

TESTIMONY OF

RICKI TIGERT HELFER  
CHAIRMAN  
FEDERAL DEPOSIT INSURANCE CORPORATION

ON

APPROPRIATIONS TO COVER THE GUARANTEES AND  
OBLIGATIONS OF THE FORMER FEDERAL SAVINGS  
AND LOAN INSURANCE CORPORATION

BEFORE THE

SUBCOMMITTEE ON VA, HUD AND INDEPENDENT AGENCIES  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES

10:00 A.M.  
WEDNESDAY, MARCH 1, 1995  
ROOM H-143, U.S. CAPITOL BUILDING

Mr. Chairman and members of the Subcommittee, I am pleased to have the opportunity to address the current status of the areas of responsibility of the Federal Deposit Insurance Corporation (FDIC) that involve appropriated funds: the Federal Savings and Loan Insurance Corporation Resolution Fund (FRF) and the Affordable Housing Program. Current projections indicate that the \$827 million appropriated by this Subcommittee last year will be sufficient to fund the activities of the FRF for fiscal year 1996, provided that the appropriation remains available until expended.

At this time, the FDIC also is not requesting any appropriations for the Savings Association Insurance Fund (SAIF) for fiscal year 1996. The Resolution Trust Corporation Completion Act of 1993 (RTCCA) authorizes an \$8 billion appropriation for the SAIF to be used to cover insurance losses, subject to certain specific certifications regarding the capacity of the industry to support higher assessment payments. The authorization runs through fiscal year 1998. In addition, the RTCCA provides that unexpended RTC funding at the time of the RTC's termination will be available to SAIF for two years, subject to similar certification requirements.

Current estimates indicate that the resources of the SAIF are adequate to meet near term demands. However, the financial condition of the fund is weak because assessment income from SAIF members has only been available to the fund since 1993. Previous

to that, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) mandated that assessment revenue be diverted to the Financing Corporation (FICO), The Resolution Funding Corporation (REFCORP), and the FRF to address the thrift crisis. Although the savings and loan industry is relatively healthy, the SAIF is undercapitalized and remains vulnerable in the short run to the failure of a large institution, to several medium-sized failures, or to any significant unanticipated increases in loss rates.

The SAIF will continue to be underfunded in the immediate future because of the continuing drain on assessments by the FICO obligation. In accordance with statutory requirements, approximately 45 percent (\$780 million) of the assessment income for 1995 will be diverted to pay interest on the FICO bonds which were issued in an unsuccessful attempt to recapitalize the former FSLIC. If the FICO obligation were eliminated later in 1995, the SAIF would be capitalized in 1999. Although the SAIF is currently solvent, the FDIC remains concerned about the future stability of, and funding for, the SAIF.

My testimony will briefly highlight the progress the FDIC has made to wrap up the financial activities of the former Federal Savings and Loan Insurance Corporation (FSLIC) and to realize savings from expenditures of prior years' appropriations. I will also address issues related to the assets and obligations of the Resolution Trust Corporation (RTC) that will be absorbed

by the FRF upon the termination of RTC during fiscal year 1996. In addition, I will discuss the current status of the SAIF and the FDIC's Affordable Housing Program.

#### FSLIC Resolution Fund

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 was enacted to address the thrift industry crisis. The FSLIC Resolution Fund, the Savings Association Insurance Fund, and the Resolution Trust Corporation were created by this legislation. The FDIC was appointed manager of the SAIF and the FRF. All assets and liabilities of the former FSLIC were transferred to the FRF. These include all liabilities arising under the contractual financial assistance agreements (assistance agreements) between the FSLIC and acquirers of failed thrift institutions providing for the reimbursement of certain major expenses incurred by the acquirer. It also includes all FSLIC-related litigation.

Appropriations for the FRF are to fill anticipated shortfalls between funds obtained from the liquidation of the FRF's assets and funds needed to meet the existing obligations and expenses. Unlike conventional appropriations for government programs, the FRF's expenditures are generally not discretionary. The expenditures are in satisfaction of existing liabilities created by the former FSLIC, which the FDIC is required by statute to administer. The FRF's expenditures are contractual

liabilities that must be paid when due. As required by FIRREA, the FRF utilizes internally generated proceeds from the liquidation of assets as its primary source of funding. However, if these sources are insufficient to satisfy existing liabilities, appropriated funds are necessary.

Appropriated funds are requested and expended only after all other sources of funds available to the FRF have been exhausted. Since fiscal year 1992, appropriations totalling \$3.5 billion were unused and lapsed, due to the FDIC's ability to liquidate FRF-owned assets at a rate faster than originally projected and, to a lesser extent, as a result of the realization of savings from the renegotiation and negotiated early termination of the FSLIC assistance agreements. This results in more funds being available to meet the FRF obligations and reduces the need for appropriated funds for a particular fiscal year and in the future. The ability to predict the amount for which assets can be sold or liquidated, and the timing of when that liquidation can be achieved, is subject to volatile and uncontrollable outside factors such as fluctuating interest rates, the geographic location of available assets and the overall condition of the economy. Additionally, the assets that have not yet been sold are generally the most difficult to liquidate.

There are additional factors that directly affect the amount and timing of both sources and uses of funds for the FRF. For example, as manager of the FRF, the FDIC has attempted to

negotiate early terminations of the former FSLIC assistance agreements where cost savings can be reasonably projected. These transactions generally involve the purchase, by the FRF, of any unsold assets that are subject to the indemnification provisions of the assistance agreements. The FRF's sources and uses of funds incorporate provisions for the projected cash flows that will result from the successful termination of selected assistance agreements. Consequently, the failure to consummate any of the proposed transactions could cause a substantial fluctuation in the FDIC's cash flow estimates. By providing the \$827 million appropriation last year and making it available until expended, this Subcommittee addressed many of the timing and funding issues that have made it difficult to project the needs of the FRF for appropriations in prior years -- factors that caused \$3.5 billion in amounts previously appropriated to lapse.

The acceleration of revenues produced from a more rapid rate of sales of FRF-owned assets than originally projected and distributions from the two limited partnerships created through the restructuring of two former FSLIC assistance agreements allowed the FRF to avoid employing any appropriated funds during fiscal year 1994. Setting aside the issue of the RTC's return, it appears as though the projected proceeds from these sales and distributions and the fiscal year 1995 appropriation, which is available until expended, will be sufficient to support the FRF through fiscal year 1999. At that time, nearly all of the FRF's

obligations arising from the FSLIC agreements should have been met, except for any potential liability stemming from future lawsuits arising from these assistance transactions.

Based on the revenue available to the FRF from other sources and the availability of the \$827 million appropriation, no additional appropriations for the FRF are being requested for fiscal 1996. In addition, as I describe more fully below, the absorption of the RTC during fiscal 1996 should not require new appropriated funds for fiscal 1996.

#### FSLIC Assistance Agreements

The FRF administers all FSLIC assistance agreements entered into by the former FSLIC under Section 406(f) of the National Housing Act to facilitate the resolution of failed or failing thrifts. As a result of the FSLIC's severe lack of resources, the Federal Home Loan Bank Board authorized it to issue a substantial number of promissory notes and to offer lucrative incentives to acquirers of thrifts that stretched out over 10 years in the negotiation of many of the 1988 assistance agreements. This approach was taken as an alternative to more conventional resolution options.

An assistance agreement is a contract entered into by the former FSLIC with an acquirer of a failed thrift or thrifts that provides for certain major expenses and losses to be reimbursed

by the former FSLIC. As required by FIRREA, the FDIC, as manager of the FRF, assumed responsibility for satisfying all of the obligations under the FSLIC assistance agreements. Typically, the assistance agreements entered into by the former FSLIC included some, but not all, of the following provisions:

- Payment in cash, or with a note, to cover all or a negotiated amount of the negative net worth of the failed institution(s);
- Capital loss coverage which provided payment for the difference between book value and net sales proceeds on "covered assets". The amount and nature of the covered assets were identified in each agreement and generally included all assets that would pose a greater than normal risk to the acquirer. With respect to the 1988 agreements, covered assets generally included all assets acquired, except for cash, office equipment and facilities, performing residential mortgage loans, marketable securities, and similar non-risk assets;
- Yield subsidies, which ensured the acquirer a defined level of return on covered assets;
- Indemnifications to the acquirer for legal expenses in connection with lawsuits against the failed institution or other contingencies;



- Loss-sharing arrangements in which the acquirer bore a percentage of loss upon disposition of covered assets;
- Gain-sharing arrangements, in which a percentage of gain realized on the sale of covered assets above some benchmark, were provided as an incentive to the acquirer to obtain the maximum price for covered assets;
- Tax benefit sharing provisions that arose from the acquirers' use of preacquisition net operating losses (NOLs), as well as other tax benefits outlined in the agreements;
- Buy out options under which the FDIC elected to purchase covered assets;
- Capital instruments which entitled the FRF to share in any increase in value in the assisted thrift. In some instances, this also may have included sharing in earnings;
- Mark-to-market coverage at inception and at the time of termination which may have reimbursed the acquirer for the difference between book and fair market value of certain assets that are not covered assets.

Summary of FSLIC Resolution Fund Activities

The FDIC and RTC have made significant progress toward concluding the financial affairs of the former FSLIC. Current obligations have been met and where savings could be realized, assistance agreements were renegotiated, restructured or terminated. In addition to creating the FRF under the management of the FDIC, FIRREA charged the RTC with the responsibility for attempting the renegotiation and/or restructuring of the 1988 and 1989 assistance agreements -- although the funding for this effort was the responsibility of the FRF. When these mandated renegotiation efforts were completed on June 30, 1993, the FDIC's Division of Resolutions assumed the responsibility for administering those FSLIC assistance agreements. In so doing, the FDIC also attempted to negotiate voluntary early terminations of assistance agreements in cases where there was potential for additional cost savings. This activity continues today. This Subcommittee's willingness to provide substantial funds in support of these renegotiations was directly responsible for enabling the RTC and the FDIC to renegotiate, restructure and terminate agreements, which in turn achieved a considerable savings for the American taxpayer.

The FRF began operation in 1989 with 202 assistance agreements covering 338 institutions with assets of \$151 billion. The initial cost of the 202 agreements was estimated at \$69.7 billion. During the five-year period ending September 30, 1994,

136 agreements have been renegotiated, restructured and/or terminated through the combined efforts of the FDIC and RTC leaving a total of \$2.5 billion in future projected costs for the 66 remaining cases, and reducing the overall cost estimate from \$69.7 billion to \$62.6 billion. Covered assets have been reduced by 98 percent from \$61.1 billion on December 31, 1988, to \$1.2 billion on September 30, 1994.

The FDIC has continued the prepayment of FRF promissory notes at the earliest opportunity to reduce the interest cost to the FRF and the taxpayer. Notes payable have been reduced by \$22.8 billion. The FRF has two promissory note obligations remaining to one institution in the amount of \$189.4 million. Scheduled prepayments on the notes to this institution will continue through fiscal year 1998.

Finally, the FDIC in conjunction with FRF assumed from the former FSLIC roughly \$14 billion in receivership and corporate owned assets resulting from failed savings and loans. Through FDIC liquidation efforts, such assets held by the FRF have been reduced from \$14 billion to approximately \$2 billion as of September 30, 1994.

During fiscal year 1993, renegotiations of assistance agreements with First Nationwide and New West Federal Savings and Loan Association resulted in the formation of two limited partnerships, Mountain AMD L.P. (Mountain) and Brazos Partners

L.P. (Brazos). These partnerships acquired and managed substantially all of the covered assets from the assisted institutions. The objective of the partnerships is to maximize the present value of all net recoveries achieved from the orderly disposition of the assets within the five-year term of the partnerships. The partnerships provide incentives for the prompt liquidation of assets rather than the approach under the original assistance agreements that rewarded an acquirer for holding assets. The partnerships were created in the expectation that costs to the FRF would be reduced. The FRF receives partnership distributions resulting from the management and liquidation of the partnership assets. The partnerships have successfully distributed over \$1.7 billion to the FRF through fiscal year 1994. Current projections indicate that Brazos expects to sell the remainder of its assets in fiscal year 1995.

#### Impact of Litigation on Appropriations

Recent court decisions have created the possibility that additional appropriated funds will be needed in the future to cover legal judgments against the FRF. However, the FRF's potential need for appropriations resulting from future lawsuits is difficult to forecast. The FDIC's Legal Division has advised that there are over fifty pending lawsuits stemming from FIRREA's elimination of goodwill from regulatory capital, allegedly resulting in a breach of contract or an uncompensated taking of property under the Fifth Amendment to the Constitution.

Congress' decision in FIRREA to eliminate the authority for thrifts to count goodwill as capital was made, in part, in reliance on a 1989 legal opinion from the Department of Justice stating that such action would not result in an unconstitutional taking or a breach of contract. However, two recent court decisions have rejected that position and held the FRF liable for \$6 million and more than \$26 million, respectively. The \$6 million judgment became final when the Solicitor General determined not to seek certiorari to review an adverse decision from the 10th Circuit Court of Appeals. Payment was made to the plaintiffs on February 17, 1995.

The second judgment, for over \$26 million, is still before the Court of Appeals for the Ninth Circuit. Both cases contain similar claims, however, and ultimate liability in the Ninth Circuit case could be heavily influenced by the 10th Circuit decision. Accordingly, the FDIC now regards liability in that second case as "probable" and a reserve is being established for this judgment.

While the FDIC has paid the \$6 million judgment from the FRF, we believe that the judgment should ultimately be paid by the United States since Congressional action prohibited the use of goodwill in FIRREA and the Office of Thrift Supervision (OTS) implemented that prohibition by its regulatory actions. The FDIC and the FRF had no responsibility for the actions on which the court based liability. The FDIC is, therefore, seeking

reimbursement for the funds expended by the FRF in paying the \$6 million judgment through the procedures established by the General Accounting Office for the Judgment Fund. That Fund is a continuously appropriated fund established to pay judgments against the United States and its agencies.

By statute, the Comptroller General makes the final determination of whether the Judgment Fund will provide such reimbursement. In the end, the determination as to whether the FRF will be required to bear these expenses will depend upon whether it is considered a separate fund "available" to pay such a judgment. The FDIC believes that Congress created the FRF in FIRREA to pay pre-existing liabilities of the FSLIC, not those that came into existence after the passage of FIRREA. Thus, the FRF should not be regarded as a fund available to pay such judgments.

Reserves have not been established for any of the other pending "goodwill" cases since the likelihood of the FRF incurring any liability in those cases is not sufficiently certain. First, the FDIC believes that the adverse decisions in favor of the plaintiffs are erroneous and that the Supreme Court will ultimately rule for the government in the cases pending on appeal with respect to the underlying constitutional and breach of contract issues. In addition, because of the novel legal concepts at issue, the amount of damages being sought in the cases cannot currently be calculated with any degree of

confidence. Moreover, all but two of the other pending goodwill cases have been brought in the Court of Federal Claims against the United States, rather than in federal district court against the FDIC as Manager of the FRF. Any unfavorable judgments in the Court of Federal Claims cases would be rendered against the United States and presumably would be payable from the Judgment Fund instead of from the FRF.

However, in some instances, individual agencies involved in Court of Federal Claims litigation are required to pay judgments against the United States, to the extent that such agencies have funds "available" from which such a judgment could be paid. The usual situation in which an agency is required to pay judgments from its own funds is where the judgment is considered to be a programmatic expense.

The FDIC does not believe that the FRF should be required to pay any judgments against the United States in the "goodwill" cases since such judgments would be based on the actions of (i) Congress in enacting the FIRREA capital requirements, in reliance upon a legal opinion from the Department of Justice, and (ii) the OTS in implementing the statute. No actionable conduct by the FSLIC prior to FIRREA or by the FDIC as manager of the FRF since the passage of FIRREA is a basis for this potential liability. Therefore, the liability should not be considered a programmatic expense of the FRF. As a result, no estimates of cost to the FRF for the Court of Federal Claims "goodwill" litigation are

included in the FDIC's cash flow estimates for the FRF. In addition, there is currently no valid quantification of the claims related to these cases because most the cases do not specify the damages or the amount of reimbursement sought. OTS has estimated that the claims from the cases currently pending in the courts could be in the range of between \$1.2 and \$4.9 billion, depending on the measure used (that is, the amount of the investment or the amount of goodwill), but total losses could potentially reach several times that amount if exposure for claims not yet filed is considered.

#### Savings Association Insurance Fund

FIRREA abolished the FSLIC insurance fund and created the SAIF to insure the deposits of thrifts. Because the SAIF will not be responsible for the resolution of failed thrift institutions before July 1, 1995, there have been limited demands on the SAIF for insurance losses since its inception.

Current estimates indicate that the resources of the SAIF are adequate to meet near term demands. However, the financial condition of the fund is weak because assessment income from SAIF members has only been available to the fund since 1993. Previous to that, FIRREA mandated that assessment revenue be diverted to FICO, REFCORP, and the FRF to address the thrift crisis. SAIF has been able to accumulate only approximately \$1.8 billion of



the \$8.5 billion which would currently be necessary to achieve the recapitalization rate of 1.25 percent mandated by Congress.

Congress recognized in FIRREA that the SAIF might initially be undercapitalized. In addition to assessment revenue, Congress provided for two types of appropriated funds for the SAIF. It authorized an appropriation to maintain its income at \$2 billion annually for fiscal years 1993 through 2000 (revenue supplements). It also authorized appropriations in amounts necessary to ensure that the SAIF would meet statutorily mandated minimum net worth targets for fiscal years 1992 through 2000 (net worth supplements). Despite requests by the FDIC to Treasury and the Office of Management and Budget, no money was ever requested or appropriated for these purposes.

The Resolution Trust Corporation Completion Act of 1993 eliminated the revenue supplements and the net worth supplements and authorized an \$8 billion appropriation for the SAIF to be used to cover insurance losses, subject to certain specific certifications by the FDIC Board of Directors. Before any money can be appropriated, the FDIC Board must certify that 1) SAIF members are unable to pay additional assessments at rates required to cover losses or meet a repayment schedule for Treasury borrowings without adversely affecting the ability of the members to raise and maintain capital or to maintain the members' assessment base and 2) an increase in the assessment rates needed to cover losses or repay Treasury borrowings could

reasonably be expected to result in greater losses to the Government. The authorization runs through fiscal year 1998. In addition, the RTCCA provides that unexpended RTC funding at the time of the RTC's termination will be available to SAIF for two years, subject to similar certification requirements. Because the certifications are very difficult to make, neither authorization is likely to provide swift effective assistance for SAIF in the event that the fund is depleted.

Although the savings and loan industry is relatively healthy, the SAIF remains vulnerable in the short run to the failure of a large institution, to several medium-sized failures, or to any significant unanticipated increases in loss rates. The SAIF will continue to be underfunded in the immediate future because of the continuing drain on assessments by the FICO obligation. About 45 percent (\$780 million) of the assessment income for 1995 will continue to be diverted to pay interest on the FICO bonds which were issued in the late 1980's in an unsuccessful attempt to recapitalize the former FSLIC. If the FICO obligation were eliminated later in 1995, the SAIF would be capitalized in 1999.

While the SAIF is currently solvent and we are not requesting an appropriation for SAIF for fiscal year 1996, the FDIC remains concerned about the future stability of the SAIF. The statutory certifications required under the current authorization are difficult to meet and will make it very

difficult to employ the appropriations mechanism except in the most dire circumstances. The authorization is also limited to insurance losses and does nothing to permit a more rapid capitalization of the SAIF or to address the FICO obligation. If the SAIF suffers significant losses in the future that deplete the insurance fund and the certifications can be satisfied, the FDIC could be forced to seek an appropriation for SAIF. Until the SAIF reaches an adequate level, we cannot say that appropriations for the SAIF will not be necessary.

#### The Resolution Trust Corporation

The RTC was created by FIRREA to manage and resolve all troubled savings institutions that were previously insured by the FSLIC and for which a conservator or receiver was appointed during the period January 1, 1989 through August 8, 1992. This period was extended to September 30, 1994 by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and, subsequently, has been extended until June 30, 1995.

The RTC will terminate all operations on December 31, 1995. Upon termination of the RTC, all remaining assets and obligations of the RTC will transfer to the FRF. At that time, the overwhelming percentage of assets and obligations in the FRF will be obligations of the former RTC rather than the assets and obligations assumed in 1989 from the former FSLIC.

During calendar year 1995, the RTC expects its liquidation efforts to reduce the volume of assets in liquidation to approximately \$8 billion at sunset. The RTC presently forecasts that the portfolio will be comprised of marketable securities (\$1.6 billion), mortgages - other than 1-4 family (\$2.2 billion), other loans (\$1.0 billion), and real estate and other assets (\$3.2 billion).

There also are expected to be approximately \$6.7 billion in assets pledged to provide guarantees for securitized assets sold by the RTC. Since 1991, the RTC has sold \$36.6 billion of receivership, conservatorship, and corporate loans through its mortgage securitization program. The loans were secured by various types of real estate including 1-4 family homes, multifamily dwellings, and commercial real estate. The loans were placed in a trust and then pooled and stratified with the resulting cash flow directed into a number of different classes of pass-through certificates.

Pass-through certificates are investment instruments representing direct ownership in a portfolio of mortgage loans. In a pass-through security, the principal collections are passed to the certificate holders each month and delinquent payments are made from the securitization reserve. The regular pass-through certificates were sold to the public, excess interest strips (which represent ownership of an excess interest income which is

not distributed to the regular certificate holders) remained with the RTC, and the residual value reverts to the receiverships.

To assure the likelihood of full and timely distributions of interest and principal to the buyers of the regular pass-through certificates, and thus increase the proceeds the RTC received from these sales, a portion of the sales proceeds were placed in a credit enhancement reserve fund (reserve fund). These funds are used to cover future credit losses with respect to loans underlying the certificates. The liability for these credit losses is limited to the reserve fund. As of November 30, 1994, the cash reserves related to the securitization program were in excess of \$6 billion.

The RTC presently expects claims to be paid on the guarantees to be substantially less than the amount of reserves set aside. Therefore, over time, the RTC expects to recover a material portion of these cash reserves, which will then be available to cover other losses and expenses of the FRF, although it is not possible to estimate the amount with any precision.

No new appropriations are being requested by the FRF resulting from the return of the assets and liabilities of RTC during fiscal year 1996. All RTC assets in liquidation are supported by funds borrowed from the Federal Financing Bank (FFB). It is currently projected that at termination the RTC will have approximately \$8 billion in assets remaining to be

liquidated, which will be transferred to the FDIC as required by the RTCCA. The FDIC is currently working with the RTC to assure that losses and costs have been carefully reviewed and that RTC funds, together with proceeds from asset liquidations and the excess from securitization guarantees, will be sufficient to repay the Federal Financing Bank debt and most other RTC obligations. The RTCCA provided up to \$18.3 billion to cover losses of the RTC. The RTC's access to this funding terminates at sunset. Every effort is being made to estimate future collections and costs of RTC assets prior to the termination of the RTC's access to appropriated funds. Should the ongoing process of estimation indicate that existing reserves are inadequate, the RTC is expected to draw additional funds from its \$18.3 billion appropriation in order to ensure that the FDIC, as manager of the FRF, has sufficient funds to resolve assets and liabilities associated with RTC assets remaining at sunset. Despite our best efforts, there can be no certainty that today's forecasts will be tomorrow's reality. If it turns out that the estimates are too optimistic and RTC's funding sources are inadequate to meet the obligations on remaining RTC assets and liabilities, additional appropriations in future years could be necessary for the FRF.

#### FDIC AFFORDABLE HOUSING

The FDIC Improvement Act of 1991 required the FDIC to implement an FDIC Affordable Housing Program upon the

appropriation of funds by the Congress. This legislation authorized appropriations of up to \$30 million to reimburse the FDIC for losses on the disposition of properties under the program and additional funds necessary for administering the program. The authorization was for three years beginning with the first fiscal year in which funds were appropriated. Since the inception of the program, the FDIC has received annual appropriations totalling \$5 million for fiscal year 1993, \$7 million for fiscal year 1994 and \$15 million for fiscal year 1995 to be used for both loss reimbursement and administrative expenses.

The affordable housing program requires the FDIC to restrict the sale of eligible single-family and condominium properties for 180 days to households with incomes less than 115% of an area's median income as adjusted for family size. Non-profit organizations and public agencies are also eligible to purchase these properties if they will agree to restrict the use of the purchased properties to affordable housing.

In the case of single family properties, the FDIC provides a subsidy to qualified purchasers in an amount up to ten percent of the sales price. The "credit or grant," can be used in a number of ways: (1) to provide down payment assistance; (2) to cover necessary rehabilitation of the property; (3) to buy down mortgage points and to cover closing costs; (4) to cover costs for any required buyer counseling; or (5) for direct discounts on

purchases. The use of the ten percent credit or grant allows a purchaser to determine the most appropriate use of these funds for the individual situation, rather than mandating a particular use. The practice of offering credits or grants is continuing in fiscal year 1995.

In spite of limited funding during the first two years of the program, the FDIC has made a substantial effort to comply with the letter and spirit of the law and to accommodate low- and moderate-income purchasers of properties in the hands of the FDIC. We have succeeded in implementing a nationwide affordable housing program and have worked effectively with state and federal agencies, non-profit organizations and financing sources such as banks. Because the fiscal year 1995 appropriation is substantially larger than the previous two fiscal years, the FDIC has been able to expand the program, especially in the area of multifamily property sales.

In addition to selling properties through the affordable housing program, the FDIC occasionally donates properties to non-profit organizations or public agencies. Donations are considered in situations where properties have no reasonable recovery value and the recipient organization is in a position to put the property to a beneficial use.

The FDIC Affordable Housing Program has achieved a number of notable accomplishments, including the following:



- Over 2,000 low- or moderate-income households were able to purchase a home since the program began. Over \$100 million in properties were sold to qualifying purchasers through the Affordable Housing Program.
  
- The FDIC's Westborough Massachusetts office sold 64 units of affordable housing to the Southern Middlesex Opportunity Council (SMOC). SMOC will rehabilitate and resell these homes to low-income households.
  
- The FDIC's Anchorage, Alaska office sold (on a subsidized basis) a property to the Anchorage Association of Retarded Citizens to provide transitional housing for handicapped low-income individuals.
  
- The Westborough office also contracted with a consortium of several Massachusetts non-profit groups, coordinated through the Citizens Housing and Planning Association (a housing advocacy umbrella organization) to assist in marketing FDIC properties in a manner that effectively reaches low- and moderate-income households.

The success of the FDIC Affordable Housing program has been made possible, in large part, by Congress, which has permitted the FDIC to modify the original statutory program to provide for

a more cost-effective administration of the program. Prior to the inception of the program, the FDIC had projected annual administrative costs for the program to be as high as \$6.5 million. As a result of the discretionary language contained in the funding legislation, administrative expenses were held to approximately \$1 million in fiscal year 1993 and \$1.2 million in fiscal year 1994.

The funding legislation for each fiscal year has allowed the FDIC to modify the affordable housing program in a manner that best uses available funds. This was particularly important during the first two years of appropriations because the funding levels were much less than required to run the full program mandated by statute. The modified program, implemented in fiscal year 1993, comports with the statutory program in most respects. The primary difference is that the program will undertake multifamily sales only if additional funds are available beyond what is necessary to run the single-family program. Because of the higher costs involved with multifamily sales, the FDIC is able to reduce significantly the administrative and loss expenses associated with the program by conducting only a limited multifamily program.

During fiscal year 1993, the FDIC was able to conduct only one significant multifamily sale: a 200 unit single-room-occupancy project in Oakland, California. During fiscal year 1994, however, the FDIC allocated \$2 million of its \$7 million

appropriation to multifamily sales. As a result, the FDIC sold or donated 10 multifamily properties to non-profit groups. Six of these transactions were recently closed and the rest are expected to close during the next three months. The fiscal year 1994 multifamily program was undertaken in partnership with the RTC so the FDIC could take advantage of the RTC's experience in conducting such sales.

Pursuant to the RTC Completion Act, which was signed into law in December 1993, the FDIC will be merging its program with the RTC's Affordable Housing Disposition Program. The affordable housing functions will be merged by October 1, 1995, so that the FDIC can more fully employ the staff resources and economies of scale attributable to the RTC's larger and more established program. During 1994, the FDIC and the RTC have made a great deal of progress in unifying the activities of the agencies' affordable housing programs. Specific accomplishments include:

- joint marketing of single-family properties through auctions and other sales methods;
- the development of a joint income certification form used by both agencies;
- joint seller financing programs; and
- joint marketing and oversight of multifamily sales.

These measures have allowed for increased administrative efficiency and serve to minimize the administrative costs associated with the program. Such measures will also allow for a smooth transition as the two programs are formally merged during the spring and summer of 1995.

Although the FDIC Affordable Housing Program has been a successful, cost-effective mechanism for increasing home ownership for low- and moderate-income individuals, the inventory of properties available for the program is declining rapidly. The improved health of the banking industry means that fewer banks are failing and the FDIC is inheriting far fewer assets than when the program began. Any amount beyond \$15 million in fiscal year 1996 is not supportable given the FDIC's projected inventory.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you may have.