

DRAFT

Plan to Resolve Economic, Banking, Credit, Derivatives, Mortgage and Foreclosures Crises and Reform and Regulate Financial Systems

(http://www.wethepeoplenow.org/reform_financial_sys.pdf)

(Updated January 26, 2010)

This Plan outlines proposed actions to:

- Resolve economic, banking, credit, derivatives, mortgage and foreclosures crises
- Reform, regulate and vitalize financial systems
- Help identify funding sources for the jobs/work in the **Plan to Put America and the World to Work¹, Jumpstart the Economy, End the Recession and Avoid a Massive World Wide Depression**

This plan also outlines the primary causes of the ongoing economic, unemployment, foreclosures, home mortgages, derivatives and banking crises

Introduction

Over the past 18 months or so, the Federal Reserve, FDIC and the U. S. Government have **provided or committed \$23.7 trillion¹ of taxpayers' money** to support the economy and financial system. Most of the money has gone to prop up selective, insolvent banks and other financial institutions under the guise of getting them to increase lending. Lending has not proportionally increased. Most banks are charging exorbitant interest rates on the money that they are willing to lend. Meanwhile, foreclosures on homes, unemployment, poverty, hunger, the price of food and in particular the wealth divide between the rich and poor have all increased.

If just a fraction of the of the \$23.7 trillion had been spent on jobs, there would be no recession today.

If trillions of dollars can be provided to banks and financial institutions, there is certainly enough money for health-care and jobs.

Key Actions To resolve Economic, Banking, Credit, Derivatives, Mortgage and Foreclosures Crises²

Congress, the Administration, state and local governments, NGOs and business leaders, as appropriate³:

1. **Do not provide any additional government, Federal Reserve or FDIC funds to banks or financial institutions**, or insurance companies and cease all initiatives by the government to provide funds, buy troubled assets, buy stock, make guarantees or loan money to them. Cancel the so called term asset-backed securities loan facility (TALF), the Consumer and Business Lending

¹ The **Plan To Put America and the World to Work** can be downloaded or read at http://www.wethepeoplenow.org/put_america_to_work.pdf or an HTML copy at http://www.wethepeoplenow.org/put_america_to_work.htm.

² These actions are described in more detail in the various sections of this plan below

³ As needed and appropriate foreign governments should take similar actions, including in particular nationalizing their central banks that are not state owned.

Initiatives, Public-Private Investment Program (PPIP)² and have the government make loans directly.

2. Restructure the TARP/bank bailout and stimulus legislation to focus remaining funds on job generation and job loss prevention.

3. Do not give the Federal Reserve any additional powers

4. Nationalize the Federal Reserve System and operate it as an agency of the federal government under the direct control of Congress. In the future, Congress make all decisions about “coining,” appropriations, money supply, interest rates and loan guarantees by public laws, passed by the House and the Senate and signed by the President as required by the Constitution.

5. Establish a “federally-owned lending facility³” to make low or no interest loans directly into the economy through states and worthwhile businesses and institutions that generate jobs

6. Reduce the size of large financial institutions by invoking anti-trust laws, separating investment activities into separate institutions and breaking them down into community, city and no state size banks/firms.

7. Seize insolvent and faltering banks, keep them in operation as publicly owned banks, separate out investment activities and derivatives, keep the work force employed, replace senior management and as soon as possible turn over branches to states and allow states to operate them as publicly-owned banks⁴ that issue low-interest credit similar to the Bank of North Dakota (BND)

8. Recoup as much as possible of the over \$23.7 trillion that the Federal Reserve, FDIC, and the U. S. Treasury have provided or committed to various institutions over the past 18 months or so.

9. Put a moratorium on the trading, buying or selling of derivatives including mortgage backed securities and actual mortgages, promissary notes, contracts and similar instruments with the possible exception that they can be “sold back” to the originator.

10. Limit maximum annual interest rates to 4% on all mortgages, home equity loans and other secured loans and 10% on credits cards and unsecured (signature) loans and limit late fees to \$3.00 retroactive to the origination of the mortgage, credit card or loan. Lower rates lower force banks to exercise more caution in granting credit to consumers, encourage more fiscal responsibility in the financial industry, and help consumers struggling with debt.

11. Ban and make foreclosures, evictions and threats of foreclosures on primary residences, family farms, and businesses **a federal crime for at least one year.**

12. Require that the current owner of individual mortgages, the local servicer and the owner of the property:

a. **Resolve any irregularities or fraud involved** in the origination and trading of the mortgage and the related mortgage backed security. Refer irregularities or fraud that can't be resolved to the appropriate authorities.

b. **Determine the amount owed on the mortgage** based on the new interest rates and late fees, the approximate market value of the home and property taxes, and all fees if the home were to be sold.

c. **Determine the Market Value of each Property, Whether or not the Owner can Afford it and Available Options.** Conduct arms length negotiations and evaluate each mortgage and situation individually at the local level with various approaches including loan modifications that could reduce interest rates and eliminate onerous fees, ARMs, prepayment penalties, stretching it out, etc., dividing the home into apartments, selling off parts of larger lots, rent to buy plans, rent

only plans and/or leasehold type contracts. It is to the advantage of both parties to keep the home occupied and not have to go through an eviction or sale of the property. If an agreement cannot be reached, the home could be put on the market and the owner pay a reasonable market rate rent to stay in the home while finding another place to live and the home is sold. If the owner of the property can afford whatever the sales price becomes minus the realtor and other sales fees, then he should have the right of first refusal.

13. **Review previous foreclosures** to ensure that they were just and that applicable laws and regulations were followed including in particular that mortgage creditors had proved to the authorities involved with the foreclosures that they owned the loans.

14. **Cancel the Homeowner Affordability and Stability Plan** and redirect all related funding (\$75 billion) intended for it to state governments to use at the local level to support homeowners, not lenders.

a. A portion of the funds should be used to pay or hire someone to assist the owner in determining the market value of the home, negotiating a payment or rental schedule to stay in the home, what kind of cushion is needed in payments in case conditions change, alternatives to staying in the home and to lessen the impact of the loss of the home by helping them to find and move into an affordable home that allows the kids to stay in school, all depending upon the circumstances. Experienced real estate agents would normally be qualified to do this work.

b. A portion of the funds should be used to review past foreclosures to ensure that they were just and that applicable laws and regulations were followed including in particular that mortgage creditors had proved that they owned the loans. If proof was not provided or if there are irregularities in the foreclosure process appropriate action should be taken

Resolving the Derivative Crises

15. Resolve each derivative in about the same way that mortgage backed securities and individual mortgages were resolved. Actions include:

a. Require that financial institutions owning/holding any derivatives break down each derivative into the individual “**instruments (s)**”, e.g. promissary note(s) or contract(s), from which the derivative derived its value and determine the “**real property(s)**” associated with the instruments(s), maintain proof that they are indeed the owners of the instrument and maintain records of all of the owners, originators, packagers, regulators, transactions and prices for each individual derivative and the related instruments when they changed hands.

b. Resolve any fraud involved in the origination and trading of each instrument and the related derivative. Refer irregularities or fraud that can't be resolved to the appropriate authorities.

c. Determine the amount owed on each instrument based on new interest rates and late fees, the approximate market value of the real property and taxes and fees if the real property were to be sold.

d. Owners of the instruments and real property and the servicer conduct arms length negotiations. Evaluate each instrument and real property with various approaches including lowering interest rates, stretching out the term, dividing the real property, selling off parts, lease to buy plans, lease only plans and/or leasehold type contracts. It is to the advantage of both parties to keep the real property in use. If an agreement cannot be reached, the real property could be put on the market and the owner pay a reasonable market lease rate to continue to use the property while finding a replacement and the real property is sold. The owner of the real property should have the right of first refusal of the best offer minus fees if he can afford the property and can and will make payments.

e. In any case choose the best option(s) for the owner of the property and the owner of the

mortgage⁴.

16. **Break down all other derivatives into individual “instruments (s)”**, e.g. promissary note(s) or contract(s), from which the derivative derived its value, in about the same way that mortgage backed securities and individual mortgages were resolved.

a. Resolve any fraud involved in the origination and trading of each instrument and the related derivative.

b. Determine the actual owners of each instrument and the “**real property(s)**” associated with each instrument, determine the amount owed on each instrument based on new interest rates and late fees, the market value of each real property, whether or not the owner can afford the property and can and will make payments and available options.

c. Chose the most appropriate option(s) for the owner of the real property and the owner of the instrument.

17. **Resolve the banking crisis:**

a. Require that banks prepare accurate balance sheets which reflect actual values of all liabilities and assets including troubled assets and risky investments. Determine which banks are solvent or insolvent and by how much and the reasons for the insolvencies.

b. Government seize insolvent banks and other insolvent financial institutions and keep them in operation as government owned contractor operated (GOCO) entities so that they continue to function and the work force stays employed. Replace senior management.

c. Sell off those parts of the banks that have nothing to do with banking.

d. Ultimately break the larger bank into community, city and no larger than state size banks/firms.

e. Prohibit:

i. Commercial and retail banks engaging in investment activities, speculative trading and mergers or collaborating with brokerage firms and selling insurance

ii. “Shadowy” banks, private equity accounts and hedge funds, adjustable rate mortgages, stock options, off-balance sheet accountings and more than one set of books.

f. ” If done properly a new banking system, can be built around the thousands of smaller banks and financial firms *that respect their obligations to the broader economy*.

BACKGROUND

⁴ In ending foreclosures and resolving the home mortgage the following should be kept in mind:

a. The factors involved with each mortgage including irregularities or fraud involved in its origination and sale, the financial condition, debts, health and ability of the owner(s) to pay, state and local homestead and other laws, land records, foreclosure procedures, job availability, zoning regulations, school districts, neighborhood association rules, health of the owners and property taxes, vary by home and location and can best be adjudicated locally rather than from Washington.

b. In many areas housing prices are decreasing rapidly and more mortgages are upside down (the mortgage balance is more than the market value of the home) and getting further upside down.

c. At least two federal judges have dismissed foreclosure cases because mortgage creditors had not proved that they own the loans. Such proof gives a creditor standing to foreclose against a borrower and is required by law.

The finance industry has effectively captured our government. ... recovery will fail unless we break the financial oligarchy that is blocking essential reform. And if we are to prevent a true depression, we're running out of time. Simon Johnson

Trading derivatives which does nothing for the real economy, were rightfully outlawed by New Deal legislation. On December 14, 2000, Senator Phil Gramm, supported by then Fed Chairman Alan Greenspan, then Treasury Secretary Larry Summers and others, attached a 262 page amendment, that deregulated trading of derivatives and credit default swaps, to an omnibus appropriations bill. The amendment was never debated by the House or Senate and by-passed the substantive policy committees in both the House and the Senate so that there were neither hearings nor opportunities for recorded committee votes.

This and other laws passed by Congress unleashed the now worldwide derivatives market and opened the door to an explosion of new, unregulated securities. Banks and Wall Street, instead of investing in companies engaged in manufacturing, began investing in mortgages backed securities and other derivatives.

Gramm's amendment also contained a provision lobbied for by Enron, a generous contributor to Gramm that exempted energy trading from regulatory oversight, allowing Enron to run rampant, wreck the California electricity market, and cost consumers billions before it collapsed.

Our legislators, government executives and regulators blamed it on a "few bad apples" and did nothing, and are not planning to do anything constructive.

The unregulated trading of derivatives is arguably the primary cause of the current massive worldwide recession.

The Bank of International Settlements in Switzerland reports that the current notional (vague or general) value of derivatives⁵ held by the world's financial institutions is \$1,140 trillion which is over 16 times the annual gross domestic product of the entire world. According to the Comptroller of the Currency, the books of U.S. banks now carry over \$180 trillion of derivatives. Obviously, these derivatives are not worth nearly their book value and they in general become worth less each day.

Derivatives are often called "toxic or troubled assets" if they are not worth as much as financial institution show that they are worth on their books. Since assets minus liabilities equals net worth, the actual value of the derivatives determines if the financial institution is solvent or not and whether or not the financial institution should be restructured or remain in business.

It is estimated that the actual value of derivatives in U. S. financial institutions are worth several hundred trillion dollars less than their value as listed on the financial institutions' books. Obviously many of the largest banks are bankrupt and have been, and are concealing this bankruptcy by listing these assets on their books at prices that are far above their market value. Current laws and regulations require that books show actual value of assets and liabilities and that insolvent financial institutions be seized and restructured. This was not done.

Over the past 18 months or so the Federal Reserve, FDIC and the U. S. Treasury **provided or committed at least \$12.8 trillion of taxpayers money to prop up selective insolvent financial institutions** under the guise of getting them to increase lending. Lending has not increased and banks are charging exorbitant interest rates on the money that they are willing to lend.

⁵ Derivative are so named because they derive their value from something else. For example the value of a mortgage backed security value is derived from the value of the mortgages that were packaged together to create it. Five articles by Steve Brandt provide excellent layman's descriptions of mortgages, mortgage base securities, derivatives, deregulation, lobbying, campaign contributions, earmarks, and pork barrel spending.
<http://www.sanjuanislander.com/columns/brandt/part-1.shtml>

Meanwhile, foreclosures on homes, unemployment, poverty, hunger, the price of food and pension fund losses have all increased.

One of the key programs of the bailout was the Troubled Asset Relief Program (TARP) which is described in detail, along with other related programs and issues, in Wikipedia at http://en.wikipedia.org/wiki/Troubled_Asset_Relief_Program.

The former Secretary of the Henry Paulson, Fed Chairman Bernake and the current Secretary of the Treasury Geithner were instrumental in distributing the \$12.8 trillion. **They have done nothing to fix the real problems in the financial systems** and have not announced which financial institutions are insolvent and by how much. Instead they used taxpayers money to buy stock in these institutions some of which are insolvent. They paid at least \$78 billion more than the stock in the financial institutions was worth. (On February 5, 2009, Elizabeth Warren, chairperson of the Congressional Oversight Panel, told the Senate Banking Committee that during 2008, the federal government paid \$254 billion for assets that were worth only \$176 billion.)

The \$12.8 trillion was provided in such a way that the U.S. Government and taxpayers essentially have no say as to how the money was spent or over the management of institutions that they bought shares in or provided funds to.

It would have been infinitely better to have used this money for jobs and recovery.

Under their “new” plans to try to fix the financial system, Geithner and Bernanke are unwisely and illegally, giving hundreds of billions of dollars more to financial institutions and draining more resources needed for jobs and other recovery efforts.

Geithner and Bernanke are allowing some of the banks to convert the preferred stock, that they and Secretary Paulson bought with taxpayers dollars, into common stock. This means that the banks will not have to pay the government dividends or buy back the stock in cash as they and Paulson had promised that the banks would do. At any point the common stock could become worthless.

Geithner and Bernanke are misleading the public under their so-called *new Consumer and Business Lending Initiative*. Under this program money will not be lent to consumers or businesses. According to the Treasury’s Document: **The Consumer and Business Lending Initiative**⁵ *the Federal Reserve Bank of New York will lend up to \$200 billion to holders of eligible asset backed securities (ABS) with the ABSs as collateral . [An ABS is a derivative]. Eligible ABSs include newly issued securitizations backed by credit card loans, private and government-guaranteed student loans, and loans guaranteed by the Small Business Administration [none of these items are assets] and they can easily become worthless with the taxpayers will be left holding the bag.*

Likewise under their “**Homeowner Affordability and Stability Plan**” billions of more taxpayers’ dollars will be given to banks. This will not work. It follows several other federal efforts to prevent foreclosures that have failed, including the Hope for Homeowners program, which was enacted last year.

Bernanke is also purchasing hundreds of billions of troubled mortgage-backed securities from Fannie Mae and Freddie Mac. Buying troubled assets will slow down the effort to actually determine what they are worth and reward the business executives who caused the problems with taxpayers money.

There are several articles on the internet that show how Geithner’s **Public-Private Investment Program (PPIP)**⁶ will transfer more taxpayer money to Wall Street. Basically, The Federal Deposit Insurance Corporation (FDIC) will put up 87%, the Treasury 7% and a “private assets funds manager”, such as Goldman Sachs, 7% of the funds to setup essentially a hedge fund to buy toxic assets. The private investor will have absolute control over the assets. Geithner has

apparently already picked the firms that will bid against one another to run up the price of the toxic assets to close to full price, which are probably worth less than 30 cents on the dollar. The asset manager could buy the toxic assets at full price and then sell them later for 28 cents on the dollar to another investor. The firm is supposed to give half of the sales price, 14 cents or 14% to the government and retain the other 14%. Under this scenario the brokerage firm will double it's investment, the bank get over three times what the toxic asset are worth and the taxpayer will lose 86% of their investment. The FDIC falsely represented to Congress that they needed \$500 billion to protect depositors but is using the \$500 billion for the PPIP.

Neither Geithner nor Bernanke are saying that these new plans will actually remove all the toxic assets from the financial systems. There is simply no way that the financial systems in the U.S. or the world can be bailed out. The Fed and U.S. government must not provide any additional funds to banks or to Wall Street. This money is needed for jobs and other recovery efforts.

On April 2, 2009, the Financial Accounting Standards Board (FASB) approved changes to fair-value, or mark-to-market accounting rules to allow firms to use "significant" judgment in gauging prices of some investments on their books, including mortgage-backed securities. *Banks will also be allowed to exclude from net income any losses they deem "temporary," making it easier to provide a flattering earnings picture*, said Kersting at Edward Jones.

of public banks with the authority to issue the credit of the nation directly

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B. ACTIONS TO REFORM, REGULATE AND REVITALIZE FINANCIAL SYSTEMS

1. Return all investment activities to the **true purposes of capitalism**: 1.) **to provide a source of capital for worthwhile businesses** and 2.) **to provide investment opportunities**
2. *Stop the corruption of members of the Congress and the Administration by the financial, insurance, real estate and other industries through campaign contributions and lobbying.*
3. *Reject the theory that financial institution and markets self regulate and replace it with serious financial regulatory reform with realistic financial market theories*
4. Extend regulations and oversight to the "shadow banking system,"
5. Reform/establish new *regulatory institutions empowered by law to control financial markets and force them to act in the public interest and populate them with well trained officials who believe in serious regulation.*

James Crotty and Gerald Epstein, in their article **Proposals for Effectively Regulating the U.S. Financial System to Avoid Yet Another Meltdown**⁶, also outline a *Nine Point Program for Financial Regulation*

1. *Move all risky investments back on bank balance sheets and require adequate capital to support them.*
2. *Require due diligence by creators of complex structured financial products.*
3. *Prohibit the sale of financial securities that are too complex to be sold on exchanges.*

⁶ Proposals for **Effectively Regulating the U.S. Financial System** to Avoid Yet Another Meltdown by James Crotty and Gerald Epstein, Department of Economics and Political Economy Research Institute (PERI), University of Massachusetts, Amherst, October 7, 2008. http://www.peri.umass.edu/fileadmin/pdf/working_papers/working_papers_151-200/WP181.pdf

4. *Transform financial firm incentive structures that induce excessive risk-taking. i) Implement a financial pre-cautionary principle. Crotty and Epstein suggested: careful consideration of the "anything not specifically permitted is prohibited" principle.*
5. *Restrict the growth of financial assets through counter-cyclical capital requirements.*
6. *Implement lender-of-last-resort actions with a sting. Institutions might be too big to fail, but no CEO should be. The CEOs of the seven largest investment banks received a total of \$3.6 billion from 2004-07, yet the market capitalization of their firms declined by \$364 billion from their peak values, an average fall of 49 percent. As long as there is financial capitalism, there will be a need for some lender of last resort bailouts, even if all of these proposed policies are implemented. But a key distinction must be made between the financial institution itself and the agents who made the decisions to take risks and benefitted from these decisions – top management, key traders and other richly rewarded operators. These rainmakers must be made to pay significantly when their firms are bailed out.*
7. *Create a bailout fund financed by Wall Street.*

Enact legislation that:

1. **Prohibits trading of mortgage backed securities and all other derivatives** including, credit default swaps, structured investment vehicles, collateralized debt obligations, repo (repossession) agreements, and other toxic paper.

2. **Prohibits commercial and retail banks engaging in investment activities, speculative trading and mergers** or collaborating with brokerage firms as was required by the **Glass-Steagall Act**.

3. **Prohibits:**

- a. **“Shadowy” banks, private equity accounts and hedge funds.**
- b. **Adjustable rate mortgages.**
- c. **Stock options.**
- d. **Off-balance sheet accountings and more than one set of books.**

4. **Restores and strengthens:**

a. **Uptick rules** that require short sale transactions be entered at a price that is higher than the price of the previous trade. This rule prevents short sellers from adding to the downward momentum when the price of an asset is already experiencing sharp declines.

b. **Position limits and margin requirements**

5. Provides **real oversight** over the SEC, regulatory authorities and the Federal Reserve System.

6. Causes the rule of law to be enforced.

Crotty and Epstein concluded: *that we will not be able to enact adequate reforms until two fundamental changes take place. First, the mainstream theory of efficient financial markets that is the foundation of support for the NFA must be replaced by the realistic financial market theories associated with John Maynard Keynes and Hyman Minsky. Recent events should convince any rational economist that the theory of efficient capital markets should be rejected once and for all, though it is far from clear that this ideologically grounded vision will in fact disappear. Second, there must be a broad political mandate in support of serious financial regulatory reform. For too long the Lords of Finance have corrupted the political process. Congress and the President have acted in recent decades as if they were paid employees of financial market interests, which many of*

them were. Perhaps anger over the \$700 billion dollars and the likely recession can galvanize the needed political support for change. The key is to channel the anger into pressure for a new "New Deal" in government regulation of financial markets.

Until we have regulatory institutions empowered by law to control financial markets and force them to act in the public interest and we populate them with well trained officials who believe in serious regulation, we will continue down the disastrous path we have been following for the past three decades.

C. PRIMARY CAUSES OF THE ONGOING ECONOMIC CRISIS

Attachment A to this document, published as a chapter of a book in 1981, explains many of the underlying causes of our economic related crises:

The primary causes of the ongoing economic crisis includes:

A. The majority of the people of the world are not purchasing because they are not earning enough to live on, have essentially no savings and are mostly deep in debt. Reasons for this include:

1. Lack of employment opportunities at living wages due to:

a. **Productivity, Automation and Technology:** Before the invention of the steam engine and other technologies a little over 200 years ago, it took over 95% of the world's population to barely provide the food, clothing and housing for all the people of the world. Worker productivity, new technologies, methodologies, education, training, etc. make it possible today for less than 5% of the world's population to do this.

b. **Outsourcing of jobs**

c. Mergers that have eliminated many businesses and small retail banks and resulted in the layoffs of millions of people.

2. Failure of many businessmen to share revenues realized from increases in productivity with their workers.

3. Predatory lending, compound usury interest rates and late fees.

4. Regressive taxes that take funds out of the hands of the poor and middle economic classes and lessen the tax burden on the wealthy.

5. Corporation and individuals' offshore tax havens that shelter hundreds of billions of dollars. (<http://www.afterdowningstreet.org/node/41091>)

6. Funds wasted on wars, occupations, pork barrel, earmarks, unnecessary offensive weapon systems, a huge standing army deployed around the world, overseas bases and foreign military aid and campaign contributions

B. Many senior executives⁷ of the financial communities:

1. Have lost sight of the **true purposes of capitalism:** 1.) **to provide a source of capital for worthwhile businesses** and 2.) **to provide investment opportunities.**

2. Are engaged in wide spread trading of mortgage backed securities and other derivatives,

⁷ It is important to distinguish between business executives and their firms. Firms do not make decisions or commit good deeds or crimes, their leaders do. Also corporation executives are responsible for and to the employees of their firm.

that contributes nothing to the real economy instead of finding funds for the production and services economies,. Selling a single mortgage or bundling them into securities and then selling and reselling them takes funds from the true economy, is illogical and immoral and was and still should be illegal. Mortgages change in value continually as interest and taxes accrue, jobs are lost, children are born and payments are made or not made.

3. Have engaged in and/or condoned **widespread fraudulent practices in the origination of mortgages** and in the trading of derivatives.

a. John R. Talbott, best selling author of 2003's "The Coming Crash in the Housing Market" said on FOX News in July, 2008 that:

- i. "The current housing, mortgage and banking crisis was a vast criminal enterprise.
- ii. Realtors were pushing homes on people they couldn't afford solely to garner the commission.
- iii. Appraisers were inflating appraisals beyond reasonableness just to win business.
- iv. Mortgage brokers were altering applications to change stated incomes to justify too much lending to home buyers.
- v. More importantly, banks and investment banks were packaging and selling mortgages as high quality investments that they knew faced severe risk of default in a market downturn.
- vi. The investment banks were paying supposedly independent rating agencies to provide AAA ratings to the packaged mortgages. And finally,
- vii. The banks and investment banks were spending over \$400 million annually in lobbying expenses and much more in campaign contributions to "bribe" our congressmen and president so that their illegal activities would continue unregulated and unenforced.
- viii. Trillions of dollars of losses have resulted and the housing market is still only about halfway through its inevitable decline. Talbott sees home prices declining as much as 25% nationwide and more than 50% on the coasts and in Las Vegas and Phoenix. [Please note that These remarks were made in July 2008]"

b. FBI Deputy Director John Pistole and Acting Assistant Atty. Gen. Rita Glavin are quoted in a news article as saying in testimony before the Senate Judiciary Committee that:

- i. *Mortgage fraud and other types of **corporate criminal behavior** has contributed to the economic tailspin.*
- ii. *They already have more than 2,300 open investigations into suspected illegal financial activity -- including 38 probes specifically linked to the crisis.*
- iii. *Investigations are already straining the resources of the FBI and the Justice Department*
- iv. *They expected the number of major investigations to rise into the many hundreds, focusing on big-name companies that "everybody knows about," and to be similar in scope and complexity to the massive probe of energy company Enron Corp. after its collapse in 2001.*

4. Have helped create and have taken advantages of **Key Structural Flaws in the Financial System**. James Crotty and Gerald Epstein, in their article **Proposals for Effectively Regulating the U.S. Financial System**⁸, outline key structural flaws of the "New Financial Architecture" –

⁸ Proposals for **Effectively Regulating the U.S. Financial System** to Avoid Yet Another Meltdown by James Crotty and Gerald Epstein, Department of Economics and Political

or NFA - to represent the basic institutions and practices of today's lightly regulated financial system.

a. First, support for light regulation of commercial banks, even lighter regulation of investment banks, and little if any regulation of the "shadow banking system"- hedge and private equity funds and the bank-created Special Investment Vehicles (SIVs) that contributed significantly to the creation of the crisis - is founded on the core assertion of neoclassical financial economics that capital markets price securities correctly with respect to their risk and return. Given accurate risk-return pricing, buyers and sellers of financial securities can make optimal decisions that lead to risk being held only by those capable of managing it. The celebratory narrative associated with the NFA states that relatively free financial markets minimize the possibility of financial crises and the need for government bailouts. Crotty 2008 explains that this theoretical cornerstone of the NFA is based on patently unrealistic assumptions and has no convincing empirical support. Thus, the 'scientific' foundation of the NFA is shockingly weak and its celebratory narrative is a fairly tale.

b. Second, the current financial system is riddled with perverse incentives

c. Third, the commonly accepted view was that banks were no longer risky because they sold loans to capital markets (the new 'originate and distribute' model of banking) and hedged whatever risk remained through credit default swaps. Both these propositions turned out to be myths.

d. Fourth, financial innovation has proceeded to the point where important structured financial instruments such as mortgage backed securities and collateralized debt obligations (CDOs) are so complex and so opaque that they are inherently nontransparent.

e. Fifth, the NFA created and widely distributed extraordinary levels of risk, while structured financial instruments re-concentrated risk segments in astoundingly complex ways. And securitization and funding via global capital markets created channels of contagion in which problems originating in one location (the US subprime mortgage market) spread throughout the world, triggering a systemic crisis.

f. Sixth, in the NFA banks were allowed to hold risky securities off their balance sheets, with no capital required to support them.

g. Seventh, giant financial conglomerates were allowed to become so large and complex that neither insiders nor outsiders could accurately evaluate their risk.

h. Eighth, the structural flaws in the NFA created dangerous leverage throughout the financial system.

5. Have exerted undue and sometime unlawful influence over members of Congress, the Administration and the Courts with bribes under the guise of campaign contributions to eliminate and relax regulatory laws and regulations

C. Congress has eliminated and relaxed regulatory laws and regulations⁹ including:

6. **Truth in Lending Act "Reform"** (Sept. 30, 1995) Eased regulations on creditors. This bill

Economy Research Institute (PERI), University of Massachusetts, Amherst, October 7, 2008.
http://www.peri.umass.edu/fileadmin/pdf/working_papers/working_papers_151-200/WP181.pdf

⁹ Many of the items listed here are paraphrased from the document **The Economic Crisis: Supplement to Undoing the Bush/Cheney Legacy: A Tool Kit for Congress.**
http://mcli.org/Legacy_Add-On_Econ_Crisis.pdf

was powered through by Rep. Bill McCollum (R-FL), a key recipient of finance, insurance, and real estate (FIRE) donations (\$136,000 in 1993-94).”

7. **Gramm-Leach-Bliley Act (1999)** A bank deregulation bill that undermined the Glass-Steagall Act by allowing commercial and retail banks to engage in investment activities, speculative trading and mergers opening up competition among banks, securities companies and insurance companies. It passed the Senate 90-8 and was signed by President Clinton. It led to a wave of megamergers “too big to fail.’ The driving force was Sen. Phil Gramm (R-TX) who had received \$4.6 million from the FIRE sector over the previous decade.

8. **Commodity Futures Modernization Act (Dec. 14, 2000).** Sen. Gramm attached a 262 page amendment that deregulated derivatives and credit default swaps trading to an omnibus appropriations bill just prior to the Christmas holiday in December of 2000. Gramm's amendment was supported by then Fed Chairman Alan Greenspan and then Treasury Secretary Larry Summers. The amendment was never debated by the House or Senate and by-passed the substantive policy committees in both the House and the Senate so that there were neither hearings nor opportunities for recorded committee votes. This law unleashed the derivatives market, paved the way for banks to become more aggressive about investing in mortgages, and opened the door to an explosion in new, unregulated securities. The amendment also contained a provision lobbied for by Enron, a generous contributor to Gramm that exempted energy trading from regulatory oversight, allowing Enron to run rampant, wreck the California electricity market, and cost consumers billions before it collapsed.

a. **American Home Ownership and Economic Opportunity Act (Dec. 27, 2000).** This act makes it harder for consumers to get out of lender-required insurance.

b. **Bankruptcy Abuse Prevention and Consumer Protection Act (April 20, 2005)** The act makes it harder for consumers (but not businesses) to discharge debts. The strict means test that would force more debtors to file under Chapter 13 (under which a percentage of debts must be paid over a period of 3-5 years) as opposed to Chapter 7 (under which debts are paid only out of existing assets), the additional penalties and responsibilities the bill placed on debtors, and the bill's many provisions favorable to credit card companies.

c. **Suspension of the uptick rule** that required that short sale transactions be entered at prices that are higher than the price of the previous trade. This rule prevents short sellers from adding to the downward momentum when the price of an asset is already experiencing sharp declines.

d. Regulation that allowed **reduced margin and position limits** for speculators.

e. Laws and regulations regarding **lobbying, campaign contributions, earmarks, pork, revolving doors, government contracting, trusts/monopolies and the ethics of members and their staffs.**

Other cause of the economic crisis include:

1. **Unsatisfactory oversight** and supervision by regulatory authorities, federal and state attorneys, the Justice Department, Congress and the administration.

2. **The abject failure of the Federal Reserve System** to come even close to meeting its goals of **maximum employment, stable prices, and moderate long-term interest rates** as required by **the Federal Reserve Act**. About the time Mr. Ben Bernanke became its chairman, the Fed, raised the prime rate a total of 4.75%. This caused mortgages, government small business loans, other loans and credit cards tied to the prime rate to increase by the same amount and contributed to the home mortgage crisis and the economic crisis. Too many of the managers in the Federal Reserve are acting in the interest of investment bankers and Wall Street, not in the interest of the

1. Bloomberg.com, **Financial Rescue Nears GDP as Pledges Top \$12.8 Trillion**, <http://www.bloomberg.com/apps/news?pid=20601087&sid=armOzfkwtCA4&refer=home#>, by Mark Pittman and Bob Ivry. This article reports that from about December 2007 until March 31, 2009, the Federal Reserve the Treasury Department and the Federal Deposit Insurance Corporation (FDIC) had lent or committed \$12.8 trillion to selective banks and other financial institutions. Neil Barofsky, the Special Inspector General over the Troubled Asset Relief Program (TARP) in his July 2009 report to Congress reported that “*Since the onset of the financial crisis in 2007 [through June 30 2009], the Federal Government, through many agencies, has implemented dozens of programs that are broadly designed to support the economy and financial system. ... the total potential Federal Government support could reach up to \$23.7 trillion.*”
2. Doctorhousingbubble.com **Public-Private Investment Program for Dummies**, <http://www.doctorhousingbubble.com/public-private-investment-program-for-dummies-how-does-the-new-treasury-plan-impact-housing-and-the-market-poorly-planned-investment-program-ppi-p/>
3. Ellen Brown, **Yes Magazine** article, A Radical Plan for Funding a New Deal, <http://www.yesmagazine.org/article.asp?ID=3162>, suggests several way to fund recovery efforts including the government setting up its *own federally-owned lending facility* and states chartering State Banks. The article also provides excellent insights into banking and the Federal Reserve System.
4. Ibid.
5. Treasury’s Document: **The Consumer and Business Lending Initiative** (http://www.treas.gov/press/releases/reports/talf_white_paper.pdf.)
6. Doctorhousingbubble.com **Public-Private Investment Program for Dummies**, <http://www.doctorhousingbubble.com/public-private-investment-program-for-dummies-how-does-the-new-treasury-plan-impact-housing-and-the-market-poorly-planned-investment-program-ppi-p/>