HEARING TO REVIEW THE FINANCIAL STABILITY IMPROVEMENT ACT DISCUSSION DRAFT

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HEARING TO REVIEW THE FINANCIAL STABILITY IMPROVEMENT ACT DISCUSSION DRAFT

TUESDAY, NOVEMBER 17, 2009

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Committee met, pursuant to call, at 11:00 a.m., in Room 1300 of the Longworth House Office Building, Hon. Collin C. Peterson [Chairman of the Committee] presiding.

Members present: Representatives Peterson, Holden, McIntyre, Boswell, Baca, Scott, Marshall, Herseth Sandlin, Cuellar, Costa, Ellsworth, Walz, Schrader, Dahlkemper, Massa, Bright, Markey, Kratovil, Schauer, Kissell, Boccieri, Murphy, Pomeroy, Minnick, Lucas, Moran, Johnson, Rogers, Conaway, Fortenberry, Schmidt, Smith, Roe, Luetkemeyer, Cassidy, and Lummis.

Staff present: Tyler Jameson, John Konya, Scott Kuschmider, Robert L. Larew, Clark Ogilvie, James Ryder, Rebekah Solem, Tamara Hinton, Kevin Kramp, Josh Mathis, Nicole Scott, Jamie Mitchell, and Sangina Wright.

OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

The CHAIRMAN. The Committee will come to order. This hearing of the Committee on Agriculture to review the Financial Stability Improvement Act discussion draft will come to order. Good morning and welcome to today's hearing.

Late last month the House Financial Services Committee released draft legislation to address systemic risk to our nation's financial sector, as well as to monitor financial institutions considered too big to fail. This legislation was based on a proposal put forth by the Treasury Department earlier this year, and we are reviewing this legislation today given its implications and impact upon derivative markets and the Farm Credit System, both of which belong to this Committee's jurisdiction.

The Financial Services draft creates a Financial Services Oversight Council made up of several agencies including the CFTC, which would be given powers to identify certain financial players and activities that could pose a systemic risk to the economy, and, therefore, should be subject to heightened standards, but beyond that the Council's authority is very limited. The real power is being divested to the Federal Reserve. The Federal Reserve would become the super-regulator under the draft legislation. To the extent a financial entity or activity is identified by the Council of deserving heightened credential standards, the Federal Reserve can impose whatever standards it sees fit over that entity or activity. Even if the entity or activity is regulated by another member of the Council, the Fed can impose its own regulatory standard despite the agency's objections or expertise. For example, such a setup would allow the Federal Reserve to impose its regulatory review upon clearing entities like derivatives clearing organizations and clearing agencies despite having no experience as the primary regulator of these entities.

Why are we even thinking about giving more power and authority to the Fed? It is one of the most unaccountable parts of Federal Government. Its governance is influenced more on the wishes of major banks than the American people. It refused to police mortgage underwriting or impose suitability standards on mortgage lenders. Its lax regulatory oversight contributed greatly to the economic crisis last year.

I am skeptical of the idea of a systemic regulator in general, and very much opposed to having the Fed play a leading role as this draft proposes. As I have said before, no one regulator, agency, board or entity is smart enough to measure a true rise in the value of assets imposed to the creation of the public, nor should any one regulator be given so much independent power over our economy. Given the Federal Reserve's cozy relationship for many decades with many of the too-big-to-fail institutions that fall under their regulatory power it makes me wonder whether anything would really change.

The proposed draft also contains provisions affecting the Farm Credit Administration which is of concern to this Committee and rural America. Under the draft, farm credit institutions would fall into a loan retention provision aimed at making sure creditors maintain some skin in the game when making lending choices. While this may be appropriate for some lenders, putting Farm Credit under this umbrella would have unintended effects on rural America and the people that depend on the Farm Credit loans. We had a ten percent risk protection for Farm Credit-backed securities, but Congress removed it because it was preventing a viable secondary market for agriculture organisms. The repeal was accompanied by a strong underwriting security appraisal and repayment statutory standards, which have prevented any investor from credit losses in Farm Credit-backed securities since then.

Farm country has experienced some credit stress, since the 1980s crisis we have been diligent in our oversight and have made changes that have resulted in a more stable, reliable financing network for rural America. As we speak, the Financial Services Committee is marking up this proposed legislation. We are monitoring this legislation closely and we expect it will change in many ways before the Committee's work is done. If the legislation's impact on those areas in our Committee's jurisdictions are not addressed, we will be back here again.

So once again, I welcome today's witnesses. I look forward to their input on how this legislation can be made stronger.

And at this time I would like to recognize my friend and colleague the Ranking Member from Oklahoma, Mr. Lucas, for any statement he would like to make.

OPENING STATEMENT OF HON. FRANK D. LUCAS, A REPRESENTATIVE IN CONGRESS FROM OKLAHOMA

Mr. LUCAS. Thank you, Mr. Chairman, and thank you for holding this hearing today.

As you know, I also sit on the Financial Services Committee, the Committee that wrote the legislation we are to consider today, and the House Agriculture Committee at the conclusion of today's hearing will have had as many hearings as the House Financial Services Committee had on the discussion draft before it moved into markup. This bill, if nothing else, certainly needs more consideration not less, and I congratulate you on moving with haste to expose the shortcomings.

As we proclaimed in this Committee more than once, it wasn't the futures markets that caused the financial meltdown that this country experienced a little over a year ago. Why is there a rush to change how futures markets are regulated? If we take any pride in the integrity of the futures market then certainly the CFTC can, yet it seems as though the CFTC is all ready to rollback what many consider to be safe and sound core principles based on its regulatory regime. But what is the risk that we are trying to regulate out of existence? I will agree there may be some issues that can be addressed in the OTC markets and that, perhaps, different regulatory approaches in that trading space can be beneficial. The legislation we review today is not impressing just the less regulated or unregulated OTC market but also the robustly regulated futures market.

Even if one can make a persuasive argument that the futures markets need more regulation, and if someone can I don't think I have really heard it yet, no one can credibly argue that the Federal Reserve Board ought to be the primary regulator. In fact, I would argue that it isn't and shouldn't be a market regulator at all. It is a central bank and the maker of monetary policy. It can be a bank regulator. It is not and should not be the regulator of day-to-day market activities, especially in markets that have no or very little resemblance to the market or banking industry.

The CFTC has done a remarkably competent job in regulating America's futures markets. Yes, everyone can point to a frustration or two. We still have convergence problems in some agricultural commodity contracts. We are still waiting on the joint rulemaking for a single stock futures portfolio margin. We can always argue whether financial risk should be afforded a hedge exemption, or whether certain foreign entities should be allowed to operate under staff issued no-action letters. These issues, however, are evidence that the regulatory scheme and the regulators are effective and competent. These issues aren't a cause for a regulatory overhaul. Why this Congress would be so interested in throwing the baby out with the bath water is beyond me, but that is exactly what Chairman Frank's discussion draft does. It takes competent regulators and an effective regulatory system and subordinates them to a potential entity that hasn't shown the ability to be effective and efficiently use the power that it has, or that it has any particular expertise in this specialized, nuanced market. On this same theme the legislation sucks in the Farm Credit Administration. I didn't say the legislation sucks. I said it sucked in the Farm Credit Administration and the System institutions with no understanding of the issues of financial risk that were resolved in the 1980s. The System has shown its own insurance fund and existing joint and civil liability among institutions can protect against risky behavior. In short, the Farm Credit System does not belong in this bill.

Mr. Chairman, I again thank you for holding this hearing. I thank you for allowing us to bring more attention to this piece of legislation that needs to withstand more critical thought, more critical scrutiny before it potentially progresses. Thank you, sir.

The CHAIRMAN. I thank the gentleman for his statement and other Members will have the opportunity to enter their opening statements for the record.

[The prepared statements of Messers. Boccieri, Cuellar, and Latta follow:]

PREPARED STATEMENT OF HON. JOHN A. BOCCIERI, A REPRESENTATIVE IN CONGRESS FROM OHIO

I want to thank Chairman Peterson for holding this hearing today. While I believe that the taxpayers on Main Street should never again pay for the greed on Wall Street, we must ensure that any new regulations do not have unintended consequences on the CFTC's ability to do its job. More importantly, we must protect the Farm Credit System from unnecessary regulations that could threaten its ability to provide affordable sources of credit to our farmers. It is clear the legislation is a work in progress but I must express reservations about potential unintended effects on the Farm Credit System. As Mr. Strom's testimony indicates, the Farm Credit System is a unique financial market and I am committed to ensuring that the farmers in the 16th District of Ohio, who put food on my table and milk in my refrigerator, have access to the reliable credit they have come to expect from the Farm Credit System. I plan to work with Chairmen Peterson and Frank to ensure the Farm Credit System is protected from unnecessary reforms that have the potential to harm the robust and dependable lending system that our nation's farmers depend on.

PREPARED STATEMENT OF HON. HENRY CUELLAR, A REPRESENTATIVE IN CONGRESS FROM TEXAS

Thank you Chairman Peterson and Ranking Member Lucas for holding today's hearing of the House Committee on Agriculture on the Financial Stability Improvement Act. I am pleased that we can engage in a healthy debate on the legislation at hand, and offer our expertise as it pertains to the agriculture community.

As we have seen in the last year, troubles in our financial markets are capable of having long-lasting, wide-reaching affects on all Americans. I believe strongly in strengthening the markets, by giving agencies such as the CFTC and FDIC the proper means to identify and monitor entities that might pose a systemic risk to the economy. Transparency and accountability are paramount to fixing our markets; however, placing new regulations on entities, such as Farm Credit, that have displayed strength throughout the financial crisis may only serve to limit their effectiveness.

Over the most recent years, including the current crisis, Farm Credit has weathered tough economic times. However, due to strong leadership in Farm Credit, and on this Committee, the System was able to continue serving agriculture as a reliable provider of credit. To this day, Farm Credit remains strong and producers in the 28th Congressional District of Texas rely on the Farm Credit System. For this, I ask that we carefully review the impact this legislation will have on a trusted, effective entity.

In the current form of this legislation, the Consumer Financial Protection Agency Act will create a new Federal agency, tasked with overseeing all credit services to consumers. In fact, under the bill, Farm Credit System institutions are treated no differently than unregulated finance companies rather than the highly regulated set of federally chartered institutions that they are. With this legislation, we risk taking a part of the market that is functioning effectively, and imposing it through new rules and regulations needlessly.

As I have said earlier, agriculture is going through difficult times. In my area alone, we are seeing record droughts, followed by devastating floods that leave producers in Texas on the brink of bankruptcy. The work done on this Committee has been crucial to ensuring that the Farm Credit System remains strong, and available to our farmers and ranchers.

Again, I thank; the Chairman and the Ranking Member for holding this hearing. As a native of south Texas, I understand the relationship that Farm Credit has with our producers. Regulatory reform is crucial, but we must be careful to not over reach, and harm agencies that have acted responsibly for our communities. I look forward to the testimony today, and our continued work in this Committee on this important issue.

PREPARED STATEMENT OF HON. ROBERT E. LATTA, A REPRESENTATIVE IN CONGRESS FROM OHIO

Good morning, Chairman Peterson and Ranking Member Lucas.

Today, we are holding a hearing to review the Financial Stability Improvement Act discussion draft. I would like to welcome the Chairman of the Commodity Futures Trading Commission, the Chairwoman of the Securities and Exchange Commission and the Chairman and Chief Executive Officer of the Farm Credit Administration. I look forward to all three of your testimony and insight today into this legislation.

I have heard the concerns of my constituents and from the vast amount of agriculture groups on this issue. Unfortunately, this proposed plan furthers government regulation into our private citizen's lives by giving the Federal Reserve the authority on systemic risk and financial stability, and gives the Federal Deposit Insurance Corporation (FDIC) the authority to help "systematically significant" institutions rather than allow them to go into bankruptcy which is more efficient and does not expose our taxpayers to such financial loss. This legislation will be detrimental to our national debt and to the taxpayers as it creates further government bureaucracy by creating a permanent "bailout fund" to be controlled by the FDIC and gives tremendous authority to unelected government bureaucrats with the creation of a Financial Services Oversight Council. Companies and corporations who are deemed "too big to fail" will not be allowed to do so and will be able to access the "bailout fund," which will be funded at the taxpayers' expense. In a July 20, 2009 Bloomberg article, Neil Barofsky the Special Inspector General for TARP stated, "U.S. taxpayers may be on the hook for as much as $23.7 trillion to bolster the economy and bailout financial companies . . ." American International Group (AIG) is a prime example of this. The taxpayers through the Federal Reserve and the Treasury have spent over $135 billion to keep AIG intact.

In addition, the language under this legislation reaches into the Agriculture Committee's jurisdiction and assesses Farm Credit Institutions to cover the cost of troubled financial institutions under their jurisdiction. I believe Farm Credit Institutions were not the cause of the current financial crisis and should not be penalized for the bad practices of the ones who were. Furthermore, the language under this legislation puts the Farm Credit System in the hands of the rules written by the Securities and Exchange Commission as opposed to the Farm Credit Administration. This provision will remove this Committee's jurisdiction on oversight of the underwriting and risk retention requirements for agricultural loans that are securitized by the Farm Credit System and Farmer Mac.

House Republicans, meanwhile, have come up with strong solutions to help our troubled financial sector. We have found a way to bring fiscal responsibility to our Federal Government and to the men and women on Wall Street. The solutions we have brought forth will bring an end to the reckless bailouts; it will look to restore fiscal responsibility and all the while protecting the taxpayers. One of our Founding Father's Thomas Jefferson once said "A wise and frugal government, which shall leave men free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned—this is the sum of good government."

Thank you and I look forward to working with my colleagues on the House Committee on Agriculture to make certain that this Committee takes jurisdiction on these issues under this legislation to ensure it protects our American farmers and the lending systems they use. Our financial crisis and economic woes should not be resolved by further government intervention and bureaucracy, especially on our American farmers who produce the safest, most economically viable food in the world.

The CHAIRMAN. I would like to welcome the witnesses, the Honorable Gary Gensler, the Chairman of the CFTC, back to the Committee. The Honorable Elisse Walter, the Commissioner with the Securities and Exchange Commission, welcome to the Committee, and the Honorable Leland Strom, the Chairman and CEO of the Farm Credit Administration. We appreciate you being with us today and, Chairman Gensler, we will start with you.

STATEMENT OF HON. GARY GENSLER, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Mr. GENSLER. Thank you, Chairman Peterson, Ranking Member Lucas, and Members of the Committee. Thank you for inviting me to testify today on financial reform proposals that might intersect with the Commodity Futures Trading Commission's oversight of markets.

I am also pleased to testify on behalf of the full Commission on this significant date in our nation's history. On this date actually in 1800, Congress held its first session in Washington, D.C. in the partially completed Capitol Building.

Last year's financial crisis taught us that large financial institutions were not only too big to fail, but also had become so interconnected that one firm's failure could affect the entire system. To address these risks the Administration proposed to fill the gaps in our financial regulatory structure and most importantly, in the over-the-counter derivatives marketplace. This Committee passed historic legislation to introduce comprehensive regulation that would lower risk and lessen some of the interconnectedness of these large financial institutions through the over-the-counter market. To further promote transparency and lower risk, I hope that by working together we will be able to add requirements that all standard contracts are brought to transparent trading venues, and if there are exceptions from clearing that we keep those narrowed to corporate end-users. Now, beyond the over-the-counter derivatives marketplace the Administration also focused on two features that are in the bill that you have asked me to testify on, one establishing comprehensive, consolidated supervision of financial firms and two, establishing a resolution regime, a way to wind down large financial firms so that if they are on the brink of failure they don't spill out into the economy.

Consolidated supervision, if I might just quickly note, that right now there is no effective Federal regulation that exists for holding companies of broad financial firms. This is what the Administration is trying to address. Through the 1956 Bank Holding Company Act, the Federal Reserve is the holding company regulator but it has to have a bank in the system. The two changes the Administration has talked about are making sure that the next AIG would have effective consolidated supervision, and that the supervision would be clear at the holding company level.

Second, is resolution authority. Resolution authority is something that the Federal Deposit Insurance Corporation currently has for banks. If the bank is near failing, they can step in, replace management and actually “haircut” contracts and modify contracts. This was not the case with AIG to the cost of $180 billion of U.S. taxpayers’ money last year. So under current law there was no way to step in as a receiver and modify the contracts with the counterparties, and thus we read in today’s newspapers there were no haircuts through AIG. So that is what the Administration is trying to address so that not 100¢ on the dollar is paid through these institutions, and that the FDIC would have resolution authority including both the entire bank holding company, but also these major financial firms that could pose risk to the system.

You have asked me how these reforms would affect the Commodities Exchange Act and the CFTC and let me say clearly they do affect the regulation of the futures markets and they affect them directly. First, under the proposal certain financial companies would be designated as identified financial holding companies and become subject to the heightened credential standards of the Federal Reserve Board. And though it may have been unintended, this appears to include securities in futures exchanges such as the New York Stock Exchange, the Chicago Mercantile Exchange, NASDAQ, all of which in some ways are regulated by the CFTC, and often jointly with the Securities Exchange Commission.

Second, the financial reform proposals establish a Financial Services Oversight Council that would not only designate holding companies for this heightened regulation, but also would designate activities or practices for similar oversight. And as many market activities that the SEC and CFTC oversee today are central to the economy or central to the financial system [I mean that is what we do really at the behest of the American public] this has potential of setting up multiple regulators, the Council, the Federal Reserve, the SEC and CFTC all intertwined in overseeing the markets that we currently oversee.

Third, financial reform proposals authorize the Federal Reserve to effectively regulate futures and securities clearinghouses, including setting standards and reviewing and approving clearinghouse rules. This also could result in dual regulation of clearinghouses.

I thank you for inviting me to testify today. I hope that my full testimony could be entered into the record, and I look forward to your questions.

[The prepared statement of Mr. Gensler follows:]

PREPARED STATEMENT OF HON. GARY GENSLER, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Good morning Chairman Peterson, Ranking Member Lucas and Members of the Committee. Thank you for inviting me to testify today about financial regulatory reform. This Committee has recently moved historic legislation to comprehensively regulate over-the-counter (OTC) derivatives. Today, you requested that I address other aspects of reform. Specifically, I will address how those proposals might intersect with the Commodity Futures Trading Commission’s (CFTC) oversight of markets. I am pleased to testify on behalf of the Commodity Futures Trading Commission (CFTC).

This morning’s hearing falls on the anniversary of a significant date in our nation’s history. On November 17th, 1800, the United States Congress held its first session in Washington, D.C. in the partially completed Capitol Building. More than 2 centuries ago, this body convened to address a great many challenges facing a young nation. We now face a new set of challenges as the nation continues to recover from last year's failure of the financial system and the financial regulatory system. We must work to ensure that we do not again face a similar crisis.

Last year's financial crisis taught us that American and global financial institutions had not only become what some called too big to fail, but also too interconnected to fail. Institutions have become so large and so intertwined with each other and the rest of the financial system that the government was forced to make untenable decisions last year. Effective regulatory reform requires mechanisms to handle firms whose failure could threaten the integrity of the entire financial system.

To address these risks, the Administration has proposed that we fill gaps in our financial regulatory structure, and most importantly, over-the-counter derivatives. I commend this Committee, as well as the House Financial Services Committee, for taking historic action last month to, for the first time, introduce regulation to the OTC markets.

OTC derivatives reform is just one important piece of the Administration's broader financial reform proposals, which address many of the lessons learned from last year's crisis. You have asked me to focus my testimony today on this issue as well as two other critical features to lower the risk to the American public presented by large financial institutions. The Administration has outlined two fundamental goals: establishing comprehensive, consolidated supervision of financial firms and establishing a resolution regime to wind down large, complex financial institutions that are on the brink of failure.

Over-the-Counter Derivatives

I believe that comprehensive OTC derivatives reform is a critical component of addressing the risks posed by large financial institutions. These institutions have become interconnected with literally thousands of counterparties located in every sector of our economy and in every state in our nation. The historic legislation passed by this Committee and the Financial Services Committee does this by comprehensively regulating the dealers, by requiring standard contracts to be traded on transparent trading venues and by moving the standard transactions off the books of financial institutions and into regulated clearinghouses. This would remove the transactions, once arranged, from the balance sheets of large financial firms, limiting the effect that one firm's failure could have on the system.

Building upon these critical features of the bill, I am hopeful that we can clarify exceptions such that all standard contracts are brought to transparent trade execution facilities even if Congress were to allow for exceptions from clearing requirements. Further, I am hopeful any exceptions from clearing would be narrowly limited to corporate end-users.

Consolidated Supervision

Another gap in our financial regulatory system relates to consolidated comprehensive supervision and regulation of major financial firms that could pose a risk to the financial system. Under the Bank Holding Company Act, passed in the 1950s, the Federal Reserve has supervisory authority over a bank holding company, but no effective Federal regulation exists for complex financial institutions that do not have a bank subsidiary. This left ineffective or even no Federal oversight of investment banking holding companies, insurance holding companies and other financial conglomerates. Also, even in the context of bank holding companies, the coordination and authority of the Federal Reserve, as the holding company regulator, in relation to other regulators overseeing particular subsidiaries needs to be enhanced.

The Administration and Congressional proposals address these issues by creating an overall prudential regulatory scheme for complex financial firms. This would ensure that one regulator, working in coordination with other regulators, could set capital, liquidity, risk management and other prudential standards for major financial firms. This would include setting standards for subsidiaries that otherwise are not subject to prudential regulation, as well as working with the primary regulators of subsidiaries that are currently regulated.

Resolution Authority

Another lesson of the financial crisis is that the Federal Government needs more flexible tools to wind down major financial firms without causing significant harm to the financial system as a whole or the economy. A successful financial regulatory system must provide for the orderly resolution of complex financial firms in a manner that mitigates the risk that one institution's collapse could cause the failure of other institutions. As the experience with Lehman Brothers showed, resolving such firms through the bankruptcy process can cause significant economic disruption and displacement. Results may differ from one jurisdiction to another, and the process may be cumbersome and unresponsive to the need to resolve an institution rapidly in the public interest.

Under current law, the Federal Deposit Insurance Corporation (FDIC) has the ability to step in and put a bank into receivership when it is about to fail. This allows them to step in as management, to modify contracts and to oversee the orderly resolution of the banks to best lower costs to taxpayers. The government, however, was limited in its ability to use similar resolution authorities at the holding company level or for financial institutions that were not banks. Such limitation was starkly evident when even $180 billion of our taxpayer dollars sent to AIG did not enable the government to modify contracts with AIG's counterparties or with their senior executives for compensation. In the case of AIG, counterparties were not required to take a haircut and many senior executives argued that their contracts should remain unaltered. Thus, the Administration and Congressional proposals seek to broaden the FDIC's resolution authority to include both the entire holding company of a bank as well as major financial firms that could pose a risk to the entire financial system.

Implications for CFTC—Regulation

In inviting me to testify here today, you have asked us to address how broader financial reform proposals interplay with the Commodity Exchange Act and the Commission's existing authorities. In that regard, I will outline three areas on which this Committee may want to focus as it further considers these proposals.

Inclusion of Exchanges and Clearinghouses under Consolidated Supervision

Under the proposed regime of consolidated comprehensive supervision, certain financial companies would be designated as "identified financial holding companies." The companies could become subject to heightened prudential standards set by the Federal Reserve Board. The Federal Reserve would be required by statute to set standards for such companies in the following areas: risk-based capital requirements; leverage limits; liquidity requirements; concentration requirements; prompt corrective action; resolution plans; and overall risk management.

The Federal Reserve Board's prudential supervision also would extend to the identified financial holding company's affiliates and subsidiaries. This would include intermediaries registered with the CFTC, such as futures commission merchants (FCMs), commodity pool operators (CPOs) or other intermediaries. The statute authorizes the Federal Reserve to prescribe heightened prudential standards for such subsidiaries. If the regulatory agency declines to implement the recommended standards, the statute authorizes the Federal Reserve to directly implement the heightened prudential standards.

While seeking to address the gaps and inconsistencies that exist in the current regulatory structure of complex, consolidated financial firms, the proposals also may have unintentionally encompassed robustly regulated markets such as securities and futures exchanges. While it does not appear that the intent of the legislation is to capture these entities, exchange companies nevertheless may be included as they are organized under holding companies and may meet a broad definition of financial company. As these holding companies and their subsidiaries, such as the New York Stock Exchange or the Chicago Mercantile Exchange, are currently comprehensively regulated by the Securities and Exchange Commission (SEC) and the CFTC, Congress may wish to clarify if they should be included in the Federal Reserve's prudential supervisory authority over holding companies.

Supervision of Financial Activities

The Administration and Congressional proposals include a new financial Services Oversight Council, which would include the heads of various Federal regulators. While the responsibilities and authorities of such a Council vary amongst the proposals, one of the proposed duties is to designate identified financial holding companies that would be subject to heightened prudential standards. In addition, some proposals recommend that the Council also identify activities or practices that the Council or the Federal Reserve would be authorized to subject to heightened prudential standards.

Such financial activity or practice could apply to a broad range of market activities, many of which are currently regulated by the SEC and the CFTC. If the SEC or the CFTC declined to implement the Federal Reserve's recommended standard, the Federal Reserve would have authority to directly implement its own recommendations.

Much of what the CFTC and SEC currently oversee in the financial markets could be determined by the Council to be systemically relevant. Thus, proposals to have a Council and the Federal Reserve involved as just described has the potential of setting up multiple regulators overseeing markets and market functions in the

United States. While it is important to enhance the oversight of markets by both the SEC and CFTC, I think Congress would want to closely consider whether it's best to set up multiple regulators for some functions.

Regulation of Payment and Clearing Systems

Administration and Congressional proposals also address oversight of payment and clearing systems. Currently, clearing organizations for futures and securities are overseen by the market regulators: the CFTC and the SEC. With respect to wholesale inter-bank payment and settlement systems, the Federal Reserve relies on a patchwork of authorities, largely derived from its role as a banking supervisor to help oversee them. There is no explicit statutory basis, however, for the Federal Reserve's oversight of these payment and settlement systems, and there is no uniform regulatory structure. It is important for reform to address such gaps in the regulatory structure.

Under the historic derivatives legislation passed by this Committee, important enhancements to the CFTC's oversight of clearing organizations were included, both for futures and OTC derivatives. These provisions clarify the Commission's ability to regulate clearinghouses, write rules and oversee the setting of margin to protect the financial integrity of clearinghouses. The bill also strengthened the core principles to bring them up to international standards. I believe that these are all important enhancements so that the CFTC can robustly regulate risk management and other aspects of futures and OTC clearinghouses.

The broader financial reform proposals importantly address a gap in oversight of payment systems by giving statutory authority to the Federal Reserve to oversee inter-bank payment systems. The proposals, however, go further by also authorizing the Federal Reserve to effectively regulate securities, futures and derivatives clearinghouses. The Federal Reserve would be able to set standards and review and approve rules to address risk management policies and procedures, margin and collateral requirements, counterparty default policies and procedures, timely clearing and settlement of transactions, capital and financial resource requirements.

In addition to prescribing standards, the Federal Reserve would have the authority to directly participate in examinations, make recommendations for enforcement and implement those recommendations in certain circumstances. Thus, the proposals may effectively set up a system of dual regulation of clearinghouses between the market regulators on the one hand and the Federal Reserve on the other.

Ever since President Roosevelt called for the regulation of the commodities and securities markets in the early 1930s, the CFTC (and its predecessor) and the SEC have each regulated the clearing functions for the exchanges under their respective jurisdiction. This well-established practice of having the agency which regulates an exchange or trade execution facility also regulate the clearinghouses for that market should continue as we extend regulations to cover the OTC derivatives market. Market regulation of clearing, customer protection, segregation rules, trading venues and other components are so closely intertwined that Congress has for decades had them regulated by single regulators—either the CFTC or the SEC. Furthermore, Congress has stated expressly that the purpose of the Commodity Exchange Act is to ensure the financial integrity of all transactions subject to the CFTC's jurisdiction and the avoidance of systemic risk.

Additional Items

In addition to the three areas that I have outlined above, since I last testified before this Commission, the CFTC and the SEC announced 20 joint recommendations to tailor our regulations in the best interest of the American public. I look forward to working with this Committee and Congress on a number of these proposals that will require changes in statute. One important proposal is to establish a more efficient process for the SEC and CFTC product approval, including an ability to resolve any differences by referring such instances to the full Commissions and, if necessary, a Federal court of appeals. While the various regulatory reform proposals designate the Council as the arbitrator of an interagency dispute involving products, among other things, I believe that our joint recommendation is a preferred approach.

Last, one aspect of the proposed resolution authority may cause an unintended consequence when applied to a financial company that is a member of a derivatives or securities clearing organization. The resolution authority provisions provide for the suspension of contract obligations for entities under receivership. This means that obligations of clearing members would be suspended until 5 p.m. on the business day after a receiver is appointed. Suspending a clearing member's obligations, even for a day, would preclude a derivatives or securities clearing organization from liquidating a clearing member's contracts during that time. Collateral that might have been sufficient to fund an immediate close-out might then be inadequate to cover the losses of a delayed close-out, particularly in the case of a financial institution whose failure has system wide effects.

Closing

One year ago, the financial system failed the American public. The financial regulatory system failed the American public. We must now do all we can to ensure that it does not happen again. While a year has passed and the system appears to have stabilized, we cannot relent in our mission to vigorously address weaknesses and gaps in our regulatory structure. On the 209th anniversary of the first session of Congress in the new Capitol building, we have a profound responsibility to address the causes of the last crisis and work to prevent the next one.

I thank you for inviting me to testify today. I look forward to working with you in the coming months to implement comprehensive reform of our financial regulatory system. I will be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much.

Ms. Walter.

STATEMENT OF HON. ELISSE B. WALTER, COMMISSIONER, U.S. SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D.C.

Ms. WALTER. Thank you, Mr. Chairman. Chairman Peterson, Ranking Member Lucas, and Members of the Committee, I am pleased to have the opportunity to testify today concerning the discussion draft of the Financial Stability Improvement Act.

This legislation currently being marked up by the House Financial Services Committee would make significant changes to the regulation and resolution of the large interconnected financial firms. There are many lessons we can learn from the recent financial crisis. In particular, these events demonstrated the need to watch for, warn about and eliminate conditions that could lead to a market seizure or a cascade of failures that put the entire financial system at risk. While traditional financial oversight and regulation can help prevent systemic risks, this regulatory structure failed to identify and address systemic risks that developed over recent years. The current structure was hampered by regulatory gaps that permitted regulatory arbitrage and failed to ensure adequate transparency.

Given the shortcomings of the current regulatory structure, I believe that there is a need to establish a framework for macro-prudential oversight that looks across markets and avoids the silos that exist today. Within that framework, I believe a hybrid approach consisting of a powerful council of regulators and a single systemic risk regulator is most appropriate. Such a structure would best ensure clear accountability for systemic risk, enable a strong and nimble response should adverse circumstances arise, benefit from broad and differing perspectives and minimize unintended consequences.

In establishing and implementing such an approach, however, policymakers should fully consider its limitations and risks. No one can perfectly forecast future events and free markets can be faster and more informed than regulators, thus even an improved system will not identify every risk and fashion perfect solutions before financial crises develop. Moreover, in crafting a more stable system, policymakers might unintentionally foster a system that is unfair or unworkable. This can occur over time. For example, focusing on system risk could slowly weaken other important protections or lead to over-regulation. It can also take place quickly. For example, in times of crisis regulators might feel compelled to change rules or pick winners and losers.

To minimize these adverse consequences, I recommend that the discussion draft be strengthened and clarified in several key areas to ensure that it does not unintentionally sacrifice other important market protections, or create new regulatory arbitrage opportunities or competitive advantages that could foster rather than reduce systemic risk. My written testimony provides specifics. I would like to briefly emphasize a few key points.

First, to help ensure more robust risk management policies while minimizing competitive imbalances and unintended consequences, Congress should vest greater prudential risk management policy-making power with the Financial Services Oversight Council. Vesting such power in the Council would assure that these policies benefit from the input and experience of multidisciplinary experts with authority over and experience in dealing with various types of financial institutions. More than any single regulator, the Council would be able and should be empowered to make informed, balanced macro-prudential policy decisions.

Second, the discussion draft should ensure that the systemic risk rules do not undercut necessary consumer and investor protections. The best approach to the application of new systemic risk powers is to ensure that any new framework be appropriately tailored to systemic risks, additive to existing and future rules and protections, and work through an open and transparent process to avoid unintended consequences.

Third, the discussion draft should ensure that existing clearing agency requirements are not eliminated and existing capital standards are not lowered. And, finally, the discussion draft language regarding the identification and regulation of systemically important activities is very broad and could apply to many small institutions that do not themselves pose any systemic risk. Congress should consider defining the term *activities* and ensure once again that it is the Council which is charged with identifying those activities and developing processes to address them. Functional regulators could then implement these policies through traditional, transparent rulemaking processes with the Federal Reserve Board serving as a second set of eyes. In conclusion, I believe that we can do a great deal to protect against systemic risk by filling gaps in our regulatory system, reducing regulatory arbitrage by ensuring that similar products are regulated similarly, and ensuring that a new macro-prudential oversight regime is able to raise standards for entities that might be systemically important.

Thank you again for the opportunity to present my views. I look forward to working with the Committee and the Congress as you consider these issues, and I would be pleased to answer any questions.

[The prepared statement of Ms. Walter follows:]

PREPARED STATEMENT OF HON. ELISSE B. WALTER, COMMISSIONER, U.S. SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D.C.

Chairman Peterson, Ranking Member Lucas and Members of the Committee:

I am pleased to have the opportunity to testify concerning the Discussion Draft of the Financial Stability Improvement Act (Discussion Draft).[1] This legislation, currently being marked-up by the House Financial Services Committee,[2] would make significant changes to the regulation and resolution of large, interconnected financial firms whose disorderly failure might put the financial system at risk.

Lessons from the Recent Financial Crisis

There are many lessons we can learn from the recent financial crisis and events of last fall. In particular, these events demonstrated the need to watch for, warn about, and eliminate conditions that could cause a sudden shock to lead to a market seizure or cascade of failures that put the entire financial system at risk. While traditional financial oversight and regulation can help prevent systemic risks from developing, it is clear that this regulatory structure failed to identify and address systemic risks that were developing over recent years. The current structure was hampered by regulatory gaps that permitted regulatory arbitrage and failed to ensure adequate transparency. This contributed to excessive risk-taking by market participants, insufficient oversight by regulators, and uninformed decisions by investors.

Given the shortcomings of the current regulatory structure, I believe there is a need to establish a framework for macro-prudential oversight that looks across markets and avoids the silos that exist today. Within that framework, I believe a hybrid approach consisting of a single systemic risk regulator and a powerful council of regulators is most appropriate. Such an approach would provide the best structure to ensure clear accountability for systemic risk, enable a strong, nimble response should adverse circumstances arise, and benefit from the broad and differing perspectives needed to best identify developing risks and minimize unintended consequences.

The Discussion Draft is the latest in a series of significant legislative proposals designed to reform the financial system by filling regulatory gaps, improving investor and consumer protection and updating our financial regulatory apparatus to improve our ability to identify and reduce systemic risk. The Discussion Draft would enable regulators to raise capital requirements and impose heightened prudential standards on large, interconnected firms, and unwind—in an orderly fashion—those that have failed. It also would establish a council of regulators to identify certain large interconnected firms that require additional oversight, provide significant new information to the Federal Reserve Board, and empower the Federal Reserve Board to impose a host of additional requirements on institutions and activities deemed systemically important.

Strengthening the Discussion Draft

Given the recent financial crisis and the weaknesses in our financial regulatory framework that it helped identify, new comprehensive oversight over systemically important institutions and activities is needed, and the Discussion Draft is an important step toward achieving that goal.

In establishing (and implementing) such an approach, however, policymakers should fully consider its limitations and risks. Because no one—not even a systemic risk regulator or council—can perfectly forecast future events, and free markets can be faster and more informed than regulators, even an improved system will not identify every risk and fashion perfect solutions before financial crises develop. Moreover, there are also risks that, in an effort to craft a more stable system, policymakers might unintentionally foster a system that is unfair or unworkable. This can occur over time: for example, focusing on "systemic risk" could slowly weaken other important protections or lead to over-regulation. It can also take place quickly: for example, in times of crisis, regulators might feel compelled to change rules or pick winners and losers.

To minimize these risks, we recommend that the Discussion Draft be strengthened and clarified in several key areas to ensure that it does not unintentionally sacrifice other important market protections or create new regulatory arbitrage opportunities or competitive advantages that could foster—rather than reduce—systemic risk. To address these issues, Congress should consider the following:

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[1] This testimony is delivered on my own behalf, as a Commissioner of the Securities and Exchange Commission. The full Commission has not voted on this testimony, but Chairman Schapiro endorses this testimony.

[2] Because this legislation is being currently marked-up, this testimony relates to the circulated Discussion Draft. We recognize that the bill is changing and some of these issues may still be addressed by the Committee.

1. Strengthen the Council to Improve Risk Management Rules and Reduce Moral Hazard.

Policies and standards designed to address systemic risk should benefit from the perspectives of multiple regulators with different expertise, experience and missions, be formulated with an understanding of their direct and indirect impacts on other parts of the markets, and be tailored so that they do not inadvertently favor large institutions relative to small institutions (thereby unintentionally fueling, instead of reducing, systemic risk). To help ensure more robust risk management policies that fully consider and minimize any competitive imbalances and unintended consequences that might flow as a result of certain large institutions being "systemically important," Congress should vest greater prudential risk management policy-making power with the Financial Services Oversight Council ("Council"). Vesting such power in the Council would assure that these policies benefit from the input and experience of multi-disciplinary experts with authority over, and experience in dealing with, various types of financial institutions.

In particular, the Council should have the tools needed to identify emerging risks, be able to establish more stringent standards for leverage and risk-based capital for systemically important institutions, and be empowered to serve as a ready mechanism for identifying emerging risks and minimizing the regulatory arbitrage that can lead to a regulatory race to the bottom. This authority could include the ability to direct functional regulators to promulgate rules or review potentially systemic risks or the risks posed by systemically important institutions.

The Council should have authority to identify institutions, practices, and markets that create potential systemic risks and set or recommend standards for liquidity, capital, and other risk management practices at systemically important institutions. The Federal Reserve Board could be responsible for monitoring risks at particular institutions and ensuring that these standards are implemented. This hybrid approach can help minimize systemic risk in a number of ways:

- The Council would ensure that different perspectives are brought to bear in identifying risks that an individual regulator might miss or consider too small to warrant attention. These perspectives also would improve the quality of systemic risk requirements by increasing the likelihood that second-order consequences are identified and considered.
- The financial regulators on the Council would have experience regulating different types of institutions (including smaller institutions) and different products, so that the Council would be more likely than any single regulator to ensure that risk-based capital and leverage requirements do not unintentionally foster systemic risk by advantaging the largest institutions.
- The Council would include multiple agencies, thereby significantly reducing potential conflicts of interest (e.g., conflicts with other regulatory missions).

The Council also would monitor the development of financial institutions to prevent the creation of institutions that are either "too-big-to-fail" or "too-big-to-succeed." We must remain vigilant against the risks posed by institutions whose businesses are so large and diverse that they have become, for all intents and purposes, unmanageable. Given the potential ongoing oversight role of any individual systemic risk regulator, it is important to have another level of impartial analysis take place through a multi-member Council. Accordingly, the Council is vital to ensure that our desire to minimize short-term systemic risk does not inadvertently undermine our system's long-term health. To ensure the independence of the Council, Congress should also consider requiring it to have an independent Chair and permanent staff.

Although the Discussion Draft strengthens the Council in a number of important ways, a real risk remains that market participants will favor large interconnected firms, particularly those identified as systemically important, over smaller firms of equivalent creditworthiness, because of the belief that the government will step in and support such an institution, its bondholders, or counterparties in times of crisis. Although the Discussion Draft seeks to address this imbalance through heightened prudential standards and a new resolution regime, the new requirements are not set forth with sufficient specificity to determine whether they will adequately address the risks. Similarly, the new resolution regime does not clearly set forth how bondholders or counterparties will be treated. If bondholders or counterparties believe they can get a better deal under the new resolution regime, they may be more willing to lend to these institutions even if, relatively speaking, they are less credit worthy than other, smaller institutions. This would lower the cost of capital for larger interconnected institutions, increasing their size and potentially creating more systemic risk.

2. Ensure That New Systemic Risk Rules Do Not Undercut Needed Consumer and Investor Protections.

Although the Discussion Draft states that new rules can only *supersede* existing conflicting less stringent regulatory requirements to the extent of the inconsistency, Congress should make clear that needed investor and consumer protections remain fully in place. The best approach to the application of new systemic risk powers is to ensure that any new systemic risk framework be appropriately tailored to such risks, *additive* to existing and future rules and protections, and works through an open and transparent process to avoid unintended consequences.

3. Ensure that Existing Clearing Agency Requirements Are Not Eliminated.

A new systemic risk regulator should act as a second set of eyes over all systemically important entities (such as systemically important securities clearing agencies and other clearinghouses for financial products), participate in examinations, review risk management practices, and evaluate whether the existing functional regulation is sufficiently protective. However, Subtitle E of the Discussion Draft as currently formulated could fundamentally undermine the existing regulation and oversight of clearing agencies that are crucial to the overall competitiveness of U.S. securities markets. As currently drafted, Subtitle E would provide the Federal Reserve Board with the authority "by regulation or order" to "prescribe or issue risk management standards governing the operations of identified financial market utilities and the conduct of identified activities by financial institutions." This language would include clearing agencies and a host of other entities that might be subject to other regulatory requirements, and could be exercised subject only to "consultation" with the Council and existing supervisory entities.

In addition to potentially being a wholesale change in the way such institutions are regulated and supervised, it is unclear how these new standards would interact with existing risk management requirements or other important policy goals. For example, under existing laws, securities clearing agencies must provide fair access to and cannot discriminate among market participants seeking to become members of the clearinghouse. This requirement fosters competition and addresses potential conflicts of interest, but is not clearly protected under the language in Subtitle E. Although there may be a benefit to Congress empowering a regulator to act as a second set of eyes to reduce risks over certain institutions, this authority should not automatically override other important policy goals like transparency and fair competition that promote investor protection and the competitiveness of U.S. securities markets.

To ensure that the supervision of these entities and concerns about systemic risk are appropriately balanced, these standards (as with others) could be established by the Council, implemented by the functional regulator, and designed to supplement but not supersede existing regulation and protections. The Council should coordinate with the Federal Reserve Board and functional regulators to eliminate regulatory gaps in a manner that reduces duplicative requirements. To the extent a conflict exists between the Federal Reserve and the functional regulator regarding the standards to be applied, the Council should resolve the conflict so that all regulatory goals are achieved, including safety and soundness.

4. Ensure That Existing Capital Requirements Are Not Lowered.

Although the Discussion Draft calls for heightened prudential standards for identified financial holding companies, the language should be clarified to ensure that these standards are heightened in a meaningful sense to reduce the risk to the system appropriately and ensure that counterparties do not favor large institutions because they are "too big to fail"—fueling greater size and risk at the expense of smaller more nimble competitors. The Discussion Draft currently defines heightened prudential standards as higher than for a normal financial holding company. It is not clear that this standard is higher than would apply today for a particular regulated entity. Accordingly, the Discussion Draft should be clarified to ensure that these new authorities cannot lower any standard that would otherwise apply to a company, including standards set by functional regulators.

For example, the Discussion Draft could permit the Federal Reserve Board to impose bank-like capital requirements on a broker-dealer subsidiary of a Bank Holding Company (BHC). Such a requirement could (1) lower capital requirements for a broker-dealer in a BHC—potentially putting customer accounts at risk in the case of failure; and (2) provide a competitive advantage for broker-dealers within a BHC relative to broker-dealers outside a BHC. This could have the effect of increasing systemic risk by permitting the big to get bigger.

Therefore, the Discussion Draft should be clarified that Federal Reserve Board (or any other entity) cannot lower or reduce capital and other requirements for a regulated entity. This will better protect customers and investors and ensure that broker-dealers and other companies that are within large institutions do not receive an additional competitive advantage relative to smaller, less systemically risky, entities.

5. Revise Approach for Identifying and Regulating Systemic "Activities".

The Discussion Draft permits the regulation of systemically important "activities" and establishes multiple mechanisms for doing so (see subtitles B and E). This language is very broad and could apply to many small institutions that do not themselves pose any systemic risk. To minimize confusion, reduce the potentially unlimited reach of this grant of authority, and give affected parties due process, Congress should:

- Ensure that the Council identifies systemically important "activities" and develops policies to address them. Where the affected entities are already subject to a regulatory regime, the Council could direct the functional regulators to implement these policies, with the Federal Reserve Board as a "second set of eyes" over already regulated entities. This will ensure that the regulation of activities is not unchecked, and that transparent, traditional rulemaking requirements (including public notice and comment) are followed; and
- Consider defining what the term "activities" means in this context to provide more guidance to regulators and reduce the likelihood that this authority will expand over time.

6. Protect Independent Accounting Standards.

I am pleased that the Discussion Draft does not alter existing protections that ensure the independence of accounting standard setting, but would like to raise the issue in anticipation of possible amendments on the topic. Investors must have transparent, unbiased and comparable information about the companies in which they choose to invest. Providing investors with this information, to assist them in allocating capital to its most efficient use, is essential to the health of our capital markets. High quality, consistent accounting standards provide the framework for investors to make the comparisons of investment opportunities and perform the analysis necessary to make informed investment decisions.

Some have argued that prudential regulators should have a greater role in the setting of accounting standards or that accounting standards should be tied to "systemic risk." This would be a grave mistake. Accounting standards are measurement and disclosure tools that convey information about financial performance and condition, tools for investors and investor protection—not for institution protection. To continue to be useful, accounting standards should endeavor be the same across the markets and market participants, just as they should be consistently applied over time. As noted above, one key anchor in this process to guard against systemic risk must be a requirement that standards be raised, not lowered. Establishing a new process that would permit regulators to weaken accounting standards, reduce disclosure or allow the basis by which economic performance is measured to fluctuate with the economic environment, could provide a new avenue for particular institutions to lobby for—and potentially receive—special treatment.

Conclusion

While remaining vigilant to the inherent tensions and risks, I believe that we can do a great deal to protect against systemic risk by (1) filling gaps in our regulatory system; (2) reducing regulatory arbitrage by ensuring that similar products are regulated similarly; and (3) ensuring that a new macro-prudential oversight regime have the ability to raise standards for entities that might be systemically important.

Thank you again for the opportunity to present my views. I look forward to working with the Committee and the Congress as it considers these issues and I would be pleased to answer any questions.

The CHAIRMAN. Thank you very much, Commissioner.

Mr. Strom.

STATEMENT OF HON. LELAND A. STROM, CHAIRMAN AND CEO, FARM CREDIT ADMINISTRATION, McLEAN, VA

Mr. STROM. Chairman Peterson, Ranking Member Lucas, and Members of the Committee, I am Leland A. Strom, Chairman and CEO of the Farm Credit Administration, and I thank you also for this opportunity to testify in front of you today.

I serve on the FCA Board with my colleagues, Nancy Pellett and Kenneth Spearman. FCA is an independent, arms-length agency responsible for examining and regulating the institutions of the Farm Credit System, including the Federal Agricultural Mortgage Corporation. The FCS is a network of borrower-owned, financial institutions that provide credit to farmers, ranchers, rural residents, agriculture and rural utility cooperatives, and other eligible borrowers. Mr. Chairman, this is a very timely and important hearing today regarding the Financial Stability Improvement Act discussion draft.

FCA supports Congressional efforts to strengthen regulation and supervision of financial markets, as every American has been affected by the crisis in our global financial system. I want to emphasize that the System institutions remain safe and sound and did not contribute to the recent financial crisis. This was because the Agriculture Committee's oversight and the significant reforms made to the Farm Credit Administration and the System as a result of the agricultural credit crisis of the 1980s. This included restructuring FCA as an independent, arms-length regulator with formal enforcement powers, providing borrower rights to System borrowers, and establishing the Farm Credit System Insurance Corporation to protect System investors and resolve failed System institutions.

The draft legislation is a comprehensive proposal designed to strengthen regulation and supervision of financial markets and some of the largest, most complex financial institutions. As proposed, the legislation does not directly amend the Farm Credit Act. However, a close reading reveals potential conflict with the Farm Credit Act as it relates to the credit risk retention requirements for securitizations. In addition, the discussion draft could create uncertainty in the definition of a *financial company* and other parts that potentially include Farm Credit System institutions in the regulatory structure or activities authorized.

Over the past weekend, my staff had productive discussions with key policy officials at the Treasury. They informed FCA that it was not their intention to include FCS institutions. Further, they committed to work quickly to develop clarifying language to ensure that this intent is carried out in the proposal and does not create a jurisdictional conflict. In our discussions, we expressed concerns in three areas which they agreed to remedy.

First, the Financial Services Oversight Council, composed of all Federal financial institutions regulatory agencies except the Farm Credit Administration and our Insurance Corporation, is established to monitor and address systemic risk to the financial stability of the United States. The far-reaching authority and regulatory activities of this Council extend broadly to any *financial company,* as defined. Institutions of the System would appear to meet that definition. However, Treasury has drafted a proposed amendment to the *financial company* definition to clarify that the authorities of the Oversight Council do not extend to Farm Credit System institutions, including Farmer Mac, or impact the authorities of FCA.

Second, subtitle F of the draft legislation would require creditors and those that securitize loans to retain ten percent of the credit risk on any loan that is transferred, sold, conveyed or securitized. This new requirement would directly apply to the securitization activities of Farmer Mac and perhaps to other activities of System institutions. It is important to note that in 1996, Congress repealed a similar ten percent retention requirement for loans sold to Farmer Mac. Clarifying that language is necessary to ensure enforcement of the credit risk retention requirements would not fall to another agency, and that FCA retains jurisdictional authority in these matters.

Third, subtitle G of the draft legislation would provide the FDIC enhanced resolution authority for financial companies that pose systemic risks to the financial stability of the United States. Although the draft seems to imply that this authority does not cover System institutions, this should be clarified. A related issue is confusion over the authority of the FDIC to assess System banks and associations that already pay premiums to the Farm Credit System Insurance Corporation in order to cover the costs of resolving large interconnected financial companies that fail. Treasury, again, has drafted a proposed amendment to exclude all FCS institutions from the definition of *financial company* used for enhanced resolution and assessment authorities.

Mr. Chairman, thank you again for this opportunity to participate in today's hearing. I look forward to commenting further on the draft legislation, including any revised proposals, and working with this Committee and Treasury on this matter. As new standards evolve for other financial institutions, you may require changes in the regulatory oversight of the Farm Credit System and Farmer Mac. As appropriate, the Farm Credit Administration is prepared to discuss with this Committee suggestions for enhancing FCA and Insurance Corporation statutory authorities. This concludes my statement, and I will be happy to answer your questions.

[The prepared statement of Mr. Strom follows:]

PREPARED STATEMENT OF HON. LELAND A. STROM, CHAIRMAN AND CEO, FARM CREDIT ADMINISTRATION, MCLEAN, VA

Mr. Chairman, Members of the Committee, I am Leland A. Strom, Chairman and Chief Executive Officer of the Farm Credit Administration (FCA or Agency). On behalf of my colleagues on the FCA Board, Nancy Pellett of Iowa, and Kenneth Spearman of Florida, and the dedicated men and women of the Agency, I want to thank the Committee for this important and timely hearing regarding the Financial Stability Improvement Act Discussion Draft (FSIA).

The FSIA is a comprehensive proposal designed to strengthen regulation and supervision of financial markets and some of the largest, most complex financial institutions. The FSIA establishes a regulatory framework to monitor and oversee the stability of the financial system and address stability threats. As proposed, the legislation does not directly amend the Farm Credit Act of 1971, as amended, (Farm Credit Act), which provides the primary statutory authority for the establishment and regulation of institutions of the Farm Credit System (FCS or System), including the Federal Agricultural Mortgage Corporation (Farmer Mac). However, a close reading of the FSIA reveals direct conflict with the Farm Credit Act as it relates to the requirement for credit risk retention in the context of securitizations. In addition, the FSIA creates uncertainty in the definition of a financial company and other parts that potentially include FCS institutions in the regulatory structure and activities authorized by the FSIA.

Over the past weekend, my staff had productive discussions with key policy officials at the Treasury. They told us that it was not Treasury's intent to cover FCS institutions in the FSIA. They committed to work with my staff over the next several days to develop clarifying language for the FSIA to insure that their intent is carried out and to ensure the FSIA does not create a jurisdictional conflict. I look forward to working with the Committee and Treasury on addressing these matters. The Agency's more complete description and analysis of the FSIA is included later in my testimony.

Mission of the Farm Credit Administration

FCA is an independent agency responsible for examining and regulating the banks, associations, and related entities in the FCS, including Farmer Mac. The FCS finances almost 39 percent of all U.S. farm business debt, providing credit to more than 450,000 eligible agricultural borrowers through a nationwide framework of five banks and 90 local retail associations. In addition, the System finances cooperatives, agribusinesses, rural utilities, and rural residents. The System also has a special mission to develop programs and make special efforts to serve young, beginning, and small (YBS) farmers and ranchers.

As directed by Congress, FCA's mission is to ensure a safe, sound, and dependable source of credit and related services for agriculture and rural America. The Agency accomplishes its mission in two important ways.

First, FCA ensures that FCS institutions, including Farmer Mac, operate in a safe and sound manner and comply with applicable law and regulations. Our examinations and oversight strategies focus on an institution's financial condition and any material existing or potential risk. We evaluate the ability of management and board to direct operations in each institution. We also evaluate each institution's compliance with laws and regulations to serve all eligible borrowers, including YBS farmers and ranchers. If a System institution violates a law or regulation or operates in an unsafe or unsound manner, we use our supervisory and enforcement authorities to ensure appropriate corrective action.

Second, FCA develops policies and regulations that govern how System institutions conduct their business and interact with customers. FCA's policy and regulation development focuses on protecting System safety and soundness, implementing the Farm Credit Act, providing minimum requirements for lending, related services, investments, and capital, and ensuring adequate financial disclosure and governance. In addition, FCA has adopted regulations to implement statutory borrower rights provisions, including actions for restructuring a distressed agricultural loan before initiating foreclosure, and other borrower protection rules. The policy development program includes approval of corporate charter changes, System debt issuance, and other financial and operational matters.

As the arms-length regulator of the FCS, the Agency will continue to focus on ensuring that the System remains safe and sound by promulgating regulations, providing appropriate guidance and maintaining strong and proactive examination and supervisory programs.

Farm Credit System

The FCS is a government-sponsored enterprise (GSE) created by Congress in 1916 to provide American agriculture with a dependable source of credit. The FCS is a nationwide network of cooperatively organized banks and associations that are owned and controlled by their borrowers, serving all 50 states and the Commonwealth of Puerto Rico. The System provides credit and other services to agricultural producers and farmer-owned agricultural and aquatic cooperatives. It also makes loans for agricultural processing and marketing activities, rural housing, farm-related businesses, rural utilities, and foreign and domestic companies involved in international agricultural trade.

Despite the unprecedented instability in the U.S. and global financial markets and a recessionary world economy, the overall condition and performance of the System remains fundamentally safe and sound. As of September 30, 2009, total FCS assets were $215 billion and loans exceeded $162 billion.

While supporting significantly higher provisions for loan losses of $733 million, the System maintained positive profitability with net income of $2.02 billion for the first 9 months of 2009, compared to $2.37 billion for the same period in 2008. Improved net interest margins and spreads contributed to this earnings performance, and were primarily caused by better conditions in the debt markets and the lower interest rate environment.

Total capital grew 8.1 percent, or $2.2 billion, to $29.3 billion at September 30, well above the 0.5 percent and 0.4 percent growth in loans and total assets, respectively. Capital as a percentage of total assets grew from 12.7 percent at December 31, 2008, to 13.6 percent at September 30, 2009. Capital increased primarily due to net income earned and retained, and a decrease in accumulated other comprehensive loss, but this may be impacted by year-end patronage programs.

Asset quality overall remained acceptable at September 30, 2009, with 94.8 percent of the loan portfolio classified "acceptable" and "other assets especially mentioned," down from 97.1 percent at year end 2008. Asset quality in stressed agricultural sectors remains under pressure, and further deterioration in System credit quality is expected.

In the first 9 months of 2009, nonaccrual loans increased $1.9 billion to $4.1 billion, and now represent 2.78 percent of the loan portfolio, compared to 1.52 percent at year end 2008. However, the System's capital and loss reserves provide sufficient overall risk-bearing capacity. The nonperforming assets to risk funds ratio was 14.7 percent at September 30, 2009, and the adverse assets to risk funds ratio was 28.2 percent.

Farm Credit System Insurance Corporation

The Farm Credit System Insurance Corporation (FCSIC or Corporation) was established by the Agricultural Credit Act of 1987. The Corporation insures the timely payment of principal and interest on System-wide consolidated joint and several debt obligations issued to investors. FCSIC holds the Farm Credit Insurance Fund (Insurance Fund) and collects annual insurance premiums from System banks and associations. At September 30, 2009, the Insurance Fund totaled $3.2 billion and System-wide debt securities were $177.1 billion. The Corporation also serves as conservator or receiver of any System bank or association placed into conservatorship or receivership by the FCA Board. Similarly, it is empowered to provide assistance to System banks and direct lender associations suffering financial difficulties subject to a cost-test limitation. As a result, the Corporation protects investors in System-wide debt securities.

Federal Agricultural Mortgage Corporation

Congress established Farmer Mac in 1988 to provide secondary market arrangements for agricultural mortgage and rural home loans. Farmer Mac creates and guarantees securities and other secondary market products that are backed by mortgages on farms and rural homes, including certain USDA guaranteed loans. The 2008 Farm Bill expanded Farmer Mac's program authorities by allowing it to purchase and guarantee securities backed by eligible rural utility loans made by cooperative lenders. Through a separate office required by statute (Office of Secondary Market Oversight), the Agency examines, regulates, and monitors Farmer Mac's operations.

Farmer Mac is a separate GSE devoted to agriculture and rural America. By statute, in extreme circumstances Farmer Mac may issue obligations to the U.S. Treasury Department, not to exceed $1.5 billion, to fulfill the guarantee obligations of Farmer Mac Guaranteed Securities. The Insurance Fund does not back Farmer Mac's securities, and the System is not liable for any Farmer Mac obligations.

Total program business of loans, guarantees and commitments as of September 30, 2009, stood at $10.8 billion. Farmer Mac's net income for the 9 months ended September 30, 2009 was $76.8 million, and its capital surplus over the statutory minimum was $126 million, up from $100 million as of June 30, 2009.

Farmer Mac's nonperforming assets decreased to $84.8 million, or 1.94 percent of the portfolio, as of September 30, 2009. Its 90 day delinquencies were $59.4 million, or 1.36 percent of the portfolio. The reduced levels of nonperforming assets and delinquencies as of September 30, 2009 from earlier dates in the year reflect sales of acquired property previously owned.

Farmer Mac was also impacted last year by the financial system stress. Losses on certain investments required Farmer Mac to raise additional capital during the Fall of 2008 and management changes were made by its Board of Directors. Farmer Mac continues to restructure its balance sheet and further strengthen its operations and risk bearing capacity to focus on fulfilling its mission.

Examination Programs for FCS Banks and Associations

The Agency's highest priority is to maintain appropriate risk-based oversight and examination programs. FCA's programs have worked well over the years and have contributed to the present overall safe and sound condition of the System, but we must continue to evolve and prepare for the increasingly complex nature of financing agriculture and rural America. We are hiring more examiners and increasing onsite presence and oversight of FCS institutions in response to the changing and more risky environment we face today.

We evaluate each institution's risk profile on a regular basis. The Financial Institution Rating System (FIRS) is the primary risk categorization and rating tool used by examiners to indicate the safety and soundness of an institution.

FCA Actions to Mitigate Risk

To address the heightened risk environment facing the System, we have told FCS boards and management that solid portfolio management and underwriting are paramount in these uncertain times and have emphasized the importance of portfolio stress testing. The Agency's examiners are increasing onsite presence and placing special emphasis on testing and evaluating:

- Internal audit and credit review programs to ensure they are adequate and timely reflect each institution's risks;
- Portfolio management and stress testing functions to ensure they are appropriate for the institution;
- Large loans held by multiple institutions to ensure underwriting, servicing, and independent credit decisions are made by purchasing FCS institutions and that representations and warranties of the FCS originating lender are appropriate;
- Adequacy of the Allowance for Loan Losses and loan loss provisions;
- Capital adequacy and capital management; and
- Adequacy and quality of liquidity at System banks.

Working With Financially Stressed Borrowers

Agriculture involves significant inherent risks and volatility because of many factors, including adverse weather, changes in government programs, international trade issues, fluctuations in commodity prices, and crop and livestock diseases. The significant risks in agriculture can sometimes make it difficult for borrowers to repay loans. The System (under provisions of the Farm Credit Act) provides borrowers certain rights when they apply for loans and when they have difficulty repaying loans. For example, the Act requires FCS institutions to consider restructuring a distressed agricultural loan before initiating foreclosure. It also provides borrowers an opportunity to seek review of certain credit and restructuring decisions. If a borrower's loan goes through foreclosure, the Farm Credit Act and implementing regulations provide borrowers that qualify the opportunity to buy back their property at the appraised fair market value or make an offer to buy the property back at less than this value.

FCA enforces the borrower rights provisions of the Farm Credit Act and examines institutions to make sure that they are complying with these provisions. It also receives and reviews complaints from borrowers regarding their rights as borrowers. Through these efforts, FCA ensures compliance with the law and helps FCS institutions continue to provide sound and constructive credit and related services to eligible farmers and ranchers.

Recent Deterioration in the Economic Environment

The United States is slowly recovering from a severe global recession. The economic downturn began in late 2007; it worsened in 2008 from significant financial market instability; then it extended into 2009 with increased unemployment, lost consumer confidence, and continued housing sector weaknesses. The government responded to this crisis with significant programs to stabilize the financial markets and stimulate economic growth.

The confluence of economic and financial and market events resulted in the System facing funding challenges in the Agency debt markets, particularly for term debt. Due to the strong condition of the FCS and its status as a GSE, it was able to issue short-term debt securities, even though the issuance of longer-term debt became much more difficult. The financial environment also negatively impacted the System's cost of funding, as spreads relative to Treasuries increased significantly. Early in 2009, the System faced increased costs and limited liquidity access for term debt funding (5 years maturity or greater). For instance, the spread to comparable Treasuries for 2 year FCS debt peaked at 230 basis points compared to typical levels before the financial market crisis, ranging from 20 to 30 basis points. However, as the year progressed, there was steady improvement in market access for term financing and generally low interest rates overall, despite relatively wider spreads to Treasury. More recently, the improved economic and financial market conditions have afforded the System good access to funding across the yield curve with narrower spreads. The access to a wider range of debt securities helped support net interest income and profitability and allowed some improvements in pricing options for System borrowers.

During this period of extreme market volatility, many non-System banks and financial institutions were able to access funds through various programs created or expanded by the U.S. Government in response to the financial crisis. The System does not have access to these programs or to any other U.S. Government backed liquidity credit line. While this situation has not prevented the System from obtaining funds, continued volatility within the GSE debt market makes the outlook for the availability and pricing of future funding less certain. This is an area meriting close monitoring by the FCS, its regulator, and Congress.

At present, financial market turmoil, prolonged economic weaknesses, and deterioration in the agricultural economy pose significant management challenges for borrowers, FCS institutions, and FCA. High unemployment and the domestic and global recession have caused demand for U.S. farm products to falter and lowered commodity prices, thereby weakening the agricultural economy. After setting a record in 2008, net cash farm income is forecast to drop by 30 percent to a forecasted $66.2 billion in 2009. The 10 year average is $71.2 billion.

System borrowers face increased risk from volatile commodity prices, soft farm product demand, higher input prices, and uncertain weather conditions. The specific sectors showing the most stress are hogs, dairy, forestry, ethanol, and poultry. Those sectors represent 21.8 percent of the System's portfolio. The cattle sector is also experiencing some stress.

In addition to volatile commodity prices, agricultural producers have had to endure much more volatile input costs, although costs are down from records set in 2008. Squeezed profit margins have seriously undermined incomes and thus repayment capacity for major farm commodity groups. While many agricultural producers entered this economic downturn with a relatively strong financial condition, the downturn has reduced their financial strength and equity positions.

Increased unemployment has also adversely impacted many rural communities. Continued job loss is a potential ongoing risk for these communities and may become an issue for the large number of System borrowers who depend on off-farm income to pay their loans. The housing slump has significantly reduced demand for lumber and nursery products, leading to reduced income, lost jobs, and increased stress in these industries.

The potentially slow economic recovery and lagging prospects for employment growth as well as an uncertain housing recovery suggest that 2010 may likely be another difficult year for many agricultural producers. These uncertainties will present challenges to lenders and regulators alike.

The System's capital position and solid financial condition will help it weather these difficult times. Also importantly, as increased stress is beginning to surface in FCS portfolios, we recognize that System senior management is well experienced and seasoned. Many gained experience during the agricultural credit crisis of the 1980s, and we believe appropriate actions, in general, are being taken by FCS boards and management.

Experience Gained From 1980's Agricultural Credit Crisis

Through the oversight and leadership of the House and Senate Agriculture Committees, many important reforms were made to the Farm Credit Administration and the FCS as a result of the agricultural credit crisis of the 1980's. This included restructuring FCA as an independent arm's-length regulator with formal enforcement powers, providing borrowers rights to System borrowers with distressed loans, and establishing the Insurance Fund to protect System investors.

Then, over the ensuing 2 decades, the System restored its financial health and the trust of its borrowers. With its new authority as an arm's length regulator, FCA was able to ensure that System institutions adhered to safety and soundness standards. And the Insurance Fund also helped restore investor confidence.

Both the System and FCA learned much during the crisis of the 1980s, and those lessons helped build a much stronger Farm Credit System, as well as a stronger regulator. Mr. Chairman, I want to emphasize that System institutions were not involved in and did not contribute to the financial crisis that our nation experienced during the past 2 years.

Comments Regarding the Financial Stability Improvement Act

The FSIA is a comprehensive proposal designed to strengthen regulation and supervision of financial markets and some of the largest, most complex financial institutions. A key feature of the proposal is the establishment of a new Financial Services Oversight Council (FSOC) that would bring together representatives of nearly all Federal financial regulatory agencies to monitor and oversee the stability of the financial system and address stability threats. Among its many other detailed provisions, the draft also addresses prudential regulation of financial companies and activities for financial stability; merges the Office of Thrift Supervision into the Office of the Comptroller of the Currency; improves regulation for bank holding companies and depository institutions; addresses payment, clearing, and settlement supervision; creates new standards for asset-backed securities and imposes credit risk retention requirements; enhances regulatory resolution authority; and enhances powers for financial crisis management.

Support for Congressional Efforts

The FCA supports Congressional efforts to address the root causes and systemic failures that resulted in the catastrophic meltdown in the financial industry and marketplace last year. The Committee on Financial Services' FSIA legislation under review seeks to provide a mechanism for the oversight, control, and resolution of any financial company or U.S. financial marketplace activity that could pose a systemic risk to financial stability or the economy. The focus is to eliminate gaps in the supervision, regulation, identification, and control of risks in the U.S. financial markets and the largest, interconnected, and complex financial firms present to financial stability or the economy. The overall objective is to ensure the regulatory structure protects the economy and financial system as a whole. The proposal is far reaching, complex, modifies many existing laws, and affects numerous financial marketplace participants.

The objectives of the Committee draft are commendable, and we support the efforts of Congress to improve the financial regulatory structure. Whether through legislative changes, new regulatory activities, or a combination of both, there must be robust supervision and regulation of financial firms and market practices that pose threats to the financial stability of the country or the economy.

Farm Credit System Not a Contributor to the Economic Downturn or Financial Market Destabilization

The Farm Credit Act of 1971, as amended, (Farm Credit Act) and sound regulations adopted by the FCA address the fundamental safety and soundness requirements for the FCS and Farmer Mac. Under FCA's examination and oversight, the System and Farmer Mac did not engage in lending practices and market activities that contributed to the economic downturn and financial market turmoil. However, the FCA, System, and Farmer Mac had to manage through the spillover impacts on the agricultural economy, the lending environment, the funding challenges, and unintended impacts from government stabilization programs to ensure that credit and related services remained available to agricultural producers and rural areas.

From Farmer Mac's creation, Congress included strong statutory underwriting, security appraisal, and repayment standards for qualified loans, with Farmer Mac's activities regulated and supervised by the FCA. In addition to statutory minimum requirements, Farmer Mac was required to develop sound underwriting standards for loans to qualify for its programs. To date, these standards and regulations have prevented any investor credit losses in Farmer Mac securities.

For direct lender institutions of the cooperative Farm Credit System, regulations are in place for sound and constructive loans, including loan underwriting requirements, loan security appraisal standards, and repayment capacity requirements. Regulatory requirements are also in place for eligibility and scope of financing, lending and leasing limits, and regulatory capital. Additionally, requirements were put in place 20 years ago to provide for borrower rights that require clear disclosures and certain safeguards for borrowers when loans are made, as well as when their loans become distressed. Regulatory requirements and risk-based examinations have ensured the System continues to serve eligible borrowers in a safe and sound manner despite the prolonged economic recession and destabilized financial markets.

Under the jurisdiction of the Agriculture Committee, the FCA continues to effectively address FCS and Farmer Mac systemic, credit, and operational risk issues to ensure continued credit availability for agriculture and rural areas. Importantly, the FCA has the statutory authority to examine, regulate, and oversee the System and Farmer Mac, including strong enforcement authorities and the ability to appoint a conservator or receiver. Enforcement actions can result in written agreements; orders to cease and desist; civil money penalties; and orders of removal, suspension, or prohibition. When appointed by FCA, the Insurance Corporation has the statutory responsibility to serve as receiver or conservator for the orderly wind down of System institutions.

Scope of the FSOC Established by the FSIA

The draft legislation would subject all financial companies that may pose significant risks to the financial system to the framework for consolidated supervision that currently applies to bank holding companies (BHC). Large, interconnected banks, non-bank financial companies, and industrial lending companies would be subjected to comprehensive supervisory oversight applied to BHC. Large, interconnected financial companies are actively engaged in the financial markets for profit purposes. They tend to amass a material volume of complex financial transactions and obligations with other financial companies. Such firms frequently trade in various securities, financial instruments, and derivatives. At times, they may take highly leveraged speculative positions in the financial marketplace. As a result, large, interconnected financial companies are at the core of the financial markets and relied on by market participants for the intermediation of various financial transactions. Considering their central role in the marketplace, these companies can pose systemic risk due to their size, level of activity, interconnectivity and business practices.

The draft legislation would create the FSOC, with voting membership consisting of Federal financial regulatory agencies, to reinforce regulatory systemic risk oversight of large, interconnected financial companies. The FSOC would have exclusive and broad authority to identify any financial company where a material financial distress could pose a threat to financial stability or the economy or financial activity that could pose such a threat. Criteria for identifying systemically significant financial companies include the nature of the financial assets, liabilities, off-balance sheet exposures, and transactions with other companies as well as its importance as a source of credit and liquidity. While the nature, scope, and mix of the company's activities are important considerations, the FSOC would have the discretion to consider other factors it deems appropriate.

Once the FSOC identifies a financial company as posing a systemic risk, it would be treated as a BHC and the Board of Governors of the Federal Reserve System (Board) would be required to impose heightened prudential standards. These standards include risk-based capital requirements, leverage limits, liquidity requirements, concentration limits, prompt corrective action requirements, resolution plans, and overall risk management requirements. After notice, the Board may also require the identified financial company to reduce its asset size and scope of business activities. For a subsidiary depository institution of an identified financial company, the Board would be authorized to recommend heightened prudential regulation to the primary financial regulatory agency for such subsidiary. The Board would have backup authority to impose its recommendation if the primary financial regulatory agency failed to impose the prudential standards.

To ensure the bankruptcy of a large interconnected financial company does not destabilize the financial markets or the economy, the proposed legislation provides for the orderly resolution of such firms by the Federal Deposit Insurance Corporation (FDIC). An identified financial company would be subject to the enhanced resolution process based on a recommendation by the Board and FDIC or the Security and Exchange Commission (SEC) and certain determinations by the Secretary of the Treasury. The FDIC would then be authorized to wind down an identified company's operation in a manner that ensures market critical obligations are honored and shareholders and creditors bear the brunt of any resulting losses. The FDIC would also be able to draw on the Treasury any amount needed for the resolution of such financial firms and recoup the expenditures from assessments on the financial services industry through the ex post creation of the systemic resolution fund. Risk-based assessments would be made on all financial companies with more than $10 billion in consolidated assets on a graduated basis, with credit given for fees paid to deposit insurance, investor protection, or insurance company funds.

In summary, the FSIA would grant the FSOC broad far-reaching powers over financial companies. These powers would include the authority to gather information and identify a financial company as posing a systemic risk to financial stability or the economy. Upon identifying a financial company, the FSOC would empower the Board to require heightened prudential standards and subject the identified company to enhanced resolution authorities. The FSOC and Board also would have broad authority to identify financial activities and practices that pose risks to financial stability and the economy. Once an activity or practice is identified, the Board would be required to recommend prudential standards to the primary financial regulatory agencies.

Effect of the Legislation on Farm Credit System Institutions

As proposed, the legislation does not directly amend the Farm Credit Act, which provides the primary statutory authority for the establishment and regulation of institutions of the System, including Farmer Mac. The draft does not indicate an intention to affect the System or include FCA. Moreover, its scope seems to be directed at systemic financial marketplace issues and very large, interconnected financial companies that pose systemic risk to the entire financial system and the nation's economy as a whole. However, a close reading of the draft reveals direct conflict with the Farm Credit Act as it relates to the requirement for credit risk retention in the context of securitizations. In addition, the draft creates uncertainty for the potential inclusion of the System in the regulatory structure or activities authorized. Three specific areas are noted.

First, the FSOC, composed of all Federal financial institutions regulatory agencies except the FCA and FCSIC, is established to monitor and address systemic risk to the financial stability of the United States. The significant and far reaching authority and regulatory activities of the FSOC extend broadly to any "financial company" as defined. It is not clear what the many implications may be of simply meeting the basic definition of "financial company." Nevertheless, as written, institutions of the System would appear to meet that definition, as they are companies or entities engaged in financial activities.[1] Therefore, the FSOC would have regulatory authority without inclusion of the FCA, the FCS's primary regulator, or consultation with the Agriculture Committees responsible for overseeing agricultural credit and related services delivered through the System. Similarly, any potential action by the FSOC to identify a System institution as systemically significant and treat it as a BHC would be impractical given the System's unique structure and public policy purpose. Given the FCA already analyzes, regulates, examines and oversees potential systemic risks of the System, the FSOC appears to create a conflicting regulatory framework if it applied to the System. The end result is regulatory uncertainty and confusion for the cooperative System that lends to farmers, ranchers, and others as authorized by the Farm Credit Act.

Subtitle F of the draft legislation, through the Securities and Exchange Commission, would require creditors and those that securitize loans to retain ten percent of the credit risk on any loan that is transferred, sold, conveyed, or securitized. This new requirement would be directly applicable to the securitization activities of Farmer Mac and perhaps to other activities of System institutions when they extend credit within the System or with external lenders. It is important to note that in 1996, Congress repealed a similar ten percent retention requirement that existed in title VIII of the Farm Credit Act for loans sold to Farmer Mac. Farmer Mac has minimum statutory loan underwriting requirements outlined in 12 U.S.C. 2279aa–8 and definitions applying to qualified loans in 12 U.S.C. 2279aa. Separately, the FCA repealed regulations that required lead lenders to retain ten percent of the credit risk in loan participations they sold to other lenders. As written, since the FCA is not a named Federal financial regulator on the FSOC, enforcement of the credit risk retention requirements would fall to the Securities and Exchange Commission, as outlined in 1502(e)(2), creating further conflicts.

Third, subtitle G of the draft legislation would provide the FDIC enhanced resolution authority for large, interconnected financial companies that pose systemic risks to the financial stability of the United States. Although the structure and text of subtitle G seems to imply that it does not cover the System (which is not a large, interconnected company that could pose systemic financial risks), this matter is not absolutely clear. A related issue is confusion over the authority of the FDIC to assess System banks and associations to cover the costs of dealing with failed financial institutions that already pay premiums to FCSIC.

Conclusion

Thank you for the opportunity to participate in today's hearing. I look forward to commenting further on the FSIA, including any revised proposals, and working with the Committee on this legislation. As you consider credit issues in agriculture, I stand ready to work with this Committee on enhancements to the Farm Credit Act to ensure our regulatory, enforcement, and resolution authorities keep pace with best practices.

The CHAIRMAN. Thank you very much, Mr. Strom, and I thank all of the witnesses for being with us today.

You know, we had Mr. Parkinson from the Federal Reserve here a little while ago, a year ago, and we asked him about their experience, in this regard. He testified that the Federal Reserve has never been a primary regulator for any of the central counterparty and clearing service. You guys, Mr. Gensler and Ms. Walter, do you have any idea of where the—how they came up with this idea that the Federal Reserve is better equipped to do this, given the fact that they don't, they have never done this before? Do you have any insight for me?

Mr. GENSLER. I think since President Roosevelt came to Congress in the 1930s, and Congress responded and set up the Securities and Exchange Commission, our predecessor was setup under the

[1] Section 4(k)(4) of the BHC Act considers lending, guaranteeing against loss, or issuing instruments representing interest in pools of assets as activities that are financial in nature.

Commodities and Exchange Act in 1936, that clearinghouses and exchanges have been overseen respectively either by the SEC or the CFTC. They are so intertwined with customer protection rules, segregation rules, product development, that this is the best place, and that is where they have been now for 75 years.

The clearinghouses and the exchanges are systemically relevant. They are relevant to the broader economy and the success of all Americans, so I think that they are getting caught up in this view because they are systemically relevant. But I think much of what the CFTC and the SEC does is systemically relevant and is appropriately regulated by the market regulators.

The CHAIRMAN. Well, these, some of these guys were involved in unwinding the Lehman situation and so forth, and they survived that whole situation and didn't have any defaults that I am aware of.

Mr. GENSLER. I believe the clearinghouse is a significantly lower risk to the system and that is why this Committee incorporated that in the over-the-counter derivatives bill that requires many transactions in the central clearing. You are correct, Mr. Chairman, that in the bankruptcy of Lehman Brothers, over a weekend, the particular transactions that Lehman had with the clearinghouses were allowed to be moved. Under the Commodity Exchange Act currently there are provisions for portability to move the transactions from one futures commission merchant to another and that was done successfully. Similarly in Refco, when Refco failed 4 or 5 years earlier, it happened similarly, and I would also note that currently in statute we have authority to actually step in as a receiver of the clearinghouse if there was such a problem with the clearinghouse itself.

The CHAIRMAN. Well, apparently this draft legislation would give the Fed the power to override what you are doing, right, the way I read it?

Mr. GENSLER. That is correct. The various proposals have a Council. The Council can set various standards, but ultimately the Federal Reserve could, if the CFTC or the SEC did not follow the Federal Reserve guidance, have full examination authority, enforcement authority, ability to set rules and orders for clearinghouses.

The CHAIRMAN. What under the draft, what ability would you have to challenge or appeal a decision made by the Fed? I mean, can the Council override the Fed actions or could you challenge them in court?

Mr. GENSLER. Not as I understand the draft legislation, but maybe others have a different read of it.

The CHAIRMAN. So we are going to take somebody who has no experience and put them in charge is apparently what they are doing, is what it sounds like to me, so I won't make you answer that.

Mr. Strom, does the Farm Credit agency or Act, excuse me, the Farm Credit Act provide for a way to shut down a Farm Credit institution that gets into financial difficulty?

Mr. STROM. Mr. Chairman, the revisions of the Farm Credit Act in 1987 did put in strong enforcement powers for the agency, and there are mechanisms involving the agency and the Insurance Corporation for the resolution, under which the Insurance Corporation can be designated as either a receiver or conservator of a Farm Credit institution at the direction of the Farm Credit Administration. So yes, there are wind-down provisions.

The CHAIRMAN. And you would use that?

Mr. STROM. We can use that.

The CHAIRMAN. Have you used it?

Mr. STROM. No, we have not had to use it. We have had no System failures in the last 20 years that have had to utilize that.

The CHAIRMAN. Now, I guess in your testimony you were saying the Treasury added some language to try to fix some of these problems, is that what you said?

Mr. STROM. Mr. Chairman, yes, there were three primary areas that we were concerned about. The definition area—as of late yesterday they had responded that, in their view of the language of the bill, there was never an intent to include the Farm Credit System institutions. So, they have said that they would put an exclusion in the bill, under the terms of definition of a *financial company* to exclude Farm Credit System institutions. They also agreed, or mentioned, that they would put in exclusion language in the area of the resolution issue that would have put FDIC in charge of resolutions. But, we still are not certain where we stand with them on the credit retention issue.

The CHAIRMAN. But they are not writing the bill.

Mr. STROM. I agree 100 percent and that is why.

The CHAIRMAN. Well, how is this going to work? Have they got somebody over on the Financial Services Committee that is going to offer these amendments or how is that going to work?

Mr. STROM. They have told us that they have had contact with the Financial Services Committee to offer these amendments to the bill.

The CHAIRMAN. And do you, I am a little over time but do you have the authority, anymore, to put in this ten percent requirement if you wanted to, or did we take that away in 1996?

Mr. STROM. That was taken away in 1996.

The CHAIRMAN. You can't do that even if you wanted to?

Mr. STROM. That is correct. I was pretty certain that we can't go back and do it because that was put in the law to take that out back in 1996, so it is in the statute.

The CHAIRMAN. Thank you.

The gentleman from Oklahoma.

Mr. LUCAS. Thank you, Mr. Chairman, and to continue a point that you brought up initially, in a market emergency, of course, I think we would all agree that one of the most important things is for everyone to know who is in charge.

And under present law, Chairman Gensler, clearly CFTC has very robust emergency powers and Title I, as we are discussing here, seems to give substantial emergency powers including futures clearing to the Federal Reserve. Could you take us through a scenario as you envision the bill now if there is a market and a problem occurs your people would be the first to recognize it because you are the primary regulator, from that point on as you envision the legislation describe for me the scenario. Would you begin to respond? Would you report to the Fed? Would you report to the

Council? How do you envision this bill working if you have a problem within a particular market?

Mr. GENSLER. Well, I think that it would probably evolve over time. What the bill envisions is that there would be effectively dual regulation or even multiple regulators because you would have a Council, you would have the Federal Reserve, and then you would have the market regulator, in this case the CFTC that would have some oversight or involvement with the clearinghouse that you mentioned. I think if we saw it, we would still do what our expert staff does already. We would work with the clearinghouses and exchanges on whatever that issue was. If it has to do with risk management, with the support of this Committee, the derivatives bill that you passed out of this Committee enhanced some of our ability in those circumstances to write rules. But, foremost, we would rely on the clearinghouse to write rules but if they didn't, we could write rules under the legislation you passed out of this Committee. But under this proposed legislation, if that wasn't satisfactory to the Council or was not satisfactory to the Federal Reserve, they could step in and write their own rules.

Mr. LUCAS. So you would be reporting to the Council as you were proceeding after CFTC determined there was a problem, you would begin to assess the situation, you would prepare to take action, you would be reporting to the Council. I assume you would be reporting to the Council what CFTC would envision as the action to take for remediation. The way this bill is drafted they would review those proposed movements or actions, conceivably. The way the bill is put together, if they determine that the CFTC's remedy was inappropriate or didn't match what they perceived to be appropriate, then as you envision the bill, the draft legislation, they could then immediately override CFTC?

Mr. GENSLER. Well, I think just as it is now, we do a lot of consultation with our fellow regulators. I think that consultation is a positive thing and I would assume with or without a draft bill, we would consult with other regulators. But what the draft proposal also does is say that Council regulators may recommend, and if the CFTC or SEC does not follow that recommendation, we have to then publicly say why we didn't follow the recommendation, and then the Federal Reserve could step in and set their own rules of the road.

Mr. LUCAS. I think you see where I am going. I am trying to work through my own mind the consequences of a problem, conceivably something like a phased liquidation of trading positions over a number of days, not something that is beyond the realm of what you would in a potential scenario. If the Fed determined on a Saturday night that that wasn't fast enough or didn't meet the overall scheme of things and they ordered an immediate liquidation or dramatic move, I am just trying to work through my own mind before we get to that scenario if this draft proposal would become law, what the consequences would be to the market and the economy?

Mr. GENSLER. I think, sir, that it would evolve, but the legislative language is very broad, and if the Federal Reserve or the Council sought more heightened prudential standards, they would have broad enforcement authority. I think you are correct on that.

Mr. LUCAS. So ultimately the Fed would be the 12 ton regulatory gorilla at the end of the line.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Pennsylvania, Mr. Holden.

Mr. HOLDEN. Thank you, Mr. Chairman.

Mr. Strom, following up on your conversation with the Chairman about Farmer Mac, how in the Farm Credit Act of 1987 we had the ten percent hold-back provision put in and then we repealed it in 1996. Can you elaborate on why we repealed it, what damage it was causing or restrictions it was causing?

Mr. STROM. Congressman, Farmer Mac was established in 1988 to be a secondary market for agriculture real estate mortgages. That was a ten percent first-loss retention that Farmer Mac had to retain, and they found that a very unworkable situation. It was a struggle for them to add volume with that retention piece in there. And so I think because Congress recognized, and this Committee recognized, that that was repealed. It opened the door for them to do more business with stronger regulatory standards also included; so that we, as the regulator in our oversight of Farmer Mac, would make sure and enforce those strong regulatory standards. They have been able to emerge now as an almost $11 billion entity in that secondary market.

Mr. HOLDEN. Thank you. Also, Mr. Strom, you mentioned your concerns about the Farm Credit System Insurance Corporation with the Financial Service Committee's draft. Can you tell us about the status of the Insurance Corporation? What are its assets and what are you concerned about with the other Committee's draft?

Mr. STROM. The Insurance Corporation was established as part of the 1987 amendments to the Farm Credit Act, and it is currently fully funded with over $3 billion in the insurance fund to give backstop, to insure timely payment of System debt obligations, so it is currently fully funded. The confusion in this new draft legislation is that it has put in place on it charging premiums on banks or other financial companies in excess of $10 billion to fund the FDIC oversight and resolution authority. We already have that in the Farm Credit System in this Insurance Corporation and, hence, System institutions, and there are a number of them including the five banks of the Farm Credit System, that are in excess of $10 billion in size, which would be paying additional premiums on top of the premiums they already pay to their own insurance fund. So we see it as a kind of piling on for them, and it really clouds the authority of the resolution authority if the FDIC is placed in ahead of our own Insurance Corporation.

Mr. HOLDEN. Any idea what the proposed premiums would be?

Mr. STROM. No, I am not aware of levels of proposed premiums.

Mr. HOLDEN. Thank you.

I yield back, Mr. Chairman.

The CHAIRMAN. What are the current fees of the bank, your bank is paying?

Mr. STROM. We have authority in the Insurance Corporation to charge up to a 20 basis point premium on System institutions to insure that the fund stays at the two percent secured base of outstanding debt of Farm Credit System institutions. This is approximately $160–$170 billion at this time, and so the fund at $3.2 billion is now fully funded. Let me reiterate that this Committee took the action with the Congress last year in the farm bill to raise our level of premium assessment. There was a cap of 15 basis points. You raised it to 20 basis points, working with us, so that we can ensure flexibility. Now, we will adjust that premium level as time goes on to ensure that it stays at the full secure base.

The CHAIRMAN. So when you hit the maximum then you suspend the assessment?

Mr. STROM. Yes, the Insurance Corporation has the flexibility, the Board of the Insurance Corporation has the flexibility to establish those premiums.

The CHAIRMAN. Now, there is no premiums?

Mr. STROM. Well, right now we are looking at the fact that we will probably be making the decision in the coming months because we collect the premiums in *arrears*. So, as they come in we will be addressing that situation.

The CHAIRMAN. Okay.

The gentleman from Kansas, Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you.

Let me follow onto Mr. Holden, the gentleman from Pennsylvania, his question. You talked about, Mr. Strom, you talked about the double premium charges. Can you outline the benefits that come from the additional premiums that you would be paying? What would be the Farm Credit System benefit for what it is paying in additional premiums?

Mr. STROM. Congressman, I think this is all part of the wise decision of this Committee back in the 1980s at the height of the agricultural crisis. This Committee set many pieces in place for the Farm Credit System and the success of FCA as a regulator today. The insurance fund was put in place. It is now fully funded. That serves as a backstop. That is a positive aspect for any System investor that looks at investing in System debt obligations to know with assurance that this Farm Credit System is safe and sound. The Insurance Corporation and the fund that was established there is one integral piece of that.

Mr. MORAN. So no additional soundness and security comes from paying additional premiums to this additional fund for the Farm Credit System, is that correct?

Mr. STROM. At this time, the statute says that the fund should be kept at the two percent secure base and, as the Insurance Corporation, our job is to make sure it gets there and stays there.

Mr. MORAN. The requiring of additional retention, the ten percent securitized debt on your books, does that cause interest rates to increase and have the consequence of constricting credit?

Mr. STROM. Well, I think in the general context of this entire piece of legislation with the layering effect of additional oversight, if there are premiums charged by FDIC for their fund and for the resolution authorities, and if it were applied to Farm Credit System institutions, certainly there would be additional costs that would be passed on. You have staffing cost for the regulation on top of this. We fully understand, as a regulator, the importance of safe and sound regulation. We understand the intent of this bill, but this Committee, back to the earlier question about the Treasury's involvement, the Agriculture Committee has done the right things in the last 20 years with the Farm Credit System. We believe that in working with Treasury, ultimately, it will be this Committee's decision. We understand the jurisdiction issue here and your work with the Financial Service Committee is to resolve this issue.

Mr. MORAN. Unless I misunderstood, I am going to suggest that your answer to me to both my questions about increasing premiums and additional set-aside for securitized debt means increased interest rates and less credit availability.

Mr. STROM. Yes.

Mr. MORAN. Thank you.

Let me ask a question of the Chairman, Mr. Gensler, and of the Commissioner. I was reading your testimony, Mr. Gensler. In the last paragraph before you close, it deals with clearinghouse obligations and the appointment of a receiver. I understand that clearinghouses are not subject to a stay under current law. Would such a stay, I am not sure what you are saying in your testimony. Does that stay concern you and shouldn't we have clear language that allows a receiver to continue to perform clearing activities that is feasible and exercise all the rights to liquidate in that setting?

Mr. GENSLER. I thank you for asking because I wasn't able to say it in my oral testimony, but clearinghouses reduce risk immediately upon a default that one of their clearing members make and can close out, liquidate the position, and that is fundamental and that has been true for decades, a very important feature. I think it is probably unintended but what is in the various proposals would be that the FDIC can step in and stay for up to a day and a half until 5:00 p.m. the next day these provisions—I think that we should work with this Committee and, hopefully, with Congress to clarify, because that would actually raise risk of clearinghouses rather than lowering risk of the clearinghouse.

Mr. MORAN. Thank you. Let me ask a final question on this on the topic of clearinghouses. In our bill that this House Agriculture Committee passed out several weeks ago, we prohibited the Fed from providing assistance through the, at the window, excuse me for stuttering, and it appears to me that this language prohibits clearinghouses from accessing the discount window as well. So my question is, is that a prudent thing to do to bar access to the window?

Mr. GENSLER. I think that clearinghouses should be robustly regulated by the market regulators, and that the clearinghouses should have in place roads to access liquidity from the central bank. A discount window is actually a routine feature that banks currently have that they can access. In current law in extreme circumstances, extraordinary circumstances and I think it is under 13.3 of the Federal Reserve Act, with super majority vote of the Fed and so forth, they could lend to a clearinghouse. It has never happened but that is more an extraordinary circumstance. I don't believe that you would want to have a routine lending facility to these clearinghouses.

Mr. MORAN. Thank you, Mr. Chairman.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from North Carolina, Mr. McIntyre.

Mr. MCINTYRE. Thank you, Mr. Chairman. Thanks to all of you for being with us today.

Farm Credit, as we know, is already regulated to a higher degree than most financial institutions, as it is regulated at the Farm Credit Administration. If this bill were to be put in place it would greatly reduce the effectiveness of Farm Credit and their ability to serve farmers and rural communities. Mr. Strom, I have had the pleasure, as you may know, of working with Cape Fear Farm Credit located in southeastern North Carolina, and I have seen firsthand the good work that they do in our rural communities. We have seen that virtually every other financial institution in the country seems to have had a direct line to the Treasury as a backstop to their lending activity, and some even for capital in recent months. In your opinion, does the Farm Credit System have a backstop at the Treasury or at the Federal Reserve?

Mr. STROM. Congressman, the answer is no, the Farm Credit System does not have that immediate backstop to either. As we saw last fall a year ago, as the financial crisis unfolded, one of the issues that the Farm Credit System faced was on the funding side of its operations. I mean it is authorized to issue consolidated debt obligations through its funding operations up in New Jersey. As investors worldwide backed away, we saw the cost of the debt obligations issued by the System skyrocket, and those costs eventually were borne by the System institutions and eventually by the borrowers because of the dislocations in the market, which was an unintended consequence for this GSE, the Farm Credit System. Those costs of funding have come down. It is now able to issue a little longer term debt because at some point the System couldn't issue anything beyond 5 year debt, and that, again, was a difficult situation. My thought is that if there was eventually some sort of a crisis situation, the Farm Credit System might need to have some avenue for that because, again, they do not currently have that backstop.

Mr. MCINTYRE. Could you explain briefly for the Committee what the role of the Farm Credit System Insurance Corporation is and what it does? How does that compare with the FDIC, for instance?

Mr. STROM. The Insurance Corporation insures the timely repayment of the debt obligations of the Farm Credit System, so investors look at that as an insurance for the timely payment of these debt obligations. The Insurance Corporation also has the conservatorship or receivership authorities if a System institution is failing. It would be placed under the Insurance Corporation to resolve those issues, going forward. So, that is the current basic authority of the Insurance Corporation.

Mr. MORAN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Texas, Mr. Conaway.

Mr. CONAWAY. Mr. Chairman, thank you very much. Witnesses, thank you.

Mr. Gensler, as I have listened to your testimony I was trying to parse through the sensitiveness to your being an Administration person backing what their play is, but did I hear you say that this new proposed multi-tiered, both your organization and the regulatory scheme over certain activities, is better than the current focused regulatory scheme that the SEC and the CFTC bring to the table?

Mr. GENSLER. Congressman, what I am saying is that in response to this Committee's request to testify, this bill has some aspects that I think we do have to address, gaps in the system. There should be some consolidated supervision, stronger, consolidated supervision than what we had with AIG, for instance, which had ineffective oversight, and some better resolution authority to resolve these things. However, it does also setup, and I don't think this is necessary, to achieve those first two goals, I don't think the other things are necessary that is sets up a multi-tiered or a multiple regulator oversight of activities. I don't think you need to bring these activities in.

Mr. CONAWAY. Okay.

Mr. GENSLER. You could just oversee entities, and I think on clearing the SEC and CFTC have done this for about 75 years.

Mr. CONAWAY. Okay.

Mr. GENSLER. And it is intertwined with the rest of what we do overseeing markets.

Mr. CONAWAY. All right, thank you.

The Financial Services Oversight Council, is that the right name? At first blush, some uninformed reader might think that this is some super regulatory basis deal for everything the Federal, all the Federal services as opposed to perhaps financial services, but we will let Barney worry about that. Put in place this Financial Services Oversight Council in the early 1990s and any of the three want to take a shot at this, how would this Council have dealt with Fannie and Freddie, and AIG as two examples of pieces of the wreck this past year that most of us agree were contributed? How would this Council have identified it and prevented those issues from getting to where they were, given the information available in the early 2000s about the wreck that Fannie and Freddie were proposing and all that? How would it work?

Ms. WALTER. Well, what the bill contemplates, Congressman, is that the Council would first identify systemically important institutions so let us take it as a given.

Mr. CONAWAY. The Council is made up of existing players in the arena right now?

Ms. WALTER. Yes, it is.

Mr. CONAWAY. Okay.

Ms. WALTER. And it brings together a variety of expertise including Chairman Gensler and representation from the SEC, representation from the bank regulators.

Mr. CONAWAY. Wait, wait, wait, I understand how, what it is made up of and all of those players were in the regulatory arena throughout this time-frame. How would it work? I mean who brings it to the table? Listen, focus on Fannie and Freddie. How does it work to prevent that wreck?

Ms. WALTER. One can assume that they would have been identified as systemically important, and then the idea is that they could recommend, the Council could recommend heightened regulatory standards.

Mr. CONAWAY. Okay, well, I don't mean to be abrupt but we have to find this out, they were identified from 2000 on, multiple attempts to reign them in. So this Council then, rather than driving legislation that might address all these things, we are going to invest in this Council all of the authority and power necessary to do what Congress couldn't do in reigning in Fannie and Freddie, and what lawyers at the Administration could not do when it dealt with AIG, is that how we work?

Ms. WALTER. I think that is a fair statement. With the knowledge that we have gained in the crisis, hopefully, whoever makes those decision will do a better job than has been done in that past.

Mr. CONAWAY. Okay and all of those folks will be political appointees for the most part across the Council. How do we protect the Council from untoward influence by Members of Congress who apparently worked their magic from 2000 to 2008 to protect Fannie and Freddie from causing the wreck they caused? How does it work?

Ms. WALTER. The Council as constituted under the bill would be headed by an existing regulator. Our recommendation would be that the Council have an independent chair and permanent staff so that the Council would have its own independent wherewithal.

Mr. CONAWAY. Well, I thank the witnesses. I appreciate that. It sounds like it is a great works program for a new regulatory entity, and I have grave concerns that this is going to help us deal with some of the things we dealt with.

Mr. Chairman, thank you. Thank you, witnesses. I again apologize for being abrupt but he is very high and handy with the gavel at 5 minutes so I yield back.

The CHAIRMAN. I thank the gentleman.

The gentleman from Iowa, Mr. Boswell.

Mr. BOSWELL. Thank you, Mr. Chairman, for having this hearing. Some of these things that have been covered were just to be sure of the facts. I realize you had the discussion with the Chairman about Farmer Mac and what happened in 1996, but I would like to ask the question as it continues, what was the affect of the ten percent credit risk retention on the availability of credit to farmers for one, and number two, what do you think adding this requirement to Farmer Mac would have today on producers, anybody?

Mr. STROM. Congressman, in my view the ten percent first-loss position, prior to that 1996 repeal, made it really an untenable situation for Farmer Mac to engage in the market and actually effectively operate as a securitization for these agriculture real estate mortgages. So, with the repeal of that and not having to hold back that ten percent on their books, it allowed them with, again, the strong regulatory standards that were put in place for the regulator to make sure that Farmer Mac does the proper underwriting, all of the things that need to be done in this. It has worked for Farmer Mac, going forward. They have been effective in the marketplace without that, and so putting this back in place puts them, in our minds, back to that pre-1996 situation.

Mr. BOSWELL. So you think that answer is what is needed today, what you have just said, that is needed?

Mr. STROM. I would say what is needed is the current status where, we as a regulator, have the authority over them from a safety and soundness aspect. They have no retention requirement and they work effectively. We are eager—we are willing to work with this.

Mr. BOSWELL. Okay, not to cause you to repeat, but just in your own words, what do you think from your perspective realizing the credit crunch out there for the producers today, and assuming you understand it very well and some of us up here too, what do we need to do to advance the ability to Farmer Mac to do its job?

Mr. STROM. Well, we are more than willing to work with this Committee to look at new ideas and new strategies for additional opportunities for them to access the marketplace. There may be authorities out there for them to do or changes that should be put in place, but we are more than willing to work with the Committee to look at those, going forward. I think this piece of the legislation is we understand that this Committee should retain the jurisdiction over this.

Mr. BOSWELL. I understand that and I appreciate your willingness, but I just wondered if you happened to have a suggestion. I will give you a moment or two to talk to your people sitting behind you if you want to. I think this is a pretty important matter.

Mr. STROM. Congressman, again, I think there is the possibility. I can't come to any thing specific at this point, but I think there are a number of opportunities and authorities that Farmer Mac, and we as the regulator could look at to help Farmer Mac expand their business opportunity to serve America in agriculture and the rural segment that is so vitally important.

Mr. BOSWELL. Okay, we appreciate your taking the question and your willingness to work with us, and maybe a little more discussion later with you, I guess. Last fall, almost every financial institution was experiencing severe difficulty obtaining funds from the money markets. Most commercial banks relied on the Federal Reserve to provide them liquidity. What was the experience of the Farm Credit System at that time, and are there changes that this Committee needs to be thinking about to ensure that the System can continue to access funding during a time of severe liquidity crisis?

Mr. STROM. I am sorry, Congressman, I was still trying to think of an idea for Farmer Mac so I apologize for the nature of the question. If I could I would like to expand one moment on Farmer Mac. I thought your question was directed to the other members at the table here. In the 2008 Farm Bill, Farmer Mac was granted expanded authorities in rural utility lending authorizations and that was an example of how they have gotten into more rural lending, and they have been pretty effective in that. So, that is one example that was granted to them, and they have expanded into that arena. There may be others similar to that.

Mr. BOSWELL. Well, the time has run out so I will get the staff to contact you to get you to answer this question a little more specifically, and I am assuming you would want to do that?

Mr. STROM. I would be happy to.

Mr. BOSWELL. I yield back.

The CHAIRMAN. I thank the gentleman.

The gentleman from Nebraska, Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Chairman.

I think many of the institutions that we have deemed too big to fail are actually too big to succeed, and I agree with the movement toward the aggressively addressing this whole issue of systemic risk. With that said, however, Commissioner Walter, I want to, I would like you to further unpack one of your statements here, which is particularly provocative and has implications and points of contention in trying to appropriately address systemic risk without disadvantaging smaller institutions who actually are counterbalanced to systemic risk. With this concentration of assets into fewer and fewer hands in this country, clearly there is a significant problem here, and yet the intended effect of trying to disburse that risk might disproportionately affect smaller institutions as you are applying in this sentence. Do you suggest that policies and standards should be formulated with an understanding that their direct and indirect impacts on other parts of the market be tailored so that they do not inadvertently favor large institutions relative to small ones, thereby unintentionally fueling instead of reducing systemic risk? Can you unpack that further, please?

Ms. WALTER. I would be happy to. I do believe that this is a grave concern and that application of systemic risk requirements have to be looked at carefully from that perspective. I believe it is the intent of the bill that we are looking at to impose more onerous, more stringent requirements on the larger, systemically important institutions. But, it would be good to clarify that and to make sure that a couple of things are true, one to clarify that that is the case and to make those requirements additive to requirements that would otherwise be applicable and, in fact, it should be a burden to be a systemically important institution, not a benefit.

The other thing that I believe should be done is to clarify that it would not affect existing standards because many standards could be interpreted, prudential standards could be interpreted as falling within the legislation when, in fact, they might actually loosen standards. One good example, perhaps, would be imposing bank-based capital on a registered broker dealer. If you did that, you would in effect be giving that bank-related broker dealer an advantage because it would lower their capital standards. So existing standards should be preserved and it should be clear that these systemic requirements are in addition to, additive to existing standards.

Mr. FORTENBERRY. So you are favoring leaving this regulatory structure as we have it in place and have a super structure that would look at systemic risk?

Ms. WALTER. Correct, we think that the experiences of the recent past suggest that there is a need for back row prudential oversight that really expands across markets and eliminates silos, but there is not a need to eliminate existing regulations.

Mr. FORTENBERRY. Well, here we talk about, you talk about establishing more stringent standards for leverage and risk-based capital for systemically important institutions. So, would you foresee a different set of standards for what would be defined as a *systemically important institution* and how would that be structured?

Ms. WALTER. I would foresee additional standards being applied to systemically important institutions so the standards in effect would be stricter. What we have suggested is that the ability to apply those standards be granted to the multi-member Council rather than to any single regulator.

Mr. FORTENBERRY. And this would serve as a roving institution, if you will, that looks at this problem of systemic risk?

Ms. WALTER. It would serve as an extra backstop for which the Federal Reserve Board could serve as a set of eyes and ears participating in exams along with primary regulators.

Mr. FORTENBERRY. Well, did you write this sentence, that the last part of this sentence "and be empowered to serve as a ready mechanism for identifying emerging risk and minimizing the regulatory arbitrage that can lead to the regulatory race to the bottom?" That is very well said for whoever wrote that.

Ms. WALTER. I will not claim personal authorship. I will claim institutional authorship.

Mr. FORTENBERRY. That is all I have, Mr. Chairman, thank you.

The CHAIRMAN. I thank the gentleman.

The gentleman from Georgia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman, and I want to say at the outset that I do think that more than anything else this is going to boil down to a jurisdictional fight. I serve both on the Financial Services Committee and the Agriculture Committee, and it is my hope that the Agricultural Committee will certainly fight for our jurisdiction, particularly in view of the Farm Credit issue which I think is most important. I might add that I did bring up some of these concerns in Financial Services when we were marking up both the consumer protection bill and the systemic risk.

But let me ask you, Mr. Strom, I think either today or tomorrow in our Financial Services Committee they are going to vote to what we call an assessment level that is based more on our risk profile rather than just size, as an effort to determine what level of assessment fee for the resolution trust fund. So if Farm Credit is required to contribute do you feel that the Financial Services Oversight Council will have sufficient expertise in your operations to set your assessments at the appropriate level?

Mr. STROM. Congressman, no, I don't believe that they will have the ability or expertise. As you all know, and I come from an agricultural background, the agricultural industry is a very complex, very risky, very volatile industry. As a Farm Credit System lender into that and as the regulator of those System institutions, we understand the volatile nature and the difficulties in this industry. So, as we deal with institutions within the Farm Credit System, and we do stress testing of our own System institutions, we look at the risk inherent in the System institutions and we act accordingly. I believe that this draft legislation and the establishment of a Council that would oversee our operations only clouds the direct line of authority that we would have as a regulator over our System institutions.

Mr. SCOTT. Should be there a representative of Farm Credit on this Council?

Mr. STROM. Should there be a representative on the Council?

Mr. SCOTT. On the Council.

Mr. STROM. If there was no other avenue to be excluded from this draft legislation, I believe that the Farm Credit System and the Farm Credit Administration should have a seat. We currently are the only ones excluded in the draft legislation from membership on this Council.

Mr. SCOTT. Now, my good friend, Congressman Brad Sherman mentioned to me that, he serves on Financial Services as well, and he mentioned that either today or tomorrow he will offer an amendment to increase the asset base for companies subject to the assessment for the resolution trust fund, resolution fund, from the current $10 billion up to $75 billion. So my question to you would be if we adopt, in Financial Services, that amendment to raise it up to $75 billion, would that alleviate Farm Credit's institutions from being assessed or do you have banks larger than $75 billion?

Mr. STROM. Congressman, currently there are no banks in the Farm Credit System larger than $75 billion. There are a couple that are approaching that level, in excess of $50 billion, close to $60 billion, so there is the potential that they could eventually grow to that level and be assessed. But, then again, I think rather than the issue of assessment, it is the issue of the resolution authority also within that subtitle G of the draft legislation that, really in our mind, complicates the line of authority and the regulatory jurisdiction of who is really calling the shots in these situations.

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

The CHAIRMAN. The gentleman had a—if I could ask does anybody know if you have this two percent target for your insurance thing, does anybody know with the FDIC have they got an equivalent target date, when they are determining their fee? Does anybody know how that works? I know they are broke right now, but they are supposed—I was just wondering how that two percent compared to what the FDIC is doing. Nobody knows. Okay, we will figure that out.

The gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you, Mr. Chairman.

I enjoyed reading your testimony and I always come here with humility because you know so much more than me. I am struck, speaking to Mr. Gensler and Ms. Walter, that both of you expressed concerns that there is going to be overlapping regulatory activity. In fact, when I speak to my bankers back home about all of this, they all say we are going to have more than one regulator and we already have one in our office everyday and now they are going to be in every other day—excuse me—every other day, now they are going to be in everyday. And although, Ms. Walter, in one part of your testimony you expressed this kind of belief in the Council with the over-regulator, if you will, later on you speak about, on page nine, the proposal may setup effectively a dual system of regulation between market regulators and the Federal Reserve, expressing some sort of concern about dual regulation. I am concerned about that because—if I can gather my papers—I have a *Washington Post* article which is referring to the primary article from Bloomberg speaking about how during this meltdown allegedly AIG was getting pressured by the Federal Reserve not to file documents with the SEC that would divulge the deal's details. It almost seems that we have the model that we are prescribing we have a Council, in this case SEC, and they were trumped by the over-regulator, in this case the Federal Reserve which limited the SEC's ability to perform their function. I guess I am calling into question the entire model. Should there be this over-regulator or should there just be a Council of fractious, puny equals with the chairmanship rotating much perhaps as we do with the Joint Chiefs of Staff. Where we actually, with that friction, make sure that everybody does their job, as opposed to the over-regulator, according to Bloomberg, which actually trumps your ability to do your job. Do you follow what I am saying?

Ms. WALTER. Yes, I do, Congressman. I would say that first of all we do see a need for someone to address the systemic risk issues and address it across the markets, and that is why we have supported the idea of a very strong Council. We would like the power to be vested in that multi-member body rather than any single agency. We do think that as a group, more than one agency thinks better than one agency solely or as the Chairman said in his opening statement, no one regulator is smart enough. There is also the problem of a potential conflict between that single regulator's special mission and the overall issues. So that is one change we would suggest to the discussion draft at some point, the reason we are supportive of a Council is at some point someone needs to make the final decision. I think the notion of having a rotating chairmanship is one that deserves some attention. We have also suggested consideration of having a separate, independent chairman and permanent staff rather than having the staff detailed from the Federal Reserve Board and the Treasury.

Mr. CASSIDY. But again, would that person with their separate staff be able to trump or again allegedly pressure institutions not to file documents with other members of the regulatory Council?

Ms. WALTER. Well, of course, I can't speak to any particular circumstance and the idea would be that that institution would have the ability to set standards and in setting those standards, implement those standards. In our view this should fall to the functional regulators, the expert regulators that we have today as well as you of course.

Mr. CASSIDY. Just because I am about to run out of time, Mr. Gensler, you very nicely, in your testimony and also your written testimony, speak about the problem of dual regulation. I am really getting a sense that in our Council again, it may not want the over-regulator, the one person that can trump everybody else because it cannot just think of the banks and the institutions. How do I please this person? How do I please that person?

Mr. GENSLER. I think, Congressman, you have hit upon the core question for Congress in this. We want to strengthen our regulation and fill the gaps and that is why this Committee passed historic, over-the-counter regulation, to fill an important gap. There are some gaps even in consolidated supervision that certain holding companies need stronger, perfected regulation. I think we have been well-served for 75 years in this nation having independent market regulation, and at times there might be a tension between market regulation protecting investors, protecting the integrity of the market, policing against fraud manipulation, and there may be a tension between that and the profitability of financial institutions where a prudential regulator is overseeing that. So I think it is actually a healthy thing for the American public to have independent market regulation of the Securities and Exchange Commission and the Commodity Futures Trading Commission, and not be subordinate to other regulators.

Mr. CASSIDY. Okay, with that I yield back.

The CHAIRMAN. I thank the gentleman.

The gentleman from Georgia, Mr. Marshall.

Mr. MARSHALL. Thank you, Mr. Chairman, and thank you all for testifying and for what you do for us.

Mr. Strom, in the 7 odd years that I have been here, I can't tell you how often I have been visited by Farm Credit System folks asking that we expand in different ways their ability to make loans. And with regard to this proposed exception to FSOC jurisdiction, I find myself sort of wondering to what extent are we going to hear more and more of this as the years progress if the FSOC is doing things like requiring that ten percent be retained by different institutions that otherwise would pass that exposure along. And if it is acknowledged that the effect of this is, if you cause retention anyway the effect of this is to increase the cost of credit. You know, I can see as the years progress, more and more requests to expand FCS ability to lend because FCS is just going to be able to do it cheaper, and so there are going to be a lot of people out there who would prefer to borrow from FCS then from local community banks. And we are constantly met with that kind of tension here on the Agriculture Committee, complaints about competition with credit unions, competition with local community banks. Would you make a comment about that, generally?

Mr. STROM. Congressman, as the regulator of the Farm Credit System, our job is to ensure the safety and soundness of these institutions and that they work within the framework of the statute. We develop regulations around that. As we look at the changing agricultural industry and the issues in rural America, we are constantly addressing how the changes in the industry and the needs of rural America affect what Farm Credit can or should be doing. And we understand the importance of the strength of the rural banking system within these communities, and that they should be working side-by-side to serve these rural communities. We are happy to continue to work as a regulator of the System institutions with this Committee to look at how this changing industry is affecting the availability of credit in rural America, especially at a very stressful time right now. I mean we are seeing some of those.

Mr. MARSHALL. Are you agreeing with my point here that if there is a separate regulator, separate regime, costs are higher in the rest of the market than they are in the Farm Credit System? There is going to be continual pressure on Congress to expand the availability to Farm Credit System credit.

Mr. STROM. Congressman, that could be, realizing again the System institutions already pay a premium into an insurance fund on their own which is a cost that they bear. They also are at the mercy of the debt markets to be able to issue debt.

Mr. MARSHALL. Yes, and do you know what percent roughly you occupy in lending across the United States? Are you one percent, less than one percent, two percent?

Mr. STROM. The Farm Credit System has about 39 percent of the agricultural debt market in the U.S.

Mr. MARSHALL. That is not what I am referring to. I am talking about the overall credit markets in the United States.

Mr. STROM. Oh, the overall credit markets.

Mr. MARSHALL. In all the credit markets in the United States, I would imagine you are small.

Mr. STROM. I would imagine the System is very small, and in the context of whether the Farm Credit System is a systemic risk to the entire economy? No.

Mr. MARSHALL. It could be a risk to the farm economy.

Mr. STROM. It could be a risk to the farm economy, yes.

Mr. MARSHALL. All right, the other thing that I just observed is that one of the arguments for expanding Farm Credit System's lending authority, makes me at least uneasy and probably other Members, is that it was very difficult to persuade community banks, small independent banks, you name it to join in extending credit for ethanol facilities that were being built across the country, and the argument was that they won't take this exposure. We will take this exposure. This is good for the rural economy. They are not willing to step up when we need them to step up, and, consequently, you need to expand our lending authority. And one of the thoughts I had was that well, part of the reason why they might not be willing to do this is they are worried about the exposure. How are you all doing with your ethanol facilities?

Mr. STROM. The System at its peak had about $3 billion extended to the ethanol industry in the U.S. and, yes, there have been significant challenges within that industry as we have seen the various effects of the volatile markets of last year, including corn and crude oil prices. The System is managing through that. We have four System institutions to put up provisions for losses to cover any exposure on these, but at this point, the System is handling those exposures well.

Mr. MARSHALL. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from California, Mr. Costa.

Mr. COSTA. Thank you very much, Mr. Chairman, for holding this timely hearing.

As has been stated by a number of my colleagues, and certainly by the three witnesses who were all concerned about the current impact that this economic recession has distressed our entire nation, obviously the focus for many of us who represent rural America is the added challenges that we face in parts of the country where we are dependent, primarily, on an agricultural economy. The issuance of credit, the availability of credit is dependent upon numerous factors in the economy. In my area we have a third consecutive dry year and the drought crisis with the regulatory impacts on the Federal level that is making a difficult situation worse. So as I talk to my farmers and ranchers and, of course, we have the meltdown in the dairy industry that is across the country, I am trying to figure out from the standpoint of Farm Credit, and the work that you do here, the impacts. I know we have had stories in each of our constituencies, but I kind of come from the old school of if it is not broke, what is there to fix. I would like you to comment as it relates to the proposed legislation what do you think, Mr. Strom, is broke here that needs to be fixed? And I would also like to ask Ms. Walter, again, the same question.

Mr. STROM. Congressman, I would say that within the context of the Farm Credit System, and we as the regulator, I don't think there is anything broken within the Farm Credit System. This Committee 20 years ago put the proper pieces in place, and let me just reference the strong borrower rights provisions that were put in the 1987 Act. I mean they are a leader in consumer protections as we term borrower rights in these very stressful times, and so that has been a very positive aspect. I reminded System institutions to employ those borrower rights provisions as they work with distressed borrowers during this difficult time. But I think this legislation clearly has implications that in our mind clouds the jurisdictional lines, the authorities, and really who is in charge. And, again, I don't think we fit in the regulatory scope of this new Council and, therefore, should not be part of it.

Mr. COSTA. Could you fit in it?

Mr. STROM. Pardon?

Mr. COSTA. Could you fit in it?

Mr. STROM. Again, I think that the agricultural system and FCA as the regulator are so unique, we are under the jurisdiction of the people that know this industry.

Mr. COSTA. No, I know. I work with them everyday in my district.

Mr. STROM. Yes.

Mr. COSTA. They serve on their boards. They farm, they understand the unique challenges that farmers, ranchers and dairymen have faced. Ms. Walter, do you want to comment?

Ms. WALTER. I believe that with respect to the financial services industry, the financial crisis has shown us that there are gaps in our regulatory system which need to be filled.

Mr. COSTA. How is that applicable to the Farm Credit System?

Ms. WALTER. I am not saying that it is and I do not have expertise with respect to the Farm Credit System. I don't take a position with respect to the coverage of this legislation to that System.

Mr. COSTA. All right, so you are not sure whether it is applicable or not then.

Ms. WALTER. Correct.

Mr. COSTA. Mr. Gensler.

Mr. GENSLER. Aside from the Farm Credit System, I think the financial system as a whole failed the American public.

Mr. COSTA. No, I would concur with that.

Mr. GENSLER. All right, so we and the regulatory system failed and that is why this Committee reported out a historically important bill on derivatives and it has worked to enhance other regulation, but I don't have any point on Farm Credit.

Mr. COSTA. Then you are not required to comment, okay, very good.

Mr. GENSLER. Yes, sir.

Mr. COSTA. In my last minutes then I would like, since that is a good transition, a segue between the derivative inference that Chairman Peterson and this Committee worked upon, would the Chairman avail himself to a colloquy? Because of those efforts that this Committee pursued with the Financial Services Committee, what, seemingly, so far seems to be a collaboration although it is not a done deal. Is it the Chairman's intent to indicate to the Financial Services Committee, that Chairman, our concerns about the impact on the Farm Credit System and how the law of unintended consequences could impact the Farm Credit System?

The CHAIRMAN. Well, this discussion started 3 months ago. We brought it up with Chairman Frank and at that time we got the indication that this would be resolved and there was supposed to be a letter. I don't think it happened. Obviously, this draft is not resolved yet. Mr. Strom indicated the Treasury now has some amendments to this. I think there is no question that we are going to get the Farm Credit situation resolved in a manner that is acceptable to this Committee before this bill comes to the floor.

Mr. COSTA. Well, I appreciate the Chairman's good work as he has demonstrated in the past for the farm bill and this year with the derivatives legislation. I would just note, as the Chairman pursues a course that we want to protect the Farm Credit System in this country. If there is some sort of a response or support by the Committee in terms of the impacts, I think it would be bipartisan support to submit such a concern to the Financial Services Committee, as to the impact of this proposed legislation.

The CHAIRMAN. Yes, in regard to Farmer Mac that became an issue here in the last couple of weeks, and Chairman Frank is sending me a letter indicating that that is our jurisdiction, whatever we decide to do with Farmer Mac is our business, so I think it is going to get resolved. You know, you have people, staff people that drafted this systemic risk thing that have a typical no clue of what we are doing in farm country and they just didn't understand, basically, what happened. So I am at this point pretty comfortable we are going to get this resolved, but we haven't gotten it done yet.

Mr. COSTA. Well, thank you very much, Mr. Chairman, for holding this hearing and for making sure that people in farm country understand that we want to protect the Farm Credit System as we know it. Obviously these are difficult times, and I certainly want to support the Chairman in his efforts.

The CHAIRMAN. I thank the gentleman.

The gentlelady from Pennsylvania, Mrs. Dahlkemper.

Mrs. DAHLKEMPER. Thank you, Mr. Chairman. Thank you for holding this hearing. I want to thank the witnesses as well.

Many of the questions that I had have been asked previously, and so I don't want to go over them again. I just have one question for Mr. Strom. What have your conversations with the Treasury Department been about? Could you expand on that a little bit regarding these proposals and what is their view as to whether this should be applied to the Farm Credit System?

Mr. STROM. Congresswoman, our discussions with Treasury began last Thursday, and actually I think as a result of this Committee holding this hearing they were interested in discussing our concerns with us. So, in discussions with them we raised our three main concerns, the area of the definitions of *financial companies,* and we believe that even though the System is not specifically mentioned, they are included. Second, the conflict on the retention issue with Farmer Mac, and, third, on the resolution authorities.

Their response to us as late as last evening was that they would be willing to have put in the bill with the Financial Services Committee, wording that would exclude the Farm Credit System from *financial company* definition, and exclude the Farm Credit System institutions and the regulator from the resolution issue and FDIC. Now, they indicated that they were proposing language to us on the retention issue regarding Farmer Mac. We have not come to a comfort level on that yet, so discussions were, as late as last night, still ongoing. But, again, I understand that anything that happens with Treasury is going to be brought to this Committee so you understand what those discussions are. But, they indicated that Treasury would be working with the Financial Service Committee to get these amendments put in the draft.

Mrs. DAHLKEMPER. So they are in ongoing conversations as of last night.

Mr. STROM. Yes, let me also add that we want to make sure that the Agriculture Committee is involved in the resolution of any of this retention issue regarding Farmer Mac.

Mrs. DAHLKEMPER. Well, that is great. Good to hear that. Thank you very much.

The CHAIRMAN. I thank the lady.

The gentleman from North Dakota, Mr. Pomeroy.

Mr. POMEROY. Mr. Chairman, I have been in a Ways and Means hearing and I will catch up on your summary. Thank you. I yield back.

The CHAIRMAN. The gentleman from New York, Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. All my questions have been answered. I think we have worn out the subject here.

The CHAIRMAN. Well, I thank the panel for being with us and for your patience and your answers, and somebody on the staff or somebody can figure out what the percentages that FDIC pays *versus* what Farm Credit pays and what level they are trying to hit. Is it two percent of assets or what is it that they are trying to do so we can, and so I can, get a better understanding of what the relationship is between those two. So with that, the Committee on Agriculture will stand adjourned subject to the call of the chair.

[Whereupon, at 12:40 p.m., the Committee was adjourned.]

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