section 302 also requires the Comptroller General to submit an annual report, for fiscal year 2017 and the four ensuing fiscal years, to the House and Senate Budget Committees which reviews and evaluates the progress of agencies in the implementation of the Fair Value Accounting Act of 2014.

VOTES OF THE COMMITTEE

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to accompany any bill or resolution of a public character to include the total number of votes cast for and against each roll call vote, on a motion to report and any amendments offered to the measure or matter, together with the names of those voting for and against.

Listed below are the actions taken by the Committee on the Budget of the House of Representatives on the Budget and Accounting Transparency Act of 2014.

On February 11, 2014, the committee met in open session, a quorum being present.

Chairman Ryan asked unanimous consent to be authorized, consistent with clause 4 of rule XVI of the Rules of the House of Representatives, to declare a recess at any time during the committee meeting.

There was no objection to the unanimous consent request.

Chairman Ryan asked unanimous consent to dispense with the first reading of the bill and the bill be considered as read and open to amendment at any point.

There was no objection to the unanimous consent request.

The committee adopted and ordered reported favorably the Budget and Accounting Transparency Act of 2014.

The committee took the following votes:

Amendment in the Nature of a Substitute Offered by Mr. Garrett

1. The amendment was offered in the nature of a substitute to H.R. 1872 and was made in order as original text. The amendment changes the effective date of this bill from fiscal year 2015 to fiscal year 2017. The amendment also enhances the transparency of estimates produced under a fair-value system and incorporates more opportunities for public input in the process.

The amendment was agreed to by voice vote.

Final Passage

2. Dr. Price made a motion that the committee report the bill as amended and that the bill do pass.

The motion was agreed to by a roll call vote of 17 ayes and 8 noes.

Name & State	Aye	No	Answer Present	Name & State	Aye	No	Answer Present
RYAN, PAUL (WI) (Chairman)	X			VAN HOLLEN (MD) (Ranking)		X	
PRICE (GA)	X			SCHWARTZ (PA)			
GARRETT (NJ)	X			YARMUTH (KY)		X	
CAMPBELL (CA)				PASCRELL (NJ)			
CALVERT (CA)	X			RYAN, TIM (OH)			
COLE (OK)	X			MOORE (WI)		X	

Name & State	Aye	No	Answer Present	Name & State	Aye	No	Answer Present
McCLINTOCK (CA)	X			CASTOR (FL)			
LANKFORD (OK)				McDERMOTT (WA)			
BLACK (TN)				LEE (CA)			
RIBBLE (WI)	X			CICILLINE (RI)			
FLORES (TX)	X			JEFFRIES (NY)		X	
ROKITA (IN)	X			POCAN (WI)		X	
WOODALL (GA)	X			LUJAN GRISHAM (NM)		X	
BLACKBURN (TN)				HUFFMAN (CA)		X	
NUNNELEE (MS)	X			CÁRDENAS (CA)			
RIGELL (VA)	X			BLUMENAUER (OR)			
HARTZLER (MO)	X			SCHRADER (OR)		X	
WALORSKI (IN)	X						
MESSER (IN)	X						
RICE (SC)	X						
WILLIAMS (TX)	X						
DUFFY (WI)							

Representative Black requested that the record reflect she would have voted aye on the roll call vote had she been present.

Dr. Price made a motion that, pursuant to clause 1 of rule XXII of the Rules of the House of Representatives, the staff be authorized to make any necessary technical and conforming changes to the bill.

The motion was agreed to without objection.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on the Budget's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the committee prior to the filing of this report are as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, February 12, 2014.

Hon. PAUL RYAN, *Chairman,*
Committee on the Budget, U.S. House of Representatives, Washington, DC 20515.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1872, the Budget and Accounting Transparency Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico, who can be reached at 226–2820.

Sincerely,

DOUGLAS W. ELMENDORF, *Director.*

ENCLOSURE.

cc: Hon. CHRIS VAN HOLLEN, *Ranking Member.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
FEBRUARY 12, 2014

H.R. 1872: BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2014

As ordered reported by the House Committee on the Budget on February 11, 2014

SUMMARY

H.R. 1872 would modify the budgetary treatment of federal credit programs. Specifically, the bill would amend the Federal Credit Reform Act of 1990 (FCRA) to require that, beginning in fiscal year 2017, the cost of direct loans or loan guarantees be recognized in the federal budget on a fair-value basis using guidelines set forth by the Financial Accounting Standards Board. A fair-value approach to accounting for the cost of federal loans and loan guarantees would produce estimates of costs that either correspond to or approximate the value of those loans or guarantees to buyers in the private market.

The bill also would require that the Government Accountability Office (GAO) produce annual reports on the progress that federal agencies make in its implementation; the federal budget reflect the net impact of programs administered by Fannie Mae and Freddie Mac; federal agencies post budget justifications on public websites on the same day they are submitted to the Congress; and the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) prepare studies on the costs of federal insurance programs and the historical application of the budgetary terms revenue, offsetting collections, and offsetting receipts.

The proposed changes to the budgetary treatment of federal credit programs would increase the estimated costs of such programs compared to measures used under current law. (This legislation would not change the terms of such credit programs, but would change what is recorded in the budget as the cost of credit assistance.) CBO estimates that if fair-value procedures were used to estimate the cost of new credit activity in 2014, the total deficit for the year would be about $50 billion greater than the deficit as measured under current estimating procedures. Because that increased cost would stem from a change in concepts and definitions used to prepare federal budget documents rather than a change in agencies' legal authority to operate credit programs, it would not be an additional cost attributed to H.R. 1872 for Congressional budget enforcement procedures.

CBO estimates that measuring the cost of federal credit programs on a fair-value basis as prescribed under H.R. 1872 would increase agencies' administrative costs to operate such programs. In addition, the requirements to post budget justifications on the Internet and produce studies would require additional resources. Assuming appropriation of the necessary amounts, CBO estimates such costs would total $16 million over the 2014–2019 period. Pay-as-you-go procedures do not apply to this legislation because no additional direct spending would be attributable to H.R. 1872 since it would not change credit programs. The legislation would not affect revenues.

H.R. 1872 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1872 is shown in the following table. The costs of this legislation fall within all budget functions that include administrative costs associated with federal credit programs.

[By fiscal year, in millions of dollars]

	2014	2015	2016	2017	2018	2019	2014–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	*	5	5	2	2	2	16
Estimated Outlays	*	5	5	2	2	2	16

Note: * = less than $500,000.

BASIS OF ESTIMATE

Agencies would face various administrative challenges to develop and execute new requirements that would be imposed by a change in budgetary treatment for credit programs. CBO estimates that the procedures prescribed by the bill would require federal agencies that administer credit programs to update their accounting and budget preparation systems, procure advisory services, and hire additional staff with expertise in financial asset valuation. In addition, the bill's requirement that all agencies post uniform, searchable, and sortable budget justifications and that OMB, CBO, and GAO produce reports would increase administrative costs. Based on information about the cost of carrying out similar activities and information from some federal agencies that operate major credit programs, CBO estimates that implementing H.R. 1872 would cost $16 million over the next five years, assuming appropriation of the necessary amounts.

COMPARISON OF ALTERNATIVE BUDGETARY TREATMENTS OF CREDIT PROGRAMS

The federal government provides credit assistance in the form of direct loans and guaranteed loans. Most of that assistance is offered through a few large programs; together, the Federal Housing Administration's (FHA's) mortgage guarantee programs and the Department of Education's student loan programs account for about 65 percent of outstanding federally backed credit.[1] Other major credit programs include the Department of Veterans Affairs' mortgage guarantee programs, the Department of Agriculture's credit programs for rural utilities, and the Small Business Administration's loan and loan guarantee programs. About 100 smaller credit programs currently provide assistance for a variety of other activities including international trade and investments in new energy technologies.

H.R. 1872 would amend FCRA to modify procedures for calculating the budgetary cost of federally backed credit programs. As discussed below, such changes would increase the estimated cost of such programs for budget purposes, thereby increasing the estimates of future deficits.

FCRA PROCEDURES

FCRA specifies that the budgetary cost of federally backed credit programs are calculated and recorded on an accrual basis—unlike most items in the federal budget, which are shown on a cash basis. The main distinction between cash and accrual accounting is that, whereas under cash accounting expenditures are recorded in the years when cash payments are made, on an accrual basis the estimated lifetime cost of a direct loan or loan guarantee is recognized in the year when the loan is approved.

Under FCRA, the budgetary impact—or subsidy cost—of a direct loan or loan guarantee is calculated as the net present value of expected cash flows over the life of the loan. For a direct loan, net cash flows include payments of principal, interest, and any fees paid by the borrower less any amounts lost due to borrower default. For a loan guarantee, fees collected from the borrower and guarantor, and payments made to make the guarantor whole if the borrower defaults would be included in the cash flows. The net present value is estimated by discounting the expected cash flows to the time of loan disbursement. FCRA specifies that discounting calculations use the interest rates on Treasury securities with maturities comparable to the terms of loans. For example, cash flows projected in the year following disbursement are discounted using the rate for one-year Treasury securities; those five years out are discounted using a five-year rate; and so on.

COST OF CREDIT PROGRAMS UNDER FCRA

Over the 2000–2007 period, the face value of loans made or guaranteed by the federal government (known as the aggregate volume of credit activity) averaged

[1] The term federally backed credit is used to encompass all federal loan and loan guarantee programs. For this cost estimate, these programs do not include the credit assistance provided by Fannie Mae or Freddie Mac, or the Troubled Asset Relief Program.

$300 billion and estimated subsidy costs under FCRA averaged $6.4 billion annually—for a net, average subsidy rate of 2 percent of aggregate loan volume. In contrast, the aggregate subsidy rate for programs covered by FCRA was negative in each fiscal year over the 2008–2013 period; that is, the government's lending activities generated an accounting profit which reduced measures of budget deficits in those years. That swing from positive to negative FCRA subsidies stemmed primarily from legislative and programmatic changes to student loans and FHA mortgage insurance. For 2013, CBO estimates that programs covered by FCRA reduced the deficit by $45 billion.

FAIR-VALUE PROCEDURES

H.R. 1872 would require that subsidy estimates for federal credit programs be calculated on a fair-value basis. The Financial Accounting Standards Board defines the fair value of a loan as the price that would be received if it were sold in a competitive market. Similarly, the fair value of a loan guarantee is the price that would have to be paid to induce a market participant to assume the guarantee commitment.

In practice, differences between FCRA estimates and fair-value estimates stem from differences in the effective discount rates used to calculate the present value of future cash flows. While FCRA requires that subsidy calculations use Treasury rates to discount future cash flows, fair-value estimates employ rates that also incorporate a premium for market risk. Private investors require additional compensation for market risk because investments exposed to such risk are more likely to have low returns when the economy as a whole is weak and resources are scarce and highly valued. By incorporating a market-based risk premium, fair-value estimates would recognize that the government's assumption of financial risk involves costs that exceed the average amount of losses that would be expected from defaults.

COST OF CREDIT PROGRAMS UNDER H.R. 1872

A consequence of switching to fair-value accounting is that the estimated budgetary cost of credit programs would appear higher than under FCRA. CBO has provided detailed supplementary information to the Congress about the fair-value cost of certain federal credit and insurance programs and how they compare to FCRA estimates, including an analysis of the cost of all federal credit programs in 2013.[2]

CBO estimates that if fair-value procedures were used to estimate the cost of credit programs in 2014, the total deficit would be about $50 billion greater than the deficit as measured using current estimating procedures. That increase would be split between the mandatory and discretionary portions of the budget:

- On a FCRA basis, CBO estimates net subsidies for mandatory credit programs would reduce the federal deficit by about $20 billion in 2014. On a fair-value basis, the cost of those same programs would be roughly $30 billion greater. Starting in 2015, the budget would record increased budget authority and outlays for those programs; however, because those programs are mandatory, fully funding them on a fair-value basis under H.R. 1872 would require no further Congressional action.[3] The estimated net cost of legislative proposals for establishing new mandatory credit programs or changes to existing programs (such as student loans) would generally be larger using fair-value procedures than they would be on a FCRA basis.
- Net receipts from discretionary credit programs reduced the estimated cost of appropriations in 2014 by about $10 billion on a FCRA basis. On a fair-value basis, CBO estimates that those same programs would have required additional appropriations of about $20 billion. To account for the higher subsidy costs that would be incurred by future appropriations when measured on a fair-value basis, H.R. 1872 would allow the caps on discretionary appropriations set forth in the Budget Control Act of 2011 to be adjusted upward.

The Administration currently records transactions related to the Treasury's conservatorship of Fannie Mae and Freddie Mac on a cash basis in the federal budget. In contrast, CBO projects the budgetary impact of the two entities' operations in future years as if they were being conducted by a federal agency because of the degree

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[2] Fair-Value Estimates of the Cost of Federal Credit Programs in 2013 (June 2012), *www.cbo.gov/sites/default/files/cbofiles/attachments/06-28-FairValue.pdf*

Costs and Policy Options for Federal Student Loan Programs (March 2010), *www.cbo.gov/ftpdocs/110xx/doc11043/03-25-StudentLoans.pdf*

Accounting for FHA's Single-Family Mortgage Insurance Program on a Fair-value Basis (May 18, 2011), *www.cbo.gov/ftpdocs/120xx/doc12054/05-18-FHA_Letter.pdf*

Federal Loan Guarantees for the Construction of Nuclear Power Plants (August 2011), *www.cbo.gov/ftpdocs/122xx/doc12238/08-03-NuclearLoans.pdf*

[3] Mandatory spending refers to budget authority that is provided in laws other than appropriation acts and the outlays that result from such budget authority.

of management and financial control that the government exercises over them. Therefore, CBO estimates the net lifetime costs—that is, the subsidy costs adjusted for market risk—of guarantees that will be issued by as well as loans that will be held by the entities and counts those costs as federal outlays in the year of issuance. CBO estimates that the net impact of the activities of those entities will cost an average of about $2 billion per year on a fair-value basis over the next 10 years.

PAY-AS-YOU-GO CONSIDERATIONSNONE.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 1872 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY

Federal Costs: Chad Chirico.
Impact on State, Local, and Tribal Governments: Melissa Merrell.
Impact on the Private Sector: Paige Piper/Bach.

ESTIMATE APPROVED BY

Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to increase the transparency of Federal budgeting by bringing off-budget entities on-budget, reform the accounting methodology used for Federal credit programs to reflect best practices from the private sector, and require agencies to promptly make public the budget justification materials they submit to Congress in support of their requests for public funds.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the committee finds the constitutional authority for this legislation in Article I, section 9, clause 7.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

FEDERAL MANDATES STATEMENT

The committee adopts the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104–4).

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1872 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 1872, the Budget and Accounting Transparency Act of 2014, establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1872, the Budget and Accounting Transparency Act of 2014, does not require any directed rule makings.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) * * *

(b) TABLE OF CONTENTS.—

TITLE V—FAIR VALUE

* * * * * * *

⟦TITLE V—CREDIT REFORM

⟦SEC. 500. SHORT TITLE.

⟦This title may be cited as the "Federal Credit Reform Act of 1990".

⟦SEC. 501. PURPOSES.

⟦The purposes of this title are to—

⟦(1) measure more accurately the costs of Federal credit programs;

⟦(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

⟦(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

⟦(4) improve the allocation of resources among credit programs and between credit and other spending programs.

⟦SEC. 502. DEFINITIONS.

⟦For purposes of this title—

⟦(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

⟦(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

⟦(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

⟦(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

⟦(5)(A) The term "cost" means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

⟦(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

⟦(i) loan disbursements;

⟦(ii) repayments of principal; and

⟦(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

⟦(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

⟦(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

⟦(ii) payments to the Government including origination and other fees, penalties and recoveries;

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

⟦(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

⟦(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

⟦(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

⟦(6) The term "credit program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

⟦(7) The term "financing account" means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

⟦(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

⟦(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

⟦(10) The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

⟦(11) The term "Director" means the Director of the Office of Management and Budget.

⟦SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

⟦(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

⟦(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

⟦(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

⟦(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

⟦(e) HISTORICAL CREDIT PROGRAM COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

⟦(f) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

[SEC. 504. BUDGETARY TREATMENT.

[(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

[(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

[(1) new budget authority to cover their costs is provided in advance in an appropriations Act;

[(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or

[(3) authority is otherwise provided in appropriation Acts.

[(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsections (b) and (e) shall not apply to a direct loan or loan guarantee program that—

[(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

[(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

[(d) BUDGET ACCOUNTING.—

[(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

[(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

[(3) All collections and payments of the financing accounts shall be a means of financing.

[(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

[(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

⟦(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

⟦SEC. 505. AUTHORIZATIONS.

⟦(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

⟦(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

⟦(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 405(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(E). For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 405(b), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(E)) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

⟦(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

⟦(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

⟦(B) disbursements of loans;

⟦(C) default and other guarantee claim payments;

⟦(D) interest supplement payments;

⟦(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

⟦(F) payments to financing accounts when required for modifications;

⟦(G) administrative expenses, if—

⟦(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

⟦(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

⟦(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

⟦(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

⟦(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

⟦(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

⟦(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

⟦(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

⟦SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

⟦(a) IN GENERAL.—This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

⟦(b) STUDY.—The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

⟦(c) ACCESS TO DATA.—For the purposes of subsection (b), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

⟦SEC. 507. EFFECT ON OTHER LAWS.

⟦(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

⟦(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.⟧

TITLE V—FAIR VALUE

SEC. 500. SHORT TITLE.

This title may be cited as the "Fair Value Accounting Act of 2014".

SEC. 501. PURPOSES.

The purposes of this title are to—

(1) measure more accurately the costs of Federal credit programs by accounting for them on a fair value basis;

(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

(4) improve the allocation of resources among Federal programs.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include

the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(5)(A) The term "cost" means the sum of the Treasury discounting component and the risk component of a direct loan or loan guarantee, or a modification thereof.

(B) The Treasury discounting component shall be the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(C) The risk component shall be an amount equal to the difference between—

(i) the estimated long-term cost to the Government of a direct loan or loan guarantee, or modification thereof, estimated on a fair value basis, applying the guidelines set forth by the Financial Accounting Standards Board in Financial Accounting Standards #157, or a successor thereto, excluding administrative costs and any incidental effects on governmental receipts or outlays; and

(ii) the Treasury discounting component of such direct loan or loan guarantee, or modification thereof.

(D) The Treasury discounting component of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) Loan disbursements.

(ii) Repayments of principal.

(iii) Essential preservation expenses, payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries, including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(E) The Treasury discounting component of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, essential preservation expenses, or other payments.

(ii) Payments to the Government including origination and other fees, penalties, and recoveries, including the ef-

fects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(F) The cost of a modification is the sum of—

(i) the difference between the current estimate of the Treasury discounting component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the Treasury discounting component of the remaining cash flows under the terms of the contract, as modified; and

(ii) the difference between the current estimate of the risk component of the remaining cash flows under the terms of a direct loan or loan guarantee and the current estimate of the risk component of the remaining cash flows under the terms of the contract as modified.

(G) In estimating Treasury discounting components, the discount rate shall be the average interest rate on marketable Treasury securities of similar duration to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(H) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(6) The term "program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term "financing account" means the nonbudget account or accounts associated with each program account which holds balances, receives the cost payment from the program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. These accounts shall be shown in the budget on a cash basis.

(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(10) The term "current" has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(11) The term "Director" means the Director of the Office of Management and Budget.

(12) The term "administrative costs" means costs related to program management activities, but does not include essential preservation expenses.

(13) The term "essential preservation expenses" means servicing and other costs that are essential to preserve the value of loan assets or collateral.

SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance and prospective risk of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

(e) HISTORICAL CREDIT PROGRAMS COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

SEC. 504. BUDGETARY TREATMENT.

(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 2017, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request. For each fiscal year within the five-fiscal year period beginning with fiscal year 2017, such budget shall include, on an agency-by-agency basis, subsidy estimates and costs of direct loan and loan guarantee programs with and without the risk component.

(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 2017 and thereafter only to the extent that—

(1) new budget authority to cover their costs is provided in advance in an appropriation Act;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriation Act; or

(3) authority is otherwise provided in appropriation Acts.

(c) EXEMPTION FOR DIRECT SPENDING PROGRAMS.—Subsections (b) and (e) shall not apply to—

(1) any direct loan or loan guarantee program that constitutes an entitlement (such as the guaranteed student loan program or the veteran's home loan guaranty program);

(2) the credit programs of the Commodity Credit Corporation existing on the date of enactment of this title; or

(3) any direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) made by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(d) BUDGET ACCOUNTING.—

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

(3) All collections and payments of the financing accounts shall be a means of financing.

(e) MODIFICATIONS.—An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriation Act.

(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given program made in a single fiscal year is re-estimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these re-estimates.

(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administrative costs associated with a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

SEC. 505. AUTHORIZATIONS.

(a) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

(b) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described in the

preceding sentence, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 405(b)) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 502(5)(G).

(2) LOANS.—For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 406(b)(1), any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 502(5)(G) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 502(5). All such amounts shall be credited to the appropriate financing account.

(3) REIMBURSEMENT.—The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 504(g). This subsection shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(4) AUTHORITY.—The authorities provided in this subsection shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program.

(5) TITLE 31.—All of the transactions provided in the subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code.

(6) TREATMENT OF CASH BALANCES.—Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds. The Secretary of the Treasury shall charge (or pay if the amount is negative) financing accounts an amount equal to the risk component for a direct loan or loan guarantee, or modification thereof. Such amount received by the Secretary of the Treasury shall be a means of financing and shall not be considered a cash flow of the Government for the purposes of section 502(5).

(c) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

(F) payments to financing accounts when required for modifications;

(G) administrative costs and essential preservation expenses, if—

(i) amounts credited to the liquidating account would have been available for administrative costs and essential preservation expenses under a provision of law in effect prior to October 1, 1991; and

(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

(d) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

(e) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

SEC. 507. EFFECT ON OTHER LAWS.

(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or

loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

* * * * * * *

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

* * * * * * *

SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) * * *

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions, minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate, and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes. *A change in discretionary spending solely as a result of the amendment to title V of the Congressional Budget Act of 1974 made by the Budget and Accounting Transparency Act of 2014 shall be treated as a change of concept under this paragraph.*

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TITLE 31, UNITED STATES CODE

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SUBTITLE II—THE BUDGET PROCESS

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CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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§ 1108. Preparation and submission of appropriations requests to the President

(a) * * *

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(h)(1) Whenever any agency prepares and submits written budget justification materials for any committee of the House of Representatives or the Senate, such agency shall post such budget justification on the same day of such submission on the "open" page of the public website of the agency, and the Office of Management and Budget shall post such budget justification in a centralized location on its website, in the format developed under paragraph (2). Each agency shall include with its written budget justification the process and methodology the agency is using to comply with the Fair Value Accounting Act of 2014.

(2) The Office of Management and Budget, in consultation with the Congressional Budget Office and the Government Accountability Office, shall develop and notify each agency of the format in which to post a budget justification under paragraph (1). Such format shall be designed to ensure that posted budget justifications for all agencies—

(A) are searchable, sortable, and downloadable by the public;

(B) are consistent with generally accepted standards and practices for machine-discoverability;

(C) are organized uniformly, in a logical manner that makes clear the contents of a budget justification and relationships between data elements within the budget justification and among similar documents; and

(D) use uniform identifiers, including for agencies, bureaus, programs, and projects.

(i)(1) Not later than the day that the Office of Management and Budget issues guidelines, regulations, or criteria to agencies on how to calculate the risk component under the Fair Value Accounting Act of 2014, it shall submit a written report to the Committees on the Budget of the House of Representatives and the Senate containing all such guidelines, regulations, or criteria.

(2) For fiscal year 2017 and each of the next four fiscal years thereafter, the Comptroller General shall submit an annual report to the Committees on the Budget of the House of Representatives and the Senate reviewing and evaluating the progress of agencies in the implementation of the Fair Value Accounting Act of 2014.

(3) Such guidelines, regulations, or criteria shall be deemed to be a rule for purposes of section 553 of title 5 and shall be issued after notice and opportunity for public comment in accordance with the procedures under such section.

* * * * * * *

Views of Committee Members

Clause 2(l) of rule XI of the Rules of the House of Representatives requires each committee to provide two days to Members of the committee to file Minority, additional, supplemental, or dissenting views and to include such views in the report on legislation considered by the committee. The following views were submitted:

MINORITY VIEWS ON H.R. 1872, THE BUDGET AND ACCOUNTING TRANSPARENCY ACT OF 2014

One of the real challenges facing our nation is the ability to approve a federal budget on time. Our problem, however, is not with the budget process—we have enough tools in our tool box to deal with our budget issues. Everybody who serves on this Committee and in this Congress knows that the fundamental problem as it relates to our budget has a lot less to do with process and a lot more to do with politics. Our problem stems from overarching politics and an unwillingness of many Members of Congress to compromise.

While we commend Mr. Garrett for the effort he has put into this legislation, we do not think that this bill is ready for prime time. The Budget Committee has not held a single hearing on this complex bill during this Congress even though there are many new Members on this Committee. The last time we did hold a hearing—more than two years ago—the testimony focused only on so-called "fair value" estimating in respect to Fannie Mae, Freddie Mac, and the Federal Housing Administration. The hearing did not address the impact of this legislation on all the other loan programs. This bill goes way beyond these entities to apply this different type of valuation to all government loan and credit programs.

The government currently estimates the cost of providing credit assistance through loans and loan guarantees based on the present value of future cash flows, discounted using the rates on U.S. Treasury notes. This is the form of accounting mandated by the Federal Credit Reform Act of 1990. Such credit reform estimates do take into account likely losses in loan accounts—they do budget for the risk of default.

The bill mandates a switch to fair value estimates of cost for all government loan and loan guarantee programs. Fair value estimates would apply an additional cost of risk to all loans, under the assumption that all U.S. government loan programs should apply the same risk factors that a private business might apply to making a loan, even though the circumstances faced by the government are very different.

However, there is an ongoing debate on whether fair value estimates fairly reflect the federal government's costs and risks. The Office of Management and Budget (OMB) opposes this switch to fair value estimates. The OMB Analytical Perspectives from FY 2014 state that "the budget is more informative when it shows the direct cost to the Government in an accurate and transparent manner, as opposed to the economic cost, or other definitions of cost that depend on unobservable values. It is conceptually difficult to identify the uncertainty premium relevant to taxpayers, which differs in many cases from the uncertainty premium for private investors."

The non-partisan Center on Budget and Policy Priorities also opposes mandating fair value estimates. It pointed out in a paper in 2013 that this legislation would "add an extra amount to the budgetary cost that [OMB and the Congressional Budget Office] show for loan and guarantee programs, based on the additional amount that private lenders would charge borrowers if they, rather than the federal government, issued the loans and guarantees. By overstating the federal costs of federal credit programs, the proposal would overstate federal deficits and force budget documents to offset these phantom costs with phantom offsets to avoid overstating the debt as well."

The outlays that would appear in the budget as a result of a shift to fair value estimates would be greater than the outlays that would occur in reality. Thus, using fair value estimates overstates the real costs of federal credit assistance programs.

If the Budget Committee is serious about further exploring the merits of switching to fair value estimates, we should hold a hearing that includes a discussion of how this would impact federal credit programs across the board. This issue is much broader than simply Fannie Mae and Freddie Mac. For all these reasons, Budget Committee Democrats voted in opposition to this legislation.

JOHN A. YARMUTH,
GWEN MOORE,
KATHY CASTOR,
TONY CÁRDENAS,
JARED HUFFMAN,
JIM MCDERMOTT,
EARL BLUMENAUER,
BARBARA LEE,
MICHELLE LUJAN GRISHAM,
MARK POCAN,
TIM RYAN,
HAKEEM S. JEFFRIES,
BILL PASCRELL, JR.,
CHRIS VAN HOLLEN,
Members of Congress.

[Additional submissions for the record from Mr. Van Hollen follow:]

CENTER ON BUDGET AND POLICY PRIORITIES,
820 FIRST STREET NE, SUITE 510,
Washington, DC 20002, revised June 18, 2013.

HOUSE BILL WOULD ARTIFICIALLY INFLATE COST OF FEDERAL CREDIT PROGRAMS

By RICHARD KOGAN, PAUL VAN DE WATER, and JAMES HORNEY

The House Budget Committee may consider legislation in the near future that would change the federal accounting of direct loans and loan guarantees in ways that would overstate the federal costs of those programs. As a result, the legislation also would overstate total federal spending and deficits.

The Federal Credit Reform Act of 1990 changed the budgetary accounting of federal credit programs. Previously, the budget displayed the costs of credit programs in the years those costs actually occurred; that is, it showed federal expenditures from loans or guarantees in any particular year, offset by loan repayments in that year. Since the 1990 law, the budget displays the same total net costs of loans or guarantees but shows them up front—when the government issues the loans and loan guarantees—rather than year by year over the course of their lifetimes.

The legislation—H.R. 1872,[1] introduced by Rep. Scott Garrett (R-NJ) and co-sponsored by House Budget Committee chair Paul Ryan (R-WI)—would significantly change the rules in place since the 1990 law. It would require the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB) to add an extra amount to the budgetary cost that they show for loan and guarantee programs, based on the additional amount that private lenders would charge borrowers if they, rather than the federal government, issued the loans and loan guarantees. By overstating the federal costs of credit programs, the proposal would overstate

[1] H.R. 1872 is identical to H.R. 3581 from the 112th Congress, approved by the House Budget Committee on January 24, 2012 and by the House of Representatives on February 7, 2012. It is very similar to section 4 of S. 1651, 112th Congress, introduced in October 2011 by Sen. Jeff Session (R-AL).

federal deficits and force budget documents to offset these phantom costs with phantom offsets to avoid overstating the debt as well.

This proposal is not based on any claim that current estimates of the federal outlays and receipts associated with federal credit programs understate the actual federal costs of these programs. Quite the contrary; by requiring CBO and OMB to add an extra amount to their estimated cost of federal credit programs, the legislation would artificially inflate the programs' estimated budgetary cost.

Consequently, the budget treatment of federal credit programs under H.R. 1872 would conflict with the basic purposes of budgeting and with the way that budgets record all other activities.

CREDIT ACCOUNTING UNDER CURRENT LAW

The federal budget generally records revenues and spending on a cash basis. That is, the cost recorded for a program in a fiscal year is the actual cash spent on that program in that year, and the budget deficit for a year is the difference between total cash expenditures for all programs in that year and the total amount of cash collected as revenues in that year.[2] By 1990, however, there was widespread agreement that showing the effect of government credit programs on a cash basis did not facilitate a meaningful comparison between the costs of credit programs and other programs, or between the cost of direct loans and loan guarantees.

The problem was not that incorrect amounts of cash disbursements and receipts were being recorded for credit programs. The problem, rather, was that for those programs, showing cash transactions when they occurred did not provide policymakers considering whether to cut, maintain, or increase those programs with meaningful information about the cost of their decisions over time.

LOANS AND LOAN GUARANTEES FORMERLY RECORDED ON CASH BASIS

Before the Credit Reform Act, a $100 direct loan was shown in the budget as costing $100 in the year the loan was made. The cash the government subsequently received when the borrower repaid principal and interest was recorded in subsequent years, as those payments were received. As a result, a $100 loan in the coming fiscal year appeared to have the same budgetary effect as a $100 grant in the same year, even though the loan had a significantly smaller true impact on the budget than the grant, since all or a substantial portion of the loan would be repaid in subsequent years.

In contrast, a federal guarantee of a $100 loan appeared under the pre-1990 budget rules to produce income for the government in the year that the guarantee was issued. Federal loan guarantee programs generally require borrowers to pay an upfront premium or origination fee. That premium (for instance, $5 on a $100 loan) was recorded as income to the government in the fiscal year the guarantee commitment was made, while federal disbursements to cover the guarantee if the borrower later defaulted were recorded as spending in future years, if and when a default occurred. Thus, even if the chance of default was high, the loan guarantee looked like a savings for the government, rather than a cost, in the year the guarantee was issued.

CREDIT REFORM ACT RECORDS FULL COSTS OF LOANS WHEN THEY ARE MADE

To make the budgetary effects of loans and loan guarantees comparable with each other—and with other federal spending programs—the Credit Reform Act of 1990 established rules for recording the full lifetime cost of loans and loan guarantees in the year that they are made.

Essentially, the cost recorded for making a direct loan is the cash disbursement of the loan, minus the present value of the estimated repayments of interest and principal that will be received over the life of the loan. This estimate takes into account the terms of the loan (including the interest rate and repayment schedule), as well as the risk that the borrower will default on the loan before it is paid off. If the interest rate is low or the borrower is likely to default, the cost to the government will be higher than if loan charges a higher interest rate or goes to a more credit-worthy borrower.

To take account of the time-value of money, the interest and principal payments received over the course of the loan are discounted at the Treasury's cost of borrowing. The time-value of money reflects the fact that $100 today is worth more than $100 ten years from now. This can easily be illustrated by the fact that if you

[2] Aside from credit programs (as explained in this analysis), there are only a few instances—such as the recording of some Treasury interest costs when they accrue rather than when they are paid—in which the budget records spending on other than a pure cash basis. And in those cases, the only change is to timing, not total amount.

receive $100 this year, you could invest that $100 in ten-year U.S. Treasury notes. If the interest rate is 3.2 percent and you re-invest your interest earnings in Treasury notes, you will end up with $137 after ten years: $100 now is worth more than $100 in ten years.

The Credit Reform Act takes a similar approach with loan guarantees. The budget records the up-front cost of a loan guarantee as the difference between (1) any up-front premium that the borrower pays the government when the loan-guarantee commitment is made; and (2) the present value of the government's estimated cost of covering future defaults (reduced by any proceeds the government is estimated to receive by selling any collateral it acquires when a default occurs).

The key here is that the cost recorded in the budget reflects up front the estimated cash flows related to the loan or loan guarantee over the course of the loan. For other programs, in contrast, cash flows are shown when they occur. Thus, the Credit Reform Act did not change the recorded cost of credit programs, which derives from the actual cash the government pays and receives; it only changed the years in which those costs were recorded.[3]

It should be emphasized that the estimated costs of loans and loan guarantees, under either the old or the new accounting, take full account of so-called default risk—the likelihood that some direct loans will not be paid back in full or that a borrower will default on a loan that the federal government has guaranteed.[4]

PROPOSAL WOULD ADD A FURTHER AMOUNT TO REFLECT PRIVATE-SECTOR LOSS AVERSION

Even as the Credit Reform Act was being debated, some argued that its method of calculating the cost of credit programs understated the "true" cost of credit programs in a broader societal sense because it reflects the cost to the federal government rather than what similar loans or loan guarantees would cost in the private market. The government's cost of making a loan is less than that of a private lender because it can borrow more inexpensively.

Since 1990, this argument has been refined, particularly in work by Deborah Lucas and Marvin Phaup.[5] Lucas and Phaup argue there is an additional "cost" of credit programs that is not reflected in estimates of the cash flows in and out of the Treasury resulting from loans or loan guarantees.

They point out that the loan costs would be higher if the private sector made the loans, due to the variability of the cash flows associated with loans and the fact that private individuals are loss averse, as explained below. They argue that the federal budget should show what the loans and loan guarantees would cost if made in the private sector, rather than what it costs the government to make them.

The credit cash flows are variable because it is impossible to know with certainty exactly how much will be repaid on a given loan (or class of loans), since that figure reflects how many borrowers will default and what collateral the government might acquire after a default. As a result, the actual collections flowing from any direct loan or class of direct loans and the actual guarantee payments required to indemnify a lender in the case of defaults on federally guaranteed loans may be higher or lower than originally estimated.

This variability does not mean that the original estimates of the cash flows in and out of the Treasury due to a credit program were faulty and didn't fully reflect the likelihood of default. It simply reflects the inherent uncertainty of the cash flows. To understand this, consider what happens when a coin is flipped 100 times. We know the best estimate is 50 heads, 50 tails. But if this exercise were repeated thousands of times, the result would rarely be exactly 50 heads out of any 100 flips. The average—or expected value—would be 50 heads, but most of the time there would be more or fewer than 50 heads.

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[3] Before credit reform was enacted in 1990, all the various cash flows of a credit program were shown in the year that they occurred, and Treasury debt increased or decreased (as did interest payments) as cash left the government or flowed back to the government. When the loan finally matured, the sum total of all the cash transactions including interest equaled the amount by which the debt held by the public had increased as a result of the loan's issuance. Credit reform aggregated these credit transactions into a single subsidy cost shown up front. After a loan matures, the sum of that subsidy and the interest that the Treasury has paid on the money it borrowed to finance that subsidy is exactly the same as the amount that would have been recorded in the budget before the Credit Reform Act; it represents the amount by which the debt held by the public increased. Thus, credit reform did not change the recorded lifetime budgetary cost of credit programs; it simply shifted the timing of when that cost is recognized. The net cost is now shown up front so Congress can better see it at the time it votes to impose that cost.

[4] Estimates are based on calculations for a class of similar loans or guarantees, not for individual loans or guarantees.

[5] Deborah Lucas and Marvin Phaup, "Reforming Credit Reform," Public Budgeting & Finance, Winter 2008, pp. 90-110.

Lucas and Phaup do not contend that the current estimates of the cost of credit programs misrepresent the cash flows related to loans and guarantees; they do not claim that CBO and OMB underestimate the true expected value of the cash flows. Their argument is different: that regardless of whether the estimates of the cash flows are the best ones possible—indeed, even if they perfectly represent the expected cash flows—the method of calculating the cost of credit programs under the Credit Reform Act does not reflect the full "cost" for a different reason.

Lucas and Phaup base their argument on the variability of the actual cash flows and how individuals respond to risk in financial arrangements. Research has found that private individuals are loss averse; for example, they generally appreciate an unexpected gain of $100 less than they dislike an unexpected loss of $100. As a result, people are unwilling to accept a financial arrangement with variable outcomes at a price that only represents the expected value (or best estimate) of the outcome.

Most financial economists use the term "risk aversion" as a synonym for "loss aversion." They describe markets as being "risk averse" and investors as demanding a "risk premium" before they are willing to put their money on the line; they say the premium reflects "market risk." This phrase does not mean that investors are averse to losses (of course they are), but rather that they are more averse to losses than they are attracted by equally likely gains of the same magnitude.

Because individuals are loss averse, Lucas and Phaup argue, the government should be loss averse as well, on their behalf. That means the cost of credit programs should appear in the federal budget as exceeding the best estimate of their actual cost to the Treasury (that is, as exceeding the best estimate of the cash flows that will result from the loans and guarantees). As they put it, "[I]ncluding a risk premium in subsidy cost produces a cost estimate that, on average, exceeds outlays for realized losses."[6] Because the government should be loss averse, they believe, it should be considered as losing more if collections turn out lower than estimated than it will gain if collections turn out higher than estimated. They argue that this loss aversion should be converted into a dollar figure and added to the cost of credit programs shown in the federal budget, as well as to the cost of legislation related to credit programs.

Lucas and Phaup would have the government calculate this extra "cost" by estimating what private markets would charge to issue or guarantee the same set of loans. They would estimate, for example, how much the private sector would pay to acquire the government's portfolio of direct student loans. Presumably, loss-averse private investors would value the portfolio at a lesser amount than the government is expected to collect in loan repayments (after fully accounting for expected defaults and for the time-value of money).[7] They would then add this extra "cost"—a loss-aversion penalty—to the actual cost to the government of the loans and guarantees.

To do this, H.R. 1872 defines two separate costs: (a) the government's actual cash cost in operating credit programs, as calculated under the existing Credit Reform Act rules; and (b) the additional amount associated with loss aversion on the part of private investors. The bill would require the federal budget to treat the sum of these two amounts as the cost of a credit program, thereby raising the apparent cost of the program and legislation related to it.

WHY THE PROPOSAL IS FLAWED

This legislation suffers from several serious flaws.[8]

Loss Aversion Is Not a Budgetary Cost

Most fundamentally, the problem with adding a loss-aversion penalty to the cost shown in the budget for loan and loan guarantee programs is that loss aversion is not, in fact, a budgetary cost. The loss-aversion penalty that Lucas and Phaup propose and H.R. 1872 would require would reflect amounts that the government would never actually pay to anyone. The obvious question then is: why should the budget record loss aversion as a cost when the government never pays that cost?

Answering this question requires thinking about what the budget is supposed to do. For over 200 years, the answer has been that the federal budget is supposed

[6] Lucas and Phaup, page 92.

[7] In the same vein, if the government tried to purchase reinsurance from the private sector to cover the defaults associated with a government portfolio of loan guarantees, a loss-averse private investor would charge more to reinsure that portfolio than a perfect estimate of what the government, after accounting for the time-value of money, will actually have to pay on the defaults.

[8] The authors are indebted to an article by David Kamin, "Risky Returns: Accounting for Risk in the Federal Budget," May 2012, for its presentation of the arguments against including non-budgetary costs of credit programs in the federal budget. Available at *http://ssrn.com/abstract=2039784.*

to record the amount that the government disburses on spending programs and the amount it receives in revenues, and to show the difference as a surplus or deficit (and to the extent that deficits have exceeded surpluses, to cover the difference by borrowing and to record that borrowing as debt). To meet this purpose, the budget must measure accurately the amounts actually spent on programs and the amounts actually collected in taxes and fees, and the resulting deficits and debt—what budget analysts call the nation's fiscal position.

Adding a loss-aversion penalty to the spending side of the budget would add an extra "cost" that the government does not actually incur—and that doesn't need to be covered by additional taxes or borrowing. It would consequently cause the budget to mis-measure deficits and debt and no longer serve the basic purpose of accurately presenting the nation's fiscal position. With respect to nation's fiscal position, a risk-aversion penalty is a phantom cost.

Proposal Does Not Treat All Programs the Same

Another problem with the proposal is that it would result in inconsistent and discriminatory budgetary treatment of different categories of federal programs. To help Congress and the nation allocate public resources among competing priorities, the budget should record the costs of all government programs in the same way. It is essential that $100 in costs for one program mean the same thing as $100 in costs for another program, so that policymakers can know how much cost a policy will impose on the Treasury as they decide how to allocate resources.

H.R. 1872 violates this principle. It would make credit programs appear more expensive to the government than they truly are without making similar adjustment for other programs whose actual costs also are uncertain and variable. Much of the budget involves programs whose costs are only known for certain after the fact—that is, programs for which the best, unbiased estimates of expected costs nevertheless entail uncertainty, and for which actual costs will almost certainly turn out to be either lower or higher than the original estimates. Social Security and Medicare are two examples. Even some programs for which fixed rather than variable dollars are appropriated, such as weapons procurement, involve uncertainty because it is never known whether the items will end up costing more or less than budgeted, and Congress almost always feels it has to cover any shortfalls. Similarly, the costs of existing or proposed tax expenditures are often as uncertain as the costs of traditional spending programs.

If policymakers add a loss-aversion penalty to credit programs, they should add one to all other variable and uncertain costs as well. Not doing so would disadvantage credit programs relative to other forms of government assistance or investment and would distort the budget as a tool for allocating public resources.

Phantom Costs Require Phantom Offsets

Since the loss-aversion penalty that H.R. 1872 would mandate would not reflect the amount the government actually spends, recording these phantom costs would cause the budget to display a spending total that exceeds what the Treasury pays out. The budget's deficit figures would also be overstated, since they would exceed the true difference between actual expenditures and actual revenues. Similarly, the amount of debt held by the public would be inaccurate, since it would be higher than the amount the Treasury actually has borrowed.

To avoid some of these bizarre results, advocates of adding a loss-aversion penalty tacitly or explicitly advocate accompanying that adjustment with a phantom offset. Proposing offsets to prevent the deficit and debt figures from being out of whack essentially acknowledges that the government will not actually incur the additional "cost" they would require to be shown for credit programs.

The obviously unsatisfactory nature of these phantom offsets, which are described below, underscores the point that the budget should measure actual costs and receipts and should not include either phantom costs or phantom offsets. And it concedes our point that H.R. 1872 is not about generating more accurate and unbiased estimates of likely defaults.

- Lucas and Phaup propose recording a phantom tax receipt equal in size to the phantom loss-aversion penalty they propose for the credit programs. In other words, the budget would show both more spending than the Treasury actually spends and more tax revenues than it actually collects, in order to keep annual deficits and total debt from being inaccurate. (Note that under this approach, an increase in a credit program would be shown as increasing revenues as well, and hence would run afoul of "no tax" pledges and be unconstitutional under versions of the Balanced Budget Amendment that bar increases in taxes.)
- OMB's recent experience with a mandate to display phantom costs demonstrates how hard it is to make sense of the results. Specifically, a provision of the 2008 Troubled Asset Relief Program (TARP) required that OMB record a loss-aversion penalty on top of TARP's expected effects on government cash flows. But

that legislation failed to specify an offset. OMB handled this in two ways. First, to avoid overstating the deficit, it created a phantom offset—lower interest payments on the debt, spread over time. In other words, over the lifetime of the portfolio of assets that Treasury might acquire under TARP, OMB showed a figure for interest costs lower than the true amount of interest that OMB expected Treasury to pay. This produced an incoherent result: TARP's increase in up-front spending and deficits was shown to reduce interest costs. But at least the budget totals for government spending (counting interest), deficit, and debt would be correct over time. Second, OMB proceeded to unwind this phantom scorekeeping in each subsequent year by re-estimating downward each year both the loss-aversion penalty and the offsetting interest-payment adjustment.

• H.R. 1872 adopts a different approach. It requires that the phantom cost not be offset by phantom revenue increases or phantom interest reductions, thus leaving the recorded amount of federal spending—and the recorded deficit figures—at permanently inflated levels.

Rather, it directs OMB to ignore the phantom increase in the deficit when recording the debt; in effect, it creates a phantom offset that would prevent the debt from being recorded too high even though the annual deficits would consistently be overstated. One result of this approach is that the sum of deficits over time would diverge more than it already does from the amount of debt held by the public.

Government May Be Less Risk Averse than Individuals

The flaws discussed above explain why the basic concept of a budgetary loss-aversion penalty is wrong. But even if one believes that the government should add a loss-aversion penalty to its recorded costs, the government need not be as loss averse as private individuals.

Individuals are loss averse in part because they are likely to need their financial assets at specific times, even when the value of those assets has declined. They will need their savings when they retire, when their children are in college, or when they suffer a severe illness or disaster, and so cannot simply "ride out" a down financial market by borrowing instead of cashing in their assets. Put simply, individuals may be forced to "sell low" if they need cash when times are bad.

The general fund of the Treasury, in contrast, is rarely or never in that position because, as history shows, when times are bad it can borrow very inexpensively. (Consider the current low interest rates the Treasury pays, which are near or below zero in real terms.) The government is thereby able to spread risk across decades or even generations, while individuals generally cannot.

IS THERE A PLACE FOR A LOSS-AVERSION ESTIMATE?

Estimates of the extent (if any) to which government credit activities impose a loss-aversion "cost" on taxpayers should not play a part in budget accounting, because they do not represent an actual government cost and their inclusion in the budget would mis-measure the government's fiscal position and inappropriately bias policymakers against credit programs relative to other forms of aid. Nevertheless, the concept that governmental transactions can impose uncertainty or "risk" on the public is not without merit. To the extent that the government does not spread such uncertainty risk across generations (or ameliorate it by spreading it to well-off people, who are less loss averse), the concept of loss aversion can and should play a part in the cost-benefit analysis that policymakers should undertake in deciding whether a government program constitutes wise public policy.

Cost-benefit analysis, however, is not budgeting. A cost-benefit analysis serves a different purpose—to provide information on whether a program or project is worthwhile. To illustrate the difference between budgetary costs and cost-benefit analysis, consider two bridges, each of which would cost $50 million to construct. A bridge from nowhere to nowhere is a waste of money, while a bridge connecting two bustling sister cites might have substantial economic and social benefits. The budget should reflect $50 million in cost for each bridge—no more and no less—but a cost-benefit analysis that helps inform policymakers should take into account all of the pros and cons of the two bridges. In this context, loss aversion on behalf of the taxpayer, to the extent that it may exist, is a legitimate factor to include in the cost side of a cost-benefit analysis.

Under H.R. 1872, however, other important aspects of cost-benefit analysis would not be reflected as phantom budget costs—not the social costs and benefits of regulation, for example, nor the large risk-mitigation benefits of social insurance programs such as Social Security and Medicare. Just as most government spending programs have uncertain rather than fixed costs, they also have uncertain rather than fixed benefits.

This discussion raises a final point about the basic concept of a loss-aversion penalty in the budget. H.R. 1872 looks only at the uncertainty cost that a credit program might impose on risk-averse taxpayers, while failing to consider the benefits to risk-averse borrowers such as students, farmers, or homebuyers. If the subsidy cost under a loan program turns out to be higher than the original estimate, taxpayers will eventually have to cover the higher costs—but borrowers will have received more help. Put differently, the ability to borrow from the government creates a benefit (of an uncertain amount) for the borrower. To the extent that this benefit proves larger than expected, it may impose a social cost on risk-averse taxpayers, but it also confers a social benefit on risk-averse students, farmers, homebuyers, or other borrowers. The proposed legislation would recognize only the costs, not the benefits. Our view—that loss aversion can be one of a number of appropriate factors of cost-benefit analysis, but not of budget accounting—would still demand that all risk-aversion aspects of government programs be taken into account in a fair cost-benefit analysis.

Our conclusion is the same as Robert Reischauer's, who stated that this proposal "would add a cost element from a traditional cost-benefit analysis without adding anything based on the corresponding benefit side of such an analysis. It would also make budget accounting less straightforward and transparent [and is] a misguided attempt to mold budget accounting to facilitate a cost-benefit analysis, with the result that neither the budget nor the cost-benefit analysis would serve their intended purposes well." [9]

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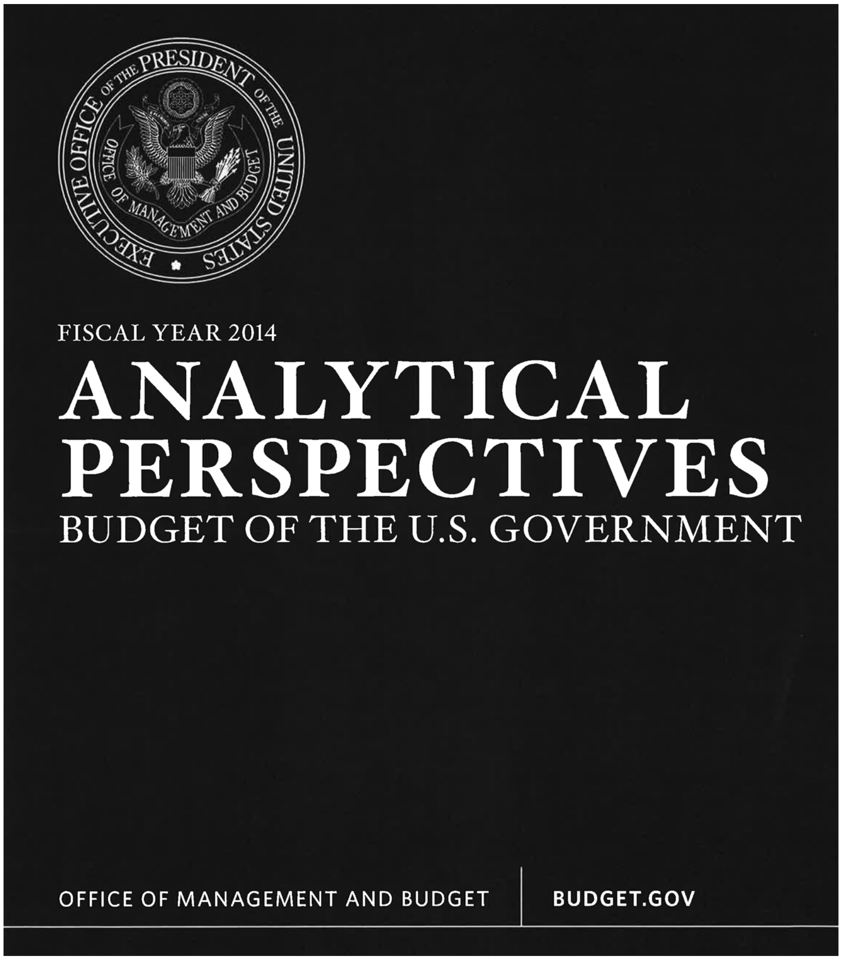
[9] Reischauer is a former President of the Urban Institute and a former Director of the Congressional Budget Office. Letter to Representative Chris Van Hollen, January 23, 2012; see *http://www.offthechartsblog.org/reischauer-strongly-opposes-house-bill-to-inflate-cost-of-federal-credit-programs/*.



FISCAL YEAR 2014

ANALYTICAL PERSPECTIVES

BUDGET OF THE U.S. GOVERNMENT

OFFICE OF MANAGEMENT AND BUDGET | BUDGET.GOV ity, and approximately 80 percent of the total U.S. planted acres of the 10 crops were covered by crop insurance. RMA offers both yield and revenue-based insurance products. Revenue insurance programs protect against loss of revenue stemming from low prices, poor yields, or a combination of the two. These programs extend traditional multi-peril or yield crop insurance by adding price variability to production history.

Pasture, Rangeland, and Forage Pilot Programs are based on vegetation greenness and rainfall indices to meet the needs of livestock producers who purchase insurance protection for losses of forage produced for grazing or harvested for hay. In 2012, there were 21,976 vegetation and rainfall policies sold, covering over 48 million acres of pasture, rangeland and forage. There was over $784.9 million in liability, and through October 2012 nearly $118 million in indemnities paid to livestock producers who purchased coverage.

RMA is continuously working to develop new products and to expand or improve existing products in order to cover more agricultural commodities. Under the 508(h) authorities and procedures RMA may advance payment of up to 50 percent of expected reasonable research and development costs for FCIC Board approved Concept Proposals prior to the complete submission of the policy or plan of insurance under 508(h) authorities. In 2012, two submissions were approved as section 508(h) products and are available to producers for the 2013 crop year.

For more information and additional crop insurance program details, please reference RMA's web site: (www.rma.usda.gov).

Insurance against Security-Related Risks

Terrorism Risk Insurance

The Terrorism Risk Insurance Program (TRIP) was authorized under P.L. 107-297 to help ensure the continued availability of property and casualty insurance following the terrorist attacks of September 11, 2001. TRIP's initial three-year authorization enabled the Federal Government to establish a system of shared public and private compensation for insured property and casualty losses arising from certified acts of foreign terrorism. In 2005, Congress passed a two-year extension (P.L. 109-144), which narrowed the Government's role by increasing the private sector's share of losses, reducing lines of insurance covered by the program, and adding a threshold event amount triggering Federal payments.

In 2007, Congress enacted a further seven-year extension of TRIP and expanded the program to include losses from domestic as well as foreign acts of terrorism (P.L. 110-318). For all seven extension years, TRIP maintains a private insurer deductible of 20 percent of the prior year's direct earned premiums, an insurer co-payment of 15 percent of insured losses above the deductible, and a $100 million minimum event cost triggering Federal coverage. The 2007 extension also requires Treasury to recoup 133 percent of any Federal payments made under the program, and accelerates deadlines for recoupment of any Federal payments made before September 30, 2017.

The Budget baseline includes the estimated Federal cost of providing terrorism risk insurance through the expiration of the program on December 31, 2014. Using market data synthesized through a proprietary model, the Budget projects annual outlays and recoupment for TRIP. While the Budget does not forecast any specific triggering events, the estimates for this account represent the weighted average of TRIP payments over a full range of possible scenarios, most of which include no notional terrorist attacks (and therefore no TRIP payments), and some of which include notional terrorist attacks of varying magnitudes. On this basis, the Budget projects net spending of $443 million over the 2014-2018 period and $526 million over the 2014-2023 period.

Airline War Risk Insurance

The Department of Transportation's authority to provide aviation war risk insurance expires on December 31, 2013. With the goal of building private capacity to manage aviation war risk, the Administration proposes to transform the program into a co-insurance arrangement in which DOT and a private insurer would jointly underwrite a common policy. In the case of a claim, DOT would pay an established fraction of the losses, and the private partner would pay the remainder. The Federal share would be slightly reduced each year as private capacity expands. The proposal would extend the existing program through 2014, during which time DOT would propose changes to its underlying statutory authority and work with the private insurance industry to develop co-insurance policies. The Budget proposes that a co-insurance arrangement would begin to reduce the government's share of any losses, starting in 2015.

IV. FAIR VALUE BUDGETING FOR CREDIT PROGRAMS

Accurate cost and revenue estimates support a sound budget—one that shows the fiscal position of the Federal Government and allocates limited resources across competing needs. Cost estimation is challenging for Federal credit programs because loans and loan guarantees create obligations for uncertain cash flows that can extend far into the future.

The Federal Credit Reform Act of 1990 (FCRA) greatly improved the accuracy of cost estimates for credit programs by reflecting the estimated lifetime costs of loans and loan guarantees up front on a net present value basis, requiring policy officials to budget for those lifetime costs when making programmatic decisions. Any change to FCRA should be consistent with the original goals of credit reform, to provide better information on the budgetary costs of credit programs and improve resource allocation by placing them on a comparable basis to other credit programs and other forms of Federal spending.

The Congressional Budget Office (CBO) and others have argued that credit programs impose costs on taxpayers that are not reflected under FCRA, such as the risk that assets may perform worse than expected, and propose to amend FCRA to require that the budget use fair value estimates to capture these costs. While fair value analysis may offer some useful insights and help inform decision-making for specific programs, use of fair value for budgetary costs would have drawbacks that far exceed the advantages of fair value estimates. Fair value would impose significant implementation costs and challenges, and have more potential to introduce noise and distortion into credit estimates than valuable information. Fair value as proposed would include costs not relevant to the Federal government and would make it more difficult to compare the costs of credit programs to each other, or to other forms of Federal spending. It would make cost estimates for credit programs impossible to validate, and treat uncertainty in a more punitive fashion for credit programs than other programs. Under fair value cost estimates, the cost estimate and estimated impact on the deficit for the same program could be different from one another, raising concerns about consistency and transparency. Thus, current proposals to use fair value for budgetary costs estimates would not be consistent with the goals of FCRA.

Estimating Costs under FCRA and Fair Value

Costs under FCRA. Before FCRA, the budget reflected the cash flows of loans and loan guarantees in the years that the cash flows occurred. The cost of new direct loans was greatly overstated—appropriations were required for the full face value of loans and did not consider expected repayment over time. In contrast, new loan guarantees appeared free, and there was no requirement to set aside a reserve to cover anticipated losses. FCRA greatly improved the accuracy of cost estimates by capturing the lifetime expected cash flows for loans and loan guarantees up front. Under FCRA, the subsidy cost is equal to the present value of the cash flows to and from the Government, netting out expected losses from default or other adverse events. The present value is estimated using the Government's cost of funds, as reflected in Treasury rates, to discount these cash flows.

Costs under Fair Value.[1] In contrast to FCRA where estimated cash flows are discounted by the Government's cost of funds (Treasury rates), under fair value cash flows would typically be discounted with interest rates that reflect estimated market pricing for the characteristics of the loan or loan guarantee (comparable market rates), instead of Treasury rates. Comparable market rates would need to be derived or estimated from available market data, and applied to cash flows. Discount rates would vary across programs, and in some cases by individual loan or guarantee. Because fair value estimates reflect market pricing of the uncertainty associated with loan performance and other factors not included in FCRA estimates, fair value costs would be higher in most cases.

[1] Pages 393-398 of the *Analytical Perspectives* volume of the 2013 *Budget* include more discussion of the issues raised in this section and the following section on Implementation.

Accuracy of Budgetary Cost Estimates under Fair Value

Accuracy and transparency in cost estimates. The budget should focus primarily on the accuracy and transparency of costs to the Government. FCRA costs reflect estimated cash flows, including expected losses due to default and other adverse events. Actual experience may deviate from initial estimates; however, through the reestimates the subsidy costs are ultimately tied to actual cash flows and these reestimates help agencies learn from past experience to improve techniques for generating new estimates. As a measure of expected budgetary cost, FCRA estimates have been fairly accurate overall, although not always on a program-by-program basis. Net lifetime reestimates of subsidy cost for credit programs[2] over the 21 years that FCRA has been in place are $8.5 billion upward—less than one percent of the face value of loans and guarantees made under FCRA. Indeed, CBO's rationale for fair value does not question the accuracy of FCRA cost estimates in measuring expected cost to the Government, but instead questions whether there are additional costs beyond those that would be captured under FCRA that should be reflected in the budget. Fair value cost estimates would include the same underlying credit risk assumptions as FCRA estimates, and add an additional premium above the expected costs.

Posing an additional challenge to the goals of transparency and accuracy, fair value cost estimates include unobservable factors—including the premium that a private actor would demand to compensate for uncertainty of future performance. In contrast to FCRA, one could not use actual cash flows of the credit programs to validate estimates of fair value. Except in the limited cases where a credit program intervened in a well-functioning liquid market with observable prices, estimates of fair value could only be compared to other estimates of fair value. Thus, confirming the accuracy of fair value estimates would be an insurmountable implementation challenge.

Inclusion of costs not relevant to taxpayers. Many of the factors reflected in fair value pricing are not relevant to taxpayers (versus market investors). As a result, fair value cost estimates overstate the cost to the Government. These estimates reflect a premium for uncertainty. However, the cost of uncertainty for the Federal government may be significantly lower than it would be for private sector lenders, particularly when dealing with assets that do not trade in well-functioning liquid markets that allow diversification among private investors.[3] The Government is able to spread risk across a large number of investments, and across a large set of stakeholders, including across generations, in ways that are not always possible for private investors.

[2] Excludes the Troubled Asset Relief Program and the International Monetary Fund increases provided in the 2009 Supplemental Appropriations Act, where reestimates reflect the return of a market risk adjustment premium. Also excludes reestimates from the Small Business Lending Fund, an equity program presented on a FCRA basis pursuant to legislation.

[3] See discussion on uncertainty premium on pages 397-398 of the *Analytical Perspectives* volume of the 2013 Budget.

Other factors aside from the uncertainty premium would also contribute to overstatement of the costs to taxpayers under fair value cost estimates. Such factors include the liquidity premium and a component related to the exemption of Treasuries from the State income tax. The liquidity premium in particular is less relevant to taxpayers, because the Government can easily borrow in the Treasury securities market with minimal transaction costs.

Lack of comparable market data. Due to the lack of historical data and market information, it is difficult to apply standard private sector methods to calculate fair value estimates for Federal credit programs. Often there are not comparable market instruments for Federal credit. The Government typically intervenes to improve efficiency in inefficient markets, so either comparable financial products do not exist, or their prices are distorted. Market information, including interest rates, can be also misleading during periods of financial instability. The availability of historical data varies widely across programs. Even in well-developed markets, the presence of Federal programs can distort market prices. For example, information problems discussed earlier in this chapter lead to inefficiencies in markets for student loans and small business loans. In those cases, market interest rates may reflect other complex factors that cannot be captured.

Lack of estimation methods. Even if data and information were available, estimating fair value costs requires advanced financial knowledge and sophisticated modeling techniques. Attempting to isolate the elements of fair value that are relevant to the Government would require judgment, and reasonable analysts would yield very different results. Estimating FCRA budget costs is much more straightforward, as expected costs can be compared to actuals, and actual experience can then inform new cost estimates. In contrast, because market factors are not observable and/or are difficult to estimate from market yields, there is no way to verify or validate the fair value component of costs. Using private sector valuation methods in these cases would produce highly subjective costs estimates which would be difficult to validate and raise conceptual concerns regarding consistency across credit programs and other forms of Federal spending.

Implications for fair value cost estimates. While there have been estimates of the "fair value" cost of credit programs, these estimates rely on analytical shortcuts to incorporate unobservable factors, and private sector valuation methods and assumptions that do not translate to Federal assistance. In contrast, FCRA costs reflect estimated cashflows, including expected risks. So if an initial FCRA cost estimate suggested a $2 million cost for a $100 million loan program, and actual lifetime costs proved to be $4 million, the change in cost can be traced back to the actual cashflows to and from the Government, and updated through reestimates. Actual experience may deviate from initial estimates; however, through the reestimates FCRA subsidy costs are ultimately tied to actual cashflows with the public and actual experience feeds into future estimates as appropriate. In contrast, fair value cost estimates include unobservable factors—including how the market would price specific contract terms, expected losses, and the premium that a private actor would demand to compensate for uncertainty of future performance. The original fair value cost estimate may be $10 million for the same program, but there would be no way to compare the market price assumptions against program experience after the fact, as these are not tied to actual cashflows and these unobservable costs would always remain unknown.

Imbalance in budgetary accounting. The primary role of the budget is to reflect the fiscal position of the Federal Government—and fair value as proposed would not produce an accurate estimate of the fiscal position. Where FCRA cost estimates and budgetary accounting tie the cost of credit programs to actual cash flows, fair value cost estimates could cause an imbalance because the cost estimate for a program would exceed the expected cost to the Government. Under fair value cost estimates, the cost estimate and estimated impact on the deficit for the same program could be different from one another, raising concerns about consistency and transparency. A full accounting of the scoring under fair value should result in the same net deficit effect as credit programs under FCRA—so if legislators are scored higher costs for the premium charged on a fair value basis, such scoring should also recognize the savings from the premium reflected in fair value costs.

Lack of Comparability across Federal Spending

FCRA placed loan and guarantee programs on a comparable basis, and also allowed comparison across forms of Federal spending based on lifetime expected costs. Because fair value estimates reflect market pricing, fair value costs would be higher than the lifetime expected costs reflected in FCRA estimates for credit programs, and cost estimates for other forms of Federal spending. If the budget were to include costs beyond the expected fiscal impact of Federal spending for credit programs, it should include other economic and indirect effects for all programs—both costs and benefits. For any program involving externalities, the economic costs may differ significantly from the budget costs. For example, the budgetary cost of building a highway does not include the social cost of environmental damages, or the social benefit of lower transportation costs. The right way to incorporate information beyond the fiscal impact of government activities is cost-benefit analysis, which weighs the social benefit of each program against its social cost in a comprehensive manner.

Efficient allocation of Federal resources across programs. It would be inconsistent to incorporate the uncertainty premium for credit programs alone, when it may also be relevant to many other Federal programs whose costs are tied to economic conditions, such as unemployment insurance. Changes in mandatory programs and tax law all have effects on the budget that need to be weighed against each other and against changes in discretionary spending on the basis of their uncertain estimates. Compared with the uncertainty associated with the deficit impact of mandatory programs and tax collection, the uncertainty in the outcomes of credit programs is minuscule. Scoring economic costs only to credit programs could distort decision making, placing a thumb on the scale against credit assistance.

Implementation Costs and Challenges of Fair Value

Beyond the conceptual issues of fair value, there are practical implementation issues that would need to be addressed. Premature or piecemeal implementation of fair value could prove extremely costly, with little long-term benefit in terms of more accurate cost information and efficient resource allocation. Depending on the nature of a fair value proposal, it could require a significant investment in OMB, Treasury, and Federal credit agency resources to implement, or it could divert limited administrative resources from management and oversight of affected programs.

Methods for estimating fair value would need to be explored and developed, along with guidance to ensure consistent and appropriate application across programs. While the components of market prices may be estimated, the degree of accuracy can vary widely. Guidance would also need to be developed to account for actual costs over time to ensure transparency and accuracy in the costs of outstanding loans and guarantees and the effects of policy changes on program costs. However, it is not clear that it is possible to develop guidance that could overcome the inherent problems identified above.

In implementing current FCRA requirements, some Federal credit programs have faced significant administrative challenges in hiring staff with the right technical skill sets, and developing critical management infrastructure, including financial accounting systems, monitoring, and modeling capabilities. Fair value would place much greater demands on agencies in all of these areas. For some of these programs, greater investment in preparing FCRA estimates might do more to improve cost measurement than investment in preparing fair value estimates.

The Troubled Asset Relief Program (TARP) implemented a risk-adjusted cost estimate, similar to fair value, based on the direction in the Economic Emergency Stabilization Act of 2008. The Act provided Treasury permanent indefinite budget authority to fund administrative costs, in contrast to the funding for administrative expenses of most other credit programs, which are annually appropriated and constrained by the discretionary caps. Implementation has been extremely resource-intensive, requiring large investments in private sector financial advisors, datasets, and systems. Agencies with limited administrative resources may not be able to support necessary investments for accurate fair value estimates, or doing so could draw resources away from mitigating risks and costs that otherwise may be within the agency's ability to control. Ultimately, the lifetime cost to Government under TARP is expected to be far lower than originally estimated, as premiums for market risk are returned to Treasury through downward reestimates over time, raising the question of the value of the original fair value estimates.

Summary

Fair value cost of estimates for Federal credit programs have the potential to capture elements of cost that are not included in FCRA-based cost estimates. Using fair value cost estimates in the budget, however, would not represent an improvement over the methods in use today. The budget is more informative when it shows the direct cost to the Government in an accurate and transparent manner, as opposed to the economic cost, or other definitions of cost that depend on unobservable values. It is conceptually difficult to identify the uncertainty premium relevant to taxpayers, which differs in many cases from the uncertainty premium for private investors. Even if conceptual issues were resolved to a reasonable extent, it would be very costly and difficult to estimate fair value costs due to the paucity of historical data and limited relevance of market information.

For some programs, greater investment in preparing FCRA estimates might do more to improve cost measurement than investment in preparing fair value estimates. Alternatives to fair value budgeting to inform decision-making for credit programs should be evaluated—including greater investment in improving FCRA cost estimates, and strengthened cost-benefit analyses at the program level.

Chart 22-1. Face Value of Federal Credit Outstanding