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Financial Crisis Inquiry Commission Report: Notes

United States: Financial Crisis Inquiry Commission (FCIC)

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NOTES

Unless otherwise specified, data come from the sources listed below.

Board of Governors of the Federal Reserve System, Flow of Funds Reports: Debt, international capital flows, and the size and activity of various financial sectors
Bureau of Economic Analysis: Economic output (GDP), spending, wages, and sector profit
BlackBox Logic and Standard & Poor’s: Data on loans underlying CMLTI 2006-NC2
CoreLogic: Home prices
Inside Mortgage Finance, 2009 Mortgage Market Statistical Annual: Data on origination of mortgages, issuance of mortgage-backed securities and values outstanding
Markit Group: ABX-HE index
Mortgage Bankers Association National Delinquency Survey: Mortgage delinquency and foreclosure rates
10-Ks, 10-Qs, and proxy statements filed with the Securities and Exchange Commission: Company-specific information
Many of the documents cited on the following pages, along with other materials, are available on www.fcic.gov.

Chapter 1

1. Charles Prince, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, p. 10.
3. Lloyd Blankfein, testimony before the First Public Hearing of the FCIC, day 1, panel 1: Financial Institution Representatives, January 13, 2010, transcript, p. 36.
5. Alan Greenspan, written testimony for the FCIC, Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 1: The Federal Reserve, April 7, 2010, p. 9.
11. Data provided to the FCIC by National Association of Realtors: national home price data from sales of existing homes, comparing second-quarter 1998 ($135,800) and second-quarter 2006 ($227,100), the national peak in prices.
13. Data provided by CoreLogic. Home Price Index for Urban Areas. FCIC staff calculated house price growth from January 2001 to peak of each market. Prices increased at least 50% in 401 cities, at least 75% in 217 cities, at least 100% in 112 cities, at least 125% in 63 cities, and more than 150% in 16 cities.
16. In 2007, the weekly wage of New York investment banker was $16,849; of the average privately employed worker, $841.
17. Federal Reserve Survey of Consumer Finances, tabulated by FCIC.
22. Ann Fulmer, vice president of Business Relations, Interthinx (session 1: Overview of Mortgage Fraud), and Ellen Wilcox, special agent, Florida Department of Law Enforcement (session 2: Uncovering Mortgage Fraud in Miami), testimony before the FCIC, Hearing on the Impact of the Financial Crisis—Miami, September 21, 2010.
27. Ibid.
31. These points were made to the FCIC by consumer advocates: e.g., Kevin Stein, associate director, California Reinvestment Coalition, at the Hearing on the Impact of the Financial Crisis—Sacramento, session 2: Mortgage Origination, Mortgage Fraud and Predatory Lending in the Sacramento Region, September 23, 2010; Gail Burks, president and CEO, Nevada Fair Housing Center, at the Hearing on the Impact of the Financial Crisis—State of Nevada, session 3: The Impact of the Financial Crisis on Nevada Real Estate, September 8, 2010. See also Federal Reserve Consumer Advisory Council transcripts, March 25, 2004; June 24, 2004; October 28, 2004; March 17, 2005; October 27, 2005; June 22, 2006; October 26, 2006.
34. Ibid.
36. Rokakis, interview.
37. John Taylor, chairman and chief executive officer, National Community Reinvestment Coalition, letter to Office of Thrift Supervision, July 3, 2000, provided to the FCIC.
38. Stein, testimony before the FCIC, transcript, pp. 73–74, 71.
44. Sheila C. Bair, interview by FCIC, March 29, 2010.
47. Stein, testimony before the FCIC, September 23, 2010, transcript, p. 72.
54. Ibid.
56. Alphonso Jackson, interview by FCIC, October 6, 2010.
57. Cox, interview; Madigan, written testimony for the FCIC, January 14, 2010, p. 11.
59. John D. Hawke Jr. and John C. Dugan, written statements for the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 2: Office of the Comptroller of the Currency, April 8, 2010, pp. 4–5 and pp. 4–8, respectively.
60. Madigan, written testimony for the FCIC, January 14, 2010, pp. 9, 10.
61. Cox, interview.
63. Marc S. Savitt, interview by FCIC, November 17, 2010.
66. Savitt, interview.
68. Ibid.


75. Alberto Gonzales, interview by FCIC, November 1, 2010; Michael Mukasey, interview by FCIC, October 20, 2010.


77. Ibid., p. 45.


80. "After the Fall: Soaring house prices have given a huge boost to the world economy. What happens when they drop?" The Economist, June 16, 2005.


82. Ibid.


86. Raghuram Rajan, interview by FCIC, November 22, 2010.

87. Ibid.

88. Ibid.


95. Jamie Dimon, testimony before the FCIC, First Public Hearing of the FCIC, day 1, panel 1: Financial Institution Representatives, January 13, 2010, transcript, p. 78.


100. Robert Rubin, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Entities (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, p. 30.


102. Bowen, interview.


106. Angelo Mozilo, email to Eric Sieracki, April 13, 2006, re: 1Q2006 Earnings.

107. Angelo Mozilo, email to David Sambol, April 17, 2006, subject: sub-prime seconds.

108. David Sambol, email to Angelo Mozilo, April 17, 2006, re: Sub-prime seconds (cc Kurland, McMurray, and Bartlett).

109. Angelo Mozilo, email to David Sambol, April 17, 2006, subject: re: Sub-prime seconds (cc Kurland, McMurray, and Bartlett).


111. “Survey of Nontraditional Mortgages” (actual title redacted), confidential Federal Reserve document obtained by FCIC, produced November 1, 2005, pp. 2, 3.


115. Bies, interview.


121. Siddique, interview, October 25, 2010; Bies, interview.

122. There is no central clearinghouse to calculate structured finance assets. The FCICs estimate is based on the amount of structured finance assets rated by Moody’s along with unrated agency RMBS, along with an estimate for structured finance assets not rated by Moody’s, using as sources Fannie Mae and Freddie Mac, Bloomberg, American CoreLogic Loan Performance, Fitch Ratings, Moody’s, S&P, Thomson Reuters, and SIFMA.

123. Alan Greenspan, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 1: The Federal Reserve, April 7, 2010, transcript, p. 29.


125. CoreLogic, Inc., August 26, 2010, news release, second quarter, 2010. Second-quarter figures were an improvement from 11.2 million residential properties (24%) in negative equity in the first quarter of 2010.


Chapter 2

1. Ben Bernanke, written testimony before the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, session 1, September 2, 2010, p. 2.


10. Alan Blinder, interview by FCIC, September 17, 2010.


15. Thereafter, banks were only required to lend on collateral and set terms based upon what the market was offering. They also could not lend more than 10% of their capital to one subsidiary or more than 20% to all subsidiaries. Order Approving Applications to Engage in Limited Underwriting and Dealing in Certain Securities, Federal Reserve Bulletin 73, no. 6 (Jul. 1987): 473–508; “Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities,” Federal Register 61, no. 251 (Dec. 30, 1996), 68750–56.


18. FCIC staff calculations.

19. FCIC staff calculations.

20. FCIC staff calculations using First American/CoreLogic, National HPI Single-Family Combined (SFC).

21. This data series is relatively new. Those series available before 2009 showed no year-over-year national house price decline. First American/CoreLogic, National HPI Single-Family Combined (SFC).


30. Ibid., pp. 10, 19.

Chapter 3


7. Fannie Mae Charter Act of 1968, §309(h), codified at 12 U.S.C. §1723a(h). The 1992 Federal Housing Enterprises Financial Safety and Soundness Act repealed this provision and replaced it with more elaborate provisions. Currently, the GSEs typically define low- and moderate-income borrowers as those with income at or below median income for a given area.


12. Daniel Mudd, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session 1: Fannie Mae, April 9, 2010, transcript, pp. 18–19.
14. Senate Lobbying Disclosure Act Database (www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm); figures on employees and PACs compiled by the Center for Responsive Politics from Federal Elections Commission data.
15. Falcon, written testimony for the FCIC, April 9, 2010, p. 5.
16. James Lockhart, written testimony for the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session 2: Office of Federal Housing Enterprise Oversight, pp. 4–8, 17 (quotation).
23. Scott Patterson, interview by FCIC, August 12, 2010.
26. Volcker, interview.
28. Lindsey, interview.
29. A futures contract is a bilateral contract in which one party, the long position, is compensated if the price or index or rate underlying the contract rises while the other party, the short position, is compensated if it goes down. An options contract grants the right but not the obligation to purchase or sell a commodity or financial instrument at a particular price in the future; the option holder derives a benefit if the price moves in his or her favor. In a swaps contract, the two parties exchange streams of payments based on different benchmarks.
30. Securities options are regulated by the SEC.
34. Commodity Futures Trading Commission, "Division of Enforcement" (www.cftc.gov/anr/anrenf98.htm).
37. GAO, "Long-Term Capital Management: Regulators Need to Focus Greater Attention on Systemic Risk," GAO/GGD-00-3 (Report to Congressional Requesters), October 1999, pp. 7, 18, 39–40. The notional amount of OTC derivatives contracts is a standard measure used in reporting the outstanding volume of such contracts. Its calculation is based on the value of the underlying instrument, commodity, index or rate that the swap is based on. It therefore may be of limited use in measuring the potential exposure of the parties to the contracts. For example, an interest rate swap based on changes in interest rate on a $100 million loan would likely involve only a small percentage of the $100 million notional amount. On the other hand, price changes on an oil swap based on $100 million worth of oil could be even more than the notional amount, depending on the volatility in oil prices. For credit default swaps, which are discussed in more detail later in this volume, the notional amount is usually a close measure of the potential financial exposure of the issuer or seller of the swap.
41. Gross market value is the current price at which the outstanding swaps contract can be sold or replaced on the market. As such, that amount reflects the current amount owing on a contract but does not reflect the possible future exposure on these generally long-term instruments.
42. Bank for International Settlements, data on semiannual OTC derivatives statistics.
43. Alan Greenspan, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Entities (GSEs), day 1, session 1: The Federal Reserve, April 1, 2010, transcript, pp. 88–89.
44. Robert Rubin, testimony before the FCIC, FCIC Hearing on Subprime Lending and Securitization and Government-Sponsored Entities (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, pp. 108–10, 123–24.
49. For more on derivatives, see FCIC, “Preliminary Staff Report: Overview on Derivatives,” June 29, 2010.
50. Warren Buffett, testimony before the FCIC, Hearing on the Credibility of Credit Ratings, the Investment Decisions Made Based on Those Ratings, and the Financial Crisis, session 2: Credit Ratings and the Financial Crisis, June 2, 2010, transcript, pp. 312, 326, 325.
52. Data provided by AIG to the FCIC, CDS notional balances at year-end.
54. Dinallo testified that the market in CDS in September 2008 was estimated to be $62 trillion at a time when there was about $16 trillion of private-sector debt (written testimony for the FDIC, July 1, 2010, p. 9).
55. “AIGFP also participates as a dealer in a wide variety of financial derivatives transactions” (AIG, 2007 Form 10-K, p. 83). AIG’s notional derivatives outstanding were $2.1 trillion at the end of 2007, including $1.2 trillion of interest rate swaps, $0.6 trillion of credit derivatives, $0.2 trillion of currency swaps, and $0.2 trillion of other derivatives (p. 163).
56. FCIC staff calculations using data from Office of the Comptroller of the Currency; call reports.
57. Data provided to the FCIC by Goldman Sachs.

Chapter 4

3. Data from SNL Financial (www.snl.com/).


10. See U.S. Department of the Treasury, Modernizing the Financial System (February 1991), pp. XIX-5, XIX-6, 67–69: “the existence of fewer agencies would concentrate regulatory power in the remaining ones, raising the danger of arbitrary or inflexible behavior. . . . Agency pluralism, on the other hand, may be useful, since it can bring to bear on general bank supervision the different perspectives and experiences of each regulator, and it subjects each one, where consultation and coordination are required, to the checks and balances of the others’ opinion.”


14. The two-year exemption is contained in section 4(a)(2) of the Bank Holding Company Act. The Fed could have granted up to three one-year extensions of that exemption.

15. FCIC staff computations based on data from the Center for Responsive Politics. “Financial sector” here includes insurance companies, commercial banks, securities and investment firms, finance and credit companies, accountants, savings and loan institutions, credit unions, and mortgage bankers and brokers.


25. Commercial and industrial loans at all commercial banks, monthly, seasonally adjusted, from the Federal Reserve Board of Governors H.8 release; FCIC staff calculation of average change in loans outstanding over any two consecutive months in 1997 and 1998.

34. Lowenstein, When Genius Failed, pp. 205–18.
35. McDonough, statement before the House Committee on Banking and Financial Services, October 1, 1998.
37. Harvey Miller, interview by FCIC, August 5, 2010.
41. Ibid.
42. Ibid.
52. Spillenkothen, “Notes on the performance of prudential supervision in the years preceding the financial crisis,” p. 28.
53. “First the Put; Then the Cut?” Economist, December 16, 2000, p. 81.


56. Lawrence Lindsey, interview by FCIC, September 20, 2010.

57. The NYSE decided in 1970 to allow members to be publicly traded. See Andrew von Nordenflycht, “The Demise of the Professional Partnership? The Emergence and Diffusion of Publicly-Traded Professional Service Firms” (draft paper, Faculty of Business, Simon Fraser University, September 2006), pp. 20–21.


70. Sandy Weill, interview by FCIC, October 4, 2010.


78. FCIC staff calculations.

79. SNL Financial Database and SEC public filings.

80. Calculated from proxy statements.


82. Ibid.
Chapter 5


5. Lewis Ranieri, former vice chairman of Salomon Brothers, interview by FCIC, July 30, 2010.


7. Ibid., 417.

8. Ibid., pp. 9, 32, 36, 48

9. The figures throughout this discussion of CMLTI 2006-NC2 are FCIC staff calculations, based on analysis of loan-level data from Blackbox Inc. and Standard & Poor’s; Moody's PDS database; Moody’s CDO EMS database; and Citigroup, Fannie Mae Term Sheet, CMLTI 2006-NC2, September 7, 2006, pp. 1, 3. See also Brad S. Karp, counsel for Citigroup, letter to FCIC, November 4, 2010, p. 1, pp. 2–3. All ratings of its tranches are as given by Standard & Poor’s.

10. Technically, this deal had two unrated tranches below the equity tranche, also held by Citigroup and the hedge fund.


12. Ibid.


18. Southern Pacific Funding Corp, Form 8-K, September 14, 1998


21. FCIC staff calculations using data from Inside MBS & ABS.

22. See Marc Savitt, interview by FCIC, November 17, 2010.


28. Loans were subject to HOEPA only if they hit the interest rate trigger or fee trigger: i.e., if the annual percentage rate for the loan was more than 10 percentage points above the yield on Treasury securities having a comparable maturity or if the total charges paid by the borrower at or before closing exceeded $400 or 8% of the loan amount, whichever was greater. See Senate Committee on Banking, Housing, and Urban Affairs, S. Rep. 103–169, p. 54.
29. Ibid., p. 24.
35. Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Office of Thrift Supervision, "Interagency Guidance on Subprime Lending" (March 1, 1999), p. 1
36. Ibid., pp. 1–7; quotation, p. 5.
42. Sheila Bair, interview by FCIC, March 29, 2010.
43. Sandra F. Braunstein, interview by FCIC, April 1, 2010, pp. 31–34.
44. Bair, interview.

Chapter 6

1. Figures represented the compound average growth rate and FCIC staff calculations from CoreLogic National Home Price Index, Single-Family Combined (SCF); CoreLogic Loan Performance HPI August 2010.


6. FCIC staff calculations from Board of Governors of the Federal Reserve System, H.15 Selected Interest Rate release, 3-month AA Nonfinancial Commercial Paper Rate, WCPN3M (weekly, ending Friday); U.S. Department of Treasury, Daily Treasury Yield Curve Rates, 1990 to Present.

7. This example assumes that the homeowner is able to come up with a larger down payment to cover 20% of the higher-priced home. Here, the difference would be about $13,000.

8. Federal Housing Finance Agency, “Data on the Risk Characteristics and Performance of Single-Family Mortgages Originated from 2001 through 2008 and Financed in the Secondary Market” (September 13, 2010), Table 2a: Share of Single-Family Mortgages Originated from 2001 through 2008 and Acquired by the Enterprises or Finances with Private-Label MBS by Loan-to-Value Ratio and Borrower FICO Score at Origination, Adjustable-Rate Mortgages, p. 22. Prime borrowers are defined as those whose mortgages are financed by the government-sponsored enterprises.


10. FCIC staff calculations from CoreLogic/First American, Home Price Index for Single-Family Combined State HPI data, last updated August 2010, and CoreLogic State Home Price Index, provided to the FCIC by CoreLogic. Staff calculations of all annual growth rates are compound annual growth rates from January to January.


14. Mortgages may have been refinanced more than once in that year.

15. FCIC staff calculations with updated data provided by Alan Greenspan and James Kennedy, whose data originally appeared in “Sources and Uses of Equity Extracted from Homes,” Finance and Economics Discussion Series, Federal Reserve Board, 2007-20 (March 2007).


22. Presentation to the Lehman Board of Directors, March 20, 2007. Lehman had also acquired three international lenders during this time period.


46. Mark Olson, interview by FCIC, October 4, 2010.


51. Alan Greenspan, written testimony for the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day one, session 1: The Federal Reserve, April 7, 2010, p. 13.


55. Alan Greenspan, interview by FCIC, March 31, 2010
60. Greenspan, interview.
61. Ibid.
67. “Truth in Lending,” pp. 44522–23. “Higher-priced mortgage loans” are defined in the 2008 regulations to include mortgage loans whose annual percentage rate exceeds the “average prime offer rates for a comparable transaction” (as published by the Fed) by at least 1.5% for first-lien loans or 3.5% for subordinate-lien loans.
68. Alvarez, interview.
75. Data references based on Reginald Brown, counsel for Bank of America, letter to FCIC, June 16, 2010, p. 2; Jessica Carey, counsel for JPMorgan Chase, letter to FCIC, December 16, 2010; Brad Karp, counsel for Citigroup, letter to FCIC, March 18, 2010, in response to FCIC request; Wells Fargo public commitments 1990–2010, data provided by Wells Fargo to the FCIC.
78. FCIC calculation based on Federal Housing Finance Agency, “Data on the Risk Characteristics and Performance of Single-Family Mortgages Originated in 2001–2008 and Financed in the Secondary Market” (August 2010), Table 1–C; this report covers all loans purchased or securitized by the GSEs or in private-label securitizations. Delinquency data provided by Wells Fargo covered 81% of loans.


81. Glenn Loney, interview by FCIC, April 1, 2010.


83. Division of Consumer and Community Affairs, memorandum to Board of Governors, August 10, 1998.


86. Andrew Plepler, interview by FCIC, July 14, 2010.

87. Assuming 75% AAA tranche ($1.20), 10% AA tranche ($0.20), 8% A tranche ($0.30), 5% BBB tranche ($0.40), and 2% equity tranche ($2.00). See Goldman Sachs, “Effective Regulation: Part I, Avoiding Another Meltdown,” March 2009, p. 22.


89. Henry Paulson, testimony before the FCIC, Hearing on the Shadow Banking System, day 2, session 1: Perspective on the Shadow Banking System, May 6, 2010), transcript, p. 34.

90. Jones, interview.

Chapter 7

1. For example, an Alt-A loan may have no or limited documentation of the borrower’s income, may have a high loan-to-value ratio (LTV), or may be for an investor-owned property.


17. Inside Mortgage Finance.


22. Patricia Lindsay, written testimony for the FCIC, hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, sess. 2: Subprime Origination and Securitization, April 7, 2010, p. 3


24. Ibid.


29. PSI Documents, Exhibits 35 and 36 pp. 330–51.


31. Ibid., p. 345.

32. Ibid., p. 346.


34. PSI Documents Exhibit 37, p. 366, showing average FICO score of 698; p. 356; comparing conforming and jumbo originations.

35. Ibid., p. 357.


37. Countrywide October 2003 Loan Program Guide (depicting a maximum CLTV of 80 and minimum FICO of 680) and July 2004 Loan Program Guide (showing 90% 620 FICO).


40. Angelo Mozilo, email to Carlos Garcia (cc: Stan Kurland), Subject: “Bank Assets,” August 1, 2005.
43. See Washington Mutual, 2006 Form 10-K, p. 53.
48. Mona Tawatao, in ibid., p. 228.
50. Ibid.
55. Sandler, interview.
56. CoreLogic loan performance data for subprime and Alt-A loans, and CoreLogic total outstanding loans servicer data provided to the FCIC.
58. William Black, testimony for the FCIC, Miami Hearing on the Impact of the Financial Crisis, day 1, session 1: Overview of Mortgage Fraud, September 21, 2010, p. 27.
60. Jamie Dimon, testimony before the FCIC, January 13, 2010, p. 60.
62. FCIC staff estimates based on analysis of data from BlackBox, S&P, and Bloomberg. The prospective loan pool for this deal originally contained 4,507 mortgages. Eight of these had been dropped from the pool by the time the bonds were issued. Therefore, these estimates may differ slightly from those reported in the deal prospectus because these estimates are based on a pool of 4,499 loans.
63. Ibid.
70. John Dugan, testimony before the FCIC, Public Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 2: Office of the Comptroller of the Currency, April 8, 2010, transcript, p. 150.
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73. Citigroup Warehouse Lines of Credit with Mortgage Originators, in Global Securitized Markets, 2000–2010 (revised), produced by Citigroup; staff calculations.


77. Moody's ABCP Reviews of Park Granada and Park Sienna.


79. Letters from the American Securitization Forum (November 17, 2003) and State St. Bank (November 14, 2003) to the Office of Thrift Supervision.


82. Correspondence between Citi and New Century provided to FCIC. FCIC staff estimates from prospectus and Citigroup production dated November 4, 2010. Citi August 29, 2006, Loan Sale.

83. Fannie Mae Term Sheet.

84. For the more than 20 institutional investors around the world, see Citigroup letter to the FCIC re Senior Investors, October 14, 2010. The $582 million figure is based on FCIC staff estimates that, in turn, were based on analysis of Moody's PDS database.


86. Citigroup letter to the FCIC, November 4, 2010.


88. See Brad S. Karp, letter to FCIC, about mezzanine investors, November 4, 2010, p. 1. The equity tranches were not offered for public sale but were retained by Citigroup.

89. FCIC staff estimates from prospectus and Citigroup production dated November 4, 2010.

90. Patricia Lindsay, interview by FCIC, March 24, 2010.

91. PSI Documents, Exhibit 59a: “Long Beach Mortgage Production, Incentive Plan 2004,” and Exhibit 60a (quoting page 2 of WaMu Home Loans Product Strategy PowerPoint presentation).


93. Barclays Capital, Bear Sterns, BNP Paribas, Citigroup, Deutsche Bank, Goldman Sachs, HSBC, JPMorgan, Lehman Brothers, Morgan Stanley, and UBS.


95. See Merrill Lynch, 2007 Proxy Statement, p. 46.


97. See FCIC staff calculations based on Moody’s Form 10-Ks for years 2003–07.

98. Moody’s Expands Moody’s Mortgage Metrics to Include Subprime Residential Mortgages,” September 6, 2006; FCIC staff estimate based on analysis of Moody’s SFDRS and PDS databases.

99. The ratings from the three agencies measure slightly different credit risk characteristics. S&P and Fitch base their ratings on the probability that a borrower will default; Moody’s bases its ratings on the expected loss to the investor. Despite such differences, investors and regulators tend to view the ratings as roughly equivalent. Ratings are divided into two categories: investment grade securities are rated BBB- to AAA, while securities rated below BBB- are considered speculative and are also referred to as junk (for S&P; similar levels for Moody’s are Baa to triple-A).


111. Teicher, interview.


115. Stein, interview.


118. FCIC staff estimates based on analysis of Moody’s PDS database.


121. FCIC staff estimates based on analysis of Moody’s SFRDS data as of April 2010.


123. James Lockhart, director, FHFA, speech to American Securitization Forum in Las Vegas, New Mexico, February 9, 2009 (p. 2, slide 4 of presentation shows the chart).


125. In 2006, OFHEO issued its final *Report of the Special Examination of Fannie Mae*. OFHEO said that management engaged in numerous acts of misconduct, involving well over a dozen different forms of accounting manipulation and violations of generally accepted accounting principles. As in the case of Freddie, OFHEO said Fannie’s management sought to hit ambitious earnings-per-share targets that were linked to their own compensation.


128. See Tables 5.1/5.2 in FHFA Conservatorship report for third-quarter 2010.


130. Ibid., pp. 2, 10.

132. Alan Greenspan, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 1: The Federal Reserve, April 7, 2010, transcript, p. 13.

Chapter 8

2. FCIC staff calculations, using data from the U.S. Census, data in Moody’s CDO PDS database, and data in Moody’s CDO Enhanced Monitoring Service database. The FCIC selected CDOs with at least 10% of their collateral invested in mortgage-backed securities or with other characteristics that identified them as ABS CDOs.
7. CDOs that bought relatively senior tranches of mortgage-backed securities were known as high-grade; those that bought the BBB-rated and other junior tranches were known as mezzanine.
8. Joe Donovan, quoted in Gregory, "The ‘What If’s’ in ABS CDOs."
12. FCIC staff estimates based on analysis of Moody’s CDO EMS database.
16. Lamont, interview.
17. FCIC staff calculations using data in FCIC CDO manager and underwriter survey.
19. FCIC staff calculations. Our estimate assumes an annual management fee of 0.10% of the total value of the deal—that is, the lowest normally earned in the industry—applied to the mortgage-focused multisector CDOs in the FCIC database. It does not include other income, such as interest on equity tranches retained by the managers. CDO managers responding to the FCIC survey reported management fees ranging from as low as 0.10% to as high as 0.40%.
21. FCIC Hedge Fund Survey. See FCIC website for details.
22. FCIC staff estimates based on Moody’s CDO Enhanced Monitoring Service.
26. Ricciardi, interview.
27. For example, Kleros III tranches were in Buckingham CDO, Buckingham CDO II, and Buckingham CDO III, all deals underwritten by Barclays.
28. Adelson, interview.
29. Chau, interview.
32. Dan Sparks, interview by FCIC, June 15, 2010.
33. Dominguez, interview.
34. The ratio of the book value of assets to equity ranged from 2.5 to 28.3 times for all SIVs; the average was 13.6 times. Moody's Investors Service, “Moody's Special Report: Moody's Update on Structured Investment Vehicles,” January 16, 2008, p. 13.
36. Bear Stearns Asset Management, Collateral Manager Presentation; Ralph Cioffi, interview by FCIC, October 19, 2010; Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd., financial statements for the year ended December 31, 2006 (total assets were $8,573,315,025); Bear Stearns High-Grade Structured Credit Strategies Enhanced Leverage Master Fund, Ltd., financial statements for the year ended December 31, 2006 (total assets were $9,403,235,402).
38. Cioffi, interview.
39. AIMA’s Illustrative Questionnaire for Due Diligence of Bear Stearns High Grade Structured Credit Strategies Fund; Bank of America presentation to Merrill Lynch’s Board of Directors, “Bear Steams Asset Management: What Went Wrong.”
40. Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd., financial statements for the year ended December 31, 2006; Financial Statements, Bear Stearns High-Grade Structured Credit Strategies Enhanced Leverage Master Fund, Ltd., financial statements for the year ended December 31, 2006; BSAM fund chart prepared by JPMorgan.
41. FCIC staff calculations using data from FCIC survey of hedge funds. The hedge funds responding to the survey had a total of $1.2 trillion in investments.
42. IMF, Global Financial Stability Report, April 2008, Table 1.2, page 23, “Typical 'Haircut' or Initial Margin.”
44. Cioffi, interview.
45. Ibid.
46. Ibid.
47. Bear Stearns High-Grade Structured Credit Strategies, investor presentation, stating that “the fund is subject to conflicts of interest.” Bear Stearns High-Grade Structured Credit Strategies Enhanced Leverage Fund, L.P., Preliminary Confidential Private Placement Memorandum, August 2006. Everquest Financial Ltd., Form S-1, p. 13.
48. Bear Stearns Asset Management Collateral Manager, presentation, stating that Klio I collateral includes 73% RMBS and ABS and 27% CDOs, Klio II collateral includes 74% RMBS and ABS and 26% CDOs, and Klio III collateral includes 74% RMBS and ABS and 26% CDOs; Cioffi, interview.
49. Everquest Financial Ltd., Form S-1, pp. 9, 3.
50. Bear Stearns Asset Management, Collateral Manager Presentation.
51. Cioffi and Tannin Compensation Table, produced by Paul, Weiss, Rifkind, Wharton & Garrison, LLP.


55. Prince, interview.


64. Ibid.; Warne, interview.


66. Warne, interview.


70. Moody's Investors Service, "CDOs with Short-Term Tranches."


75. Ibid.


77. "Liquidity Put Discussion," produced by Citi.

78. Data provided by Moody's to the FCIC.


80. AIG, 2008 10-K, p. 133. Assets are assigned a "risk weighting" or percentage that is then multiplied by 8% capital requirement to determine the amount of risk-based capital.

81. AIG, CDS notional balances at year-end 2000 through 2010 Q1, provided to the FCIC.

82. The total would reach $78 billion by 2007 (ibid.).
84. Craig Broderick, testimony before the FCIC, Hearing on the Role of Derivatives in the Financial Crisis, day 1, session 3: Goldman Sachs Group, Inc. and Derivatives, June 30, 2010, transcript, pp. 289–90.
85. Moody’s, “CDOs with Short-Term Tranches”; AIG, “Information Pertaining to the Multi-sector CDS Portfolio,” provided to the FCIC.
86. Park, interview.
87. AIG, CDS notional balances at year-end, 2000 through 2010 Q1.
91. Joseph Cassano compensation history, provided by AIG to the FCIC.
92. AIG, Form 8-K, filed May 1, 2005.
93. “Fact Sheet on AIGFP,” provided by Hank Greenberg, p. 4.
94. AIG, CDS notional balances at year-end.
99. Appendix 5c to Goldman’s March 8, 2010, letter to the FCIC.
100. Goldman’s March 8, 2010, letter to the FCIC, p. 28 (subprime securities).
102. FCIC staff calculations based on data provided by Goldman Sachs.
104. FCIC calculations based on data provided by Goldman Sachs.
105. FCIC staff analysis based on data provided by Goldman Sachs.
106. Sparks, interview.
107. Of course, in theory the net impact on the financial system is not greater, because there is a winner for every loser in the derivatives market.
108. Sparks, interview.
109. From Goldman Sachs data provided to the FCIC in a handout titled “Amplification” and quoted at the FCIC’s Hearing on the Role of Derivatives in the Financial Crisis, day 1, session 3: Goldman Sachs Group, Inc. and Derivatives, June 30, 2010.
110. FCIC staff analysis based on data provided by Goldman Sachs.
111. Lloyd Blankfein, chairman of the board and chief executive officer, Goldman Sachs Group, interview by FCIC, June 16, 2010; Sparks, interview.
112. Gary Cohn, testimony before the FCIC, Hearing on the Role of Derivatives in the Financial Crisis, day 1, session 3: Goldman Sachs Group, Inc. and Derivatives, June 30, 2010, transcript, p. 351.
113. Parkinson, interview.
114. Michael Greenberger, before the FCIC, Hearing on the Role of Derivatives in the Financial Crisis, day 1, session 1: Overview of Derivatives, June 30, 2010; oral testimony, transcript, p. 109; written testimony, p. 16.
117. Ibid., 12.
118. Gary Witt, testimony before the FCIC, Hearing on Credibility of Credit Ratings, the Investment Decisions Made Based on those Ratings, and the Financial Crisis, day 1, session 1: The Ratings Process, June 2, 2010, transcript, pp. 168, 436.
120. Gary Witt, interview by FCIC, April 21, 2010.
121. Witt, written testimony for the FCIC, June 2, 2010, p. 17.
123. Witt, interview, April 21, 2010.
124. For example, Moody’s assumed that borrowers with different credit ratings would not default at the same time. The agency split the securities into three subcategories based on the average FICO score of the underlying mortgages: prime (FICO greater than 700), midprime (FICO between 700 and 625), and subprime (FICO under 625). Creating three FICO-based subcategories rather than the traditional two (prime and subprime) resulted in lower correlation assumptions, because mortgage-backed securities in different subcategories were assumed to be less correlated. “Moody’s Revisits Its Assumptions Regarding Structured Finance Default (and Asset) Correlations for CDOs,” June 27, 2005, pp. 15, 5, 7, 9, 4; Gary Witt, interview by FCIC, May 6, 2010.
127. Based on an FCIC survey of 40 CDO managers and 11 underwriters about the process of creating and marketing CDOs.
128. Moody’s Investors Service, “Structured Finance Rating Transitions: 1983–2006,” January 2007, pp. 7, 64. Of structured finance securities originally rated triple-A between 1984 and 2006, 56% retained their original rating 5 years later, 5% were downgraded, and 39% were withdrawn.
133. Ann Rutledge, email to FCIC, November 16, 2010. Ann Rutledge is a principal in R&R Consulting, a coauthor of Elements of Structured Finance (Oxford: Oxford University Press, 2010), and a former employee of Moody’s Investor Service. She and co-principal Sylvain Raines first spoke to the FCIC on April 12, 2010.
139. Witt, interview, April 21, 2010.
140. FCIC staff estimates based on analysis of Moody’s CDO EMS database.
141. Yuri Yoshizawa, interview by FCIC, May 17, 2010. The chart was labeled “Derivatives (America).”
143. Harvey Goldschmid, interview by FCIC, March 24, 2010; Annette Nazareth, interview by FCIC, April 1, 2010.
146. Harvey Goldschmid, interview by FCIC, April 8, 2010.
148. In 2005, the Division of Market Regulation became the Division of Trading and Markets. For the sake of simplicity, throughout this report it is referred to as the Division of Market Regulation.
149. Erik Sirri, interview by FCIC, April 1, 2010. Although there are more than 1,000 SEC examiners, collectively they regulate more than 5,000 broker-dealers (with more than 750,000 registered representatives) as well as other market participants.
151. The monitors met with senior business and risk managers at each CSE firm every month about general concerns and risks the firms were seeing. Written reports of these meetings were given to the director of market regulation every month. In addition, the CSE monitors met quarterly with the treasury and financial control functions of each CSE firm to discuss liquidity and funding issues.
158. Goldschmid, interview.
164. The Fed remained the supervisor of JP Morgan at the holding company level.
165. Mark Olson, interview by FCIC, October 4, 2010.

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5. Professor Robert Shiller, Historical Housing data.


7. Ibid., p. 3.


16. The index also assumes that the qualifying ratio of 25%, so that the monthly principal & interest payment could not exceed 25% of the median family monthly income. More about the methodology can be found at National Association of Realtors, Methodology for the Housing Affordability Index.


38. Francisco San Pedro, interview by FCIC, September 20, 2010.
44. Swecker, interview.
52. DOJ response to FCIC request, April 16, 2010; see also DOJ response to FCIC request, April 28, 2010.
54. Swecker, interview.

62. Frank Filipps, interview by FCIC, August 9, 2010.


67. Ibid., p. 211.


71. Missal, p. 67.


73. Tony Peterson, interview by FCIC, October 14, 2010.


75. Richard M. Bowen, written testimony for the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 2: Subprime Origination and Securitization, April 7, 2010, p. 2.

76. Richard M. Bowen, interview by FCIC, February 27, 2010; FCIC correspondence with Richard M. Bowen.


78. See, for example, James C. Treadway Jr., “An Overview of Rule 415 and Some Thoughts About the Future,” remarks to the thirteenth annual meeting of the Securities Industry Association, Hot Springs, Virginia, October 8, 1983.

79. Shelley Parratt and Paula Dubberly, interview by the FCIC, October 1, 2010.


82. Cambridge Complaint, pp. 32–33, 61–63, 70–71, 75–76.

83. Bowen, interview.


85. A QIB was defined under Rule 144A to include “entities, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the entity.” See 17 C.F.R. 230.144A, “Private Resale of Securities to Institutions.”
86. Dennis Voigt Crawford, testimony before the FCIC, First Public Hearing of the FCIC, day 2, session 2: Current Investigation into the Financial Crisis—State and Local Officials, January 14, 2010, p. 112.
87. Richard Breeden, interview by FCIC, October 14, 2010. See Public Law 104–290 (Oct. 11, 1996); Rule 144A contained provisions that ensured it did not expand to the securities markets in which retail investors did participate.
98. Sabeth Siddique, interview by the FCIC, September 9, 2010.
100. Bies, interview.
106. Siddique, interview.
108. Bies, interview.
111. Countrywide, "Briefing Paper: Meeting with Office of Thrift Supervision, Thursday July 13, 2006."
112. Angelo Mozilo, email to John McMurray (cc Dave Sambol, Carlos Garcia), re: Pay Options, August 12, 2006; John McMurray, email to Angelo Mozilo (cc Kevin Bartlett, Carlos Garcia, Dave Sambol, re: Pay Options, August 13, 2006.

113. The cost of borrowing is reflected by credit spreads, the portion of interest rates that compensate investors for credit risk. Credit spreads are the interest rates that investors require above the so-called risk-free interest rate, usually measured in terms of Treasuries or interest rate swaps with similar characteristics.


121. Charles Prince, quoted in “Citigroup chief stays bullish on buyouts,” Financial Times, July 9, 2007; testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, pp. 49–50.


130. New York Federal Reserve Bank, “Maiden Lane LLC Holdings as of 9/30/2008.”


132. Ibid., 2:356–58.


134. Valukas, 1:43, 4; Antoncic, interview.


140. Valukas, 1:8, 20–21.

141. The People of the State of New York v. Ernst & Young LLP (N.Y. Sup. Ct. filed Dec. 21, 2010).


144. David Sambol, interview by FCIC, September 27, 2010.
147. Ibid.
160. Saksena, interview.
166. Ibid., p. 1.
168. Minutes of the February 21, 2006, meeting of the Board of Directors of Fannie Mae (approved on April 25, 2006).
171. FCIC staff estimates based on data provided by Fannie Mae.
175. Federal Home Loan Mortgage Corporation, Proxy Statement and Notice of Annual Meeting of Stockholders (May 7, 2007), Summary Compensation Table, p. 52 (for 2006 figures). Federal Home Loan Mortgage Corporation, Proxy Statement and Notice of Annual Meeting of Stockholders (July 12, 2006), Summary Compensation Table, p. 37 (for 2005 figures).

176. Ibid.


178. Ibid., p 2.

179. Ibid.

180. Ibid., pp. 7–8.

181. Ibid.


186. Minutes of a Meeting of the Fannie Mae Board of Directors, April 21, 2007.


189. FCIC staff estimate based on data provided by Fannie Mae.


197. OFHEO, 2006 Report of Examination for the Federal Home Loan Mortgage Corporation, pp. 8–9, 10–11.


200. Mudd, interview.


203. Mudd, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session: 1 Fannie Mae, April 9, 2010, transcript, pp. 63–64.

204. See FHFA, “Annual Report to Congress 2009,” pp. 131, 148. The numbers are for mortgage assets + outstanding MBS guaranteed. Total assets + MBS are slightly greater.


206. Robert Levin, interview by FCIC, March 17, 2010; Robert Levin, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session 1: Fannie Mae, April 9, 2010, transcript, pp. 68–72.


208. Dallavecchia, interview.


212. Levin, interview.
213. Mike Quinn, interview by FCIC, March 10, 2010.
214. Ashley, interview.
216. Lockhart, written testimony for the FCIC, April 9, 2010, p. 6; Lockhart, testimony before the FCIC, April 9, 2010, transcript, pp. 156–61.
218. Edward DeMarco, interview by FCIC, March 18, 2010; Maria Fernandez (with Alfred Pollard, Chris Dickerson, Jeffrey Spohn, and Jamie Newell), interview by FCIC, March 5, 2010.
221. FHFA, “The Housing Goals of Fannie Mae and Freddie Mac in the Context of the Mortgage Market.”
231. “Cost of Freddie Mac’s Affordable Housing Mission,” PowerPoint presentation, June 4, 2009, pp. 7–8, 10–11.

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5. Wing Chau, interview by FDIC, November 11, 2010.
6. FCIC, Survey of 40 CDO Managers, Schedule A and B (1st production served on 28 managers, 2nd production served on 12 managers).
8. As two market observers would later write, “Starting in 2004, CDOs and CDO investors became the
dominant class of agents pricing credit risk on sub-prime mortgage loans. . . . In the absence of restraints,
lenders started originating unreasonably risky loans in late 2005 and continued to do so into 2007.” Mark
10. Armand Pastine, quoted in ibid. According to the FCIC database, PIMCO did manage one more
new CDO, Costa Bella CDO, which was issued in December 2006.
11. Source on downgrades: Bloomberg. Source on events on default: Moody’s Investors Service,
“Moody’s downgrades ratings of Notes issued by Maxim High Grade CDO I, Ltd.,” April 18, 2008, and
“Moody’s downgrades ratings of Notes issued by Maxim High Grade CDO II, Ltd.,” April 18, 2008.
13. ISDA Publishes Template for Credit Default Swaps on Asset-Backed Securities with Pay As You
Go Settlement,” International Swaps and Derivatives Association press release, June 21, 2005
(www.isda.org/press/press062105.html). Under the terms of the pay-as-you-go swap, if the referenced
mortgage-backed security does not receive the full interest and principal payments, the pay-as-you-go
protection seller is required to pay the buyer the amount of the shortfall. For long investors—the protec-
tion provider under the swap—the advantage was the leverage embedded in the trade: they did not have
to come up with the cash up front for the principal amount of the bond; they simply agreed to receive
quarterly swap fees in return for accepting the risk of loss if the securities experienced a shortfall.
15. Laurie S. Goodman, Shumin Li, Douglas J. Lucas, Thomas A. Zimmerman, and Frank J. Fabozzi,
17. FCIC staff estimates based on analysis of Moody’s CDO EMS database.
18. Norma Flow of Funds, information provided by Merrill Lynch.
20. See letter from Rabobank’s counsel, letter to Judge Fried, May 11, 2010; the letter was never filed
with the court because the case was settled.
24. “Goldman Sachs to Pay Record $550 Million to Settle SEC Charges Related to Subprime Mortgage
38. Paulson, interview.
39. Burry, interview.
40. FCIC Hedge Fund Survey. See FCIC website for details.
41. John Geanakoplos, written testimony for the FCIC, Forum to Explore the Causes of the Financial Crisis, day 1, session 3: Risk Taking and Leverage, February 26, 2010, p. 16.
44. "RMBS and Citi-RMBS as a Percentage of Citi-CDO Portfolio Notionals," produced by Citi for the FCIC.
46. FCIC staff estimates, based on analysis of Moody’s CDO EMS database.
57. Federal Reserve Board, memo to Governor Susan Bies, February 17, 2006.
58. The board reversed a 15% reduction that had been implemented when the issues began and then added a 5% raise. Citigroup, 2006 Proxy Statement, p. 37.
64. Park, interview.
65. Gorton, interview.
66. Park, interview.
68. Park, interview.
Data supplied by AIG. The CDO—RFC CDO III Ltd.—was 93% subprime and 7% RMBS Home Equity, according to the AIG credit committee. A review by FCIC staff showed that the remaining 7% designated as RMBS Home Equity included subprime collateral.

AIG, “Residential Mortgage Presentation (Financial Figures are as of June 30, 2007),” August 9, 2007, p. 28.


Dow Kim, interview by FCIC, September 9, 2010.


Kim, interview.

FCIC staff estimates based on analysis of Moody’s CDO EMS database.

Complaint, Coöperatieve Centrale Raiffeisen-Boerenleenbank v. Merrill Lynch, No. 601832/09 (N.Y.S. June 12, 2009), paragraph 147.

Kim, interview.

FCIC analysis based on Moody’s CDO EMS database.


Chau, interview.

FCIC staff analysis of Moody’s CDO EMS database.

FCIC staff estimates based on Moody’s CDO EMS database. Data supplied by Merrill Lynch. Relevant information not provided for Robeco High Grade CDO I.

FCIC staff analysis of Moody’s CDO EMS database.

Data supplied by Merrill Lynch.

FCIC staff analysis of Moody’s CDO EMS database. The total value of Baa tranches issued by CDOs in the FCIC database was $684 million in 2003 and $3.9 billion in 2007; Aa tranches, $1.4 billion in 2003 and $8.3 billion in 2007; A tranches, $522 million in 2003 and $4.3 billion in 2007.

FCIC staff telephone discussion with SEC staff, September 1, 2010.

FCIC staff analysis of Moody’s CDO EMS database.

Chau, interview; for number of the CDOs he managed, FCIC staff analysis of Moody’s Enhanced CDO Monitoring Database.

Super Senior Credit Transactions Principal Collateral Provisions, December 7, 2007, produced by AIG.


Ibid., p. 1.

Yoon, “Merrill’s Own Subprime Warnings Unheeded.”

Kim, interview.


“Interagency Statement on Sound Practices” (Notice of final interagency statement), January 5, 2007 (see n. 4, above).


Ibid., pp. 7–8.


105. Ibid., p. 4.

106. Ibid.

107. Ibid., pp. 3–4.


113. Gary Witt, interview by FCIC, April 21, 2010. John Rutherford was the president and CEO of Moody’s Corporation from the time of its spin-off from Dun & Bradstreet in 2000 until he retired from the firm in 2005.


116. Clarkson, interview.

117. Ibid.

118. McDaniel, interview.


121. Clarkson, interview.

122. Witt, interview.


124. Clarkson, interview; McDaniel, interview.


129. Clarkson, interview.

130. McDaniel, interview.


133. Witt, interview.
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134. Andrew Kimball, internal email, October 21, 2007, attaching memorandum, “Credit policy issues at Moody’s suggested by the subprime/liquidity crisis.” The susceptibility of a ratings committee to external pressures was shown in the constant proportion debt obligation (CPDO) scandal in Europe.

135. Ibid., p. 3.


138. Witt, interview.

139. Clarkson, interview.

140. Fons, interview.


144. Kolchinsky, testimony before the FCIC, June 2, 2010, transcript, pp. 68–69.


146. FCIC staff estimates, based on analysis of Moody’s SFDRS database.


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3. FCIC staff estimates based on Moody’s CDO Enhanced Monitoring System (EMS) database.


7. CoreLogic Home Price Index, Single-Family Combined (available at www.corelogic.com/Products/CoreLogic-HPI.aspx), FCIC staff calculations, January to January.

8. CoreLogic Census Bureau Statistical Area (CBSA) Home Price Index, FCIC staff calculations.


11. Mortgage Bankers Association, National Delinquency Survey, data provided to the FCIC.

12. Ibid., with FCIC staff calculations.

13. FCIC staff analysis, “Analysis of housing data,” July 7, 2010. The underlying data come from CoreLogic and Loan Processing Svcs. Tabulations were provided to the FCIC by staff at the Federal Reserve.

14. Subprime and Alt-A mortgages are defined as those included in subprime or Alt-A securitizations, respectively. GSE mortgages included mortgages purchased or guaranteed by Fannie Mae or Freddie Mac. FHA mortgages included mortgages insured by the FHA or VA.

15. FCIC staff analysis.

17. FCIC staff analysis, “Analysis of housing data and comparison with Ed Pinto’s analysis,” August 9, 2010. In the sample data provided by the Federal Reserve, Fannie Mae and Freddie Mac mortgages with a FICO score below 660 had an average rate of serious delinquency of 6.2% in 2008. In public reports, the GSEs stated that the average serious delinquency rates for loans with FICO scores less than 660 in their guarantee books was 6.3%. Fannie Mae 2008 Credit Supplement, p. 5; Freddie Mac Fourth Quarter 2008 Financial Results Supplement, March 11, 2009, p. 15.

18. In the sample data provided by the Federal Reserve, Fannie Mae and Freddie Mac mortgages with LTVs above 90% had an average rate of serious delinquency of 5.7% in 2008. In public reports, the GSEs stated that the average serious delinquency rates for loans with LTVs above 90% in their guarantee books was 5.8%. Fannie Mae 2008 Credit Supplement, p. 5; Freddie Mac Fourth Quarter 2008 Financial Results Supplement, March 11, 2009.

19. Edward Pinto, “Memorandum: Sizing Total Federal Government and Federal Agency Contributions to Subprime and Alt-A Loans in U.S. First Mortgage Market as of 6.30.08,” Exhibit 2 with corrections through October 11, 2010 (www.aei.org/docLib/PintoFCICTriggersMemo.pdf). The 26.7 million loans include 6.7 million loans in subprime securitizations and another 2.1 million loans in Alt-A securitizations, for a total of 8.8 million mortgages in subprime or Alt-A pools, which Pinto calls “self-denominated” subprime and Alt-A, respectively. To these, he adds another 8.8 million loans with FICO scores below 660, which he labels “subprime by characteristic.” He also adds 6.3 million loans at the GSEs that are either interest-only loans, negative amortization loans, or loans with an LTV—including any second mortgage—greater than 90%, which he collectively refers to as “Alt-A by characteristic.” The last additions include an estimated 1.4 million loans insured by the FHA and VA with an LTV greater than 90%—out of a total of roughly 5.5 million FHA and VA loans—and 1.3 million loans in bank portfolios that are inferred to have his defined “Alt-A characteristics.”


29. Ibid.


33. Weill, interview.

34. FCIC staff estimates, based on analysis of Blackbox data.

35. Data on Bear Stearns provided by JP Morgan to the FCIC.
37. FCIC staff estimates, based on analysis of Blackbox data.
38. FCIC staff estimates, based on analysis of Moody’s SFDRS data as of April 2010.
44. Eric Kolchinsky—retaliation complaint, Chronology Prepared by Eric Kolchinsky.
45. FCIC staff estimates based on analysis of Moody’s SFDRS; FCIC, “Preliminary Staff Report: Credit Ratings and the Financial Crisis,” June 2, 2010.
47. Eric Kolchinsky—retaliation complaint.
51. Raymond Romano, interview by FCIC, September 14, 2010; Bingham Letter.
52. Bingham Letter.
53. Bingham Letter, Tab 3; Tab 1, “Repurchase Collections by Top Ten Sellers/Servicers.”
54. O’Melveny letter.
57. Documents produced for the FCIC by United Guaranty Residential Insurance, MGIC, Genworth, RMIC, Triad, PMI, and Radian.
58. FCIC staff calculations based on productions from Fannie and Freddie. Figures are for Alt-A, option ARM Alt-A, and subprime loans.
59. FHFA, “Conservator’s Report: Third Quarter 2010.” Accounting changes for impairments have resulted in offsetting gains of $8 billion.
69. Ben Bernanke, closed-door session with the FCIC, November 17, 2009.

Chapter 12

1. FCIC staff calculations using data in worksheets Markit ABX.HE. 06-1 prices and ABX.HE. 06-2 prices, produced by Markit; Nomura Fixed Income Research, CDO/CDS Update 12/18/06. The figures refer to the BBB- index of the ABX.HE. 06-2.
10. Viniar, written testimony, Permanent Subcommittee on Investigation, pp. 3–4; Daniel Sparks, email to Tom Montag and Richard Ruzika, December 14, 2006, Senate Permanent Subcommittee on Investigations, Exhibit 3.
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14. Tetsuya Ishikawa, email to Darryl Herrick, October 11, 2006, Senate Permanent Subcommittee on Investigations, Exhibit 170c; Geoffrey Williams, email to Ficc-Mtcorr-desk, October 24, 2006, Senate Permanent Subcommittee on Investigations, Exhibit 170d.


29. High Grade Risk Analysis, April 27, 2007, p. 4; High Grade—Enhanced Leverage Q&A, June 13, 2007, stating “the percentage of underlying collateral in our investment grade structures collateralized by “sub-prime” mortgages is approximately 60. On the March 12, 2007, investor call, Matthew Tannin told investors that “most of the CDOs that we purchased are backed in some form by subprime” (Conference Call transcript, pp. 21–22).

30. Email from matt.tannin@gmail.com to matt.tannin@gmail.com, November 23, 2006.


32. BSAM Conference Call, April 25, 2007, transcript, p. 5.


34. Jim Crystal, Bear Stearns, email to Ralph Cioffi (and others), March 22, 2007; Ralph Cioffi, Bear Stearns, email to Ken Mak, Bear Stearns, March 23, 2007.


36. Information provided to FCIC by legal counsel to Bank of America, September 28, 2010.

37. Ibid.

38. Alan Schwartz, interview by FCIC, April 23, 2010. Notably, as one of only two tri-party repo clearing banks, JP Morgan had more information about BSAM’s lending obligations than did most other market participants or regulators. As discussed in greater detail later in this chapter, this superior market knowledge later put JP Morgan in a position to step in and purchase Bear Stearns virtually overnight.

39. Email from Goldman to Bear, April 2, 2007.

41. Matt Tannin, Bear Stearns, email from Gmail account to Ralph Cioffi, Bear Stearns, at his Hotmail account, April 22, 2007.
42. BSAM Conference Call, April 25, 2007, transcript.
43. Iris Semic, email to Matthew Tannin et al., May 1, 2007.
44. Robert Ervin, email to Ralph Cioffi et al., May 1, 2007; email from Goldman (ficc-ops-cdopricing) to rervin@bear.com, May 1, 2007.
45. BSAM Pricing Committee minutes, June 5, 2007; Robert Ervin, email to Greg Quental et al., May 10, 2007, showing that losses for the High Grade fund would be 7.02% if BSAM used the prices Lehman's repo desk was using, rather than 11.45%—the loss without Lehman's marks.
46. Email from “BSAM Hedge Fund Product Management (Generic),” May 16, 2007, produced by JP Morgan.
47. BSAMFCIC-e0000013. An untitled chart produced by JPMorgan shows losses would have been over $50 million less; NAV estimate reconciliation chart, produced by JPMorgan, shows losses would have been almost $25 million less.
48. BSAM Pricing Committee minutes, June 4, 2007.
51. Schwartz, interview.
52. Ibid.
53. Ibid.; CSE Program Memorandum to Erik Sirri and others through Matthew Eichner, July 5, 2007.
54. CSE Program Memorandum, July 5, 2007.
55. CSE Program Memorandum, July 5, 2007; Merrill Lynch analysis, “Bear Stearns Asset Mgm’t: What Went Wrong”; Paul Friedman, interview by FCIC, April 28, 2010. While most of the Bear Stearns executives interviewed by FCIC staff did not recall the percentage discount at which the collateral seized by Merrill Lynch was auctioned, they did believe that it was significant (e.g., Robert Upton, interview by FCIC, April 13, 2010).
56. “While the High Grade fund was not in default/had not missed any margin calls, creditors were cutting off its liquidity by increasing haircuts or not rolling repo facilities.” Bear Stearns Packet dated May 30, meeting held on June 20, produced by the Securities and Exchange Commission, p. 3; Upton, interview.
58. Friedman, interview; Warren Spector, interview by FCIC, March 30, 2010; Sam Molinaro, interview by FCIC, April 9, 2010.
59. Thomas Marano, interview by FCIC, April 19, 2010; Spector, interview (on Marano’s being sent to Marin).
60. Fed Chairman Ben S. Bernanke, letter to FCIC Chairman Phil Angelides, December 21, 2010.
63. Marano, interview.
64. Bill Jamison, internal email, June 21, 2007, produced by Federated.


74. “Information Pertaining to the Multi-Sector CDS Portfolio,” produced by AIG, with FCIC staff calculations.

75. Andrew Davilman, email to Alan Frost, subject: “Sorry to bother you on”; Frost, email to Davilman, subject: “Re: Sorry to bother you on”; Davilman, email to Frost, subject: “Re: Sorry to bother you on”—all July 26, 2007.


84. Tom Athan, email to Andrew Forster, August 1, 2007.

Chapter 13


4. As noted, in the United States, there was a minimal capital charge for liquidity puts equal to 10% of the base 8%, or 0.8%. Staff of Bundesanstalt fur Finanzdienstleistungsaufsicht (the Federal Financial Services Supervisory Authority, Germany’s bank regulators), interview by FCIC, September 8, 2010. See also Office of the Comptroller of the Currency, “Interagency Guidance on the Eligibility of Asset-Backed Commercial Paper Liquidity Facilities and the Resulting Risk-Based Capital Treatment,” August 4, 2005. For example, Citigroup would have held $200 million in capital against potential losses on the $25 billion in liquidity put exposure that it had accumulated on CDOs it had issued.


7. IKB staff, interview by FCIC, August 27, 2010; Securities and Exchange Commission (plaintiff) v. Goldman Sachs & Co. and Fabrice Tourre (defendants), Securities Fraud Complaint, 10-CV-3229, United States District Court, Southern District of New York, April 15, 2010, at 17, paragraph 58.


12. Angelo Mozilo, email to Lyle Gramley, member of Board of Countrywide Financial Corporation (cc Michael Perry, chief executive officer, IndyMac Bank), August 1, 2007.
15. Fed Chairman Ben Bernanke, letter to FCIC Chairman Phil Angelides, December 21, 2010.
21. Mozilo, interview; the article, by E. Scott Reckard and Annette Haddad, was titled “Credit Crunch Imperils Lender: Worries Grow about Countrywide’s Ability to Borrow—and Even a Possible Bankruptcy.”
23. Ibid., pp. 237, 309.
27. Ibid.
30. Tabo, interview.
32. Information provided to the FCIC by Deloitte LLP’s counsel, August 2, 2010.
34. The SEC indicated it is aware of at least 44 money market funds that were supported by affiliates because of SIV investments. See Securities and Exchange Commission, “Money Fund Reform” (Proposed rule), June 20, 2009, p. 14 n. 38.


Chapter 14

1. Bloomberg Professional, Write downs and Credit Losses vs. Capital Raised (WDCI) function, data reported for second half of 2007. Write-downs are for losses to holdings in structured finance and mortgages.


3. Bloomberg Historical Prices Index December 31, 2007; CGS1U5; CBSC1U5; and CLEH1U5. Figures refer to credit default swaps on five-year senior debt.


7. Presentation to Merrill Board of Directors, October 21, 2007, p. 23.

8. Ibid., pp. 23–24.


10. Merrill Lynch, 1Q 2007 Earnings Call transcript, April 19, 2007, p. 3.


14. Ibid.

15. Kim, interview.


18. O’Neal, interview.


24. Prince, interview.


26. Charles Prince, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, p. 11.
27. Prince, interview.
30. Susan Mills, testimony before the FCIC, hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 2: Subprime Origination and Securitization, April 7, 2010, transcript, pp. 186–87.
31. Mills, interview.
35. Dominguez, interview.
37. Barnes, interview.
38. Ibid.
40. FCIC staff calculations.
41. Prince, testimony before the FCIC, April 8, 2010, transcript, p. 118; David Bushnell, interview by FCIC, April 1, 2010.
42. Bushnell, interview.
44. Barnes, interview.
46. Barnes, interview.
47. Prince, interview.
49. Thomas Maheras, former co-CEO of Citi Markets & Banking, interview by FCIC, March 10, 2010.
50. Prince, interview.
55. Federal Reserve Board of New York, letter to Vikram Pandit and the Board of the Directors of Citigroup, April 15, 2008, p. 11.
56. Dominguez, testimony before the FCIC, April 7, 2010, transcript, p. 281.
57. Maheras, interview, and testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 1, session 3: Citigroup Subprime-Related Structured Products and Risk Management, April 7, 2010, transcript, p. 269.
58. Bushnell, interview.
59. Prince, interview.
61. Maheras, interview.


65. Prince, interview.

66. Ibid.


69. Prince, interview.


71. Federal Reserve Board of New York, letter to Vikram Pandit and the Board of Directors of Citigroup, April 15, 2008, p. 8.

72. FCIC staff calculations from Citigroup proxy statements (information for 2000–06) and information on 2007–09 provided by Paul, Weiss (on behalf of Citigroup), letter to FCIC, March 31, 2010, “Response to Interrogatory No. 7,” pp. 3–6.

73. Robert Rubin, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 2, session 1: Citigroup Senior Management, April 8, 2010, transcript, pp. 15–16.


75. AIG, Earnings Call credit supplement, August 9, 2007.


82. Park, interview.

83. PricewaterhouseCooper audit team, memo re 3Q07 review of AIG’s super-senior CDS portfolio, November 7, 2007, p. 2.


85. Park, interview.

86. Goldman’s submissions to the FCIC on its valuation and pricing related to collateral calls made to AIG are available on Goldman Sachs’s website (http://www2.goldmansachs.com/our-firm/on-the-issues/responses-fcic.print.html).


89. Andrew Forster, email to Joseph Cassano and Pierre Micottis, November 9, 2007, enclosing marks from Merrill Lynch.

90. AIG, Earnings Call credit supplement, August 9, 2007, pp. 28, 14, 21, 22.

91. These estimates are based on Federal Reserve Bank of New York, “Maiden Lane III Quarterly Holdings Report,” January 2010. This probably isn’t a complete list of their positions, because not all CDO tranches are part of the Maiden Lane III portfolio. Of the 335 securities listed in that document, FCIC staff found data on 327 in Moody’s CDO EMS database and Bloomberg. For those 327 securities, 313 suffered a downgrade and 206 became materially impaired (i.e., were downgraded to Ca/C). Of the 139 initially rated Aaa, 134 suffered downgrades and 55 became materially impaired.

92. Alan Frost, email to Andrew Forster, August 16, 2007.

93. Cassano, interview.


95. Tom Athan, email to Andrew Forster, cc Adam Budnick, September 11, 2007.

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97. Minutes of the meeting of the AIG Audit Committee, November 6, 2007, p. 5.
100. Based on staff analysis of data provided to the FCIC by the Depository Trust & Clearing Corporation and Markit. ABX includes all tranches of the ABX.HE 06-2. TABX is constructed based on the reference obligations for the 06-2 and 07-1 BBB and BBB- tranches of the ABX.
101. Cassano, interview.
102. Andrew Forster, email to Alan Frost, August 16, 2007.
103. Tim Ryan, PricewaterhouseCooper, interview by FCIC, June 1, 2010.
104. SEC staff briefing of FCIC staff, June 4, 2010.
108. PwC audit team memo, p. 6.
110. Joe Cassano, email to Bill Dooley, November 27, 2007, attaching memo from Andrew Forster, “Collateral Call Status.”
111. Andrew Forster, “Collateral Call Status,” memo prepared for Joe Cassano.
115. PwC audit team, memo, November 7, 2007, p. 5.
116. PricewaterhouseCooper, notes of a meeting to discuss super-senior valuations and collateral disputes, November 29, 2007, p. 2, produced by PwC.
120. Ibid., p. 3.
122. Sullivan, interview.
123. AIG Investor Conference Call, December 5, 2007, transcript, pp. 4–6, 25.
125. Andrew Davilman, interview by FCIC, June 18, 2010; David Lehman, interview by FCIC, June 23, 2010.
130. PricewaterhouseCooper, notes on the AIG Audit Committee meeting, February 7, 2008, p. 2.
132. Office of Thrift Supervision, letter to AIG General Counsel and Board, March 7, 2008.
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137. Dudley, interview.

138. Ibid.

139. Ibid.


146. John J. McConnell and Alessio Saretto, “Auction Failures and the Market for Auction Rate Securities” (The Krannert School of Management, Purdue University, April 2009), p. 10.


Chapter 15


5. Samuel Molinaro, interview by FCIC, April 9, 2010; Michael Alix, interview by FCIC, April 8, 2010.


9. Ibid.


11. Upton, interview.


13. Upton, interview.

14. Ibid.


18. Wendy de Monchaux, interview by FCIC, April 27, 2010; Steven Meyer, interview by FCIC, April 22, 2010.
20. Eichner, interview.
23. Michael Halloran, interview by FCIC.
24. Cayne, interview.
29. Information provided by Federated to the FCIC.
30. Scott Goebel, Kevin Gaffney, and Norm Lind (Fidelity employees), interview by FCIC, February 25, 2010.
32. Timeline Regarding the Bear Stearns Companies Inc., April 3, 2008, pp. 1–2, provided to the FCIC.
35. Thomas Marano, interview by FCIC, April 19, 2010.
36. Paul Friedman, quoted in William Cohan, House of Cards: A Tale of Hubris and Wretched Excess on Wall Street (New York: Doubleday, 2009), p. 71. Although Friedman acknowledged to the FCIC making the cited statements, and many others as well, he attributes them to anger and frustration over Bear Stearns’s failure. Currently, Friedman is employed at Guggenheim Securities, Inc., where he works for Alan Schwartz, the former president of Bear Stearns. Paul Friedman, interview by FCIC, April 28, 2010.
38. Cayne, interview.
40. Cayne, interview; Schwartz (interview by FCIC) stated that bonuses for individual executives were discussed by the Compensation Committee, and the final recommendation for bonuses came from the CEO.
41. Alix, interview.
42. Bear Stearns, 2007 Performance Compensation Plan, p. 1-1 (provided to the FCIC); Alix, interview. The salary cap had been raised from $200,000 to $250,000 in 2006 (Alix, interview; Cayne, interview).
43. Bebchuk et al., “The Wages of Failure,” Table 1, p. 12; Table 2, p. 15; Table 4, p. 20. The budget authority for the SEC in 2008 was $906 million; in 2010, it was $1.026 billion.
44. In 2006, Alix received $3 million in total compensation, Cayne received more than $38.3 million in salary and bonus, and Schwartz received more than $35.7 million in salary and bonus. SNL Financial; interviews with Spector and Alix.
45. Marano, interview.
46. Tom Marano, email to Alan Schwartz and Richie Metrick, February 12, 2008.
47. Matthew Eichner, email to James Giles et al., January 30, 2008.

50. Upton, interview.

51. Minutes of Special Meeting of Bear Stearns Board of Directors, March 13, 2008.


56. In response to the FCIC’s interrogatories, JP Morgan produced a list of all payments Bear Stearns made to or received from OTC derivatives counterparties from March 10, 2008, through March 14, 2008. The spreadsheet was created in September 2008 by Bear Stearns in response to a request by the SEC Division of Trading and Markets. The large volume of novations away from Bear Stearns during the week of March 10, 2008 and the previous week was confirmed by the New York Federal Reserve and International Swaps and Derivatives Association. (New York Federal Reserve personnel, interview by FCIC; ISDA personnel, interviews by FCIC, May 13 and 27, 2010).


59. Bass, interview.

60. Debby LaMoy, email to Faina Epshteyn, March 12, 2008; Faina Epshteyn, email to Debby LaMoy, March 12, 2008.

61. Marvin Woolard, email to Stuart Smith et al., March 12, 2008.

62. CNBC video, Schwartz and CNBC’s David Faber, original air date March 12, 2008.


64. Matthew Eichner, email to Erik Sirri, Robert Colby, and Michael Macchiaroli, March 12, 2008.


66. Upton, interview.


68. Alan Schwartz, interview by FCIC; Matthew Eichner, email to Erik Sirri, Robert Colby, and Michael Macchiaroli, March 13, 2008.

69. Upton, interview.

70. Minutes of Special Meeting of Bear Stearns Board of Directors, March 13, 2008 (“[Schwartz] said there had been seventeen billion dollars in cash with a two billion eight hundred million dollar backstop, unsecured line. The Board was told that twelve to fifteen billion dollars had gone out of TBSCI in the last two days and that TBSCI had received a billion dollars in margin calls”).

71. Upton, interview; Goebel, Gaffney, and Lind, interview; Steven Meier, interview by FCIC, March 15, 2010; Michael Macchiaroli, interview by FCIC, April 13, 2010.


73. Timeline Regarding Bear Stearns Companies Inc., April 3, 2008, produced by SEC.

74. Jamie Dimon, interview by FCIC, October 20, 2010.


76. Schwartz, interview.

77. Ibid.; Molinaro, interview; Alix, interview.


79. Dimon, interview by FCIC, October 20, 2010; minutes of Special Meeting of Bear Stearns Board of Directors, March 16, 2008.

81. Contrary to what is stated in the board minutes (Special Meeting of Bear Stearns Board of Directors, March 16, 2008, p. 5), when FCIC staff interviewed Schwartz he said that the $2 a share price came from JP Morgan, not Paulson. Schwartz also told staff that because Bear did not receive “a lot of competing offers,” it had to accept JP Morgan’s offer of $2 a share.

82. Chrin, interview.


84. Macchiaroli, interview.


86. Ibid.


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15. William Dudley, email to Chairman, June 17, 2008.

16. Dimon, interview.

17. Ibid.

18. Hendricks, interview.

19. Lucinda Brickler, email to Patrick Parkinson, July 11, 2008; Lucinda Brickler et al., memorandum to Timothy Geithner, July 11, 2008.

20. The $200 billion figure is noted in Patrick Parkinson, email to Ben Bernanke et al., July 20, 2008.


24. Ibid.
25. Based on chart in Federal Reserve Bank of New York, Developing Metrics for the Four Largest Securities Firms, August 2008, p. 5.
26. Ibid.
28. Erik Sirri, interview by FCIC, April 9, 2010, p. 3.
32. Sirri, interview.
35. Ibid., p. 5.
36. Valukas, 4:1489.
37. Ibid., 4:1496, 1497.
38. Christopher Cox, statement before the House Financial Services Committee, 111th Cong., 2nd sess., April 20, 2010, p. 5.
39. Patrick Parkinson, email to Steven Shafran, August 8, 2008.
42. See Comptroller of the Currency, “OCC’s Quarterly Report on Bank Trading and Derivatives Activities, First Quarter 2009,” Table 1; the figures in the text are reached by subtracting exchange traded futures and options from total derivatives.
44. This figure compares with a low in 2005, at the height of the mortgage boom, of $7 billion in problem assets. “Problem” institutions are those with financial, operational, or managerial weaknesses that threaten their continued financial viability; they are rated either a 4 or 5 under the Uniform Financial Institutions Rating System. FDIC reporting for insured institutions—i.e., the regulated banking and thrift industry overall. See Quarterly Banking Profile: Fourth Quarter 2007 = FDIC Quarterly 2, no. 1 (December 31, 2007): 1, 4; Quarterly Banking Profile: First Quarter 2008 = FDIC Quarterly 2, no. 2 (March 31, 2008): 2, 4; Quarterly Banking Profile: Second Quarter 2008 = FDIC Quarterly 2, no. 3 (June 30, 2008): 1.
56. Thompson received a severance package worth about $8.7 million in compensation and accelerated vesting of stock. In addition, he negotiated himself three years of office space and a personal assistant at Wachovia’s expense. Thompson had previously received more than $21 million in salary and stock compensation in 2007 and more than $23 million in 2006; his total compensation from 2002 through 2008 exceeded $112 million.

59. Ibid., pp. 3–6.
60. Ibid., letter, p. 2; Report of Examination, p. 18.
64. OTS Regional Director Darrel Dochow, letter to FDIC Regional Director Stan Ivie, July 22, 2008.
66. FDIC, Confidential Problem Bank Memorandum, September 8, 2008, p. 4.
68. Confidential OTS Memorandum to FDIC Regional Director, September 11, 2008; Treasury and FDIC IGs, “Evaluation of Federal Regulatory Oversight of WaMu,” pp. 45–47.
70. Sheila Bair, interview by FCIC, August 18, 2010.
71. Treasury and FDIC IGs, “Evaluation of Federal Regulatory Oversight of WaMu,” p. 3.
73. Cole, interview.
75. Doug Roeder, interview by FCIC, August 4, 2010.

Chapter 17

2. Paulson, interview.
5. Ibid., pp. 1, 5.
12. Ibid., pp. 2, 4, 7.
13. Paulson, interview.
20. Senator Charles E. Schumer, letter to OFHEO Director James B. Lockhart III, February 25, 2008; Schumer continued, “If you have decided that you will be keeping the capital surcharge in place . . . . I would like an explanation as to why you think upholding that restriction outweighs the importance of providing capital relief that could better position the GSEs to provide rescue products for borrowers stuck in unaffordable loans.”
30. Ibid.
31. Ibid.
32. Ibid.
34. Paulson, interview.
38. Lockhart, interview.
40. Timothy P. Clark (senior adviser, Division of Banking and Supervision, Federal Reserve Board) and Scott Alvarez (general counsel, Federal Reserve Board), interview by FCIC, February 23, 2010.
42. Alvarez, interview.
43. Treasury Secretary Henry Paulson, testimony on GSE initiatives, Recent Developments in U.S. Financial Markets and the Regulatory Responses to Them, Senate Committee on Banking, Housing, and Urban Affairs, 110th Cong., 2nd sess., July 15, 2008.
45. Clark, interview.
46. Mudd, interview.
47. Clark, interview.
49. Ibid.
51. Paulson, interview.
52. Christopher H. Dickerson (FHFA Acting Deputy Director, Division of Enterprise Regulation), letter to Daniel H. Mudd (President and CEO of Fannie Mae), "Re: Notice of Proposed Capital Classification at June 30, 2008," August 22, 2008, pp. 1, 2; Christopher H. Dickerson (FHFA Acting Deputy Director, Division of Enterprise Regulation), letter to Richard F. Syron (President and CEO of Freddie Mac), "Re: Notice of Proposed Capital Classification at June 30, 2008," August 22, 2008.
54. Dickerson to Mudd, September 4, 2008; Christopher H. Dickerson, letter to Richard Syron, September 4, 2008, with "Draft Mid Year Letter" attached.
56. Ibid., p. 5.
57. Ibid., p. 6.
58. Ibid., pp. 9–10.
59. "Draft Mid Year Letter" (Freddie), pp. 1, 1–2, 7.
60. Ibid., p. 8.
61. Mudd, interview.
63. Paulson, interview; Lockhart, interview; Paulson, On the Brink, p. 8.
64. Lockhart, testimony before the FCIC, April 9, 2010, transcript, p. 191.
65. Paulson, interview; Paulson, On the Brink, p. 10.
67. Lund, interview.
68. Levin, interview.
69. Mudd, interview.
70. FHFA, Fannie conservatorship memorandum, pp. 2, 29.
71. FHFA, Freddie conservatorship memorandum, pp. 3, 29.
72. Syron, interview.
73. Daniel Mudd, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, " session 1: Fannie Mae, April 9, 2010, transcript, p. 38.
74. Paul Nash, FDIC, letter to FCIC, providing responses to follow-up questions to Sheila Bair’s testimony during the September 2, 2010, hearing, p. 5.
75. Paulson, interview.
76. Neel Kashkari, interview by FCIC, November 2, 2010.
78. Warsh, interview.
81. Daniel Mudd, written testimony for the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session 1: Fannie Mae, April 9, 2010, p. 3.
82. John Kerr, Scott Smith, Steve Corona (FHFA examination manager), and Alfred Pollard (FHFA general counsel), group interview by FCIC, March 12, 2010.
83. Lockhart, interview.
85. Mudd, interview.
87. Mudd, testimony before the FCIC, April 9, 2010, transcript, p. 104.
88. Robert Levin, testimony before the FCIC, Hearing on Subprime Lending and Securitization and Government-Sponsored Enterprises (GSEs), day 3, session 1: Fannie Mae, April 9, 2010, transcript, p. 104.

Chapter 18

4. Richard S. Fuld Jr., testimony before the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, session 2: Lehman Brothers, September 1, 2010, p. 148. See also Fuld’s written testimony at same hearing, p. 6.
7. Bernanke, testimony before the FCIC, September 1, 2010, p. 1491 and n. 5769; see also 2:609, 631.
11. Harvey R. Miller, bankruptcy counsel for Lehman Brothers, interview by FCIC, August 5, 2010; Lehman board minutes, September 14, 2008, p. 34.
17. Valukas, 2:713 and nn. 2764–65, 2:715 and n. 2774. See also Russo, email to Fuld, “Fw: Rumors of hedge fund putting together a group to have another run at Lehman,” March 20, 2008 (forwarding discussions with SEC regarding short sellers).
18. Dan Chaudoin, Bruce Karpati, and Stephanie Shuler, Division of Enforcement, SEC, interview by FCIC, April 6, 2010; Mary L. Schapiro, chairman, SEC, written responses to written questions—specifically, response to question 13—from FCIC, asked after the hearing on January 14, 2010.
22. Nell Minow, testimony before the House Committee on Oversight and Government Reform, Hearing on Lehman Brothers, 110th Cong., 2nd sess., October 6, 2008.
24. William Dudley, email to Timothy Geithner, Donald Kohn, and others, June 17, 2008.
33. Valukas, 4:1497–98 (quoting Timothy Geithner); see also Bart McDade, president and chief operating officer, Lehman Brothers, interview by FCIC, April 16, 2010.
35. Patrick M. Parkinson, email to Steven Shafran, Department of the Treasury, et al., “Fw: Gameplan and Status to Date,” August 19, 2008.
36. Patrick M. Parkinson, email to Steven Shafran, August 11, 2008.
39. Ibid.
40. Ibid.
41. Parkinson, email to Steven Shafran, August 19, 2008.
42. Ibid.
43. Steven Shafran, email to Patrick M. Parkinson, August 28, 2008.
44. Patrick M. Parkinson, email to Theodore Lubke, September 5, 2008.
46. Meg McConnell, FRBNY, email to Arthur Angulo et al., "Meeting tomorrow at 9:00," September 8, 2008.
47. Ibid.
53. John J. Hogan, JPMorgan Chase & Co., email to Steven D. Black, September 9, 2008, 7:07 P.M.; Steven Black, email to John Hogan, September 9, 2008, 8:24 P.M. See also Valukas, 4:1139, 1140 and n. 4204, and 1141.
55. Ibid.
57. Matthew Rutherford, email to Tony Ryan, Department of the Treasury, et al., September 10, 2008.
61. See Patrick M. Parkinson, email to Donald Kohn et al., “Fw: revised Liquidation Consortium gameplan + questions,” September 11, 2008 (attaching game plan).
73. Lehman Complaint, pp. 22–23, paragraphs 68, 71.
74. Barry Zubrow, written testimony for the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, session 2: Lehman Brothers, September 1, 2010, p. 7.
76. Lehman Complaint, p. 23, paragraph 70.
79. Valukas, 2:618.
80. Harvey R. Miller, interview by FCIC, August 5, 2010.
82. Thomas C. Baxter, interview by FCIC, August 11, 2010.
84. Parkinson, email to Kohn et al., September 11, 2008.
85. Financial Services Authority of the United Kingdom, "Statement of the Financial Services Authority" before the Lehman bankruptcy examiner, pp. 4–5, paragraph 23.
87. Patrick M. Parkinson, email to Lucinda Brickler, senior vice president, payments policy, FRBNY, "Re: triparty repo thoughts for this weekend," September 12, 2008.
88. Patrick M. Parkinson, interview by FCIC, August 24, 2010; see also Patrick M. Parkinson, email to Lucinda Brickler et al., "Re: another option we should present re triparty?" July 13, 2008.
89. John Thain, interview by FCIC, September 17, 2010.
90. Christopher Tsuboi, examiner, bank supervision/operational risk, FRBNY, email to Alejandro LaTorre, assistant vice president, Credit, Investment and Payment Risk Group, FRBNY, "memo re: Lehman's inter-company default scenario," September 13, 2008.
91. Scott Alvarez, email to Ben Bernanke et al., "Re: Fw: today at 7:00 p.m. w/Chairman Bernanke, Vice Chairman Kohn and Others," September 13, 2008.
93. Bart McDade, interview by FCIC, August 9, 2010.
94. Baxter, interview.
95. Paulson, On the Brink, p. 207.
98. Financial Services Authority of the United Kingdom, "Statement of the Financial Services Authority" before the Lehman bankruptcy examiner, p. 9, paragraph 48.
100. Baxter, interview.
102. Jim Wilkinson, email to Jes Staley, September 14, 2008, 9:00 A.M.
107. Alex Kirk, interview by FCIC, August 16, 2010; McDade, interview, August 9, 2010.
108. Baxter, interview.
110. Ibid., attaching Exhibit 5, Lehman Brothers Holdings Inc., "Minutes of the Board of Directors, September 14, 2008." p. 2.
111. Ibid., attaching Exhibits 2 and 8.
112. On September 15, 2008, LBI borrowed $28 billion from PDCF against $31.7 billion of collateral; on September 16, 2008, LBI borrowed $19.7 billion against $23 billion of collateral; and on September 17, 2008, LBI borrowed $20.4 billion against $23.3 billion of collateral. See Valukas, 4:1399 and nn. 5374–75.

113. Kirk, interview.
114. Miller, interview.
115. Kirk, interview.
116. Miller, interview. In his interview, Kirk told FCIC staff that he thought there were more than 1 million derivatives contracts.
117. McDade, interview, August 9, 2010.
118. Baxter, interview.
119. Harvey R. Miller, written testimony for the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, session 2: Lehman Brothers, September 1, 2010, p. 8.
120. Miller, interview.
121. Ibid.
122. Ibid.
124. Ibid.
127. Ibid., p. 18.
128. Ibid., pp. 6, 12–13, 15, 11, 15.
130. Ben Bernanke, email to Kevin Warsh, member, Board of Governors of the Federal Reserve System, September 14, 2008.
136. Puld, written testimony for the FCIC, September 1, 2010, pp. 7, 6, 3.
137. Bernanke, closed-door session with FCIC.
139. Thain, interview.
140. Ibid.
141. Ibid.
142. Dimon, interview.

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2. Ibid.
3. Ibid.
6. FRBNY, notes about AIG meeting.


9. FRBNY, notes about AIG meeting.


14. FRBNY, notes about AIG meeting.

15. Ibid.


17. FRBNY, internal memo about August 11, 2008, meeting with the AIG team of the Office of Thrift Supervision.

18. Ibid.

19. FRBNY, internal document about AIG, August 14, 2008.

20. Ibid.


23. FRBNY, internal document about AIG, September 2, 2008.

24. Ibid.


26. FRBNY, notes about AIG meeting, September 12, 2008.

27. Ibid.


29. FRBNY, notes about AIG meeting, September 12, 2008.


31. FRBNY, emails of September 12 and 13, 2008.


34. Patricia Mosser, email to Alejandro LaTorre et al., re: AIG/Board call, September 13, 2008, 12:54 P.M.

35. Patricia Mosser, email to Alejandro Latorre et al., September 13, 2008, 7:26 P.M.

36. FRBNY, internal memo about AIG, September 14, 2008.


38. Alejandro LaTorre, email to Adam Ashcraft et al., September 14, 2008.

39. Ibid.


42. Ibid.


44. Data supplied by AIG (Tab 31 of the AIG/Goldman Sachs collateral call timeline).

45. Baxter, interview.

46. See Sarah Dahlgren, FRBNY, interview by FCIC, April 30, 2010.

47. Ibid.

49. Fed Chairman Ben Bernanke, letter to FCIC Chairman Phil Angelides, December 21, 2010.
52. Ibid., executive summary, pp. 1, 8.
57. C. K. Lee, interview by FCIC, April 28, 2010. See also Memorandum of Understanding between Scott M. Albinson, managing director, OTS, and Danièle Nouy, secrétaire général de la Commission Bancaire, April 11, 2005.
58. OTS, Memo to Commission Bancaire regarding its supervisory role, January 2005.
59. Reich, interview.
61. Ibid.
63. AIG/Goldman Sachs collateral call timeline, p. 50.
64. Brad Waring, interview by FCIC, May 7, 2010.
65. Reich, interview.
66. Ibid.

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6. Specifically, the Fed broadened the PDCF to match the types of collateral that the two major clearing banks accepted in the tri-party repo system, including non-investment-grade securities and equities; previously, PDCF collateral had been limited to investment-grade debt securities. The Fed similarly broadened the TSLF to include all investment-grade debt securities; previously, TSLF collateral had been limited to Treasury securities, agency securities, and AAA-rated mortgage-backed and asset-backed securities. The Fed also increased both the frequency of TSLF auctions, to weekly instead of every two weeks, and their size. Federal Reserve Board press release, September 14, 2008.
7. On September 30, Goldman Sachs had a $15 billion balance in TSLF, and a $16.5 billion balance in PDCF. Federal Reserve Board, “Regulatory Reform: Usage of Federal Reserve Credit and Liquidity Facilities,” PDCF.
8. Lehman initially asserted that there were around 930,000 derivative transactions at the time of bankruptcy. See Debtors’ Motion for an Order pursuant to Sections 105 and 365 of the Bankruptcy Code to Establish Procedures for the Settlement or Assumption and Assignment of Prepetition Derivatives Contracts, Lehman Brothers Holdings Inc., et al., No. 08-13555 (Bankr. S.D.N.Y. Nov. 13, 2008), p. 4. See also Anton R. Valukas, Report of Examiner, In re Lehman Brothers Holdings Inc., et al., Chapter 11 Case No. 08-13555 (JMP), (Bankr. S.D.N.Y.), March 11, 2010, 2:573. By November 13, 2008, a special facility to unwind derivatives trades with Lehman had successfully terminated most of the 930,000 derivative contracts. Nevertheless, in January 2009, Lehman’s counsel reported that 18,000 derivatives contracts had not been terminated. Moreover, there are massive unresolved claims relating to over-the-counter derivatives in the bankruptcy proceeding: as of May 2010, banks had filed more than $50 billion in claims for losses related to derivatives contracts with Lehman. See Debtors’ Motion for an Order pursuant to
Sections 105 and 365 of the Bankruptcy Code to Establish Procedures for the Settlement or Assumption and Assignment of Prepetition Derivatives Contracts, Lehman Brothers Holdings Inc., et al., No. 08-13555 (Bankr. S.D.N.Y. Nov. 13, 2008) [Docket No. 1498], p. 4; Debtors’ Motion for an Order Approving Consensual Assumption and Assignment of Prepetition Derivatives Contracts, Lehman Brothers Holdings Inc., et al., No. 08-13555 (Bankr. S.D.N.Y. Jan. 16, 2009) [Docket No.2561], p. 3.

9. Money market fund holdings of all types of taxable commercial paper decreased from $671 billion at the end of August 2008 to $505 billion at the end of September (data provided by ICI/Crane to the FCIC). BNY Mellon, in its role as tri-party clearing bank, reported that Treasury-backed repos rose from $195 billion (13%) to $466 billion (27%) of its tri-party business between March 31 and December 31, 2008 (data provided by BNY Mellon to the FCIC).

16. SEC Complaint, p. 35 (para. 121). The SEC notes that the Primary Fund likely broke the buck prior to 11:00 A.M. on September 16 because of the redemption requests and the valuation of Lehman’s debt; moreover, RMCI announced on November 26, 2008, that owing to an administrative error, its NAV should have been calculated as $0.99 between 11:00 A.M. and 4:00 P.M. on September 16 (pp. 34–33, paras. 119, 120).
19. Ibid.
20. Investment Company Institute, Historical Weekly Money Market Data. While nongovernment funds lost $434 billion during the period between September 10 and October 1, 2008, government funds—investing in Treasuries and GSE debt—increased by $357 billion during the same period.
22. FCIC survey of money market mutual funds. Holdings for the five firms decreased from $58 billion to $29 billion from September 12, 2008, to September 19, 2008. See FCIC website for details.
24. McCabe and Palumbo, interview.
25. “Treasury Announces Guaranty Program for Money Market Funds,” Treasury Department press release, September 19, 2008. President George W. Bush approved the use of existing authorities by Secretary Henry M. Paulson Jr. to make available as necessary the assets of the Exchange Stabilization Fund (ESF) for up to $50 billion to guarantee payments to support money market mutual funds. The original objective of the ESF, established by the Gold Reserve Act of 1934, was to stabilize the value of the dollar in the depths of the Depression. It authorized the treasury secretary, with the approval of the president, to “deal in gold, foreign exchange, and other instruments of credit and securities” to promote international financial stability.
26. The program was called the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility (AMLF).
32. One year later, the Senior Supervisors Group—a cross-agency task force looking back on the causes of the financial crisis—would write, “Before the crisis [at the investment banks post-Lehman], many broker-dealers considered the prime brokerage business to be either a source of liquidity or a liquidity-neutral business. As a result, the magnitude and unprecedented severity of events in September–October 2008 were largely unanticipated.” Senior Supervisors Group, “Risk Management Lessons from the Global Banking Crisis of 2008,” October 21, 2009, p. 9.
34. The FCIC surveyed hedge funds that survived the crisis. Those in the three largest quartiles ranked by size received investor redemption requests averaging 20% of their assets in the fourth quarter of 2008 (the first available redemption date after the Lehman bankruptcy).
37. Mack, interview.
38. Wong, interview.
40. Wong, interview.
42. Angela Miknius, email to NY Bank Sup, September 18, 2008.
43. Amy G. White, internal NYFRB email, September 19, 2008.
47. Lloyd Blankfein, testimony before the FCIC, First Public Hearing of the FCIC, day 1, panel 1: Financial Institution Representatives, January 13, 2010, transcript, pp. 34–35.
48. Bernanke, closed-door session.
50. The switch to bank holding company status required a simple charter change. Both Morgan and Goldman already owned banks that they had chartered as industrial loan companies, a type of bank that is allowed to accept FDIC-insured deposits without having any Fed supervision over the bank’s parent or other affiliated companies.
52. Mack, interview.
53. Mack, interview.
54. Wong, interview.
56. It should be borne in mind that lack of regulation of this market rendered it extremely opaque. Shortcomings in transparency, lack of reporting requirements, and limited data collection by third parties made it difficult to document and describe the various market trading problems that emerged during the crisis.
58. Depository Trust and Clearing Corporation data provided to the FCIC.
63. Jamie Dimon, interview by FCIC, October 20, 2010.
65. Scott Alvarez, testimony before the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, Session 1: Wachovia Corporation, September 1, 2010, transcript, p. 84.
66. Kashkari, interview.
67. Greg Feldberg, “Wachovia Case Study,” presentation at LBO Supervision Conference, November 12–13, 2008, Atlanta, Georgia, p. 15. These rules, embodied in section 23A of the Federal Reserve Act, limit the support that a depository institution can provide to related companies in the same corporate structure; they are aimed at protecting FDIC-insured depositors from activities that occur outside of the bank itself. Exemptions have the effect of funding affiliate, nonbank assets within the federal safety net of insured deposits; they create liquidity for the parent company and/or key affiliates (and reduce bank liquidity) during times of market stress.
68. Robert Steel, interview by FCIC, August 18, 2010.
70. Robert Steel, written testimony before the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, session 1: Wachovia Corporation, September 1, 2010, p. 2.
71. David Wilson, interview by FCIC, August 4, 2010.
72. Sheila Bair, interview by FCIC, August 18, 2010.
74. Wachovia was unable to roll $1.1 billion of asset-backed commercial paper that Friday; James Wigand and Herbert Held, memo to the FDIC Board of Directors, September 29, 2008, p. 2. On brokered certificates of deposit, see Westerkamp, interview.
75. John Corston, acting deputy director, Division of Supervision and Consumer Protection, FDIC, written testimony before the FCIC, Hearing on Too Big to Fail: Expectations and Impact of Extraordinary Government Intervention and the Role of Systemic Risk in the Financial Crisis, day 1, Session 1: Wachovia Corporation, September 1, 2010, p. 4.
76. Wilson, interview.
77. Rich Westerkamp, email to FCIC, November 2, 2010. Westerkamp said that the estimate of early redemption requests was based on a phone conversation with officials in Wachovia’s treasury department, describing their conversations with investors; the figures were never verified.
78. Bair, interview.
80. Bair, interview; Steel, interview; FDIC staff, interview by FCIC re Wachovia, July 16, 2010.
82. Steel, interview.
83. Ibid.
84. Wigand and Held, memo to the FDIC board, September 29, 2008, pp. 2, 4–5.
88. Bair, interview; minutes of the telephonic meeting of Federal Deposit Insurance Corporation Board of Directors, September 29, 2008, p. 8.
89. Bair, interview.
90. FDIC memo to the FDIC Board of Directors, p. 8; Corston, written testimony for the FDIC, September 1, 2010, p. 10.
91. Specifically, under Wachovia’s proposal, the FDIC would provide credit protection on $200 billion of loans, while Wachovia would absorb the first $25 billion in losses and the FDIC would potentially incur losses on the balance of the $200 billion. To offset that risk, Wachovia proposed that the FDIC receive $10 billion in preferred stock and warrants on common shares (FDIC memo to the FDIC Board of Directors, p. 8).
92. The FDIC board has five members: the comptroller of the currency, the director of OTS, and three other members appointed by the president. In *Too Big to Fail: The Inside Story of How Wall Street and Washington Fought to Save the Financial System from Crisis—and Themselves* (New York: Viking, 2009), Andrew Ross Sorkin (p. 497) wrote that before the September 29, 2008, FDIC board meeting, New York Federal Reserve Governor Geithner and other officials had a conference call with Bair (Paulson recused himself) during which Geithner urged Bair to help Citigroup acquire Wachovia by guaranteeing some of its potential losses. Geithner argued that allowing the FDIC to take over Wachovia would have the effect of wiping out shareholders and bond holders, which, he was convinced, would only spook the markets. He was still furious with Bair for the way she had abruptly taken over Washington Mutual, which had had a deleterious effect on investor confidence.
95. Ibid.; the $34.6 billion figure is as of September 30, 2008 (FDIC staff, memo to the Board of Directors, subject: “Third Quarter 2008 CFO Report to the Board,” November 21, 2008, p. 1).
97. Bair, interview.
98. Steel, written testimony for the FCIC, September 1, 2010, p. 4. On the board’s vote and the agreement in principle, see Steel, interview; see also Affidavit of Robert K. Steel, dated October 5, 2008, filed in Wachovia Corp. v. Citigroup, Inc., Case No. 08-cv-085093-SAS (S.D.N.Y.), pp. 3–4 and exhibit A.
100. Wachtell, Lipton, Rosen & Katz, on behalf of Wells, letter to Division of Corporation Finance, SEC, November 17, 2008, p. 3.
102. Bair, interview.
103. Steel, interview.
104. Bair, interview. In his interview, Treasury’s Kashkari told the FCIC that he disagreed. He felt that the highest priority was to transfer the risk of banks’ troubled assets from the financial system to the government. Citigroup’s FDIC-assisted acquisition would have removed potential losses on $270 billion of assets from the financial system by transferring those potential losses to the FDIC.
110. Secretary Henry Paulson, testimony before the Senate Banking Committee, *Turmoil in the U.S. Credit Markets*, transcript, p. 37.

113. Mel Martinez, interview by FCIC, September 28, 2010.

114. The TARP legislation, drafted as the Emergency Economic Stabilization Act of 2008, was coupled in Public Law 110-343 with several other vote-attracting acts, including the Energy Improvement and Extension Act of 2008; the Tax Extenders and Alternative Minimum Tax Relief Act of 2008; the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; and the Heartland and Hurricane Ike Disaster Relief Act of 2008. Congress originally said that the deposit insurance cap would revert to $100,000 at the beginning of 2010, but later extended the deadline through the end of 2013.

115. The quotation is part of the formal title of Public Law 110-343, of which the TARP legislation—officially named the Emergency Economic Stabilization Act of 2008—is a part.

116. “Board Announces Creation of the Commercial Paper Funding Facility (CPFF) to Help Provide Liquidity to Term Funding Markets,” Federal Reserve Board press release, October 7, 2008. The CPFF complemented the Fed’s other commercial paper program, the AMLF, which was created shortly after the Reserve Primary Fund broke the buck. While the AMLF targeted money market mutual funds, the CPFF aimed to create liquidity for qualified commercial paper issuers.

117. Federal Reserve Board, “Commercial Paper Funding Facility (CPFF).”

118. Ken Lewis from Bank of America, Robert Kelly from BNY Mellon, Vikram Pandit from Citigroup, Lloyd Blankfein from Goldman, Jamie Dimon from JP Morgan, John Thain from Merrill, John Mack from Morgan Stanley, Ronald Logue from State Street, and Richard Kovacevich from Wells.


121. Dimon, interview.

122. The Temporary Liquidity Guarantee Program consisted of two programs, the Temporary Debt Guarantee Program (TDGP) and the Transaction Account Guarantee Program (TAGP). The TDGP at its highest point in May 2009 guaranteed $346 billion in outstanding senior debt; see “FDIC Announces Plan to Free Up Bank Liquidity,” FDIC press release, October 14, 2008. The TAGP guaranteed $834 billion in deposits at the end of 2009.


125. Paulson, testimony before the FCIC, May 6, 2010, transcript, p. 70.


133. The money market funding is through the Asset-backed Commercial Paper Money Market Mutual Fund Liquidity Facility (AMLF); FCIC staff calculations.


135. The Fed had created the first Maiden Lane vehicle in March to take $29 billion in assets off the balance sheet of Bear Stearns, as described in chapter 15. See "AIG RMBS LLC Facility: Terms and Conditions," December 16, 2008; "AIG Discloses Counterparties to CDS, GIA and Securities Lending Transactions," AIG press release, March 15, 2009, Attachment D: Payments to AIG Securities Lending Counterparties.

136. Federal Reserve Bank of New York, "Maiden Lane III: Transaction Overview"; Federal Reserve and Treasury Department press release, November 10, 2008; "AIG CDO LLC Facility: Terms and Conditions," Federal Reserve Bank of New York press release, December 3, 2008; FRBNY, "Maiden Lane Transactions." $27.1 billion was paid to 16 counterparties and $2.5 billion was paid to AIGFP as an adjustment to reflect overcollateralization.


139. Data provided to Goldman Sachs to the FCIC.


142. Ibid.; and data provided by Goldman Sachs to the FCIC.

143. SIGTARP, "Factors Affecting Efforts to Limit Payments to AIG Counterparties," pp. 15–16, 18. The report said counterparties insisted on 100% coverage because (1) concessions “would mean giving away value and voluntarily taking a loss, in contravention of their fiduciary duty to their shareholders”; (2) they had a "reasonable expectation" that AIG would not default on further obligations, given the government assistance; (3) costs already incurred to protect against a possible AIG default “would be exacerbated if they were paid less than par value”; and (4) they were “contractually entitled” to receive the par value of the credit default swap contracts.

144. “In other words, the decision to acquire a controlling interest in one of the world’s most complex and most troubled corporations was done with almost no independent consideration of the terms of the transaction or the impact that those terms might have on the future of AIG” (ibid., p. 28).

145. Ibid., summary, p. 1.


149. Sarah Dahlgren, interview by FCIC, April 30, 2008.

150. SIGTARP, "Factors Affecting Efforts to Limit Payments to AIG Counterparties," p. 29.


153. Dahlgren, interview.


159. Kelly, interview.
161. Kelly, interview.
163. Wigand and Held, November memo to the FDIC board regarding Citigroup, p. 5.
164. Bernanke, closed-door session.
167. Kelly, interview.
169. Wigand and Held, memo to the FDIC board regarding Citigroup, pp. 9, 10.
171. “Joint Statement on Citigroup.”
172. In total, Citigroup received almost $40 billion in capital benefits from the November 2008 government assistance. Half of the capital benefits were from Treasury’s $20 billion TARP investment in Citigroup preferred stock; $16 billion of the capital benefits were derived from a change in the risk weighting of the ring-fenced assets. In addition, Citigroup issued Treasury and the FDIC $7 billion in preferred stock as payment for the guarantee on the ring fence; the result, after accounting for the insurance feature of the arrangement, was a $3.5 billion increase in capital for Citigroup.
173. Kelly, interview.
174. The warrants gave the government the right to buy 254 million shares at $10.61 a share; at the time, the stock was trading at $3.76 (Congressional Oversight Panel, “November Oversight Report: Guarantees and Contingent Payments in TARP and Related Programs,” November 6, 2009, pp. 18–19).
176. Ibid., pp. 27–28.
179. Federal Reserve System, “Order Approving Bank of America Corporation Acquisition of a Savings Association and an Industrial Loan Company,” November 26, 2008, pp. 7, 9. To approve such a proposal, the Bank Holding Company Act requires the Fed to determine that a transaction “can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition.” 12 U.S.C. 1843(j)(2)(A).
183. Ibid., pp. 3, 10, 16.
188. Paulson, written testimony before the House Oversight Committee, July 16, 2009, p. 23 (quotation); Ben Bernanke, written testimony before the House Committee on Oversight and Government Reform and the Subcommittee on Domestic Policy, Bank of America and Merrill Lynch: How Did a Private Deal Turn into a Federal Bailout? Part II, 111th Cong., 1st sess., June 25, 2009, p. 18.
189. Lewis, interview.
190. Thain, interview.
193. Lewis, interview.
195. Minutes of a Special Meeting of the Bank of America board, December 30, 2008, available in ibid., p. 188.
196. Lewis, interview.
197. See Department of the Treasury, Office of Financial Stability, “Troubled Assets Relief Program: Transactions Report, for Period Ending November 16, 2010,” November 18, 2010. In addition to drawing on these funds, it was also a “substantial user” of the Fed’s various liquidity programs. The holding company and its subsidiaries had already borrowed $55 billion through the Term Auction Facility. It had also borrowed $15 billion under the Fed’s Commercial Paper Funding Facility and $20 billion under the FDIC’s debt guarantee program. And newly acquired Merrill Lynch had borrowed another $21 billion from the Fed’s two Bear Stearns–era repo-support programs. Yet despite Bank of America’s recourse to these programs, the regulators worried that it would experience liquidity problems if the fourth-quarter earnings were weak.
198. The amount of FDIC-guaranteed debt that can be issued by each eligible entity, or its cap, is based on the amount of senior unsecured debt outstanding as of September 30, 2008.
202. Bair, written testimony before the House Oversight Committee, December 11, 2009, p. 3.
203. Glassman et al., memo to the FDIC board, January 15, 2009, p. 3. They agreed to this 25/75 split because 25% of the assets for the ring fence were from depository institutions and 75% were not. See closed meeting of the FDIC Board of Directors, January 15, 2009, transcript, p. 18.

204. Closed meeting of the FDIC board, January 15, 2009, transcript, p. 24. According to the FDIC staff, “Liquidity pressure may increase to critical levels following the announcement of fourth quarter 2008 operating results that are significantly worse than market expectations. Market reaction to BAC’s operating results may have systemic consequences given the size of the institution and the volume of counterparty transactions involved. Without a systemic risk determination . . . significant market disruption may ensue as counterparties lose confidence in BAC’s ability to fund ongoing operations. . . . [Economic developments] point to a clear relationship between the financial market turmoil of recent months and impaired economic performance that could be expected to worsen further if BAC and its insured subsidiaries were allowed to failed. Such an event would significantly undermine business and consumer confidence.” Glassman et al., memo to the FDIC board, January 15, 2009, pp. 13–14.

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5. Marie Vasile, testimony before the FCIC, in ibid., transcript, pp. 244–51.


54. McNichol, Oliff, and Johnson, “States Continue to Feel Recession’s Impact.”


56. Ibid.


62. Ibid., pp. 7, 2.


67. White House Office of Management and Budget, FY2011 Budget Historical Tables, Section 1, Table 1.1—Summary of Receipts, Outlays, and Surpluses or Deficits (–):1789–2015, Total Budget Deficit.

68. FDIC, “Failed Bank List.”


72. FDIC, Statistics on Depository Institutions, Income and Expense, All Commercial Banks—Assets less than $100M and Assets $100M to $1B; Standard Report #1 (reports issued on 3/31/2010 and 3/31/2009). Profit is logged as “Net income attributable to bank.”


1. FCIC calculations based on estimates from Hope Now and Moody’s.com.

2. Mortgage Bankers Association National Delinquency Survey (the source for the rest of the delinquency and foreclosure rates in this chapter).


7. FCIC staff estimates based on analysis of BlackBox data.


9. The index declined from 200.4 in April 2006 to 136.6 in March 2009, a decline of 31.8%.

10. “New CoreLogic Data Shows Third Consecutive Quarterly Decline in Negative Equity,” CoreLogic Inc., December 13, 2010, p. 1; nationally, third-quarter figures were an improvement from 11.0 million residential properties—23%—in negative equity in the second quarter of 2010.


13. Rokakis, interview.


22. See, for example, National Consumer Law Center, “Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior,” October 2009.
23. Joseph H. Evers, Office of the Comptroller of the Currency, deputy comptroller for large bank supervision, written testimony before the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP), COP Hearing on TARP Foreclosure Mitigation Programs, 111th Cong., 2nd sess., October 27, 2010, pp. 7–10. The OCC reported that mortgage servicers have modified 1,239,896 loans since early 2008. By the end of the second quarter of 2010, more than 26% of the modifications were seriously delinquent; 9% were in the process of foreclosure; and 4% had completed foreclosure. The OCC examined modified loans that were 60 or more days delinquent that were modified during the second quarter of 2009, to determine when after loan modification that serious delinquency recurred. At 12 months after modification, 43% of loans were delinquent by two or more months; at nine months after modification, 41% were in arrears; at six months, 34%; and at three months after a loan change, nearly 19% were delinquent. The OCC noted that more recent modifications have performed better than earlier modifications.

24. Julia Gordon, senior policy counsel, Center for Responsible Lending, written testimony before the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP), COP Hearing on TARP Foreclosure Mitigation Programs, 111th Cong., 2nd sess., October 27, 2010, p. 11.


27. Grais, interview.


30. See, for example, Dwayne Ransom Davis and Melisa Davis v. Countrywide Home Loans, Inc.; Bank of America, N.A.; BAC GP LLC; and BAC Home Loans Servicing, LP, 1:10-cv-01303-JMS-DML (S.D. Ind. October 19, 2010).


32. See, e.g., Mortg. Elec. Registry Sys. v. Johnston, No. 420-6-09 Rdcv (Rutland Co. Vt. Super. Ct. Oct. 28, 2009), holding that MERS did not have standing to initiate foreclosure because the note and mortgage had been separated.


35. Winslow, written testimony before the House Committee on the Judiciary, pp. 2–3.


37. Grais, interview.

38. Adam J. Levitin, associate professor of law, Georgetown University Law Center, testimony to Senate Committee on Banking, Housing, and Urban Affairs, Problems in Mortgage Servicing from Modification to Foreclosure, 111th Cong., 2nd sess., November 16, 2010, p. 20.


40. Katherine Porter, professor of law, University of Iowa College of Law, written testimony before the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP), COP Hearing on TARP Foreclosure Mitigation Programs, October 27, 2010, p. 8.

41. Levitin, written testimony before the Senate Committee on Banking, Housing, and Urban Affairs, p. 20.

43. National Association for the Education of Homeless Children and Youth (NAEHCY) and First Focus, “A Critical Moment: Child and Youth Homelessness in Our Nation’s Schools,” July 2010, p. 2. In early 2010, NAEHCY and First Focus conducted a survey of 2,200 school districts. When they were asked the reasons for the increased enrollment of students experiencing homelessness, 62% cited the economic downturn, 40% attributed it to greater school and community awareness of homelessness, and 38% cited problems stemming from the foreclosure crisis.


49. Hunt, interview.
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