

# **Sold Out**

## **How Wall Street and Washington Betrayed America**

**March 2009**

**Essential Information \* Consumer Education Foundation**  
**[www.wallstreetwatch.org](http://www.wallstreetwatch.org)**



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## Introduction:

# A Call to Arms

by Harvey Rosenfield\*

America's economy is in tatters, and the situation grows dire by the day. Nearly 600,000 Americans lost their jobs in January, for a total of 1.8 million over the last

three months.

Millions more will lose their jobs over the next year no matter what happens.

Students can no

longer pursue a college education. Families cannot afford to see a doctor. Many Americans owe more on their homes than they are worth. Those lucky enough to have had pensions or retirement funds have watched helplessly as 25 percent of their value evaporated in 2008.

What caused this catastrophe? As this report chronicles in gruesome detail, over the last decade, Wall Street showered Washington with over \$1.7 billion in what are prettily described as "campaign contributions." This money went into the political coffers of everyone from the lowliest mem-

ber of Congress to the President of the United States. The Money Industry spent another \$3.4 billion on lobbyists whose job it was to press for deregulation — Wall Street's license to steal from every American.

In return for the investment of more than \$5.1 billion, the Money Industry was able to get rid of many of the reforms enacted after the Great Depression and to operate, for

most of the last ten years, without any effective rules or restraints whatsoever. The report, prepared by

Industry <sup>1</sup>	\$ to Politicians	\$ to Lobbyists
Securities	\$512 million	\$600 million
Commercial Banks	\$155 million	\$383 million
Insurance Cos.	\$221 million	\$1002 million
Accounting	\$81 million	\$122 million

Essential Information and the Consumer Education Foundation, details step-by-step many of the events that led to the financial debacle. Here are the "highlights" of our economic downfall:

- Beginning in 1983 with the Reagan Administration, the U.S. government acquiesced in accounting rules adopted by the financial industry that allowed banks and other corporations to take money-losing assets off their balance sheets in order to hide them from investors and the public.
- Between 1998 and 2000, Congress and the Clinton Administration repeatedly blocked efforts to regulate

\* President, Consumer Education Foundation

<sup>1</sup> Source: Center for Responsive Politics, <[www.opensecrets.org](http://www.opensecrets.org)>.

- “financial derivatives” — including the mortgage-related credit default swaps that became the basis of trillions of dollars in speculation.
- In 1999, Congress repealed the Depression-era law that barred banks from offering investment and insurance services, and vice versa, enabling these firms to engage in speculation by investing money from checking and savings accounts into financial “derivatives” and other schemes understood by only a handful of individuals.
  - Taking advantage of historically low interest rates in the early part of this decade, shady mortgage brokers and bankers began offering mortgages on egregious terms to purchasers who were not qualified. When these predatory lending practices were brought to the attention of federal agencies, they refused to take serious action. Worse, when states stepped into the vacuum by passing laws requiring protections against dirty loans, the Bush Administration went to court to invalidate those reforms, on the ground that the inaction of federal agencies superseded state laws.
  - The financial industry’s friends in Congress made sure that those who speculate in mortgages would not be legally liable for fraud or other illegalities that occurred when the mortgage was made.
  - Egged on by Wall Street, two government-sponsored corporations, Fannie Mae and Freddie Mac, started buying large numbers of subprime loans from private banks as well as packages of mortgages known as “mortgage-backed securities.”
  - In 2004, the top cop on the Wall Street beat in Washington — the Securities and Exchange Commission — now operating under the radical deregulatory ideology of the Bush Administration, authorized investment banks to decide for themselves how much money they were required to set aside as rainy day reserves. Some firms then entered into \$40 worth of speculative trading for every \$1 they held.
  - With the compensation of CEOs increasingly tied to the value of the firm’s total assets, a tidal wave of mergers and acquisitions in the financial world — 11,500 between 1980 and 2005 — led to the predominance of just a relative handful of banks in the U.S. financial system. Successive administrations failed to enforce antitrust laws to block these mergers. The result: less competi-

- tion, higher fees and charges for consumers, and a financial system vulnerable to collapse if any single one of the banks ran into trouble.
- Investors and even government authorities relied on private “credit rating” firms to review corporate balance sheets and proposed investments and report to potential investors about their quality and safety. But the credit rating companies had a grave conflict of interest: they are paid by the financial firms to issue the ratings. Not surprisingly, they gave the highest ratings to the investments issued by the firms that paid them, even as it became clear that the ratings were inflated and the companies were in precarious condition. The financial lobby made sure that regulation of the credit ratings firms would not solve these problems.

None of these milestones on the road to economic ruin were kept secret. The dangers posed by unregulated, greed-driven financial speculation were readily apparent to any astute observer of the financial system. But few of those entrusted with the responsibility to police the marketplace were willing to do so. And as the report explains, those officials in government who dared to propose stronger protections for investors and consumers consistently met with hostility

and defeat. The power of the Money Industry overcame all opposition, on a bipartisan basis.

It’s not like our elected leaders in Washington had no warning: The California energy crisis in 2000, and the subsequent collapse of Enron — at the time unprecedented — was an early warning that the nation’s system of laws and regulations was inadequate to meet the conniving and trickery of the financial industry. The California crisis turned out to be a foreshock of the financial catastrophe that our country is in today. It began with the deregulation of electricity prices by the state legislature. Greased with millions in campaign contributions from Wall Street and the energy industry, the legislation was approved on a bipartisan basis without a dissenting vote.

Once deregulation took effect, Wall Street began trading electricity and the private energy companies boosted prices through the roof. Within a few weeks, the utility companies — unable because of a loophole in the law to pass through the higher prices to consumers — simply stopped paying for the power. Blackouts ensued. At the time, Californians were chastised for having caused the shortages through “over-consumption.” But the energy shortages were orchestrated by Wall Street rating firms, investment banks and energy companies, in order to force California’s taxpayers to bail out the utility companies.



California's political leadership and utility regulators largely succumbed to the blackmail, and \$11 billion in public money was used to pay for electricity at prices that proved to be artificially manipulated by ... Wall Street traders. The state of California was forced to increase utility rates and borrow over \$19 billion — through Wall Street firms — to cover these debts.

Its electricity trading activities under investigation, Enron's vast accounting shenanigans, including massive losses hidden in off-balance sheet corporate entities, came to light, and the company collapsed within a matter of days. It looked at the time as though the California deregulation disaster and the Enron scandal would lead to stronger regulation and corporate accountability.

But then 9/11 occurred. And for most of the last decade, the American people have been told that our greatest enemy lived in a cave. The subsequent focus on external threats, real and imagined, distracted attention from deepening problems at home. As Franklin Roosevelt observed seventy years ago, "our enemies of today are the forces of privilege and greed within our own borders." Today, the enemies of American consumers, taxpayers and small investors live in multimillion-dollar palaces and pull down seven-, eight- or even nine-figure annual paychecks. Their weapons of mass destruction, as Warren Buffett famously put

it, were derivatives: pieces of paper that were backed by other pieces of paper that were backed by packages of mortgages, student loans and credit card debt, the complexity and value of which only a few understood. Meanwhile, the lessons of Enron were cast aside after a few insignificant measures — the tougher reforms killed by the Money Industry — and Wall Street went back to business as usual.

Last fall, the house of cards finally collapsed. For those who might have heard the "blame the victim" propaganda emanating from the free marketers whose philosophy lies in a smoldering ruin alongside the economy, the report sets the record straight: consumers are not to blame for this debacle. Not those of us who used credit in an attempt to have a decent quality of life (as opposed to the tiny fraction of people in our country who truly got ahead over the last decade). Nor can we blame the Americans who were offered amazing terms for mortgages but forgot to bring a Ph.D. and a lawyer to their "closing," and later found out that they had been misled and could not afford the loan at the real interest rate buried in the fine print.

Rather, America's economic system is at or beyond the verge of depression today because gambling became the financial sector's principal preoccupation, and the pile of chips grew so big that the Money Industry displaced real businesses that provided real

goods, services and jobs. By that time, the amount of financial derivatives in circulation around the world — \$683 trillion by one estimate — was more than ten times the actual value of all the goods and services produced by the entire planet. When all the speculators tried to cash out, starting in 2007, there really wasn't enough money to cover all the bets.

If we Americans are to blame for anything, it's for allowing Wall Street to do what it calls a "leveraged buy out" of our political system by spending a relatively small amount of capital in the Capitol in order to seize control of our economy.

Of course, the moment the Money Industry realized that the casino had closed, it turned — as it always does — to Washington, this time for the mother of all favors: a \$700 billion bailout of the biggest financial speculators in the country. That's correct: the people who lost hundreds of billions of dollars of investors' money were given hundreds of billions of dollars more. The bailout was quickly extended to insurance companies, credit card companies, auto manufacturers and even car rental firms. In addition to cash infusions, the government has blown open the federal bank vaults to offer the Money Industry a feast of discount loans, loan guarantees and other taxpayer subsidies. The total tally so far? At least \$8 trillion.

Panicked by Wall Street's threat to pull

the plug on credit, Congress rebuffed efforts to include safeguards on how taxpayer money would be spent and accounted for. That's why many of the details of the bailout remain a secret, hiding the fact that no one really knows why certain companies were given our money, or how it has been spent. Bankers used it pay bonuses, to buy back their own bank stock, or to build their empires by purchasing other banks. But very little of the money has been used for the purpose it was ostensibly given: to make loans. One thing is certain: this last Washington giveaway — the Greatest Wall Street Giveaway of all time — has not fixed the economy.

Meanwhile, at this very moment of national threat, the banks, hedge funds and other parasite firms that crippled our economy are pouring money into Washington to preserve their privileges at the expense of the rest of us. *The only thing that has changed is that many of these firms are using taxpayer money — our money — to do so.*

That's why you won't hear anyone in the Washington establishment suggest that Americans be given a seat on the Board of Directors of every company that receives bailout money. Or that America's economic security is intolerably jeopardized when pushing paper around constitutes a quarter or more of our economy. Or that credit default swaps and other derivatives should

be prohibited, or limited just like slot machines, roulette wheels and other forms of gambling.

In most of the United States, you can go to jail for stealing a loaf of bread. But if you have paid off Washington, you can steal the life-savings, livelihoods, homes and dreams of an entire nation, and you will be allowed to live in the fancy homes you own, drive multiple cars, throw multi-million dollar birthday parties. Punishment? You might not be able to get your bonus this year or, worst come to worst, if you are one of the very unlucky few unable to take advantage of the loopholes in the plan announced by the Treasury Secretary Geithner, you may end up having to live off your past riches because you can only earn a measly \$500,000 while you are on the dole. (More good news for corporate thieves: this flea-bitten proposal is not retroactive — it does not apply to all the taxpayer money already handed out).

Like their predecessors, President-elected Obama's key appointments to the Treasury, the SEC and other agencies are veterans of the Money Industry. They are unlikely to challenge the narrow boundaries of the debate that has characterized Washington's response to the crisis. So long as the Money Industry remains in charge of the federal agencies and keeps our elected officials in its deep pockets, nothing will change.

Here are seven basic principles that Americans should insist upon.

**Relief.** It's been only five months since Congress authorized \$700 billion to bail out the speculators. Congress was told that the bailout would alleviate the "credit crunch" and encourage banks to lend money to consumers and small businesses. But the banks have hoarded the money, or misspent it. If the banks aren't going to keep their end of the bargain, the government should use its power of eminent domain to take control of the banks, or seize the money and let the banks go bankrupt. On top of the \$700 billion bailout, the Federal Reserve has been loaning public money to Wall Street firms money at as little as .25 percent. These companies are then turning around and charging Americans interest rates of 4 percent to 30 percent for mortgages and credit cards. There should be a cap on what banks and credit card companies can charge us when we borrow our own money back from them. Similarly, transfers of taxpayer money should be conditioned on acceptance of other terms that would help the public, such as an agreement to waive late fees, and an agreement not to lobby the government. And, Americans should be appointed to sit on the boards of directors of these firms in order to have a say on what these companies do with our money — to keep them from wasting it and to make sure they repay it.

**Restitution.** Companies that get taxpayer money must be required to repay it on terms that are fair to taxpayers. When Warren Buffett acquired preferred shares in Goldman Sachs, he demanded that Goldman Sachs pay 10 percent interest; taxpayers are only getting back 5 percent. The Congressional Oversight Panel estimates that taxpayers received preferred shares worth about two-thirds of what was given to the initial bailout recipients. Even worse are the taxpayer loan guarantees offered to Citigroup. For a \$20 billion cash injection plus taxpayer guarantees on \$306 billion in toxic assets — likely to impose massive liabilities on the public purse — the government received \$27 billion in preferred shares, paying 8 percent interest. Now the Obama administration has suggested that it might offer a dramatically expanded guarantee program for toxic assets, putting the taxpayer on the hook for hundreds of billions more.

**Regulation.** The grand experiment in letting Wall Street regulate itself under the assumption that free market forces will police the marketplace has failed catastrophically. Wall Street needs to operate under rules that will contain their excessive greed. Derivatives should be prohibited unless it can be shown that they serve a useful purpose in our economy; those that are authorized should be traded on exchanges subject to

full disclosure. Further mergers of financial industry titans should be barred under the antitrust laws, and the current monopolistic industry should be broken up once the country has recovered.

**Reform.** It is clear that the original \$700 billion bailout was a rush job so poorly constructed that it has largely failed and much of the money wasted. The federal government should revise the last bailout and establish new terms for oversight and disclosure of which companies are getting federal money and what they are doing with it.

**Responsibility.** Americans are tired of watching corporate criminals get off with a slap on the wrist when they plunder and loot. Accountability is necessary to maintain not only the honesty of the marketplace but the integrity of American democracy. Corporate officials who acted recklessly with stockholder and public money should be prosecuted and sentenced to jail time under the same rules applicable to street thugs. State and local law enforcement agencies, with the assistance of the federal government, should join to build a national network for the investigation and prosecution of the corporate crooks.

**Return** — to a real economy. In 2007, more than a quarter of all corporate profits came

from the Money Industry, largely based on speculation by corporations operating in international markets and whose actions call into question their loyalty to the best interests of America. To recover, America must return to the principles that made it great — hard work, creativity, and innovation — and both government and business must serve that end. The spectacle of so many large corporations lining up for government assistance puts to rest the argument made by the corporate-funded think tanks and talking heads over the last three decades that government is “the problem, not the solution.” In fact, as this report shows, government has been the solution for the Money Industry all along.

Now Washington must serve America, not Wall Street. Massive government intervention is not only appropriate when it is necessary to save banks and insurance companies. For the \$20 billion in taxpayer money that the government gave Citigroup in November, we could have bought the company lock, stock and barrel, and then we would have our own credit card, student loan and mortgage company, run on careful business principles but without the need to turn an enormous profit. Think of the assistance that that would offer to Main Street, not to mention the competitive effect it would have on the market. And massive government intervention is what’s really needed in the health care system, which

private enterprise has plundered and then for so many Americans abandoned.

**Revolt.** Things will not change so long as Americans acquiesce to business as usual in Washington. It’s time for Americans to make their voices heard.



## Executive Summary

Blame Wall Street for the current financial crisis. Investment banks, hedge funds and commercial banks made reckless bets using borrowed money. They created and trafficked in exotic investment vehicles that even top Wall Street executives — not to mention firm directors — did not understand. They hid risky investments in off-balance-sheet vehicles or capitalized on their legal status to cloak investments altogether. They engaged in unconscionable predatory lending that offered huge profits for a time, but led to dire consequences when the loans proved unpayable. And they created, maintained and justified a housing bubble, the bursting of which has thrown the United States and the world into a deep recession, resulted in a foreclosure epidemic ripping apart communities across the country.

But while Wall Street is culpable for the financial crisis and global recession, others do share responsibility.<sup>2</sup>

For the last three decades, financial regulators, Congress and the executive branch have steadily eroded the regulatory system that restrained the financial sector from acting on its own worst tendencies. The post-Depression regulatory system

aimed to force disclosure of publicly relevant financial information; established limits on the use of leverage; drew bright lines between different kinds of financial activity and protected regulated commercial banking from investment bank-style risk taking; enforced meaningful limits on economic concentration, especially in the banking sector; provided meaningful consumer protections (including restrictions on usurious interest rates); and contained the financial sector so that it remained subordinate to the real economy. This hodge-podge regulatory system was, of course, highly imperfect, including because it too often failed to deliver on its promises.

But it was not its imperfections that led to the erosion and collapse of that regulatory system. It was a concerted effort by Wall Street, steadily gaining momentum until it reached fever pitch in the late 1990s and continued right through the first half of 2008. Even now, Wall Street continues to defend many of its worst practices. Though it bows to the political reality that new regulation is coming, it aims to reduce the scope and importance of that regulation and, if possible, use the guise of regulation to further remove public controls over its operations.

This report has one overriding message: financial deregulation led directly to the financial meltdown.

It also has two other, top-tier messages.

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<sup>2</sup> This report uses the term “Wall Street” in the colloquial sense of standing for the big players in the financial sector, not just those located in New York’s financial district.

First, the details matter. The report documents a dozen specific deregulatory steps (including failures to regulate and failures to enforce existing regulations) that enabled Wall Street to crash the financial system. Second, Wall Street didn't obtain these regulatory abeyances based on the force of its arguments. At every step, critics warned of the dangers of further deregulation. Their evidence-based claims could not offset the political and economic muscle of Wall Street. The financial sector showered campaign contributions on politicians from both parties, invested heavily in a legion of lobbyists, paid academics and think tanks to justify their preferred policy positions, and cultivated a pliant media — especially a cheerleading business media complex.

Part I of this report presents 12 Deregulatory Steps to Financial Meltdown. For each deregulatory move, we aim to explain the deregulatory action taken (or regulatory move avoided), its consequence, and the process by which big financial firms and their political allies maneuvered to achieve their deregulatory objective.

In Part II, we present data on financial firms' campaign contributions and disclosed lobbying investments. The aggregate data are startling: The financial sector invested more than \$5.1 billion in political influence purchasing over the last decade.

The entire financial sector (finance, insurance, real estate) drowned political

candidates in campaign contributions over the past decade, spending more than \$1.7 billion in federal elections from 1998-2008. Primarily reflecting the balance of power over the decade, about 55 percent went to Republicans and 45 percent to Democrats. Democrats took just more than half of the financial sector's 2008 election cycle contributions.

The industry spent even more — topping \$3.4 billion — on officially registered lobbying of federal officials during the same period.

During the period 1998-2008:

- Accounting firms spent \$81 million on campaign contributions and \$122 million on lobbying;
- Commercial banks spent more than \$155 million on campaign contributions, while investing nearly \$383 million in officially registered lobbying;
- Insurance companies donated more than \$220 million and spent more than \$1.1 billion on lobbying;
- Securities firms invested nearly \$513 million in campaign contributions, and an additional \$600 million in lobbying.

All this money went to hire legions of lobbyists. The financial sector employed 2,996 lobbyists in 2007. Financial firms employed an extraordinary number of former government officials as lobbyists.

This report finds 142 of the lobbyists employed by the financial sector from 1998-2008 were previously high-ranking officials or employees in the Executive Branch or Congress.



## **These are the 12 Deregulatory Steps to Financial Meltdown:**

### **1. Repeal of the Glass-Steagall Act and the Rise of the Culture of Recklessness**

The Financial Services Modernization Act of 1999 formally repealed the Glass-Steagall Act of 1933 (also known as the Banking Act of 1933) and related laws, which prohibited commercial banks from offering investment banking and insurance services. In a form of corporate civil disobedience, Citibank and insurance giant Travelers Group merged in 1998 — a move that was illegal at the time, but for which they were given a two-year forbearance — on the assumption that they would be able to force a change in the relevant law at a future date. They did. The 1999 repeal of Glass-Steagall helped create the conditions in which banks invested monies from checking and savings accounts into creative financial instruments such as mortgage-backed securities and credit default swaps, investment gambles that rocked the financial markets in 2008.

### **2. Hiding Liabilities:**

#### **Off-Balance Sheet Accounting**

Holding assets off the balance sheet generally allows companies to exclude “toxic” or money-losing assets from financial disclosures to investors in order to make the company appear more valuable than it is. Banks used off-balance sheet operations — special purpose entities (SPEs), or special purpose vehicles (SPVs) — to hold securitized mortgages. Because the securitized mortgages were held by an off-balance sheet entity, however, the banks did not have to hold capital reserves as against the risk of default — thus leaving them so vulnerable. Off-balance sheet operations are permitted by Financial Accounting Standards Board rules installed at the urging of big banks. The Securities Industry and Financial Markets Association and the American Securitization Forum are among the lobby interests now blocking efforts to get this rule reformed.

### **3. The Executive Branch Rejects**

#### **Financial Derivative Regulation**

Financial derivatives are unregulated. By all accounts this has been a disaster, as Warren Buffet’s warning that they represent “weapons of mass financial destruction” has proven prescient.<sup>3</sup> Financial derivatives have

<sup>3</sup> Warren Buffett, Chairman, Berkshire Hathaway, Report to Shareholders, February 21, 2003. Available at: <http://www.berkshirehathaway.com/letters/>



amplified the financial crisis far beyond the unavoidable troubles connected to the popping of the housing bubble.

The Commodity Futures Trading Commission (CFTC) has jurisdiction over futures, options and other derivatives connected to commodities. During the Clinton administration, the CFTC sought to exert regulatory control over financial derivatives. The agency was quashed by opposition from Treasury Secretary Robert Rubin and, above all, Fed Chair Alan Greenspan. They challenged the agency's jurisdictional authority; and insisted that CFTC regulation might imperil existing financial activity that was already at considerable scale (though nowhere near present levels). Then-Deputy Treasury Secretary Lawrence Summers told Congress that CFTC proposals "cas[t] a shadow of regulatory uncertainty over an otherwise thriving market."

#### **4. Congress Blocks Financial Derivative Regulation**

The deregulation — or non-regulation — of financial derivatives was sealed in 2000, with the Commodities Futures Modernization Act (CFMA), passage of which was engineered by then-Senator Phil Gramm, R-Texas. The Commodities Futures Modernization Act exempts financial derivatives, including credit default swaps, from regulation and helped create the current financial

crisis.

#### **5. The SEC's Voluntary Regulation Regime for Investment Banks**

In 1975, the SEC's trading and markets division promulgated a rule requiring investment banks to maintain a debt-to-net-capital ratio of less than 12 to 1. It forbid trading in securities if the ratio reached or exceeded 12 to 1, so most companies maintained a ratio far below it. In 2004, however, the SEC succumbed to a push from the big investment banks — led by Goldman Sachs, and its then-chair, Henry Paulson — and authorized investment banks to develop their own net capital requirements in accordance with standards published by the Basel Committee on Banking Supervision. This essentially involved complicated mathematical formulas that imposed no real limits, and was voluntarily administered. With this new freedom, investment banks pushed borrowing ratios to as high as 40 to 1, as in the case of Merrill Lynch. This super-leverage not only made the investment banks more vulnerable when the housing bubble popped, it enabled the banks to create a more tangled mess of derivative investments — so that their individual failures, or the potential of failure, became systemic crises. Former SEC Chair Chris Cox has acknowledged that the voluntary regulation was a complete failure.

## **6. Bank Self-Regulation Goes Global:**

### **Preparing to Repeat the Meltdown?**

In 1988, global bank regulators adopted a set of rules known as Basel I, to impose a minimum global standard of capital adequacy for banks. Complicated financial maneuvering made it hard to determine compliance, however, which led to negotiations over a new set of regulations. Basel II, heavily influenced by the banks themselves, establishes varying capital reserve requirements, based on subjective factors of agency ratings and the banks' own internal risk-assessment models. The SEC experience with Basel II principles illustrates their fatal flaws. Commercial banks in the United States are supposed to be compliant with aspects of Basel II as of April 2008, but complications and intra-industry disputes have slowed implementation.

### **7. Failure to Prevent Predatory Lending**

Even in a deregulated environment, the banking regulators retained authority to crack down on predatory lending abuses. Such enforcement activity would have protected homeowners, and lessened though not prevented the current financial crisis. But the regulators sat on their hands. The Federal Reserve took three formal actions against subprime lenders from 2002 to 2007. The Office of Comptroller of the Currency, which has authority over almost 1,800 banks, took three consumer-protection

enforcement actions from 2004 to 2006.

## **8. Federal Preemption of State Consumer Protection Laws**

When the states sought to fill the vacuum created by federal nonenforcement of consumer protection laws against predatory lenders, the feds jumped to stop them. "In 2003," as Eliot Spitzer recounted, "during the height of the predatory lending crisis, the Office of the Comptroller of the Currency invoked a clause from the 1863 National Bank Act to issue formal opinions preempting all state predatory lending laws, thereby rendering them inoperative. The OCC also promulgated new rules that prevented states from enforcing any of their own consumer protection laws against national banks."

## **9. Escaping Accountability:**

### **Assignee Liability**

Under existing federal law, with only limited exceptions, only the original mortgage lender is liable for any predatory and illegal features of a mortgage — even if the mortgage is transferred to another party. This arrangement effectively immunized acquirers of the mortgage ("assignees") for any problems with the initial loan, and relieved them of any duty to investigate the terms of the loan. Wall Street interests could purchase, bundle and securitize subprime loans — including many with pernicious, predatory terms — without fear of liability for

illegal loan terms. The arrangement left victimized borrowers with no cause of action against any but the original lender, and typically with no defenses against being foreclosed upon. Representative Bob Ney, R-Ohio — a close friend of Wall Street who subsequently went to prison in connection with the Abramoff scandal — was the leading opponent of a fair assignee liability regime.

### **10. Fannie and Freddie Enter the Subprime Market**

At the peak of the housing boom, Fannie Mae and Freddie Mac were dominant purchasers in the subprime secondary market. The Government-Sponsored Enterprises were followers, not leaders, but they did end up taking on substantial subprime assets — at least \$57 billion. The purchase of subprime assets was a break from prior practice, justified by theories of expanded access to homeownership for low-income families and rationalized by mathematical models allegedly able to identify and assess risk to newer levels of precision. In fact, the motivation was the for-profit nature of the institutions and their particular executive incentive schemes. Massive lobbying — including especially but not only of Democratic friends of the institutions — enabled them to divert from their traditional exclusive focus on prime loans.

Fannie and Freddie are not responsible

for the financial crisis. They are responsible for their own demise, and the resultant massive taxpayer liability.

### **11. Merger Mania**

The effective abandonment of antitrust and related regulatory principles over the last two decades has enabled a remarkable concentration in the banking sector, even in advance of recent moves to combine firms as a means to preserve the functioning of the financial system. The megabanks achieved too-big-to-fail status. While this should have meant they be treated as public utilities requiring heightened regulation and risk control, other deregulatory maneuvers (including repeal of Glass-Steagall) enabled these gigantic institutions to benefit from explicit and implicit federal guarantees, even as they pursued reckless high-risk investments.

### **12. Rampant Conflicts of Interest:**

#### **Credit Ratings Firms' Failure**

Credit ratings are a key link in the financial crisis story. With Wall Street combining mortgage loans into pools of securitized assets and then slicing them up into tranches, the resultant financial instruments were attractive to many buyers because they promised high returns. But pension funds and other investors could only enter the game if the securities were highly rated.

The credit rating firms enabled these

investors to enter the game, by attaching high ratings to securities that actually were high risk — as subsequent events have revealed. The credit ratings firms have a bias to offering favorable ratings to new instruments because of their complex relationships with issuers, and their desire to maintain and obtain other business dealings with issuers.

This institutional failure and conflict of interest might and should have been forestalled by the SEC, but the Credit Rating Agencies Reform Act of 2006 gave the SEC insufficient oversight authority. In fact, the SEC must give an approval rating to credit ratings agencies if they are adhering to their own standards — even if the SEC knows those standards to be flawed.

■ ■ ■

Wall Street is presently humbled, but not prostrate. Despite siphoning trillions of dollars from the public purse, Wall Street executives continue to warn about the perils of restricting “financial innovation” — even though it was these very innovations that led to the crisis. And they are scheming to use the coming Congressional focus on financial regulation to centralize authority with industry-friendly agencies.

If we are to see the meaningful regulation we need, Congress must adopt the view that Wall Street has no legitimate seat at the

table. With Wall Street having destroyed the system that enriched its high flyers, and plunged the global economy into deep recession, it’s time for Congress to tell Wall Street that its political investments have also gone bad. This time, legislating must be to control Wall Street, not further Wall Street’s control.

This report’s conclusion offers guiding principles for a new financial regulatory architecture.

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## **Part I:**

# **12 Deregulatory Steps to Financial Meltdown**

# 1 REPEAL OF THE GLASS-STEAGALL ACT AND THE RISE OF THE CULTURE OF RECKLESSNESS

## IN THIS SECTION:

*The Financial Services Modernization Act of 1999 formally repealed the Glass-Steagall Act of 1933 (also known as the Banking Act of 1933) and related laws, which prohibited commercial banks from offering investment banking and insurance services. In a form of corporate civil disobedience, Citibank and insurance giant Travelers Group merged in 1998 — a move that was illegal at the time, but for which they were given a two-year forbearance — on the assumption that they would be able to force a change in the relevant law at a future date. They did. The 1999 repeal of Glass-Steagall helped create the conditions in which banks invested monies from checking and savings accounts into creative financial instruments such as mortgage-backed securities and credit default swaps, investment gambles that rocked the financial markets in 2008.*

Perhaps the signature deregulatory move of the last quarter century was the repeal of the 1933 Glass-Steagall Act<sup>4</sup> and related legislation.<sup>5</sup> The repeal removed the legal prohibi-

tion on combinations between commercial banks on the one hand, and investment banks and other financial services companies on the other. Glass-Steagall's strict rules originated in the U.S. Government's response to the Depression and reflected the learned experience of the severe dangers to consumers and the overall financial system of permitting giant financial institutions to combine commercial banking with other financial operations.

Glass-Steagall and related laws advanced the core public objectives of protecting depositors and avoiding excessive risk for the banking system by defining industry structure: banks could not maintain investment banking or insurance affiliates (nor affiliates in non-financial commercial activity).

As banks eyed the higher profits in higher risk activity, however, they began to breach the regulatory walls between commercial banking and other financial services. Starting in the 1980s, responding to a steady drumbeat of requests, regulators began to weaken the strict prohibition on cross-ownership. In 1999, after a long industry campaign, Congress tore down the legal walls altogether. The Gramm-Leach-Bliley Act<sup>6</sup> removed the remaining legal restrictions on combined banking and financial service firms, and ushered in the current hyper-deregulated era.

<sup>4</sup> Glass-Steagall repealed at Pub. L. 106-102, title I, § 101(a), Nov. 12, 1999, 113 Stat. 1341.

<sup>5</sup> See amendments to the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841-1850, 1994 & Supp. II 1997 (amended 1999).

<sup>6</sup> Pub. L. No. 106-102.

The overwhelming direct damage inflicted by Glass-Steagall repeal was the infusion of investment banking culture into the conservative culture of commercial banking. After repeal, commercial banks sought high returns in risky ventures and exotic financial instruments, with disastrous results.

### *Origins*

Banking involves the collection of funds from depositors with the promise that the funds will be available when the depositor wishes to withdraw them. Banks keep only a specified fraction of deposits in their vaults. They lend the rest out to borrowers or invest the deposits to generate income. Depositors depend on the bank's stability, and communities and businesses depend on banks to provide credit on reasonable terms. The difficulties faced by depositors in judging the quality of bank assets has required government regulation to protect the safety of depositors' money and the well being of the banking system.

In the 19th and early 20th centuries, the Supreme Court prohibited commercial banks from engaging directly in securities activities,<sup>7</sup> but bank affiliates — subsidiaries of a

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<sup>7</sup> See *California Bank v. Kennedy*, 167 U.S. 362, 370-71 (1897) (holding that national bank may neither purchase nor subscribe to stock of another corporation); *Logan County Nat'l Bank v. Townsend*, 139 U.S. 67, 78 (1891) (holding that national bank may be liable as shareholder while in possession of bonds

holding company that also owns banks — were not subject to the prohibition. As a result, commercial bank affiliates regularly traded customer deposits in the stock market, often investing in highly speculative activities and dubious companies and derivatives.

### *The Pecora Hearings*

The economic collapse that began with the 1929 stock market crash hit Americans hard. By the time the bottom arrived, in 1932, the Dow Jones Industrial Average was down 89 percent from its 1929 peak.<sup>8</sup> An estimated 15 million workers — almost 25 percent<sup>9</sup> of the workforce — were unemployed, real output in the United States fell nearly 30 percent and prices fell at a rate of nearly 10 percent per year.<sup>10</sup>

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obtained under contract made absent legal authority); *National Bank v. Case*, 99 U.S. 628, 633 (1878) (holding that national bank may be liable for stock held in another bank).

<sup>8</sup> Floyd Norris, "Looking Back at the Crash of '29," *New York Times* on the web, 1999, available at: <<http://www.nytimes.com/library/financial/index-1929-crash.html>>.

<sup>9</sup> Remarks by Federal Reserve Board Chairman Ben S. Bernanke, "Money, Gold, and the Great Depression," March 2, 2004, available at: <<http://www.federalreserve.gov/boarddocs/speeches/2004/200403022/default.htm>>.

<sup>10</sup> Remarks by Federal Reserve Board Chairman Ben S. Bernanke, "Money, Gold, and the Great Depression," March 2, 2004, available at: <<http://www.federalreserve.gov/boarddocs/speeches/2004/200403022/default.htm>>.

The 1932-34 Pecora Hearings,<sup>11</sup> held by the Senate Banking and Currency Committee and named after its chief counsel Ferdinand Pecora, investigated the causes of the 1929 crash. The committee uncovered blatant conflicts of interest and self-dealing by commercial banks and their investment affiliates. For example, commercial banks had misrepresented to their depositors the quality of securities that their investment banks were underwriting and promoting, leading the depositors to be overly confident in commercial banks' stability. First National City Bank (now Citigroup) and its securities affiliate, the National City Company, had 2,000 brokers selling securities.<sup>12</sup> Those brokers had repackaged the bank's Latin American loans and sold them to investors as new securities (today, this is known as "securitization") without disclosing to customers the bank's confidential findings that the loans posed an adverse

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risk.<sup>13</sup> Peruvian government bonds were sold even though the bank's staff had internally warned that "no further national loan can be safely made" to Peru. The Senate committee found conflicts when commercial banks were able to garner confidential insider information about their corporate customers' deposits and use it to benefit the bank's investment affiliates. In addition, commercial banks would routinely purchase the stock of firms that were customers of the bank, as opposed to firms that were most financially stable.

The Pecora hearings concluded that common ownership of commercial banks and investment banks created several distinct problems, among them: 1) jeopardizing depositors by investing their funds in the stock market; 2) loss of the public's confidence in the banks, which led to panic withdrawals; 3) the making of unsound loans; and 4) an inability to provide honest investment advice to depositors because banks were conflicted by their underwriting relationship with companies.<sup>14</sup>

<sup>11</sup> The Pecora hearings, formally titled "Stock Exchange Practices: Hearings Before the Senate Banking Committee," were authorized by S. Res. No. 84, 72d Cong., 1st Session (1931). The hearings were convened in the 72d and 73d Congresses (1932-1934).

<sup>12</sup> Federal Deposit Insurance Corporation website, "The Roaring 20s," Undated, available at: <<http://www.fdic.gov/about/learn/learning/when/1920s.html>>.

<sup>13</sup> Federal Deposit Insurance Corporation website, "The Roaring 20s," Undated, available at: <<http://www.fdic.gov/about/learn/learning/when/1920s.html>>.

<sup>14</sup> Joan M. LeGraw and Stacey L. Davidson, "Glass-Steagall and the 'Subtle Hazards' of



### *Congress Acts*

The Glass-Steagall Act consisted of four provisions to address the conflicts of interest that the Congress concluded had helped trigger the 1929 crash:

- Section 16 restricted commercial national banks from engaging in most investment banking activities;<sup>15</sup>
- Section 21 prohibited investment banks from engaging in any commercial banking activities;<sup>16</sup>
- Section 20 prohibited any Federal Reserve-member bank from affiliating with an investment bank or other company “engaged principally” in securities trading;<sup>17</sup> and

- Section 32 prohibited individuals from serving simultaneously with a commercial bank and an investment bank as a director, officer, employee, or principal.<sup>18</sup>

One exception in Section 20 permitted securities activities by banks in limited circumstances, such as the trading of municipal general obligation bonds, U.S. government bonds, and real estate bonds. It also permitted banks to help private companies issue “commercial paper” for the purpose of obtaining short-term loans. (Commercial paper is a debt instrument or bond equivalent to a short-term loan; companies issue “commercial paper” to fund daily (i.e., short-term) operations, including payments

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Judicial Activism,” 24 *New Eng. L. Rev.* 225, Fall 1989.

<sup>15</sup> 12 U.S.C. § 24, Seventh (1933) (provided that a national bank “shall not underwrite any issue of securities or stock”).

<sup>16</sup> 12 U.S.C. § 378(a) (1933) (“it shall be unlawful - (1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of [deposit banking].”)

<sup>17</sup> 12 U.S.C. § 377 (1933) (prohibited affiliations between banks that are members of the Federal Reserve System and organizations “engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities....”). Federal Reserve member banks include all national banks and some state-chartered banks and are subject to regulations of the Federal Reserve System, often referred to as the

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Federal Reserve or simply “the Fed.” The Fed, created in 1913, is the central bank of the United States comprised of a central, governmental agency — the Board of Governors — in Washington, D.C., and twelve regional Federal Reserve Banks, located in major cities throughout the nation. The Fed supervises thousands of its member banks and controls the total supply of money in the economy by establishing the rate of interest it charges banks to borrow. It is considered an independent central bank because its decisions do not have to be ratified by the President and Congress. Federal Reserve member banks must comply with the Fed’s minimum capital requirements. (See “The Structure of the Federal Reserve System,” Federal Reserve, available at: <<http://federalreserve.gov/pubs/frseries/frseri.htm>>.)

<sup>18</sup> 12 U.S.C. § 78 (1933) (provided that no officer, director, or employee of a bank in the Federal Reserve System may serve at the same time as officer, director, or employee of an association primarily engaged in the activity described in section 20).

to employees and financing inventories. Most commercial paper has a maturity of 30 days or less. Companies issue commercial paper as an alternative to taking out a loan from a bank.)

Glass-Steagall was a key element of the Roosevelt administration's response to the Depression and considered essential both to restoring public confidence in a financial system that had failed and to protecting the nation against another profound economic collapse.

While the financial industry was cowed by the Depression, it did not fully embrace the New Deal, and almost immediately sought to maneuver around Glass-Steagall. A legal construct known as a "bank holding company" was not subject to the Glass-Steagall restrictions. Under the Federal Reserve System, bank holding companies are "paper" or "shell" companies whose sole purpose is to own two or more banks. Despite the prohibitions in Glass-Steagall, a single company could own both commercial and investment banking interests if those interests were held as separate subsidiaries by a bank holding company. Bank holding com-

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panies became a popular way for financial institutions and other corporations to subvert the Glass-Steagall wall separating commercial and investment banking. In response, Congress enacted the Bank Holding Com-

pany Act of 1956 (BHCA) to prohibit bank holding companies from acquiring "non-banks" or engaging in "activities that are not closely related to banking." Depository institutions were considered "banks" while investment banks (e.g. those that trade stock on Wall Street) were deemed "non-banks" under the law. As with Glass-Steagall, Congress expressed its intent to separate customer deposits in banks from risky invest-

ments in securities. Importantly, the BHCA also mandated the separation of banking from insurance and non-financial commercial activities. The BHCA also required bank holding companies to divest all their holdings in non-banking assets and forbade acquisition of banks across state lines.

But the BHCA contained a loophole sought by the financial industry. It allowed bank holding companies to acquire non-banks if the Fed determined that the non-bank activities were "closely related to banking." The Fed was given wide latitude

under the Bank Holding Company Act to approve or deny such requests. In the decades that followed passage of the BHCA, the Federal Reserve frequently invoked its broad authority to approve bank holding company acquisitions of investment banking firms, thereby weakening the wall separating customer deposits from riskier trading activities.

### *Deference to regulators*

In furtherance of the Fed's authority under BHCA, the Supreme Court in 1971 ruled that courts should defer to regulatory decisions involving bank holding company applications to acquire non-bank entities under the BHCA loophole. As long as a Federal Reserve Board interpretation of the BHCA is "reasonable" and "expressly articulated," judges should not intervene, the court concluded.<sup>19</sup> The ruling was a victory for opponents of Glass Steagall because it increased the power of bank-friendly regulators. It substantially freed bank regulators to authorize bank holding companies to conduct new non-banking activities without judicial interference,<sup>20</sup> rendering a significant blow to Glass-Steagall. As a result, banks whose primary business was managing customer deposits and making loans began using their bank holding companies to

buy securities firms. For example, Bank-America purchased stock brokerage firm Charles Schwab in 1984.<sup>21</sup> The Federal Reserve had decided that Schwab's service of executing buy and sell stock orders for retail investors was "closely related to banking" and thus satisfied requirements of the BHCA.

In December 1986, the Fed reinterpreted the phrase "engaged principally," in Section 20 of the BHCA, which prohibited banks from affiliating with companies engaged principally in securities trading. The Fed decided that up to 5 percent of a bank's gross revenues could come from investment banking without running afoul of the ban.<sup>22</sup>

Just a few months later, in the spring of 1987, the Fed entertained proposals from Citicorp, J.P Morgan and Bankers Trust to loosen Glass-Steagall regulations further by allowing banks to become involved with commercial paper, municipal revenue bonds and mortgage-backed securities. The Federal Reserve approved the proposals in a 3-2 vote.<sup>23</sup> One of the dissenters, then-Chair Paul Volcker, was soon replaced by Alan

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<sup>19</sup> *Investment Company Inst. v. Camp*, 401 U.S. 617 (1971).

<sup>20</sup> Jonathan Zubrow Cohen, 8 Admin. L.J. Am. U. 335, Summer 1994.

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<sup>21</sup> *Securities Industry Association v. Federal Reserve System*, 468 U.S. 207 (1984).

<sup>22</sup> "The Long Demise of Glass-Steagall," PBS Frontline, May 8, 2003, available at: <<http://www.pbs.org/wgbh/pages/frontline/shows/wallstreet/weill/demise.html>>.

<sup>23</sup> "The Long Demise of Glass-Steagall," PBS Frontline, May 8, 2003, available at: <<http://www.pbs.org/wgbh/pages/frontline/shows/wallstreet/weill/demise.html>>.

Greenspan, a strong proponent of deregulation. In 1989, the Fed enlarged the BHCA loophole again, at the request of J.P. Morgan, Chase Manhattan, Bankers Trust and Citicorp, permitting banks to generate up to 10 percent of their revenue from investment banking activity.

In 1993, the Fed approved an acquisition by a bank holding company, in this case Mellon Bank, of TBC Advisors, an administrator and advisor of stock mutual funds. By acquiring TBC, Mellon Bank was authorized to provide investment advisory services to mutual funds.

By the early 1990s, the Fed had authorized commercial bank holding companies to own and operate full service brokerages and offer investment advisory services. Glass Steagall was withering at the hands of industry-friendly regulators whose free market ideology conflicted with the Depression-era reforms.

### *The Financial Services Modernization Act*

While the Fed had been progressively undermining Glass-Steagall through deregulatory interpretations of existing laws, the financial industry was simultaneously lobbying Congress to repeal Glass-Steagall altogether. Members of Congress introduced major deregulation legislation in 1982, 1988, 1991, 1995 and 1998.

Big banks, securities firms and insur-

ance companies<sup>24</sup> spent lavishly in support of the legislation in the late 1990s. During the 1997-1998 Congress, the three industries delivered more than \$85 million in campaign contributions, including soft money donations to the Democratic and Republican parties.<sup>25</sup> But the Glass-Steagall rollback stalled. The Clinton administration was winding down, and the finance industries were becoming increasingly nervous that the legislation would not pass.

In the next congressional session, the industry redoubled its efforts, upping campaign contributions to more than \$150

<sup>24</sup> Bank holding companies were prohibited from providing insurance not under Glass-Steagall, but the Bank Holding Company Act of 1956. Section 4(c)(8) of the Bank Holding Company Act of 1956, as amended, prohibited bank holding companies and their subsidiaries from “providing insurance as a principal, agent or broker” except under seven minor exemptions. See 12 U.S.C. §§ 1841-1850 (1994 & Supp. II 1997) (amended 1999). Under the Act, banks were permitted only to engage in activities that were deemed “closely related to banking.” The statutory definition of “closely related to banking” specifically excludes insurance activities. See Bank Holding Company Act 4(c)(8), 12 U.S.C. 1843(c)(8) (1994). From the time Glass-Steagall was enacted until the Bank Holding Company Act of 1956 was passed, bank holding companies had become increasingly involved in insurance (and securities) activities. The Bank Holding Company Act ended this activity. Gramm-Leach-Bliley ended the Bank Holding Company Act’s prohibition in 1999. In this sense, references to “Glass-Steagall,” in this report, and in most policy discussions, commonly refer also to the BHCA of 1956, which is just as important as Glass-Steagall itself.

<sup>25</sup> Data from the Center for Responsive Politics. <[www.opensecrets.org](http://www.opensecrets.org)>.

million,<sup>26</sup> in considerable part to support Glass-Steagall repeal, now marketed under a new and deceptive name, “Financial Modernization.”

The Clinton administration supported the push for deregulation. Clinton’s Treasury Secretary, Robert Rubin, who had run Goldman Sachs, enthusiastically promoted the legislation. In 1995 testimony before the House Banking Committee, for example, Rubin had argued that “the banking industry is fundamentally different from what it was two decades ago, let alone in 1933. ... U.S. banks generally engage in a broader range of securities activities abroad than is permitted domestically. Even domestically, the separation of investment banking and commercial banking envisioned by Glass-Steagall has eroded significantly.” Remarkably, he claimed that Glass-Steagall could “conceivably impede safety and soundness by limiting revenue diversification.”<sup>27</sup> At times, the Clinton administration even toyed with the idea of allowing a total blurring of the lines between banking and

**The Clinton administration was winding down, and the finance industries were becoming increasingly nervous that the legislation to repeal Glass-Steagall would not pass.**

commerce (meaning non-financial businesses), but was forced to back away from such a radical move after criticism from former Federal Reserve Chair Paul Volcker and key Members of Congress.<sup>28</sup> Rubin played a key role in obtaining approval of legislation to repeal Glass-Steagall, as both Treasury Secretary and in his subsequent private sector role.

A handful of other personalities were instrumental in the effort. Senator Phil Gramm, R-Texas, the truest of true believers in deregulation, was chair of the Senate Banking Committee, and drove the repeal legislation. He was assisted by Federal Reserve Chair Alan Greenspan, an avid proponent of deregulation who was also eager to support provisions of the proposed Financial Services Modernization Act that gave the Fed enhanced jurisdictional authority at the expense of other federal banking regulatory agencies. Notes Jake Lewis, formerly a professional staff member of the House Banking Committee, “When the legislation became snagged on controversial provisions,

<sup>26</sup> Data from the Center for Responsive Politics. <[www.opensecrets.org](http://www.opensecrets.org)>.

<sup>27</sup> “Rubin Calls for Modernization Through Reform of Glass-Steagall Act,” *Journal of Accountancy*, May 1, 1995, available at: <<http://www.allbusiness.com/government/business-regulations/500983-1.html>>.

<sup>28</sup> Jake Lewis, “Monster Banks: The Political and Economic Costs of Banking and Financial Consolidation,” *Multinational Monitor*, January/February 2005, available at: <<http://www.multinationalmonitor.org/mm2005/012005/lewis.html>>.

Greenspan would invariably draft a letter or present testimony supporting Gramm's position on the volatile points. It was a classic back-scratching deal that satisfied both players — Greenspan got the dominant regulatory role and Gramm used Greenspan's wise words of support to mute opposition and to help assure a friendly press would grease passage."<sup>29</sup>

Also playing a central role were the CEOs of Citicorp and Travelers Group. In 1998, the two companies announced they were merging. Such a combination of banking and insurance companies was illegal under the Bank Holding Company Act, but was excused due to a loophole in the BHCA which provided a two-year review period of proposed mergers. Travelers CEO Sandy Weill met with Greenspan prior to the announcement of the merger, and said Greenspan had a "positive response" to the audacious proposal.<sup>30</sup>

Citigroup's co-chairs Sandy Weill and John Reed, along with lead lobbyist Roger Levy, led a swarm of industry executives

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and lobbyists who badgered the administration and pounded the halls of Congress until the final details of a deal were hammered out. Top Citigroup officials vetted drafts of the legislation before they were formally introduced.<sup>31</sup>

As the deal-making on the bill moved into its final phase in Fall 1999 — and with fears running

high that the entire exercise would collapse — Robert Rubin stepped into the breach. Having recently resigned as Treasury Secretary, Rubin was at the time negotiating the terms of his next job as an executive at Citigroup. But this was not public knowledge at the time. Deploying the credibility built up as part of what the media had labeled "The Committee to Save the World" (Rubin, Greenspan and then-Deputy Treasury Secretary Lawrence Summers, so named for their interventions in addressing the Asian financial crisis in 1997), Rubin helped broker the final deal.

The Financial Services Modernization Act, also known as the Gramm-Leach-Bliley Act of 1999, formally repealed Glass-Steagall. The new law authorized banks,

<sup>29</sup> Jake Lewis, "Monster Banks: The Political and Economic Costs of Banking and Financial Consolidation," *Multinational Monitor*, January/February 2005, available at: <<http://www.multinationalmonitor.org/mm2005/012005/lewis.html>>.

<sup>30</sup> Peter Pae, "Bank, Insurance Giants Set Merger: Citicorp, Travelers in \$82 Billion Deal," *Washington Post*, April 7, 1988.

<sup>31</sup> Russell Mokhiber, "The 10 Worst Corporations of 1999," *Multinational Monitor*, December 1999, available at: <<http://www.multinationalmonitor.org/mm1999/mm9912.05.html>>.

securities firms and insurance companies to combine under one corporate umbrella. A new clause was inserted into the Bank Holding Company Act allowing one entity to own a separate financial holding company that can conduct a variety of financial activities, regardless of the parent corporation's main functions. In the congressional debate over the Financial Services Modernization Act, Senator Gramm declared, "Glass-Steagall, in the midst of the Great Depression, thought government was the answer. In this period of economic growth and prosperity, we believe freedom is the answer." The chief economist of the Office of the Comptroller of the Currency supported the legislation because of "the increasingly persuasive evidence from academic studies of the pre-Glass-Steagall era."<sup>32</sup>

### ***Impact of Repeal***

The gradual evisceration of Glass-Steagall over 30 years, culminating in its repeal in 1999, opened the door for banks to enter the highly lucrative practice of packaging multiple home mortgage loans into securities for trade on Wall Street. Repeal of Glass-Steagall created a climate and culture

where aggressive deal-making became the norm.

The practice of "securitization" had virtually disappeared after it contributed to the 1929 crash, but had made a comeback in the 1970s as Glass-Steagall was being dismantled. Economic analyst Robert Kuttner testified in 2007 that trading loans on Wall Street "was the core technique that made possible the dangerous practices of the 1920s. Banks would originate and repackage highly speculative loans, market them as securities through their retail networks, using the prestigious brand name of the bank — e.g. Morgan or Chase — as a proxy for the soundness of the security. It was this practice, and the ensuing collapse when so much of the paper went bad, that led Congress to enact the Glass-Steagall Act"<sup>33</sup> that separated banks and securities trading.

Whereas bank deposits had been a centerpiece of the 1929 crash, mortgage loans — and the securities connected to them — are at the center of the present financial crisis. There is mounting evidence that the repeal of Glass-Steagall contributed to a high-flying culture that led to disaster. The banks suspended careful scrutiny of loans they originated because they knew that the loans would be rapidly packaged into mort-

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<sup>32</sup> James R. Barth, R. Dan Brumbaugh Jr. and James A. Wilcox, "The Repeal of Glass-Steagall and the Advent of Broad Banking," Economic and Policy Analysis Working Paper 2000-5, Office of the Comptroller of the Currency, April 2000, available at: <<http://www.occ.treas.gov/ftp/workpaper/wp2000-5.pdf>>.

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<sup>33</sup> Testimony of Robert Kuttner before the Committee on Financial Services, U.S. House of Representatives, October 2, 2007, available at: <[http://financialservices.house.gov/hearing10/testimony\\_-\\_kuttner.pdf](http://financialservices.house.gov/hearing10/testimony_-_kuttner.pdf)>.

gage-backed securities and sold off to third parties. Since the banks weren't going to hold the mortgages in their own portfolios, they had little incentive to review the borrowers' qualifications carefully.<sup>34</sup>

But the banks did not in fact escape exposure to the mortgage market. It appears that, as they packaged mortgages into securities and then sold them off into "tranches," the banks often kept portions of the least desirable tranches in their own portfolios, or those of off-balance-sheet affiliates. They also seemed to have maintained liability in some cases where securitized mortgages went bad. As banks lost billions on mortgage-backed securities in 2008, they stopped making new loans in order to conserve their assets. Instead of issuing new loans with hundreds of billions of dollars in taxpayer-footed bailout money given for the purpose of jump-starting frozen credit markets, the banks used the money to offset losses on their mortgage securities investments. Banks and insurance companies were saddled with billions more in losses from esoteric "credit default swaps" created to insure against

mortgage defaults and themselves traded on Wall Street.

In short, the Depression-era conflicts and consequences that Glass-Steagall was intended to prevent re-emerged once the Act was repealed. The once staid commercial banking sector quickly evolved to emulate the risk-taking attitude and practices of investment banks, with disastrous results.

Notes economist Joseph Stiglitz, "The most important consequence of the repeal of Glass-Steagall was indirect — it lay in the way repeal changed an entire culture. Commercial banks are not supposed to be high-risk ventures; they are supposed to manage other people's money very conservatively. It is with this understanding that the government agrees to pick up the tab should they fail. Investment banks, on the other hand, have traditionally managed rich people's money — people who can take bigger risks in order to get bigger returns. When repeal of Glass-Steagall brought investment and commercial banks together, the investment-bank culture came out on top. There was a demand for the kind of high returns that could be obtained only through high leverage and big risk taking."<sup>35</sup>



<sup>34</sup> See Liz Rappaport and Carrick Mollenkamp, "Banks May Keep Skin in the Game," Wall Street Journal, February 9, 2009, available at: <http://sec.online.wsj.com/article/SB123422980301065999.html>; "Before That, They Made A Lot of Money: Steps to Financial Collapse," An Interview with Nomi Prins, Multinational Monitor, November/December 2008, available at: <http://www.multinationalmonitor.org/mm2008/112008/interview-prins.html>.

<sup>35</sup> Joseph Stiglitz, "Capitalist Fools," Vanity Fair, January 2009, available at: <http://www.vanityfair.com/magazine/2009/01/stiglitz200901>.



# 2 HIDING LIABILITIES: OFF-BALANCE SHEET ACCOUNTING

## IN THIS SECTION:

*Holding assets off the balance sheet generally allows companies to exclude “toxic” or money-losing assets from financial disclosures to investors in order to make the company appear more valuable than it is. Banks used off-balance sheet operations — special purpose entities (SPEs), or special purpose vehicles (SPVs) — to hold securitized mortgages. Because the securitized mortgages were held by an off-balance sheet entity, however, the banks did not have to hold capital reserves as against the risk of default — thus leaving them so vulnerable. Off-balance sheet operations are permitted by Financial Accounting Standards Board rules installed at the urging of big banks. The Securities Industry and Financial Markets Association and the American Securitization Forum are among the lobby interests now blocking efforts to get this rule reformed.*

A business’s balance sheet is supposed to report honestly on a firm’s financial state by listing its assets and liabilities. If a company can move money-losing assets off of its balance sheet, it will appear to be in greater financial health. But if it is still incurring losses from the asset taken off the balance sheet, then the apparent improvement in

financial health is illusory.

Thanks to the exploitation of loopholes in accounting rules, commercial banks were able to undertake exactly this sort of deceptive financial shuffling in recent years. Even in good times, placing securitized mortgage loans off balance sheet had important advantages for banks, enabling them to expand lending without setting aside more reserve-loss capital (money set aside to protect against loans that might not be repaid).<sup>36</sup> As they made and securitized more loans shunted off into off-balance sheet entities, the banks’ financial vulnerability kept increasing — they had increased lingering obligations related to securitized loans, without commensurate reserve-loss capital. Then, when bad times hit, off-balance sheet accounting let banks hide their losses from investors and regulators. This allowed their condition to grow still more acute, ultimately imposing massive losses on investors and threatening the viability of the financial system.

<sup>36</sup> Wall Street recognized this immediately after the adoption of the relevant accounting rule, known as FASB 140 (see text below for more explanation). “How the sponsors and their lawyers and accountants address FASB 140 may have an impact on the continuing viability of this market,” said Gail Sussman, a managing director at Moody’s. “If they have to keep these bonds on their balance sheet, they have to reserve against them. It may eat into the profit of these products [securitized loans].” Michael McDonald, “Derivatives Hit the Wall - Sector Found Wary Investors in 2001,” *The Bond Buyer*, March 15, 2002.

The scale of banks' off-balance sheet assets is enormous — 15.9 times the amount on the balance sheets in 2007. This ratio represents a massive surge over the last decade and half: “During the period 1992-2007, on-balance sheet assets grew by 200 percent, while off-balance sheet asset grew by a whopping 1,518 [percent].”<sup>37</sup>

One Wall Street executive described off-balance sheet accounting “as a bit of a magic trick”<sup>38</sup> because losses disappear from the balance sheet, making lenders appear more financially stable than they really are. A former SEC official called it “nothing more than just a scam.”<sup>39</sup>

The Securities and Exchange Commission (SEC) has statutory authority to establish financial accounting and reporting standards, but it delegates this

authority to the Financial Accounting Standards Board (FASB). The FASB is an independent, private sector organization whose purpose is to establish financial accounting standards, including the standards that govern the preparation of financial reports. FASB's Statement 140 establishes rules relevant to securitization of loans (packaging large numbers of loans resold to other parties) and how securitized loans may be moved off a company's balance sheet.

Pursuant to Statement 140, a lender may sell blocks of its mortgages to separate trusts or companies known as Qualified Special Purpose Entities (QSPEs), or “special investment vehicles” (SIVs), created by the lender. As long as the mortgages are sold to the QSPE, the lender is authorized not to report the mortgages on its balance sheet. The theory is that the lender no longer has control or responsibility for the mortgages. The Statement 140 test of whether a lender has severed responsibility for mortgages is to ask whether a “true sale” has taken place.

But whether a true sale of the mortgages has occurred is often unclear because of the complexities of mortgage securitization. Lenders often retain some control over the mortgages even after their sale to a QSPE. So, while the sale results in moving mortgages off the balance sheet, the lender may still be liable for mortgage

<sup>37</sup> Joseph Mason, “Off-balance Sheet Accounting and Monetary Policy Ineffectiveness,” RGE Monitor, December 17, 2008, available at: <[http://www.rgemonitor.com/financemarket-s-monitor/254797/off-balance\\_sheet\\_accounting\\_and\\_monetary\\_policy\\_ineffectiveness](http://www.rgemonitor.com/financemarket-s-monitor/254797/off-balance_sheet_accounting_and_monetary_policy_ineffectiveness)>.

<sup>38</sup> Alan Katz and Ian Katz, “Greenspan Slept as Off-Books Debt Escaped Scrutiny,” Bloomberg.com, October 30, 2008, available at: <[http://www.bloomberg.com/apps/news?pid=20601170&refer=home&sid=aYJZOB\\_gZi0I](http://www.bloomberg.com/apps/news?pid=20601170&refer=home&sid=aYJZOB_gZi0I)> (quoting Pauline Wallace, partner at PriceWaterhouseCoopers LLP and team leader in London for financial instruments).

<sup>39</sup> “Plunge: How Banks Aim to Obscure Their Losses,” An Interview with Lynn Turner, former SEC chief accountant, Multinational Monitor, November/December 2008, available at: <<http://www.multinationalmonitor.org/mm2008/112008/interview-turner.html>>.

defaults. This retained liability is concealed from the public by virtue of moving the assets off the balance sheet.

Under Statement 140, a “sale” of mortgages to a QSPE occurs when the mortgages are put “beyond the reach of the transferor [i.e. the lender] and its creditors.” This is a “true sale” because the lender relinquishes control of the mortgages to the QSPE. But the current financial crisis has revealed that while lenders claimed to have relinquished control, and thus moved the mortgages off the balance sheet, they had actually retained control in violation of Statement 140. A considerable portion of the banks’ mortgage-related losses remain off the books, however, contributing to the continuing uncertainty about the scale of the banks’ losses.

The problems with QSPEs became clear in 2007 when homeowners defaulted in record numbers and lenders were forced to renegotiate or modify mortgages held in the QSPEs. The defaults revealed that the mortgages were not actually put “beyond the reach” of the lender after the QSPE bought them. As such, they should have been included on the lender’s balance sheet pursuant to Statement 140.

The Securities and Exchange Commission (SEC) was forced to clarify its rules on

the matter to allow lenders to renegotiate loans without losing off-balance sheet status.

Former SEC Chair Christopher Cox announced to Congress in 2007 that loan restructuring or modification activities, when default is reasonably foreseeable, does not preclude continued off-balance sheet treatment under Statement 140.<sup>40</sup>

The problems with off-balance sheet accounting are a matter of common sense. If there was any doubt, however, the deleterious impact of off-balance sheet accounting was vividly illustrated by the notorious collapse of Enron in December 2001. Enron established off-balance sheet partnerships whose purpose was to borrow from banks to finance the company’s growth. The partnerships, also known as special purpose entities (SPEs), borrowed heavily by using Enron stock as collateral. The debt incurred by the SPEs was kept off Enron’s balance sheet so that Wall Street

**A former SEC official called off-balance sheet accounting “nothing more than just a scam.”**

<sup>40</sup> (Chairman Christopher Cox, in a letter to Rep. Barney Frank, Chairman, Committee on Financial Services, U.S. House of Representatives, July 24, 2007, available at: <[http://www.house.gov/apps/list/press/financialsvcs\\_dem/sec\\_response072507.pdf](http://www.house.gov/apps/list/press/financialsvcs_dem/sec_response072507.pdf)>.) The SEC’s Office of the Chief Accountant agreed with Chairman Cox in a staff letter to industry in 2008. (SEC Office of the Chief Accountant, in a staff letter to Arnold Hanish, Financial Executives International, January 8, 2008, available at: <<http://www.sec.gov/info/accountants/staffletters/hanish010808.pdf>>).

and regulators were unaware of it. Credit rating firms consistently gave Enron high debt ratings as they were unaware of the enormous off-balance sheet liabilities. Investors pushing Enron's stock price to sky-high levels were oblivious to the enormous amount of debt incurred to finance the company's growth. The skyrocketing stock price allowed Enron to borrow even more funds while using its own stock as collateral. At the time of bankruptcy, the company's on-balance sheet debt was \$13.15 billion, but the company had a roughly equal amount of off-balance sheet liabilities.

In the fallout of the Enron scandal, the FASB adopted a policy to address off-balance sheet arrangements. Under its FIN 46R guidance, a company must include any SPE on the balance sheet if the company is entitled to the majority of the SPE's risks or rewards, regardless of whether a true sale occurred. But the guidance has one caveat: QSPEs holding securitized assets may still be excluded from the balance sheet. The caveat, known as the "scope exception," means that many financial institutions are not subject to the heightened requirements provided under FIN 46R. The lessons of Enron were thus ignored for financial

institutions, setting the stage for the current financial crisis.

The Enron fiasco got the attention of Congress, which soon began considering systemic accounting reforms. The Sarbanes-Oxley Act, passed in 2002, attempted to shine more light on the murky underworld of off-balance sheet assets, but the final measure was a watered-down compromise; more far-reaching demands were defeated by the financial lobby.

Sarbanes-Oxley requires that companies make some disclosures about their QSPEs, even if they are not required to include them on the balance sheet. Specifically, it requires disclosure of the existence of off-balance-sheet arrangements, including QSPEs, if they are reasonably likely to have a "material" impact on the company's financial condition. But lenders have sole discretion to determine whether a QSPE will have a "material" impact. Moreover, disclosures have often been made in such a general way as to be meaningless. "After Enron, with Sarbanes-Oxley, we tried legislatively to make it clear that there has to be some transparency with regard to off-balance sheet entities," Senator Jack Reed of Rhode Island, the chair of the Securities,

**The Sarbanes-Oxley Act, passed in 2002, attempted to shine more light on the murky underworld of off-balance sheet assets, but the final measure was a watered-down compromise.**

Insurance and Investment subcommittee of the Senate Banking Committee, said in early 2008 as the financial crisis was unfolding.<sup>41</sup> “We thought that was already corrected and the rules were clear and we would not be discovering new things every day,” he said.

The FASB has recognized for years that Statement 140 is flawed, concluding in 2006 that the rule was “irretrievably broken.”<sup>42</sup> The merits of the “true sale” theory of Statement 140 notwithstanding, its detailed and complicated rules created sufficient loopholes and exceptions to enable financial institutions to circumvent its purported logic as a matter of course.<sup>43</sup>

FASB Chairman Robert Herz likened off-balance sheet accounting to “spiking the punch bowl.” “Unfortunately,” he said, “it seems that some folks used [QSPEs] like a punch bowl to get off-balance sheet treatment while spiking the punch. That has led us to conclude that now it’s time to take away the punch bowl. And so we are proposing eliminating the concept of a

QSPE from the U.S. accounting literature.”<sup>44</sup>

It is not, however, a certainty that the FASB will succeed in its effort. The Board has repeatedly tried to rein in off-balance sheet accounting, but failed in the face of financial industry pressure.<sup>45</sup> The commercial banking industry and Wall Street are waging a major effort to water down the rule and delay adoption and implementation.<sup>46</sup> Ironically, the banking

<sup>44</sup> FASB Chairman Bob Herz, “Lessons Learned, Relearned, and Relearned Again from the Credit Crisis — Accounting and Beyond,” September 18, 2008, available at: <[http://www.fasb.org/articles&reports/12-08-08\\_herz\\_speech.pdf](http://www.fasb.org/articles&reports/12-08-08_herz_speech.pdf)>.

<sup>45</sup> “Plunge: How Banks Aim to Obscure Their Losses,” An Interview with Lynn Turner, former SEC chief accountant, *Multinational Monitor*, November/December 2008, available at: <<http://www.multinationalmonitor.org/mm2008/112008/interview-turner.html>>.

<sup>46</sup> See “FAS Amendments,” American Securitization Forum, available at: <<http://www.americansecuritization.com/story.aspx?id=76>>. (“Throughout this process [consideration of revisions of Statement 140], representatives of the ASF have met on numerous occasions with FASB board members and staff, as well as accounting staff of the SEC and the bank regulatory agencies, to present industry views and recommendations concerning these proposed accounting standards and their impact on securitization market activities.”); George P. Miller, Executive Director, American Securitization Forum, and Randy Snook, Senior Managing Director, Securities Industry and Financial Markets Association, letter to Financial Accounting Standards Board, July 16, 2008, available at: <<http://www.americansecuritization.com/story.aspx?id=2906>>. (Arguing for delay of new rules until 2010, and contending that “It is also important to remember that too much consolidation of SPEs can be just as confusing to users of financial statements as

<sup>41</sup> Floyd Norris, “Off-the-balance-sheet mysteries,” *International Herald Tribune*, February 28, 2008, available at: <<http://www.iht.com/articles/2008/02/28/business/norris29.php>>.

<sup>42</sup> FASB and International Accounting Standards Board, “Information for Observers,” April 21, 2008, available at: <[www.iasplus.com/resource/0804j03obs.pdf](http://www.iasplus.com/resource/0804j03obs.pdf)>.

<sup>43</sup> See Thomas Selling, “FAS 140: Let’s Call the Whole Thing Off,” August 11, 2008, available at: <<http://accountingonion.typepad.com/theaccountingonion/2008/08/fas-140-lets-ca.html>>.

industry and Wall Street lobbyists argue that disclosure of too much information will confuse investors. These lobby efforts are meeting with success,<sup>47</sup> in part because of the likelihood that forcing banks to recognize their off-balance sheet losses will reveal them to be insolvent.



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too little.”); John A. Courson, Chief Operating Officer, Mortgage Bankers Association, letter to Financial Accounting Standards Board, October 31, 2008, available at: <http://www.mbaa.org/files/Advocacy/TestimonyandCommentLetters/MBACommentLetter-10-31-2008-AmendmentstoFASBInterpretationNo.46R.pdf>. (“MBA believes the proposed disclosures would result in providing readers of financial statements with an unnecessary volume of data that would obfuscate important and meaningful information in the financial statements.”)

<sup>47</sup> Jody Shenn and Ian Katz, “FASB Postpones Off-Balance-Sheet Rule for a Year,” Bloomberg, July 30, 2008, available at: <http://www.bloomberg.com/apps/news?pid=20601009&sid=a4O4VjK.fX5Q&>>. (“The Financial Accounting Standards Board postponed a measure, opposed by Citigroup Inc. and the securities industry, forcing banks to bring off-balance-sheet assets such as mortgages and credit-card receivables back onto their books. FASB, the Norwalk, Connecticut-based panel that sets U.S. accounting standards, voted 5-0 today to delay the rule change until fiscal years starting after Nov. 15, 2009.”)

# 3 THE EXECUTIVE BRANCH REJECTS FINANCIAL DERIVATIVE REGULATION

## IN THIS SECTION:

*Financial derivatives are unregulated. By all accounts this has been a disaster, as Warren Buffet's warning that they represent "weapons of mass financial destruction" has proven prescient. Financial derivatives have amplified the financial crisis far beyond the unavoidable troubles connected to the popping of the housing bubble.*

*The Commodity Futures Trading Commission (CFTC) has jurisdiction over futures, options and other derivatives connected to commodities. During the Clinton administration, the CFTC sought to exert regulatory control over financial derivatives. The agency was quashed by opposition from Treasury Secretary Robert Rubin and, above all, Fed Chair Alan Greenspan. They challenged the agency's jurisdictional authority; and insisted that CFTC regulation might imperil existing financial activity that was already at considerable scale (though nowhere near present levels). Then-Deputy Treasury Secretary Lawrence Summers told Congress that CFTC proposals "cas[t] a shadow of regulatory uncertainty over an otherwise thriving market."*

Over-the-counter financial derivatives are unregulated. By all accounts, this has been a disaster. As Warren Buffett warned in 2003,

financial derivatives represent "weapons of mass financial destruction" because "[l]arge amounts of risk, particularly credit risk, have become concentrated in the hands of relatively few derivatives dealers" so that "[t]he troubles of one could quickly infect the others" and "trigger serious systemic problems."<sup>48</sup>

A financial derivative is a financial instrument whose value is determined by the value of an underlying financial asset, such as a mortgage contract, stock or bond, or by financial conditions, such as interest rates or currency values. The value of the contract is determined by fluctuations in the price of the underlying asset. Most derivatives are characterized by high leverage, meaning they are bought with enormous amounts of borrowed money.

Derivatives are not a recent invention.

<sup>48</sup> Warren Buffett, Chairman, Berkshire Hathaway, Report to Shareholders, February 21, 2003. Wrote Buffet: "Another problem about derivatives is that they can exacerbate trouble that a corporation has run into for completely unrelated reasons. This pile-on effect occurs because many derivatives contracts require that a company suffering a credit downgrade immediately supply collateral to counterparties. Imagine, then, that a company is downgraded because of general adversity and that its derivatives instantly kick in with their requirement, imposing an unexpected and enormous demand for cash collateral on the company. The need to meet this demand can then throw the company into a liquidity crisis that may, in some cases, trigger still more downgrades. It all becomes a spiral that can lead to a corporate meltdown." Available at: <http://www.berkshirehathaway.com/letters/2002pdf.pdf>.

Traditional, non-financial derivatives include futures contracts traded on exchanges such as the Chicago Mercantile Exchange, and regulated by the Commodity Futures Trading Commission. A traditional futures contract might include, for example, futures on oranges, where buyers and sellers agree to deliver or accept delivery of a specified number of oranges at some point in the future, at a price determined now, irrespective of the price for oranges at that future time. This kind of futures contract can help farmers and others gain some price certainty for commodities whose value fluctuates in uncertain ways. Over-the-counter (OTC) financial derivatives, by contrast, are negotiated and traded privately (not on public exchanges) and are not subjected to public disclosure, government supervision or other requirements applicable to those traded on exchanges.

### *Derivatives and the current financial crisis*

In the 1990s, the financial industry began to develop increasingly esoteric types of derivatives. One over-the-counter derivative that has exacerbated the current financial crisis is the credit default swap (CDS). CDSs were invented by major banks in the mid-1990s as a way to insure against possible default by debtors (including mortgage holders). Investment banks that hold mortgage debt, including mortgage-backed securities, can purchase a CDS from a seller,

such as an insurance company like AIG, which agrees to become liable for all the debt in the event of a default in the mortgage-backed securities. Wall Street wunderkinds with backgrounds in complex mathematics and statistics developed algorithms that they claimed allowed them to correctly price the risk and the CDSs.<sup>49</sup>

Banks and hedge funds also began to sell CDSs and even trade them on Wall Street. Billions in these “insurance policies” were traded every day, with traders essentially betting on the likelihood of default on mortgage-backed securities. CDS traders with no financial interest in the underlying mortgages received enormous profits from buying and selling CDS contracts and thus speculating on the likelihood of default.

The current financial crisis has exposed how poorly the sellers and the buyers understood the value of the derivatives they were trading.

Once home values stopped rising in 2006 and mortgage default became more commonplace, the value of the packages of mortgages known as mortgage-backed securities plunged. At that point, the CDS agreements called for the sellers of the CDSs to reimburse the purchasers for the losses in the mortgage-backed securities.

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<sup>49</sup> Lewis Braham, “Credit Default Swaps: Is Your Fund at Risk?” *BusinessWeek*, February 21, 2008, available at: [http://www.businessweek.com/magazine/content/08\\_09/b4073074480603.htm](http://www.businessweek.com/magazine/content/08_09/b4073074480603.htm).



Firms that had sold CDS contracts, like AIG, became responsible for posting billions of dollars in collateral or paying the purchasers.

The global market value of CDS contracts (“notional value”) reached over \$60 trillion in 2007, surpassing the gross domestic product of every country in the world combined. The value of the entire global derivatives market reached \$683 trillion by mid-2008, more than 20 times the total value of the U.S. stock market.<sup>50</sup>

The total dollars actively at risk from CDSs is a staggering \$3.1 trillion.<sup>51</sup> The amount at risk is far less than \$60 trillion because most investors were simultaneously “on both sides” of the CDS trade. For example, banks and hedge funds would buy CDS protection on the one hand and then sell CDS protection on the same security to someone else at the same time.<sup>52</sup> When a mortgage-backed security defaulted, the

**The value of the entire global derivatives market reached \$683 trillion by mid-2008, more than 20 times the total value of the U.S. stock market.**

banks might have to pay some money out, but they would also be getting money back in. So, while the total value of each CDS buy and sell order equaled \$60 trillion in 2007, the actual value at risk was a fraction of that — but still large enough to rock the financial markets.

The insurance giant AIG, however, did not buy CDS contracts — it only sold them. AIG issued \$440 billion<sup>53</sup> worth of such contracts, making it liable for loan defaults, including billions in mortgage-backed securities that went bad after the housing bubble burst. In addition, the company’s debt rating was downgraded by credit rating firms, a move that triggered a clause in its CDS contracts that required AIG to put up more collateral to guarantee its ability to pay. Eventually, AIG was unable to provide enough collateral or pay its obligations from the CDS contracts. Its stock price tumbled, making it impossible for the firm to attract investors. Many banks throughout the world were at risk because they had bought CDS contracts from AIG. The financial spiral downward ultimately required a taxpayer-financed bailout by the Federal Reserve, which committed \$152.5 billion to the com-

<sup>50</sup> Bureau of International Settlements, Table 19: Amounts Outstanding of Over-the-counter Derivatives, available at: <[www.bis.org/statistics/derstats.htm](http://www.bis.org/statistics/derstats.htm)>.

<sup>51</sup> Bureau of International Settlements, Table 19: Amounts Outstanding of Over-the-counter Derivatives, available at: <[www.bis.org/statistics/derstats.htm](http://www.bis.org/statistics/derstats.htm)>.

<sup>52</sup> Adam Davidson, “How AIG fell apart,” Reuters, September 18, 2008, available at: <<http://www.reuters.com/article/newsOne/idUSMAR85972720080918>>.

<sup>53</sup> Adam Davidson, “How AIG fell apart,” Reuters, September 18, 2008, available at: <<http://www.reuters.com/article/newsOne/idUSMAR85972720080918>>.

pany in 2008, in order to minimize “disruption to the financial markets.”<sup>54</sup>

***Federal Agencies Reject Regulation of Financial Derivatives.***

Some industry observers warned of the dangers of over-the-counter derivatives. But acceding to political pressure from the powerful financial industry, the federal agencies with the responsibility to safeguard the integrity of the financial system refused to permit regulation of financial derivatives,<sup>55</sup> especially the credit default swaps that have exacerbated the current financial meltdown.

In 1996, President Clinton appointed Brooksley Born chair of the Commodity Futures Trading Commission (CFTC).<sup>56</sup> The CFTC is an independent federal agency with the mandate to regulate commodity futures and option markets in the United States.

Born was outspoken and adamant about the need to regulate the quickly growing but largely opaque area of financial derivatives. She found fierce opposition in SEC Chair

Arthur Levitt, Treasury Secretary Robert Rubin and Federal Reserve Chair Alan Greenspan, all of whom felt that the financial industry was capable of regulating itself. An April 1998 meeting of the President’s Working Group on Financial Markets, which consisted of Levitt, Greenspan, Rubin and Born, turned into a standoff between the three men and Born. The men were determined to derail her efforts to regulate derivatives, but left the meeting without any assurances.<sup>57</sup>

Pressing back against her critics, Born published a CFTC concept paper in 1998 describing how the derivatives sector might be regulated. Born framed the CFTC’s interest in mild terms: “The substantial changes in the OTC derivatives market over the past few years require the Commission to review its regulations,” said Born. “The Commission is not entering into this process with preconceived results in mind. We are reaching out to learn the views of the public, the industry and our fellow regulators on the appropriate regulatory approach to today’s OTC derivatives marketplace.”<sup>58</sup>

<sup>54</sup> Erik Holm, “AIG Sells Mortgage-Backed Securities to Fed Vehicle,” Bloomberg.com, December 15, 2008.

<sup>55</sup> Exchange-traded and agricultural derivatives are generally regulated by the Commodity Futures Trading Commission (CFTC). Over-the-counter financial derivatives — not traded on an exchange — were and are not subject to CFTC jurisdiction. This report primarily uses the shorthand term “financial derivative” to reference over-the-counter financial derivatives.

<sup>56</sup> <<http://www.cftc.gov/anr/anrcomm98.htm>>

<sup>57</sup> Anthony Faiola, Ellen Nakashima and Jill Drew, “The Crash: What Went Wrong,” The Washington Post, October 15, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>>.

<sup>58</sup> CFTC Issues Concept Release Concerning Over-the-Counter Derivatives Market, May 7, 1998, available at: <<http://www.cftc.gov/opa/press98/opa4142-98.htm>>.

The publication described the growth of derivatives trading (“Use of OTC derivatives has grown at very substantial rates over the past few years,” to a notional value of more than \$28 trillion) and raised questions about financial derivatives rather than proposed specific regulatory initiatives.

But the concept paper was clear that the CFTC view was that the unrestrained growth of financial derivatives trading posed serious risks to the financial system, and its probing questions suggested a range of meaningful regulatory measures — measures which, if they had been adopted, likely would have reduced the severity of the present crisis.

“While OTC derivatives serve important economic functions, these products, like any complex financial instrument, can present significant risks if misused or misunderstood by market participants,” the CFTC noted.<sup>59</sup> “The explosive growth in the OTC market in recent years has been accompanied by an increase in the number and size of losses even among large and sophisticated users which purport to be trying to hedge price risk in the underlying cash markets.”<sup>60</sup>

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<sup>59</sup> Commodity Futures Trading Commission, Concept Release: Over-the-Counter Derivatives, May 7, 1998, available at: <[http://www.cftc.gov/opa/press98/opamntn.htm#issues\\_for\\_comment](http://www.cftc.gov/opa/press98/opamntn.htm#issues_for_comment)>.

<sup>60</sup> Commodity Futures Trading Commission, Concept Release: Over-the-Counter Derivatives, May 7, 1998, available at: <[http://www.cftc.gov/opa/press98/opamntn.htm#issues\\_for\\_comment](http://www.cftc.gov/opa/press98/opamntn.htm#issues_for_comment)>.

Among the proposals floated in the concept paper were the following measures:<sup>61</sup>

- Narrow or eliminate exemptions for financial derivatives from the regulations that applied to exchange-traded derivatives (such as for agricultural commodities);
- Require financial derivatives to be traded over a regulated exchange;
- Require registration of person or entities trading financial derivatives;
- Impose capital requirements on those engaging in financial derivatives trading (so that they would be required to set aside capital against the risk of loss, and to avoid excessive use of borrowed money); and
- Require issuers of derivatives to disclose the risks accompanying those instruments.

The uproar from the financial industry was immediate. During the next two months, industry lobbyists met with CFTC commissioners at least 13 times.<sup>62</sup> Meanwhile, Born faced off against Greenspan and others in

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<sup>61</sup> Commodity Futures Trading Commission, Concept Release: Over-the-Counter Derivatives, May 7, 1998, available at: <[http://www.cftc.gov/opa/press98/opamntn.htm#issues\\_for\\_comment](http://www.cftc.gov/opa/press98/opamntn.htm#issues_for_comment)>.

<sup>62</sup> Sharona Coutts and Jake Bernstein, “Former Clinton Official Says Democrats, Obama Advisers Share Blame for Market Melt-down,” ProPublica, October 9, 2008, available at: <<http://www.propublica.org/feature/former-clinton-official-says-democrats-obama-advisers-share-blame-for-marke/>>.

numerous antagonistic congressional hearings. Senator Richard Lugar, R-Indiana, chair of the Senate Agricultural Committee, stepped into the fray. Lugar, who received nearly \$250,000 in campaign contributions from securities and investment firms in 1998,<sup>63</sup> extended an ultimatum to Born: cease the campaign or Congress would pass a Treasury-backed bill that would put a moratorium on any further CFTC action.<sup>64</sup> The stalemate continued.

The Treasury Department weighed in with its view that derivatives should remain unregulated. President Clinton's then-Deputy Treasury Secretary, Lawrence H. Summers (now head of the Obama administration's National Economic Council), complained that Born's proposal "cast the shadow of regulatory uncertainty over an otherwise

**Lawrence Summers complained that a proposal to regulate derivatives "cast a shadow of regulatory uncertainty over an otherwise thriving market."**

thriving market"<sup>65</sup>

Federal Reserve Chair Alan Greenspan echoed the Treasury Department view, arguing that regulation would be both unnecessary and harmful. "Regulation of derivatives transactions that are privately negotiated by professionals is unnecessary. Regulation that serves no useful purpose hinders the efficiency of markets to enlarge standards of living."<sup>66</sup>

In September 1998, Long Term Capital Management, a hedge fund heavily focused on derivatives, informed the Fed it was on the brink of collapse, and couldn't cover \$4 billion in losses.<sup>67</sup> The New York Federal Reserve quickly recruited 14 private banks to bail out Long Term Capital by investing \$3.6 billion.<sup>68</sup>

<sup>63</sup> Center for Responsive Politics, <<http://www.opensecrets.org/politicians/industries.php?cycle=1998&cid=N00001764>>.

<sup>64</sup> Senator Richard Lugar, "Regulation of Over the Counter (OTC) Derivatives and Derivatives Markets," Hearing of the Senate Agriculture, Nutrition and Forestry Committee, July 30, 1998 ("[I]t is essential that the government not create legal uncertainty for swaps. I hope it will not be necessary, but there are circumstances that could compel Congress to act preemptively in the near term.") For a full account of the dispute, see: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>>.

<sup>65</sup> Lawrence H. Summers, Testimony Before the Senate Committee on Agriculture, Nutrition, and Forestry, July 30, 1998, available at: <<http://www.ustreas.gov/press/releases/rr2616.htm>>.

<sup>66</sup> Alan Greenspan, "Regulation of Over the Counter (OTC) Derivatives and Derivatives Markets," Hearing of the Senate Agriculture, Nutrition and Forestry Committee, July 30, 1998.

<sup>67</sup> Anthony Faiola, Ellen Nakashima and Jill Drew, "The Crash: What Went Wrong," The Washington Post, October 15, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>>.

<sup>68</sup> Sharona Coutts and Jake Bernstein, "Former

“This episode should serve as a wake-up call about the unknown risks that the over-the-counter derivatives market may pose to the U.S. economy and to financial stability around the world,” Born told the House Banking Committee two days later. “It has highlighted an immediate and pressing need to address whether there are unacceptable regulatory gaps relating to hedge funds and other large OTC derivatives market participants.”<sup>69</sup> But what should have been a moment of vindication for Born was swept aside by her adversaries, and Congress enacted a six-month moratorium on any CFTC action regarding derivatives or the swaps market.<sup>70</sup> (Permanent congressional action would soon follow, as the next section details.) In May 1999, Born resigned in frustration.

Born’s replacement, William Rainer, went along with Greenspan, Summers

(whom Clinton had appointed Treasury Secretary) and Levitt’s campaign to block any CFTC regulation. In November 1999, the inter-agency President’s Working Group on Financial Markets released a new report on derivatives recommending no regulation, saying it would “perpetuate legal uncertainty or impose unnecessary regulatory burdens and constraints upon the development of these markets in the United States.”<sup>71</sup> Among other rationalizations for this non-regulatory posture, the report argued, “the sophisticated counterparties that use OTC derivatives simply do not require the same protections” as retail investors.<sup>72</sup> The report briefly touched upon, but did not take seriously, the idea that financial derivatives posed overall financial systemic risk. To the extent that such risk exists, the report concluded, it was well addressed by private parties: “private counterparty discipline currently is the primary mechanism relied upon for achieving the public policy objective of reducing systemic risk. Government regulation should serve to supplement, rather than substitute for, private market

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Clinton Official Says Democrats, Obama Advisers Share Blame for Market Melt-down,” ProPublica, October 9, 2008, available at: <http://www.propublica.org/feature/former-clinton-official-says-democrats-obama-advisers-share-blame-for-marke/>.

<sup>69</sup> Brooksley Born, CFTC Chair, Testimony Before the House Committee on Banking and Financial Services, October 1, 1998, available at: <http://financialservices.house.gov/banking/10198bor.pdf>.

<sup>70</sup> Anthony Faiola, Ellen Nakashima and Jill Drew, “The Crash: What Went Wrong,” The Washington Post, October 15, 2008, available at: <http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>.

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<sup>71</sup> The President’s Working Group on Financial Markets, “Over-the-Counter Derivatives Markets and the Commodity Exchange Act,” November 1999, available at: <http://www.treas.gov/press/releases/reports/otcact.pdf>.

<sup>72</sup> The President’s Working Group on Financial Markets, “Over-the-Counter Derivatives Markets and the Commodity Exchange Act,” November 1999, available at: <http://www.treas.gov/press/releases/reports/otcact.pdf>.

discipline. In general, private counterparty credit risk management has been employed effectively by both regulated and unregulated dealers of OTC derivatives, and the tools required by federal regulators already exist.”<sup>73</sup>

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<sup>73</sup> The President’s Working Group on Financial Markets, “Over-the-Counter Derivatives Markets and the Commodity Exchange Act,” November 1999, available at: <<http://www.treas.gov/press/releases/reports/otcact.pdf>>.

# 4 CONGRESS BLOCKS FINANCIAL DERIVATIVE REGULATION

## IN THIS SECTION:

*The deregulation — or non-regulation — of financial derivatives was sealed in 2000, with the Commodities Futures Modernization Act (CFMA), passage of which was engineered by then-Senator Phil Gramm, R-Texas. The Commodities Futures Modernization Act exempts financial derivatives, including credit default swaps, from regulation and helped create the current financial crisis.*

Long before financial derivatives became the darlings of Wall Street, there were some in Congress who believed that the federal government should be given greater power to regulate derivatives.

In 1994, Senator Donald Riegle, D-Michigan, and Representative Henry Gonzalez, D-Texas, introduced separate bills calling for derivatives regulation;<sup>74</sup> both went nowhere.<sup>75</sup> Opposing regulation was a

bipartisan affair and inaction ruled the day.<sup>76</sup>

In 2000, a year after the outspoken Brooksley Born left the Commodity Futures Trading Commission (CFTC), Congress and President Clinton codified regulatory inaction with passage of the Commodity Futures Modernization Act (CFMA).<sup>77</sup> The legislation included an “Enron loophole,” which prohibited regulation of energy futures contracts and thereby contributed to the collapse of scandal-ridden Enron in 2001.

CFMA formally exempted financial derivatives, including the now infamous credit default swaps, from regulation and federal government oversight. One Wall Street analyst later noted that the CFMA “was slipped into the [budget] bill in the dead of night by our old friend Senator Phil Gramm of Texas — now Vice Chairman of [Swiss investment bank] UBS.”<sup>78</sup> Gramm led the congressional effort to block federal agencies from regulating derivatives, complaining that “[b]anks are already heavily regulated institutions.”<sup>79</sup> Gramm predicted

<sup>74</sup> The Derivatives Supervision Act of 1994, in the Senate; the Derivatives Safety and Soundness Supervision Act of 1994, in the House.

<sup>75</sup> Anthony Faiola, Ellen Nakashima and Jill Drew, “The Crash: What Went Wrong,” The Washington Post, October 15, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>>.

<sup>76</sup> The action that Congress did take — the six-month moratorium on CFTC regulation described in the previous section — cut against the need for regulation.

<sup>77</sup> Pub. L. No. 106-554, Appendix E, amending the Commodity Exchange Act, 7 U.S.C. § 1 et. seq.

<sup>78</sup> Dirk van Dijk, “Credit Default Swaps Explained,” Zacks Investment Research, September 24, 2008, available at: <<http://www.zacks.com/stock/news/14884/Credit+Default+Swaps+Explained>>.

<sup>79</sup> Sen. Phil Gramm, 106th Congress, 2nd Session, 146 Cong. Rec. S. 11867, December 15, 2000, available at:

CFMA “will be noted as a major achievement” and “as a watershed, where we turned away from the outmoded, Depression-era approach to financial regulation.”<sup>80</sup> He said the legislation “protects financial institutions from over-regulation, and provides legal certainty for the \$60 trillion market in swaps”<sup>81</sup> — in other words, it offered a guarantee that they would not be regulated.

By 2008, Gramm’s UBS was reeling from the global financial crisis he had helped create. The firm declared nearly \$50 billion in credit losses and write-downs, prompting a \$60 billion bailout by the Swiss government.<sup>82</sup>

Senator Gramm remains defiant today, telling the New York Times, “There is this idea afloat that if you had more regulation you would have fewer mistakes. I don’t see any evidence in our history or anybody

else’s to substantiate it. ... The markets have worked better than you might have thought.”<sup>83</sup>

Others have a more reality-based view. Former SEC Commissioner Harvey J. Goldschmid, conceded that “in hindsight, there’s no question that we would have been better off if we had been regulating derivatives.”<sup>84</sup>

While credit default swaps are not the underlying cause of the financial crisis, they dramatically exacerbated it. As mortgages and mortgage-backed securities plummeted in value from declining real estate values, big financial firms were unable to meet their insurance obligations under their credit default swaps.

Another action by Congress must be mentioned here. In 1995, bowing to the financial lobby after years of lobbying, Congress passed the Private Securities Litigation Reform Act.<sup>85</sup> The measure greatly restricted the rights of investors to sue Wall Street trading, accounting and investment firms for securities fraud. The author of the legislation was Representative

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<[http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11867&dbname=2000\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11867&dbname=2000_record)>.

<sup>80</sup> Sen. Phil Gramm, 106th Congress, 2nd Session, 146 Cong. Rec. S. 11868, December 15, 2000, available at:

<[http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11868&dbname=2000\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11868&dbname=2000_record)>.

<sup>81</sup> 106th Congress, 2nd Session, 146 Cong. Rec. S. 11866, Dec. 15, 2000, available at:

<[http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11866&dbname=2000\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S11866&dbname=2000_record)>.

<sup>82</sup> Eric Lipton and Stephen Labaton, “The Reckoning: Deregulator Looks Back, Unswayed,” New York Times, November 16, 2008, available at: <[http://www.nytimes.com/2008/11/17/business/economy/17gramm.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2008/11/17/business/economy/17gramm.html?_r=1&pagewanted=all)>.

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<sup>83</sup> Eric Lipton and Stephen Labaton, “Deregulator Looks Back, Unswayed,” New York Times, November 16, 2008, available at: <<http://www.nytimes.com/2008/11/17/business/economy/17gramm.html?pagewanted=all>>

<sup>84</sup> “The Crash: What Went Wrong?” Washington Post website, Undated, available at: <<http://www.washingtonpost.com/wp-srv/business/risk/index.html?hpid=topnews>>

<sup>85</sup> 15 U.S.C. § 78u-4.



Christopher Cox, R-California, who President Bush later appointed Chair of the Securities and Exchange Commission.

In the debate over the bill in the House of Representatives, Representative Ed Markey, D-Massachusetts, proposed an amendment that would have exempted financial derivatives from the Private Securities Litigation Reform Act.<sup>86</sup> Markey anticipated many of the problems that would explode a decade later: “All of these products have now been sent out into the American marketplace, in many instances with the promise that they are quite safe for a municipality to purchase. ... The objective of the Markey amendment out here is to ensure that investors are protected when they are misled into products of this nature, which by their very personality cannot possibly be understood by ordinary, unsophisticated investors. By that, I mean the town treasurers, the country treasurers, the ordinary individual that thinks that they are sophisticated, but they are not so sophisticated that they can understand an algorithm that stretches out for half a mile and was constructed only inside of the mind of this 26- or 28-year-old summa cum laude in mathematics from Cal Tech or from MIT who constructed it. No one else in the firm un-

derstands it. The lesson that we are learning is that the heads of these firms turn a blind eye, because the profits are so great from these products that, in fact, the CEOs of the companies do not even want to know how it happens until the crash.”

Representative Cox led the opposition to the Markey amendment. He was able to cite the opposition of Alan Greenspan, chair of the Federal Reserve, and President Clinton’s SEC Chair Arthur Levitt. He quoted Greenspan saying that “singling out derivative instruments for special regulatory treatment” would be a “serious mistake.” He also quoted Levitt, who warned, “It would be a grave error to demonize derivatives.”<sup>87</sup>

The amendment was rejected. The specter of litigation is a powerful deterrent to wrongdoing. The Private Securities Litigation Reform Act weakened that deterrent — including for derivatives — and today makes it more difficult for defrauded investors to seek compensation for their losses.



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<sup>86</sup> Rep. Edward Markey, 104th Congress 1st Session, 141 Cong. Rec. H. 2826, March 8, 1995, available at: <[http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=1995\\_record&page=H2826&position=all](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=1995_record&page=H2826&position=all)>.

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<sup>87</sup> Rep. Christopher Cox, 104th Congress 1st Session, 141 Cong. Rec. H. 2828, March 8, 1995, available at: <[http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=H2828&dbname=1995\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=H2828&dbname=1995_record)>.

## 5 THE SEC'S VOLUNTARY REGULATION REGIME FOR INVESTMENT BANKS

### IN THIS SECTION:

*In 1975, the SEC's trading and markets division promulgated a rule requiring investment banks to maintain a debt-to-net-capital ratio of less than 12 to 1. It forbid trading in securities if the ratio reached or exceeded 12 to 1, so most companies maintained a ratio far below it. In 2004, however, the SEC succumbed to a push from the big investment banks — led by Goldman Sachs, and its then-chair, Henry Paulson — and authorized investment banks to develop their own net capital requirements in accordance with standards published by the Basel Committee on Banking Supervision. This essentially involved complicated mathematical formulas that imposed no real limits, and was voluntarily administered. With this new freedom, investment banks pushed borrowing ratios to as high as 40 to 1, as in the case of Merrill Lynch. This super-leverage not only made the investment banks more vulnerable when the housing bubble popped, it enabled the banks to create a more tangled mess of derivative investments — so that their individual failures, or the potential of failure, became systemic crises. Former SEC Chair Chris Cox has acknowledged that the voluntary regulation was a complete failure.*

Until the current financial crisis, investment banks regularly borrowed funds to purchase securities and debt instruments. A “highly leveraged” financial institution is one that owns financial assets that it acquired with substantial amounts of borrowed money. The Securities and Exchange Commission (SEC) prohibited broker-dealers (i.e. stock brokers and investment banks) from exceeding established limits on the amount of borrowed money used for buying securities. Investment banks that accrued more than 12 dollars in debt for every dollar in bank capital (their “net capital ratio”) were prohibited from trading in the stock market.<sup>88</sup> As a result, the five major Wall Street investment banks maintained net capital ratios far below the 12 to 1 limit. The rule also required broker-dealers to maintain a designated amount of set-aside capital based on the riskiness of their investments; the riskier the investment, the more they would need to set aside. This limitation on accruing debt was designed to protect the assets of customers with funds held or managed by the stock broker or investment bank, and to ensure that the broker or investment bank could meet its contractual obligations to other firms.<sup>89</sup> The rule was adopted by the

<sup>88</sup> 17 C.F.R. § 240, 15c3-1.

<sup>89</sup> “Toxic Waste Build Up: How Regulatory Changes Let Wall Street Make Bigger Risky Bets,” An Interview with Lee Pickard, *Multinational Monitor*, November/December 2008, available at: <http://www.multinationalmonitor.org/mm2>

SEC under the general regulatory authority granted by Congress when it established the SEC to regulate the financial industry in 1934 as a key reform in the aftermath of the 1929 crash.

In 2004, the SEC abolished its 19-year old “debt-to-net-capital rule” in favor of a voluntary system that allowed investment banks to formulate their own “rule.”<sup>90</sup> Under this new scheme, large investment banks would assess their level of risk based on their own risk management computer models. The SEC acted at the urging of the big investment banks led by Goldman Sachs, which was then headed by Henry M. Paulson Jr., who would become Treasury secretary two years later, and was the architect of the Bush administration’s response to the current financial debacle: the unprecedented taxpayer bailout of banks, investment firms, insurers and others. After a 55-minute discussion, the SEC voted unanimously to abolish the rule.<sup>91</sup>

**The SEC’s Inspector General concluded that “it is undisputable” that the SEC “failed to carry out its mission in its oversight of Bear Stearns,” which collapsed in 2008 under massive mortgage-backed securities losses.**

The SEC’s new policy, foreseeably, enabled investment banks to make much greater use of borrowed funds. The top five investment banks participated in the SEC’s voluntary program: Bear Stearns, Goldman Sachs, Morgan Stanley, Merrill Lynch and Lehman Brothers. By 2008, these firms had borrowed 20, 30 and 40 dollars for each dollar in capital, far exceeding the standard 12 to 1 ratio. Much of the borrowed funds were used to purchase billions of dollars in subprime-related and

other mortgage-backed securities (MBSs) and their associated derivatives, including credit default swaps. The securities were purchased at a time when real estate values were skyrocketing and few predicted an end to the financial party. As late as the March 2008 collapse of Bear Stearns, SEC Chair Christopher Cox continued to support the voluntary program: “We have a good deal of comfort about the capital cushions at these firms at the moment,” he said.<sup>92</sup>

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008/112008/interview-pickard.html>.

<sup>90</sup> Final Rule: Alternative Net Capital Requirements for Broker-Dealers that are Part of Consolidated Entities, 17 C.F.R. §§ 200 and 240 (2004). Available at: <[www.sec.gov/rules/final/34.49830.htm](http://www.sec.gov/rules/final/34.49830.htm)>.

<sup>91</sup> Stephen Labaton, “Agency’s ’04 Rule Let

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Banks Pile Up New Debt,” New York Times, October 2, 2008, available at: <[http://www.nytimes.com/2008/10/03/business/03sec.html?\\_r=1](http://www.nytimes.com/2008/10/03/business/03sec.html?_r=1)>.

<sup>92</sup> Stephen Labaton, “Agency’s ’04 Rule Let Banks Pile Up New Debt,” New York Times, October 2, 2008, available at: <<http://www.nytimes.com/2008/10/03/business>>.

The SEC had abolished the net capital rule with the caveat that it would continue monitoring the banks for financial or operational weaknesses. But a 2008 investigation by the SEC's Inspector General (IG) found that the agency had neglected its oversight responsibilities. The IG concluded that "it is undisputable" that the SEC "failed to carry out its mission in its oversight of Bear Stearns," which collapsed in 2008 under massive mortgage-backed securities losses, leading the Federal Reserve to intervene with taxpayer dollars "to prevent significant harm to the broader financial system." The IG said the SEC "became aware of numerous potential red flags prior to Bear Stearns' collapse," including its concentration of mortgage securities and high leverage, "but did not take actions to limit these risk factors." Moreover, concluded the IG, the SEC "was aware ... that Bear Stearns' concentration of mortgage securities was increasing for several years and was beyond its internal limits." Nevertheless, it "did not make any efforts to limit Bear Stearns' mortgage securities concentration." The IG said the SEC was "aware that Bear Stearns' leverage was high;" but made no effort to require the firm to reduce leverage "despite some authoritative sources describing a linkage between leverage and liquidity risk." Furthermore, the SEC "became aware that risk management of mortgages at Bear Stearns

had numerous shortcomings, including lack of expertise by risk managers in mortgage-backed securities" and "persistent understaffing; a proximity of risk managers to traders suggesting a lack of independence; turnover of key personnel during times of crisis; and the inability or unwillingness to update models to reflect changing circumstances." Notwithstanding this knowledge, the SEC "missed opportunities to push Bear Stearns aggressively to address these identified concerns."

The much-lauded computer models and risk management software that investment banks used in recent years to calculate risk and net capital ratios under the SEC's voluntary program had been overwhelmed by human error, overly optimistic assumptions, including that the housing bubble would not burst, and a failure to contemplate system-wide asset deflation. Similar computer models failed to prevent the demise of Long-Term Capital Management, a heavily leveraged hedge fund that collapsed in 1998, and the stock market crash of October 1987.<sup>93</sup> The editors at Scientific American magazine lambasted the SEC and the investment banks for their "[o]verreliance on financial software crafted by physics and

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ess/03sec.html?\_r=1>.

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<sup>93</sup> Stephen Labaton, "Agency's '04 Rule Let Banks Pile Up New Debt," New York Times, October 2, 2008 (citing Leonard D. Bole, software consultant), available at: <[http://www.nytimes.com/2008/10/03/business/03sec.html?\\_r=1](http://www.nytimes.com/2008/10/03/business/03sec.html?_r=1)>.

math Ph.D.s.”<sup>94</sup>

By the fall of 2008, the number of major investment banks on Wall Street dropped from five to zero. All five securities grants either disappeared or became bank holding companies in order to avail themselves of taxpayer bailout money. JP Morgan bought Bear Stearns, Lehman Brothers filed for bankruptcy protection, Bank of America announced its rescue of Merrill Lynch by purchasing it, while Goldman Sachs and Morgan Stanley became bank holding companies with the Federal Reserve as their new principal regulator.

On September 26, 2008, as the crisis became a financial meltdown of epic proportions, SEC Chair Cox, who spent his entire public career as a deregulator, conceded “the last six months have made it abundantly clear that voluntary regulation does not work.”<sup>95</sup>



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<sup>94</sup> The Editors, “After the Crash: How Software Models Doomed the Markets,” *Scientific American*, November 2008, available at: <<http://www.sciam.com/article.cfm?id=after-the-crash>>.

<sup>95</sup> Anthony Faiola, Ellen Nakashima and Jill Drew, “The Crash: What Went Wrong,” *The Washington Post*, October 15, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/story/2008/10/14/ST2008101403344.html>>.

# 6 BANK SELF-REGULATION GOES GLOBAL: PREPARING TO REPEAT THE MELTDOWN?

## IN THIS SECTION:

*In 1988, global bank regulators adopted a set of rules known as Basel I, to impose a minimum global standard of capital adequacy for banks. Complicated financial maneuvering made it hard to determine compliance, however, which led to negotiations over a new set of regulations. Basel II, heavily influenced by the banks themselves, establishes varying capital reserve requirements, based on subjective factors of agency ratings and the banks' own internal risk-assessment models. The SEC experience with Basel II principles illustrates their fatal flaws. Commercial banks in the United States are supposed to be compliant with aspects of Basel II as of April 2008, but complications and intra-industry disputes have slowed implementation.*

Banks are inherently highly leveraged institutions, meaning they hold large amounts of debt compared to their net worth (or equity). As a result, their debt-to-equity (or debt-to-capital) ratios are generally higher than for other types of corporations. Regulators have therefore required banks to maintain an adequate cushion of capital to protect against unexpected losses, especially losses generated on highly leveraged in-

vestments. Generally, banks are required to keep higher capital amounts in reserve in order to hold assets with higher risks and, inversely, lower capital for lower risk assets. In other words, banks with riskier credit exposures are required to retain more capital to back the bank's obligations.

In 1988, national bank regulators from the largest industrial countries adopted a set of international banking guidelines known as the Basel Accords. The Basel Accords determine how much capital a bank must hold as a cushion. Ultimately, the purpose of the Basel Accords is to prevent banks from creating a "systemic risk," or a risk to the financial health of the entire banking system. The idea of an international agreement was to level the playing field for capital regulation as among banks based in different countries.

The first Basel Accords, known as Basel I, did not well distinguish between loans involving different levels of risk. This gave rise to two sets of problems. Banks had an incentive to make riskier (and potentially higher return) loans, because the riskier loans within a given category did not require more set-aside capital. For example, Basel I categorized all commercial loans into the 8 percent capital category — meaning 8 percent of a bank's capital must be set aside to hold commercial loans — even though not all commercial loans are equivalently risky. The Basel I rules also gave banks an

incentive to engage in “regulatory capital arbitrage,” whereby a bank maneuvers the accounting classification of a loan so that it is classified under Basel I rules as requiring less set-aside capital — even though the bank’s overall risk has not diminished. Securitization is the main method used by banks to engage in regulatory capital arbitrage. Securitized loans are listed on a bank’s “trading account,” which requires less set-aside capital than the “banking book,” where loans are maintained.<sup>96</sup>

To address these problems, the Basel Committee on Banking Supervision agreed in 2004 to an updated bank capital accord (Basel II), formally known as the “International Convergence of Capital Measurement and Capital Standards: a Revised Framework.” The Committee’s members come from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom and the United States; the United States Federal Reserve serves as a participating member.

Rather than dealing directly with the issue of differentiated levels of risk within categories and the problem of regulatory

arbitrage by establishing updated and more granular capital standards, Basel II authorized banks to use their own internal models for assessing “risk.” Critics say that under this system, banks will be able to employ their internal risk models to transform high-risk assets into “low risk.”

For example, where Basel I categorized all commercial loans into the 8 percent capital category, internal bank models would have allowed for capital allocations on commercial loans that vary from 1 percent to 30 percent, depending on the loan’s estimated risk. The revised framework under Basel II gives banks the leeway to lump commercial loans into these differing capital adequacy requirements, depending on risk as estimated by banks, not the regulators. Basel II rules appear set to reduce the overall capital requirements for banks.<sup>97</sup>

U.S. federal financial regulatory agencies — the Federal Reserve, Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision — have struggled to find an operationally satisfactory means to implement Basel II. It now appears U.S. application will be limited to large commercial banks only, with some Basel II

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<sup>96</sup> David Jones and John Mingo, “Industry Practices in Credit Risk Modeling and Internal Capital Allocations: Implications for a Models-Based Regulatory Capital Standard,” 4 FRBNY Econ. Pol’y Rev. 3, 53 (1998), available at: <<http://www.newyorkfed.org/research/epr/98v04n3/9810jone.pdf>>.

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<sup>97</sup> Testimony of Daniel K. Tarullo, “Hearing on the Development of the New Basel Capital Accords,” Committee on Banking, Housing and Urban Affairs, United States Senate, November, 10 2005, available at: <[http://banking.senate.gov/public/\\_files/tarullo.pdf](http://banking.senate.gov/public/_files/tarullo.pdf)>.

requirements coming into effect via regulation as of April 2008.<sup>98</sup> The Securities and Exchange Commission (SEC) imposed parallel requirements on Wall Street investment banks in 2004. According to the Federal Reserve, Basel II is supposed to “improve the consistency of capital regulations internationally, make regulatory capital more risk sensitive, and promote enhanced risk-management practices among large, internationally active banking organizations.”<sup>99</sup>

But the SEC’s experience with the Basel II approach reveals a fundamental flaw in allowing banks to make their own risk assessments. Investment bank Bear Stearns collapsed in 2008 even though its own risk analysis showed it to be a sound institution. SEC Chairman Christopher Cox said “the rapid collapse of Bear Stearns ... challenged the fundamental assumptions behind the Basel standards and the other program metrics. At the time of its near-failure, Bear Stearns had a capital cushion

**The SEC’s experience with  
the Basel II approach reveals  
a fundamental flaw in allow-  
ing banks to make their own  
risk assessments.**

well above what is required to meet supervisory standards calculated using the Basel framework and the Federal Reserve’s ‘well-capitalized’ standard for bank holding companies.”<sup>100</sup> In other words, Bear Stearns had been complying with the relaxed Basel II framework and it still failed.

Proponents of Basel II argue that internal risk assessments will not be cause for abuse because regulators will be heavily involved via added oversight and disclosure. Five years before the 2008 financial crisis, John D. Hawke, Jr., then U.S. Comptroller of the Currency, lauded the Basel II standards, arguing that “some have viewed the new Basel II approach as leaving it up to the banks to determine their own minimum capital — putting the fox in charge of the chicken coop. This is categorically not the case. While a bank’s internal models and risk assessment systems will be the starting point for the calculation of capital, bank supervisors will be heavily involved at every stage of the process.”<sup>101</sup>

<sup>98</sup> Office of the Comptroller of the Currency, “Basel II Advanced Approaches and Basel II Standardized Approach,” undated, available at: <<http://www.occ.treas.gov/law/basel.htm>>.

<sup>99</sup> Basel II Capital Accord, Basel I Initiatives, and Other Basel-Related Matters, Federal Reserve Board, August 28, 2008, available at: <<http://www.federalreserve.gov/GeneralInfo/basel2/>>.

<sup>100</sup> Chairman Christopher Cox, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 23, 2008, available at: <<http://oversight.house.gov/documents/20081023100525.pdf>>.

<sup>101</sup> John D. Hawke, Jr., Comptroller of the Currency, Before the Committee on Bank-



But the Comptroller's claim is not supported by the SEC's experience. The SEC's Inspector General (IG) found that regulators were anything but "heavily involved" in oversight of Bear Stearns in the years before its collapse. As noted above (Part I.5), the IG concluded that "it is undisputable" that the SEC "failed to carry out its mission in its oversight of Bear Stearns."

The banks' internal risk models performed horribly in the housing bubble and subsequent meltdown. It's hard to see the logic of a system that would embed those models into regulatory requirements for set-aside capital.<sup>102</sup>



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ing, Housing, and Urban Affairs, United States Senate, June 18, 2003, available at: <[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108\\_senate\\_hearings&docid=f:94514.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_senate_hearings&docid=f:94514.pdf)>.

<sup>102</sup> Steven Sloan, "Another Reason to Disagree Over Basel," *American Banker*, January 6, 2009, available at: <[http://www.aba.com/aba/documents/ICAAP\\_WG/Sloan\\_AB\\_090106.pdf](http://www.aba.com/aba/documents/ICAAP_WG/Sloan_AB_090106.pdf)>. ("I am most concerned that any institution that tends to underestimate its risk exposure — as many recently have — will be just as likely to underestimate its capital needs if allowed to operate a risk-based capital standard, such as Basel II," Mr. Hoenig [the president and chief executive of the Federal Reserve Bank of Kansas City] said. "Risk-based capital standards may also encourage institutions to lower their capital, instead of build it up, in the prosperous times that typically precede a crisis.")

# 7 FAILURE TO PREVENT PREDATORY LENDING

## IN THIS SECTION:

*Even in a deregulated environment, the banking regulators retained authority to crack down on predatory lending abuses. Such enforcement activity would have protected homeowners, and lessened though not prevented the current financial crisis. But the regulators sat on their hands. The Federal Reserve took three formal actions against subprime lenders from 2002 to 2007. The Office of Comptroller of the Currency, which has authority over almost 1,800 banks, took three consumer-protection enforcement actions from 2004 to 2006.*

Subprime loans are those made to persons who ostensibly have a poor credit history. Predatory loans are, to a significant extent, a subset of subprime loans.<sup>103</sup> A bank is engaged in predatory lending when it “tak[es] advantage of a borrower’s lack of sophistication to give them a loan whose rates and terms may not be beneficial to the borrower.”<sup>104</sup> Common predatory terms

include high fees and charges associated with the loan; low teaser interest rates, which skyrocket after an initial grace period; and negative amortization loans, which require, for a time, monthly payments less than the interest due. These are, typically, unaffordable loans.

The real-world examples of predatory lending are shocking. In one lawsuit, Albert Zacholl, a 74-year-old man living in Southern California, alleges that Countrywide and a pair of mortgage brokers “cold-called and aggressively baited” him. They promised him \$30,000 cash, a mortgage that would replace his previous mortgage (which was leaving him owing more each month) and a monthly payment that would not exceed \$1,700. Zacholl told the brokers that his income consisted of a pension of \$350 a month and Social Security payments of \$958, and that with help from his son, he could afford a mortgage up to \$1,700. According to the lawsuit, the broker falsified his loan application by putting down an income of \$7,000 a month, and then arranged for a high-interest mortgage that required him to pay more than \$3,000 a month (and failed to deliver the \$30,000 cash payment). The motivation for the scam, according to the lawsuit, was to collect

<sup>103</sup> Non-prime mortgages known as Alt-A — with riskier borrower profiles than prime mortgages but less so than subprime — also often contain predatory terms.

<sup>104</sup> “The Foreclosure Epidemic: The Costs to Families and Communities of the Predictable Mortgage Meltdown,” An interview

with Allen Fishbein, Consumer Federation of America, Multinational Monitor, May/June 2007, available at: <<http://www.multinationalmonitor.org/mm2007/052007/interview-fishbein.html>>.

\$13,000 in fees. In court papers, the Center for Responsible Lending reports, Countrywide responded that Zacholl “consented to the terms of the transaction” and that any problems were the result of his own “negligence and carelessness.”<sup>105</sup>

Preventing predatory lending practices would not have prevented the housing bubble and the subsequent financial meltdown, but it would have taken some air out of the bubble and softened the economic crisis — and it would have saved millions of families and communities across the country from economic ruin.

Unlike the housing bubble itself, predatory lending was easily avoidable through sound regulation.

But federal regulators were asleep at the switch, lulled into somnolence by cozy relationships with banks and Wall Street and a haze-inducing deregulatory ideology.

Regulators were warned at the outset of the housing bubble about the growth in predatory lending, and public interest advocates pleaded with them to take action. They declined, refusing either to issue appropriate regulatory rules or to take enforcement actions against predatory lenders. (Congress similarly failed to act in response to the

alarm bells sounded by public interest advocates.)

Reviewing the record of the past seven years shows that:

1. Federal regulators — and Members of Congress — were warned at the outset of the housing bubble about the growth in predatory lending, and public interest advocates pleaded with them to take action.
2. Federal regulators — and Congress — refused to issue appropriate regulatory rules to stem predatory lending.
3. Action at the state level showed that predatory lending rules could limit abusive loans.
4. Federal regulators failed to take enforcement actions against predatory lenders.
5. After the housing bubble had popped, and the subprime lending industry collapsed, federal regulators in 2008 issued new rules to limit predatory practices. While highly imperfect, the new rules evidence what might have been done in 2001 to prevent abuses.

### *Early Warnings on Predatory Lending Yield No Regulatory Action*

There are only limited federal substantive statutory requirements regarding predatory lending. These are established in the Home

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<sup>105</sup> Center for Responsible Lending, “Unfair and Unsafe: How Countrywide’s irresponsible practices have harmed borrowers and shareholders,” February 2008, available at: <<http://www.responsiblelending.org/issues/mortgage/countrywide-watch/unfair-and-unsafe.html>>.

Ownership and Equity Protection Act (HOEPA), which was adopted in 1994. HOEPA effectively put an end to certain predatory practices, but only for loans containing upfront fees or charges of more than 8 percent of the loan amount, or interest rates above a varying, but very high threshold. Predatory lenders easily devised ways to work around these limitations.

In 2000 and 2001, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve and the Office of Thrift Supervision, among other federal agencies, adopted or considered rules to further restrict predatory lending. The adopted binding rules, issued by the Federal Reserve pursuant to HOEPA, however, focused very narrowly on certain egregious practices.<sup>106</sup> More expansive statements on predatory lending were issued only as non-binding guidelines. The reliance on non-binding guidelines continued through the decade.

As regulators were issuing non-binding guidelines, public interest advocates were praising their recognition of the problem — but urging that more forceful action be

taken.

“Clearly, the FDIC recognizes that there is a grave problem throughout the U.S., particularly affecting low income and minority households and neighborhoods,” wrote the National Consumer Law Center and the Consumer Federation of America in January 2001 comments submitted to the FDIC. “While many regulators recognize the

gravity of the predatory lending problem, the appropriate — and politically feasible — method of addressing the problem still appears elusive.”<sup>107</sup>

What was needed, the consumer groups argued, was binding regulation. “All agencies should adopt a bold, comprehensive and specific series of regulations to change the mortgage marketplace,” the groups wrote, so that “predatory mortgage practices are either specifically prohibited, or are so costly to the mortgage lender that they are not economically feasible” while ensuring that “necessary credit is made available with appropriate rates and terms to all Ameri-

**Unlike the housing bubble  
itself, predatory lending  
was easily avoidable  
through sound regulation.  
But federal regulators were  
asleep at the switch.**

<sup>106</sup> 12 C.F.R. 226 (Regulation Z; Docket No. R-1090), 66 Fed. Reg. 245, 65604-65622 (2001) (adjusting the price trigger for coverage under HOEPA and prohibiting certain acts).

<sup>107</sup> National Consumer Law Center and the Consumer Federation of America, “How to Avoid Purchasing or Investing in Predatory Mortgage Loans,” January 31, 2001, available at: <[http://www.nclc.org/issues/predatory\\_mortgage/fdic.shtml](http://www.nclc.org/issues/predatory_mortgage/fdic.shtml)>.

cans.”<sup>108</sup>

Public interest groups would repeat this advice again and again over the subsequent years, pointing to growing abuses and proposing specific remedies.

But federal agencies, operating under the prevailing laissez-faire ideology of the Bush Administration, declined to issue any binding regulations in response to mushrooming predatory lending. They did issue additional guidance statements, but these were non-binding and consistently behind the curve of evolving lender abuses. Not surprisingly, they failed to curtail predatory lending practices.

### *A Failure to Enforce*

Federal regulators also failed to enforce the rules that were on the books.

From 2003 through the start of 2007, the Federal Reserve, which has jurisdiction over the entire banking industry, took a mere three formal enforcement actions<sup>109</sup> to stop

<sup>108</sup> National Consumer Law Center and the Consumer Federation of America, “How to Avoid Purchasing or Investing in Predatory Mortgage Loans,” January 31, 2001, available at: [http://www.nclc.org/issues/predatory\\_mortgage/fdic.shtml](http://www.nclc.org/issues/predatory_mortgage/fdic.shtml).

<sup>109</sup> “Generally, the Federal Reserve takes formal enforcement actions against [banks] for violations of laws, rules, or regulations, unsafe or unsound practices, breaches of fiduciary duty, and violations of final orders. Formal enforcement actions include cease and desist orders, written agreements, removal and prohibition orders, and orders assessing civil money penalties.” The Federal Reserve Board, “Enforcement Actions,” available at:

predatory lending.<sup>110</sup> The Office of the Comptroller of the Currency (OCC), which has regulatory authority over roughly 1,800 nationally chartered banks, similarly took three public enforcement actions from 2004 to 2006.<sup>111</sup> These numbers reflect a startling regulatory failure during the peak period of abusive subprime lending. Subprime loans made up between one-in-six and one-in-five home mortgage loans in 2004, 2005 and 2006.<sup>112</sup>

Although Federal Reserve officials now acknowledge that they should have done more, the OCC says it took appropriate action. Both agencies insist that they also addressed abuses on an informal, bank-by-bank basis, ordering improved practices in connection with the agency’s routine examinations of individual banks. The informal and non-public nature of this approach

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<<http://www.federalreserve.gov/boarddocs/enforcement>>.

<sup>110</sup> James Tyson, Craig Torres and Alison Vekshin, “Fed Says It Could Have Acted Sooner on Subprime Rout,” Bloomberg, March 22, 2007, available at: <http://www.bloomberg.com/apps/news?pid=20601087&sid=a1.KbcMbvliA&refer=home>.

<sup>111</sup> Craig Torres and Alison Vekshin, “Fed, OCC Publicly Chastised Few Lenders During Boom,” Bloomberg, March 14, 2007, available at: <http://www.bloomberg.com/apps/news?pid=20601103&sid=a6WTZifUUH7g&refer=us>.

<sup>112</sup> Chris Mayer and Karen Pence, “Subprime Mortgages: What, Where and to Whom,” Figure 1B, Federal Reserve, 2008, available at: <http://www.federalreserve.gov/pubs/feds/2008/200829/200829pap.pdf>.

means that Fed and OCC's claims cannot be easily verified.

Even if there were extensive private enforcement actions or conversations, such moves fail to perform important public functions. They do not signal appropriate behavior and clear rules to other lenders; and they do not provide information to victimized borrowers, thereby depriving them of an opportunity to initiate follow-on litigation to recover for harms perpetrated against them.

### ***State Action Shows What Could Have Been Done***

While federal regulators sat on their hands, some states adopted meaningful anti-predatory lending laws and brought enforcement actions against abusive lenders. This report does not explore state regulatory successes and failures, but the ability of states to regulate and address abusive lender behavior demonstrates what federal regulators might have done.

A comprehensive review of subprime loans conducted by the Center for Responsible Lending found that aggressive state regulatory action greatly reduced the number of predatory loans, without affecting

borrowers access to subprime credit. "States with anti-predatory lending laws reduced the proportion of loans with targeted [predatory] terms by 30 percentage points," the study determined. Even this number masked the superior performance of those with the toughest laws. "States with the strongest laws — Massachusetts, New Jersey, New Mexico, New York, North Carolina, and West Virginia — are generally

associated with the largest declines in targeted terms relative to states without significant protections," the study found.<sup>113</sup>

The Center for Responsible Lending study also concluded that lending continued at a constant rate in states with anti-predatory lending laws, and that "state laws have not increased interest rates and, in some cases, borrowers actually paid lower rates for subprime mortgages after their state laws became effective compared to borrowers in states without significant protections." In other words, eliminating abusive fees did not translate into higher interest rates.<sup>114</sup>

**Federal agencies, operating under the prevailing laissez-faire ideology of the Bush Administration, declined to issue any binding regulations in response to mushrooming predatory lending.**

<sup>113</sup> Wei Li and Keith S. Ernst, "The Best Value in the Subprime Market: State Predatory Lending Reforms," Center for Responsible Lending, February, 23, 2006, available at: <[http://www.responsiblelending.org/pdfs/rr010-State\\_Effects-0206.pdf](http://www.responsiblelending.org/pdfs/rr010-State_Effects-0206.pdf)>.

<sup>114</sup> Wei Li and Keith S. Ernst, "The Best Value in the Subprime Market: State Predatory

*Partially Closing the Barn Door (after the horses left and a foreclosure sign is posted)*

After years of inaction, and confronted with signs of the economic meltdown to come, the Federal Reserve in January 2008 finally proposed binding regulations that would apply to all lenders, not just nationally chartered banks.

The Federal Reserve proposal noted the growth of subprime mortgages, claimed the expansion of subprime credit meaningfully contributed to increases in home ownership rates (a gain quickly unraveling due to the subprime-related foreclosure epidemic) and modestly suggested that “[r]ecently, however, some of this benefit has eroded. In the last two years, delinquencies and foreclosure starts have increased dramatically and reached exceptionally high levels as house price growth has slowed or prices have declined in some areas.”<sup>115</sup>

With slight modification, the Fed adopted these rules in July.<sup>116</sup> The new regulations establish a new category of “higher-priced mortgages” intended to include virtually all subprime loans. The regulations prohibit a number of abusive practices in connection with these newly

defined “higher-priced mortgages.”<sup>117</sup> They also apply some measures — such as specified deceptive advertising practices — for all loans, regardless of whether they are subprime.<sup>118</sup>

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<sup>117</sup> Key elements of these regulations:

- Prohibit a lender from engaging in a pattern or practice of making loans without considering the borrowers’ ability to repay the loans from sources other than the home’s value.
- Prohibit a lender from making a loan by relying on income or assets that it does not verify.
- Restrict prepayment penalties only to loans that meet certain conditions, including the condition that the penalty expire at least sixty days before any possible increase in the loan payment.
- Require that the lender establish an escrow account for the payment of property taxes and homeowners’ insurance. The lender may only offer the borrower the opportunity to opt out of the escrow account after one year.

<sup>118</sup> These regulatory provisions, applying to all mortgages, regardless of whether they are subprime:

- Prohibit certain servicing practices, such as failing to credit a payment to a consumer’s account when the servicer receives it, failing to provide a payoff statement within a reasonable period of time, and “pyramiding” late fees.
- Prohibit a creditor or broker from coercing or encouraging an appraiser to misrepresent the value of a home.
- Prohibit seven misleading or deceptive advertising practices for closed-end loans; for example, using the term “fixed” to describe a rate that is not truly fixed. It would also require that all applicable rates or payments be disclosed in advertisements with equal prominence as advertised introductory or “teaser” rates.
- Require truth-in-lending disclosures to borrowers early enough to use while shopping for a mortgage. Lenders could not charge fees until after the consumer receives the disclosures, except a fee to

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Lending Reforms,” Center for Responsible Lending, February, 23, 2006, available at: <[http://www.responsiblelending.org/pdfs/rr010-State\\_Effects-0206.pdf](http://www.responsiblelending.org/pdfs/rr010-State_Effects-0206.pdf)>.

<sup>115</sup> Federal Reserve System, Truth In Lending, 73 Fed. Reg. 6, 1673-74 (2008).

<sup>116</sup> Federal Reserve System, 12 C.F.R. § 226, [Regulation Z; Docket No. R-1305], 73 Fed. Reg. 147, 44521-614 (2008).

These measures are not inconsequential. They show the kind of action the Federal Reserve could have taken at the start of this decade — moves that could have dramatically altered the subsequent course of events.

But the 2008 regulations remain inadequate, as a coalition of consumer and housing groups has specified in great detail,<sup>119</sup> because they fail to break with longstanding deregulatory nostrums. The Fed continues to emphasize the importance of enabling lenders to make credit available to minority and lower-income communities — historically, a deep-rooted concern — while failing to acknowledge that the overriding problem has become lenders willing to make credit available, but on abusive terms.

“The proposed regulations continue to be most protective of the flawed concept that access to credit should be the guiding principle for credit regulation. These regulations need to be significantly strengthened in order for consumers to be adequately pro-

tected,” argue the consumer and housing groups. They provide an extensive list of needed revisions to the proposed regulations, including that the regulations:

- Cover all loans, including prime loans;
- Require an “ability to repay” analysis for each loan;
- Ban prepayment penalties;
- Address lender and originator incentives for appraisal fraud; and
- Provide effective private litigation remedies for victimized borrowers.<sup>120</sup>

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obtain a credit report.

<sup>119</sup> National Consumer Law Center, Consumer Action, Consumer Federation of America, Consumers Union, Leadership Conference on Civil Rights, National Association of Consumer Advocates, National Fair Housing Alliance, and the Empire Justice Center (“National Consumer Law Center et. al.”), “Comments to the Board of Governors of the Federal Reserve System Regarding Proposed Regulations Relating to Unfair Trade Practices In Connection with Mortgage Lending,” April 2008, available at: <[http://www.consumerfed.org/pdfs/HOEPA\\_comments\\_NCLC\\_final.pdf](http://www.consumerfed.org/pdfs/HOEPA_comments_NCLC_final.pdf)>.

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<sup>120</sup> National Consumer Law Center, et. al., “Comments to the Board of Governors of the Federal Reserve System Regarding Proposed Regulations Relating to Unfair Trade Practices In Connection with Mortgage Lending,” April 2008, available at: <[http://www.consumerfed.org/pdfs/HOEPA\\_comments\\_NCLC\\_final.pdf](http://www.consumerfed.org/pdfs/HOEPA_comments_NCLC_final.pdf)>.



## ORIGINS OF THE HOUSING BUBBLE

The housing bubble can be traced to a series of inter-related developments in the macro-economy, themselves due in significant part to political choices.

First, the Federal Reserve lowered interest rates to historically low levels in response to the economic downturn that followed the collapse of the stock market bubble of the 1990s and the additional economic slowdown after 9/11. Low interest rates had beneficial effects in spurring economic activity, but they also created the conditions for the housing bubble, as cheap credit made mortgage financing an attractive proposition for home buyers.

Cheap credit was not a result only of Fed interest rate decisions. A second contributing factor to the housing bubble was the massive influx of capital into the United States from China. China's capital surplus was the mirror image of the U.S. trade deficit — U.S. corporations were sending dollars to China in exchange for goods sold to U.S. consumers. China then reinvested much of that surplus in the U.S. bond market, with the effect of keeping U.S. interest rates low.

Cheap credit did not automatically mean there would be a housing bubble. Crucially, government officials failed to intervene to pop the housing bubble. As economists Dean Baker and Mark Weisbrot of the Center for Economic and Policy Research insisted at the time, simply by identifying the bubble — and adjusting public perception of the future of the housing market — Federal Reserve Chair Alan Greenspan could have prevented or at least contained the bubble. He declined, and even denied the existence of a bubble.

There were reasons why Greenspan and other top officials did not act to pop the bubble. They advanced expanded home ownership as an ideological goal. While this objective is broadly shared across the political spectrum, the Bush administration and Greenspan's ideological commitment to the goal biased them to embrace growing home buying uncritically — without regard to whether new buyers could afford the homes they were buying, or the loans they were getting. Perhaps more importantly, the housing bubble was the engine of an

economy that otherwise was stalled. Rising home prices contributed to the huge growth of the construction industry; Wall Street grew rich on mortgage-related securities and exotic financial instruments; and people borrowed en masse against the rising value of their homes to spend more and keep the economy functioning.

The toxic stew of financial deregulation and the housing bubble created the circumstances in which aggressive lenders were nearly certain to abuse

vulnerable borrowers through predatory lending terms. The terms of your loan don't matter, they effectively purred to borrowers, so long as the value of your house is going up. They duped borrowers into conditions they could not possibly satisfy, making the current rash of defaults and foreclosures on subprime loans inevitable. Effective regulation of lending practices could have prevented the abusive loans.

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# 8 FEDERAL PREEMPTION OF STATE CONSUMER PROTECTION LAWS

## IN THIS SECTION:

*When the states sought to fill the vacuum created by federal nonenforcement of consumer protection laws against predatory lenders, the feds jumped to stop them. “In 2003,” as Eliot Spitzer recounted, “during the height of the predatory lending crisis, the Office of the Comptroller of the Currency invoked a clause from the 1863 National Bank Act to issue formal opinions preempting all state predatory lending laws, thereby rendering them inoperative. The OCC also promulgated new rules that prevented states from enforcing any of their own consumer protection laws against national banks.”*

In 2003, the Comptroller of the Currency, John D. Hawke, Jr., announced that he was preempting state predatory lending laws. This ruling meant that nationally chartered banks — which include the largest U.S. banks — would be subject to federal banking standards, but not the more stringent consumer protection rules adopted by many states.

The Comptroller’s decision was a direct response to a request from the nation’s biggest banks. It was prompted by a petition from Cleveland-based National City Bank, which challenged the application of the

Georgia Fair Lending Act to its operations in Georgia.

The Comptroller agreed with National City’s contention that the federal banking laws, the history of federal regulation of national banks and relevant legislative history all supported the conclusion that federal regulatory authority should supersede and override any state regulation regarding predatory lending.<sup>121</sup>

In its petition, National City argued that the effect of the Georgia law “is to limit National City’s ability to originate and to establish the terms of credit on residential real estate loans and lines of credit, including loans or lines of credit submitted by a third party mortgage broker. GFLA [the Georgia Fair Lending Act] has significantly impaired National City’s ability to originate residential real estate loans in Georgia.”

It is instructive to identify the provisions of the Georgia law, a path breaking anti-predatory lending initiative, to which National City objected. The Georgia law included a wide range of consumer protections that consumer groups applauded but which National City complained would interfere with its freedom to operate:

GFLA establishes specific and burdensome limitations on mortgage-secured loans and lines of credit that significantly interfere with National City’s ability to

<sup>121</sup> Office of the Comptroller of the Currency [Docket No. 03-17] Preemption Determination and Order, August 5, 2003, Federal Register, Vol. 688, No. 150, 46264.)

make these loans. All Home Loans are subject to restrictions on the terms of credit and certain loan related fees, including the prohibition of financing of credit insurance, debt cancellation and suspension coverage, and limiting late charges and prohibiting payoff and release fees. If the loan or line of credit is a Covered Home Loan which refinances a Home Loan which was closed within the previous five years, National City is restricted from originating it unless the refinanced transaction meets standards established by GFLA. If the loan or line of credit is a High Cost Home Loan, GFLA does not permit National City to originate it unless the borrower has received advance counseling with respect to the advisability of the transaction from a third party non-profit organization. GFLA regulates National City's ability to determine the borrower's ability to repay the High Cost Home Loan. GFLA restricts, and in some cases prohibits, the imposition by National City of certain credit terms or servicing fees on High Cost Home Loans, including: prepayment penalties, balloon payments, advance loan payments, acceleration in the lender's discretion, negative amortization, post-default interest and fees to modify, renew, amend or extend the loan or defer a payment. Any High Cost Home Loan must contain a specific disclosure that it is subject to special rules, including purchaser and assignee liability, under GFLA. Finally, GFLA imposes pre-foreclosure requirements. GFLA currently creates strict assignee liability for all subsequent holders of a home loan. GFLA provides a private right of action for borrowers against lenders, mortgage brokers, assignees and servicers for injunctive and declaratory relief as well as actual damages, including incidental and consequential damages, statutory damages equal to forfeiture of all interest or twice the interest paid, punitive damages, attorneys' fees and costs. In addition, the Georgia Attorney General, district attorneys, the Commissioner of Banking and Finance and, with respect to the insurance provisions, the Commissioner of Insurance has the jurisdiction to enforce GFLA through their general state regulatory powers and civil

process. Criminal penalties are also available.<sup>122</sup>

The Office of the Comptroller of the Currency (OCC) 2003 preemption decision was the latest in a long series of actions by the agency to preempt state laws. Following passage of the Garn-St. Germain Depository Institutions Act of 1982, the OCC had by regulation specifically preempted a number of state law consumer protections, including the minimum requirements for down payments, loan repayment schedules and minimum periods of time for loans. These state rules afforded consumers greater protection than federal statutes. The 2003 decision concluded that Georgia's rules transgressed some of these longstanding regulatory preemptions, but then went further and preempted the Georgia rules entirely, as they applied to national banks.

In conjunction with the OCC's announcement on the Georgia case, it launched a rulemaking on the general issue of federal preemption of all state regulation of national banks. In January 2004, it issued rules preempting all state regulation of national banks.<sup>123</sup> The OCC also announced rules

<sup>122</sup> Letter from Thomas Plant to Julie Williams (National City's Request for OCC preemption of the Georgia Fair Lending Act), February 11, 2003, appendix to Office of the Comptroller of the Currency, Docket No. 03-04, Notice of Request for preemption Determination and Order.

<sup>123</sup> Office of the Comptroller of the Currency, 12 CFR Parts 7 and 34, [Docket No. 04-xx], RIN 1557-AC73.

prohibiting state regulators from exercising “visitorial powers” — meaning inspection, supervision and oversight — of national banks.<sup>124</sup>

The stated rationale for these preemptive moves was that differing state standards subjected national banks to extra costs and reduced the availability of credit. “Today,” said Hawke in announcing the new rules, “as a result of technology and our mobile society, many aspects of the financial services business are unrelated to geography or jurisdictional boundaries, and efforts to apply restrictions and directives that differ based on a geographic source increase the costs of offering products or result in a reduction in their availability, or both. In this environment, the ability of national banks to operate under consistent, uniform national standards administered by the OCC will be a crucial factor in their business future.”<sup>125</sup> Hawke

<sup>124</sup> Office of the Comptroller of the Currency, 12 CFR Part 7, [Docket No. 04-xx], RIN 1557-AC78.

<sup>125</sup> Statement of Comptroller of the Currency John Hawke, Jr., Regarding the Issuance of

argued that national banks were not engaged in predatory lending on any scale of consequence; that federal regulation was sufficient; and that federal guidance on predatory

lending — issued in conjunction with the preemptive moves — provided additional and satisfactory guarantees for consumers.

Former New York State Attorney General (and former Governor) Eliot Spitzer put these actions in perspective in a February 2008 opinion column in the Washington Post.<sup>126</sup>

“Predatory lending was widely understood [earlier in the decade] to present a looming national crisis,” Spitzer wrote. “This threat was so clear that as New York attorney general, I joined with colleagues in

the other 49 states in attempting to fill the void left by the federal government. Indi-

**Referring to the OCC’s preemptive measures, Spitzer wrote, “Not only did the Bush administration do nothing to protect consumers, it embarked on an aggressive and unprecedented campaign to prevent states from protecting their residents from the very problems to which the federal government was turning a blind eye.”**

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Regulations Concerning Preemption and Visitorial Powers, January 7, 2004, available at: <<http://occ.gov/newrules.htm>>.

<sup>126</sup> Eliot Spitzer, “Predatory Lenders’ Partner in Crime How the Bush Administration Stopped the States From Stepping In to Help Consumers,” Washington Post, February 14, 2008, available at: <<http://www.washingtonpost.com/wp-dyn/content/article/2008/02/13/AR2008021302783.html>>.

vidually, and together, state attorneys general of both parties brought litigation or entered into settlements with many subprime lenders that were engaged in predatory lending practices. Several state legislatures, including New York's, enacted laws aimed at curbing such practices."

Referring to the OCC's preemptive measures, Spitzer wrote, "Not only did the Bush administration do nothing to protect consumers, it embarked on an aggressive and unprecedented campaign to prevent states from protecting their residents from the very problems to which the federal government was turning a blind eye. ... The federal government's actions were so egregious and so unprecedented that all 50 state attorneys general, and all 50 state banking superintendents, actively fought the new rules."

"But the unanimous opposition of the 50 states did not deter, or even slow, the Bush administration in its goal of protecting the banks," Spitzer noted.

When state law enforcement agencies tried to crack down on predatory lending in their midst, the OCC intervened to stop them. Wrote Spitzer, "In fact, when my office opened an investigation of possible discrimination in mortgage lending by a number of banks, the OCC filed a federal lawsuit to stop the investigation."

John Hawke's successor as Comptroller John Dugan, denies Spitzer's assertions.

"The OCC established strong protections against predatory lending practices years ago, and has applied those standards through examinations of every national bank," he said. "As a result, predatory mortgage lenders have avoided national banks like the plague. The abuses consumers have complained about most — such as loan flipping and equity stripping — are not tolerated in the national banking system. And the looser lending practices of the subprime market simply have not gravitated to national banks: They originated just 10 percent of subprime loans in 2006, when underwriting standards were weakest, and delinquency rates on those loans are well below the national average."<sup>127</sup>

Even if it is true that federal banks originated fewer abusive loans, they clearly financed predatory subprime loans through bank intermediaries, securitized predatory subprime loans and held them in great quantities. In any case, the scale of federal bank financing of predatory loans was still substantial. Alys Cohen of the National Consumer Law Center notes that Wachovia was a national bank that collapsed in significant part because of the unaffordable mortgage loans it originated.

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<sup>127</sup> John Dugan, "Comptroller Dugan Responds to Governor Spitzer," news release, February 14, 2008, available at: <<http://www.occ.gov/ftp/release/2008-16.htm>>.

Cohen of the National Consumer Law Center notes as well that the OCC's preemptive actions protected federal banks from three distinct set of consumer protections. First, they were immunized from state banking laws that offered consumers greater protection than the OCC's standards. Second, the national banks were protected from private lawsuits brought under state law to enforce consumer rights. As noted above, federal voluntary standards made it difficult for victimized borrowers to file suit. Third, the OCC preempted the application of general state consumer protection law (as distinct from banking-specific rules) to national banks. This includes even basic contract and tort law.

Finally, Cohen emphasizes that the OCC preemptive measures applied not just to the national banks themselves, but to their non-supervised affiliates and agents.

Meanwhile, the federal agency responsible for regulating federally chartered savings and loans, the Office of Thrift Supervision (OTS), adopted parallel preemptive actions.

In 2003, OTS announced its determination that New York and Georgia's anti-

predatory lending laws did not apply to federal thrifts. Like OCC, OTS took an aggressive posture, arguing that it "occupied the field" for regulation of federally chartered institutions.

OTS was explicit that it wanted to preserve "maximum flexibility" for thrifts to design loans. The agency said its objective was to "enable federal savings associations to conduct their operations in accordance with best practices by efficiently delivering low-cost credit to the

public free from undue regulatory duplication and burden."<sup>128</sup>

"Federal law authorizes OTS to provide federal savings associations with a uniform national regulatory environment for their lending operations," said OTS Director James E. Gilleran in announcing the preemptive decision. "This enables and encourages federal thrifts to provide low-cost credit safely and soundly on a nationwide basis. By requiring federal thrifts to treat custom-

**Even if it is true that federal banks originated fewer abusive loans, they clearly financed predatory subprime loans through bank intermediaries, securitized predatory subprime loans and held them in great quantities.**

<sup>128</sup> Letter from Carolyn J. Buck, Chief Counsel, Office of Thrift Supervision, January 30, 2003, available at: <[http://www.ots.gov/index.cfm?p=PressReleases&ContentRecord\\_id=f8613720-2c1d-42f4-8608-f6362c04b6e2&ContentType\\_id=4c12f337-b5b6-4c87-b45c-838958422bf3&YearDisplay=2003](http://www.ots.gov/index.cfm?p=PressReleases&ContentRecord_id=f8613720-2c1d-42f4-8608-f6362c04b6e2&ContentType_id=4c12f337-b5b6-4c87-b45c-838958422bf3&YearDisplay=2003)>.

ers in New York differently, the New York law would impose increased costs and an undue regulatory burden.”<sup>129</sup>

The federal government’s regulatory approach ultimately boomeranged on the regulated institutions. With the popping of the housing bubble, predatory loans proved a disaster not just for borrowers but for lenders or those banks that purchased subprime mortgage contracts. IndyMac and Washington Mutual are two federal thrifts that collapsed as a result of the bad subprime mortgage loans that they administered.



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<sup>129</sup> “OTS Says New York Law Doesn’t Apply To Federal Thrifts,” news release, January 30, 2003, available at: [http://www.ots.gov/index.cfm?p=PressReleases&ContentRecord\\_id=f8613720-2c1d-42f4-8608-f6362c04b6e2&ContentType\\_id=4c12f337-b5b6-4c87-b45c-838958422bf3&YearDisplay=2003](http://www.ots.gov/index.cfm?p=PressReleases&ContentRecord_id=f8613720-2c1d-42f4-8608-f6362c04b6e2&ContentType_id=4c12f337-b5b6-4c87-b45c-838958422bf3&YearDisplay=2003).



## 9

**ESCAPING ACCOUNTABILITY:  
ASSIGNEE LIABILITY****IN THIS SECTION:**

*Under existing federal law, only the original mortgage lender is liable for any predatory and illegal features of a mortgage — even if the mortgage is transferred to another party. This arrangement effectively immunized acquirers of the mortgage (“assignees”) for any problems with the initial loan, and relieved them of any duty to investigate the terms of the loan. Wall Street interests could purchase, bundle and securitize subprime loans — including many with pernicious, predatory terms — without fear of liability for illegal loan terms. The arrangement left victimized borrowers with no cause of action against any but the original lender, and typically with no defenses against being foreclosed upon. Representative Bob Ney, R-Ohio — a close friend of Wall Street who subsequently went to prison in connection with the Abramoff scandal — was the leading opponent of a fair assignee liability regime.*

“Assignee liability” is the principle that legal responsibility for wrongdoing in issuing a loan extends to a third party that acquires a loan. Thus, if a mortgage bank issues a predatory loan and then sells the loan to another bank, assignee liability would hold the second bank liable for any

legal claims that the borrower might be able to bring against the original lender.

Competing in the law with assignee liability is the “holder-in-due-course” doctrine, which establishes that a third party purchasing a debt instrument is not liable for problems with the debt instrument, so long as those problems are not apparent on the face of the instrument. Under the holder-in-due-course-doctrine, a second bank acquiring a predatory loan is not liable for claims that may be brought by the borrower against the original lender, so long as those potential claims are not obvious.

The Home Ownership and Equity Protection Act (HOEPA),<sup>130</sup> the key federal protection against predatory loans, attempted to reconcile these conflicting principles. Passed in 1994, HOEPA does establish assignee liability, but it only applies to a limited category of very high-cost loans (i.e., loans with very high interest rates and/or fees). For those loans, a borrower may sue an assignee of a mortgage that violates HOEPA’s anti-predatory lending terms, seeking either damages or rescission (meaning all fees and interest payments will be applied to pay down the principle of the loan, after which the borrower could refinance with a non-predatory loan). For all

<sup>130</sup> The Home Ownership and Equity Protection Act of 1994 amended the Truth-in-Lending Act by adding Section 129 of the Act, 15 U.S.C. § 1639. It is implemented by Sections 226.31 and 226.32 of Regulation Z, 12 C.F.R. §§ 226.31 and 226.32.

other mortgage loans, federal law applies the holder in due course doctrine.<sup>131</sup>

The rapid and extensive transfer of subprime loans, including abusive predatory loans, among varying parties was central to the rapid proliferation of subprime lending. Commonly, mortgage brokers worked out deals with borrowers, who then obtained a mortgage from an initial mortgage lender (often a non-bank lender, such as Countrywide, with which the broker worked). The mortgage lender would then sell the loan to a larger bank with which it maintained relations. Ultimately, such mortgages were pooled with others into a mortgage-backed security, sold by a large commercial bank or investment bank.

Under existing federal law, none but the original mortgage lender is liable for any predatory and illegal features of the mortgage (so long as it is not a high-cost loan covered by HOEPA). This arrangement relieved acquirers of the mortgage of any duty to investigate the terms of the loan and effectively immunized them from liability for the initial loan.<sup>132</sup> It also left the borrow-

ers with no cause of action against any but the original lender. In many cases, this lender no longer exists as a legal entity. And, even where the initial lender still exists, while it can pay damages, it no longer has the ability to cure problems with the mortgage itself; only the current holder of the mortgage can modify it. Thus, a borrower could not exercise a potential rescission remedy, or take other action during the course of litigation to prevent the holder of his or her mortgage from foreclosing upon him or her or demanding unfair payments. A hypothetical recovery of damages from the original lender long after the home is foreclosed upon is of little solace to the homeowner.

The severe consequences of not applying assignee liability in the mortgage context have long been recognized. Consumer advocates highlighted the problem early in the 2000's boom in predatory lending.

Margot Saunders of the National Consumer Law Center explained the problem in testimony to the House of Representatives' Financial Services Committee in 2003.

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<sup>131</sup> Lisa Keyfetz, "The Home Ownership and Equity Protection Act of 1994: Extending Liability for Predatory Subprime Loans to Secondary Mortgage Market Participants," 18 Loy. Consumer L. Rev. 2, 151 (2005).

<sup>132</sup> See Eric Nalder, "Politicians, lobbyists shielded financiers: Lack of liability laws fueled firms' avarice," Seattle Post-Intelligencer, October 10, 2008, available at: <[http://seattlepi.nwsourc.com/business/382707\\_mortgagecrisis09.html](http://seattlepi.nwsourc.com/business/382707_mortgagecrisis09.html)>. ("A principle known as assignee liability would have al-

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lowed borrowers to sue anyone holding paper on their loan, from the originators who sold it to them to the Wall Street investment bankers who ultimately funded it. Without the measure in place, Wall Street increased by eightfold its financing of subprime and nontraditional loans between 2001 and 2006, including mortgages in which borrowers with no proof of income, jobs or assets were encouraged by brokers to take out loans, according to statistics provided by mortgage trackers.")

“Take, for example, the situation where homeowners sign a loan and mortgage for home improvements secured by their home.

The documents do not include the required FTC Notice of Preservation of Claims and Defenses, and the contact information provided by the home improvement contractor is useless. The home improvement work turns out to be shoddy and useless, but the assignee of the loan claims to have no knowledge of the status of the work, instead claiming it is an innocent third

party assignee that merely wants its monthly payments. When the homeowners refuse to pay, the assignee claims the rights of a holder in due course and begins foreclosure proceedings.”

The absence of assignee liability enabled Wall Street interests to bundle subprime loans — including many with pernicious, predatory terms — and securitize them, without fear of facing liability for unconscionable terms in the loans. Had a regime of assignee liability been in place, securitizers and others up the lending chain would have been impelled to impose better systems of control on brokers and initial mortgage lenders, because otherwise they

would have faced liability themselves.

For community development and consumer advocates, the case for expanded assignee liability has long been clear. Argued Saunders in her 2003 testimony, “Most importantly consider the question of who should bear the risk in a faulty transaction. Assume 1) an innocent consumer (victim of an illegal loan), 2) an originator guilty of violating the law and profiting from the making of an illegal loan, and 3) an innocent holder of the illegal note. As between the two inno-

cent parties — the consumer and the holder — who is best able to protect against the risk of loss associated with the making of an illegal loan? It is clear that the innocent party who is best able to protect itself from loss resulting from the illegality of another is not the consumer, but the corporate assignee.”<sup>133</sup>

**Had a regime of assignee liability been in place, securitizers and others up the lending chain would have been impelled to impose better systems of control on brokers and initial mortgage lenders, because otherwise they would have faced liability themselves.**

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<sup>133</sup> Margot Saunders, Testimony Before the Subcommittee on Housing and Community Opportunity & Subcommittee on Financial Institutions and Consumer Credit of the Financial Services Committee, U.S. House of Representatives, “Protecting Homeowners: Preventing Abusive Lending While Preserving Access to Credit,” November 5, 2003, available at: <<http://financialservices.house.gov/media/pdf/110503ms.pdf>>.

Making the case even more clear, players in the secondary market — the acquirers of mortgages — were not innocent parties. They were often directly involved in enabling predatory lending by mortgage brokers, and were well aware of the widespread abuses in the subprime market. Explain reporters Paul Muolo and Mathew Padilla, authors of *Chain of Blame: How Wall Street Caused the Mortgage and Credit Crisis*, “Brokers wouldn’t even exist without wholesalers, and wholesalers wouldn’t be able to fund loans unless Wall Street was buying. It wasn’t the loan brokers’ job to approve the customer’s application and check all the financial information; that was the wholesaler’s job, or at least it was supposed to be. Brokers didn’t design the loans, either. The wholesalers and Wall Street did that. If Wall Street wouldn’t buy, then there would be no loan to fund.”<sup>134</sup>

The securitizers had a counterargument against calls for assignee liability. They claimed that assignee liability would impose unrealistic monitoring duties on purchasers of mortgage loans, and would therefore freeze up markets for securitized loans. The result, they said, would be less credit for homebuyers, especially those with imperfect credit histories.

Lenders and securitizers opposed pro-

posals to require subsequent purchasers of mortgage debt to bear legal responsibility. “Legislators must be extremely cautious in making changes that upset secondary market dynamics,” warned Steve Nadon, chair of the industry group the Coalition for Fair and Affordable Lending (CFAL) and Chief Operating Officer of Option One Mortgage, an H&R Block subsidiary, in 2003 congressional testimony, “because unfettered access to the capital markets is largely responsible for having dramatically increased nonprime credit availability and for lowering costs for millions of Americans. Lenders and secondary market purchasers believe that it is very unfair to impose liability when there is no reasonable way that the loan or securities holder could have known of the violation. In any case, we feel that liability generally should apply only if the assignee by reasonable due diligence knew or should have known of a violation of the law based on what is evident on the face of the loan documents.”<sup>135</sup>

“Predatory lending is harmful and

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<sup>134</sup> Paul Muolo and Mathew Padilla, *Chain of Blame: How Wall Street Caused the Mortgage and Credit Crisis*, New York: Wiley, 2008. 295.

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<sup>135</sup> Testimony of Steve Nadon, chair of the Coalition for Fair and Affordable Lending (CFAL) and chief operating officer of Option One Mortgage on “Protecting Homeowners: Preventing Abusive Lending While Preserving Access to Credit” before the Subcommittees on Housing and Community Opportunity & Financial Institutions and Consumer Credit of the Financial Services Committee, U.S. House of Representatives, November 5, 2003, available at: <<http://financialservices.house.gov/media/pdf/110503sn.pdf>>.

needs to be stopped. Imposing open-ended liability on secondary market participants for the actions of lenders, however, will ultimately have the effect of limiting credit for those who need it most,” echoed Micah Green, president of The Bond Market Association, two years later.<sup>136</sup> (Proponents of assignee liability emphasize they have sought not open-ended liability, but the kind of measurable liability that applies under HOEPA.)

Securitizers not only defended the default federal application of the holder in due course doctrine for non-HOEPA loans, they supported legislation introduced by Representative Bob Ney, R-Ohio — who subsequently went to prison in connection with the Jack Abramoff corruption scandal<sup>137</sup> — that would have preempted state rules applying assignee liability.<sup>138</sup> “Using any-

<sup>136</sup> “The Bond Market Association and the American Securitization Forum Applaud Responsible Lending Act,” news release, March 15, 2005, available at: <<http://www.americansecuritization.com/story.aspx?id=264>>.

<sup>137</sup> Philip Shenon, “Ney Is Sentenced to 2 1/2 Years in Abramoff Case,” New York Times, January 20, 2007, available at: <[http://www.nytimes.com/2007/01/20/washington/20ney.html?\\_r=>](http://www.nytimes.com/2007/01/20/washington/20ney.html?_r=>)>.

<sup>138</sup> Diana B. Henriques with Jonathan Fuerbringer, “Bankers Opposing New State Curbs on Unfair Loans,” New York Times, February 14, 2003, available at: <<http://query.nytimes.com/gst/fullpage.html?res=9405E2D7153AF937A25751C0A9659>>.

thing but a single set of objective and readily detectable standards to determine whether an assignee has liability is a regulatory approach that threatens to undermine many of the benefits of the secondary market,” Green testified before the House Financial Services Committee in 2005. “Faced with this type of environment, secondary market participants may find it less attractive to purchase and repackage subprime loans.”<sup>139</sup>

In a 2004 statement submitted to the House Financial Services Committee, the Housing Policy Council, made up of 17 of the largest U.S. mortgage finance companies, argued that diverse state standards relating to assignee liability were unfairly impinging on lenders and undermining access to credit among poor communities. “In the absence of a national law, lenders face growing problems: (1) a number of states, and even cities and counties, pass

<sup>139</sup> Testimony of Micah Green, president, The Bond Market Association, on “Legislative Solution to Abusive Market Lending Practices,” before the Financial Services Committee, Subcommittee on Housing and Community Opportunity and Subcommittee on Financial Institutions and Consumer Credit, U.S. House of Representatives, May 24, 2005, available at: <<http://financialservices.house.gov/media/pdf/052405msg.pdf>>.

**Securitizers continue to defend their position on assignee liability, even though it encourages the practices that helped fuel the subprime mess.**

widely different legislation that causes a variety of administrative and legal problems. What is permitted in some locales is not in others, sometimes even within the same state; (2) states and subdivisions begin competing to devise new restrictions; (3) because of the lack of uniformity and great variety of differences between jurisdictions the chances of honest mistakes are compounded and the possibility of litigation is magnified; (4) litigation adversely impacts the reputations of lenders, and (5) lenders decide that making loans in states and municipalities with broad and vague statutes is no longer worth the risk to their reputations, and assignees decide that buying or lending against these loans is also not worth the risk for them. The end result is actually less credit for borrowers.”<sup>140</sup>

Further, the Housing Policy Council asserted, under a national standard, assignee liability should only apply where an assignee had actual knowledge that a loan was flawed, or intentionally failed to use due diligence (itself a weak standard).<sup>141</sup>

Ney’s preemptive legislation regarding assignee liability never became law, but it helped frame the debate so that the mortgage lenders, banks and Wall Street were on the offensive — demanding even reduced standards of assignee liability, rather than a legal standard that would place responsibility on securitizers (the banks and investment banks that bundled loans into mortgage-backed securities) for predatory loans and give predatory loan victims a timely opportunity in court to prevent foreclosure.

Securitizers continue to defend their position on assignee liability, even though it encourages the practices that helped fuel the subprime mess.

In a June 2007 paper, the American Securitization Forum (ASF) argued that, “In addition to being largely unnecessary, any federal legislation that would expose secondary market participants to assignee liability that is very high or unquantifiable would have severe repercussions.” The ASF repeats the arguments of yesterday: that securitization has increased capital available

<sup>140</sup> Statement of the Housing Policy Council of the Financial Services Roundtable, before the Subcommittee on Financial Institutions and Consumer Credit and the Subcommittee on Housing and Community Opportunity, “Promoting Homeownership by Ensuring Liquidity in the Subprime Mortgage Market,” June 23, 2004, available at: <<http://financialservices.house.gov/media/pdf/062304hpc.pdf>>.

<sup>141</sup> Statement of the Housing Policy Council of the Financial Services Roundtable, Before the Subcommittee on Financial Institutions

and Consumer Credit and the Subcommittee on Housing and Community Opportunity, “Promoting Homeownership by Ensuring Liquidity in the Subprime Mortgage Market,” June 23, 2004, available at: <<http://financialservices.house.gov/media/pdf/062304hpc.pdf>>. “Actions and defenses,” asserted the Housing Policy Council, “must be limited to those that are based on actual knowledge of the assignee of the existence of the violations in the loans assigned to them, or intentional failure to use appropriate due diligence in reviewing the loans assigned.”

to subprime markets and helped expand homeownership; that assignees have an economic incentive to ensure acquired loans that are unlikely to default; that it is unreasonable to ask assignees to investigate all securitized loans; and that assignee liability would dry up the secondary loan market with dire consequences.<sup>142</sup>

Asserted the ASF, “The imposition of overly burdensome and potentially unquantifiable liability on the secondary market — for abusive origination practices of which assignees have no knowledge and which were committed by parties over whom they have no control — would therefore severely affect the willingness of investors and other entities to extend the capital necessary to fund subprime mortgage lending. As a result, at precisely the time when increased liquidity is essential to ensuring the financial health of the housing market, schemes imposing overly burdensome assignee liability threaten to cause a contraction and deleterious repricing of mortgage credit.”<sup>143</sup>

That these arguments are overblown and misplaced was clear at the start of the subprime boom. They are now utterly implausible. As a fairness matter, assignees will often be the only party able to offer relief to victims of predatory loans, and victims often need to be able to bring claims against assignees in order to prevent unjust foreclosures; the hypothetical incentives for assignees to avoid loans that could not be paid off proved illusory; assignees have ample capacity to police the loans they acquire, including by hiring third-party investigators or by contractual arrangement with mortgage originators; and the overarching problem for lower-income families and communities since 2001 has not been too little credit, but too much poor quality credit.

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<sup>142</sup> American Securitization Forum, “Assignee Liability in the Secondary Mortgage Market: Position Paper of the American Securitization Forum,” June 2007, available at: <[http://www.americansecuritization.com/uploaded-Files/Assignee%20Liability%20Final%20Version\\_060507.pdf](http://www.americansecuritization.com/uploaded-Files/Assignee%20Liability%20Final%20Version_060507.pdf)>.

<sup>143</sup> American Securitization Forum, “Assignee Liability in the Secondary Mortgage Market: Position Paper of the American Securitization Forum,” June 2007, available at: <[http://www.americansecuritization.com/uploaded-Files/Assignee%20Liability%20Final%20Version\\_060507.pdf](http://www.americansecuritization.com/uploaded-Files/Assignee%20Liability%20Final%20Version_060507.pdf)>.

# 10 FANNIE AND FREDDIE ENTER THE SUBPRIME MARKET

## IN THIS SECTION:

*At the peak of the housing boom, Fannie Mae and Freddie Mac were dominant purchasers in the subprime secondary market. The Government-Sponsored Enterprises were followers, not leaders, but they did end up taking on substantial subprime assets — at least \$57 billion. The purchase of subprime assets was a break from prior practice, justified by theories of expanded access to homeownership for low-income families and rationalized by mathematical models allegedly able to identify and assess risk to newer levels of precision. In fact, the motivation was the for-profit nature of the institutions and their particular executive incentive schemes. Massive lobbying — including especially but not only of Democratic friends of the institutions — enabled them to divert from their traditional exclusive focus on prime loans.*

*Fannie and Freddie are not responsible for the financial crisis. They are responsible for their own demise, and the resultant massive taxpayer liability.*

The Federal National Mortgage Association was created in 1938, during Franklin D. Roosevelt's administration, as a federal government agency to address the lack of a

consistent supply of mortgage funds. Fannie Mae, as it is popularly known, became a private, shareholder-owned corporation in 1968.<sup>144</sup> As a “government sponsored enterprise” (GSE) chartered by Congress, Fannie Mae's purpose is to purchase mortgages from private bankers and other lenders so that they have additional funds to continue originating new mortgages. Fannie Mae does not issue or originate new loans, but private lenders seek to sell their loans to Fannie, which maintains specific dollar value ceilings for the repurchasing of single and multi-family loans and does not purchase high-end loans (i.e., loans for expensive homes). Because many private lenders hope to sell their mortgages to Fannie, its loan purchasing criteria have a substantial influence on the prudence of the mortgages that lenders issue.

The Federal Home Loan Mortgage Corporation, or Freddie Mac,<sup>145</sup> was established by Congress in 1970 as a private shareholder-owned corporation to take on the same role as Fannie Mae and prevent Fannie from exercising a monopoly. As with Fannie Mae, Freddie Mac does not issue or originate new loans. Instead, Freddie buys loans from private lenders in order to provide added liquidity to fund America's housing needs.<sup>146</sup>

<sup>144</sup> 12 U.S.C. § 1716b et seq. (1968).

<sup>145</sup> Emergency Home Finance Act, 12 U.S.C. § 1401 (1970).

<sup>146</sup> Federal Home Loan Mortgage Corporation



Fannie Mae began converting mortgages it acquired into mortgage-backed securities (MBSs) in 1970.<sup>147</sup> An MBS is created by pooling thousands of purchased mortgages into a single security for trade on Wall Street. By selling MBSs to investors, Fannie obtains additional funds to buy increasing numbers of mortgages from private lenders who, in turn, use the added liquidity (cash) to originate new home loans. By purchasing mortgages from private lenders, however, Fannie Mae incurs all the risk of default by borrowers, providing an incentive for lenders to make risky loans,<sup>148</sup> and making it vital that Fannie exercise care in determining which loans it acquires. Traditionally, Fannie only purchased high quality loans that conform to relatively stringent standards, including that the borrower provided a 20 percent down payment. Even after it sells MBSs, Fannie guarantees payment to buyers of the MBSs — effectively providing insurance on the securities.

The laws establishing Fannie Mae and

Freddie Mac provide no explicit guarantee of their debt obligations. Nonetheless, investors throughout the world assumed that because the entities are so intertwined with the U.S. government and so central to U.S. housing policy, the federal government would never to allow Fannie or Freddie to default on its debt. Because they were considered quasi-governmental, Fannie and Freddie enjoyed the highest-graded rating (Triple-A) from independent ratings firms, despite holding little capital in reserve as against the scale of their outstanding loans.<sup>149</sup>

In 1992, Congress passed and President George H.W. Bush signed into law the Federal Housing Enterprises Financial Safety and Soundness Act. This law established “risk-based and minimum capital standards”<sup>150</sup> for the two GSEs and also established the Office of Federal Housing Enterprise Oversight (OFHEO) to oversee and regulate the activities of Fannie and Freddie. OFHEO, however, had limited authority. The legislation also required Fannie and Freddie to devote a minimum percentage of their lending to support affordable housing.

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website, “Frequently Asked Questions About Freddie Mac,” undated, available at: <[http://www.freddiemac.com/corporate/company\\_profile/faqs/index.html](http://www.freddiemac.com/corporate/company_profile/faqs/index.html)>.

<sup>147</sup> Federal National Mortgage Association website, “About Fannie Mae,” October 7, 2008, available at: <<http://www.fanniemae.com/aboutfm/index.jhtml;jsessionid=XUMTTVZMCQYSHJ2FQSI5FGA?p=About+Fannie+Mae>>.

<sup>148</sup> Ivo Welch, “Corporate Finance: An Introduction,” Prentice-Hall, 2008, available at: <<http://welch.econ.brown.edu/oped/finsystem.html>>.

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<sup>149</sup> Ivo Welch, “Corporate Finance: An Introduction,” Prentice-Hall, 2008, available at: <<http://welch.econ.brown.edu/oped/finsystem.html>>.

<sup>150</sup> “About Fannie Mae: Our Charter,” Fannie Mae website, October 29, 2008, available at: <<http://www.fanniemae.com/aboutfm/charter.jhtml>>.

In 1999, Fannie Mae softened the standards it required of loans that it purchased. The move came in response to pressure from the banking and thrift industries, which wanted to extend subprime lending (and wanted Fannie Mae to agree to purchase subprime loans), and from federal officials who wanted Fannie and Freddie to buy more private industry mortgages made to low and moderate-income families.<sup>151</sup>

As the housing bubble inflated starting in 2001, banks and especially non-bank lenders made an increasing number of subprime loans, peaking in the years 2004-2006. Fannie and Freddie were major players in the “secondary market,” buying up bundles of subprime loans that were traded on Wall Street. They purchased 44 percent of subprime securities on the secondary market in 2004, 33 percent in 2005 and 20 percent in 2006.<sup>152</sup>

<sup>151</sup> Steven A. Holmes, “Fannie Mae Eases Credit to Aid Mortgage Lending,” *New York Times*, September 30, 1999, available at: <<http://query.nytimes.com/gst/fullpage.html?res=9c0de7db153ef933a0575ac0a96f958260&sec=&spon=&pagewanted=all>>.

<sup>152</sup> Carol D. Leonnig, “How HUD Mortgage Policy Fed the Crisis,” *Washington Post*, June 10, 2008, available at: <[http://www.washingtonpost.com/wp-dyn/content/article/2008/06/09/AR2008060902626\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/06/09/AR2008060902626_pf.html)>.

**Fannie and Freddie’s large-scale purchases of subprime mortgage-back securities on the secondary market may have facilitated greater subprime lending than otherwise would have occurred.**

But Fannie and Freddie were not buying subprime mortgages directly in significant quantities, in part because the most predatory subprime loans did not meet their lending standards. The two firms purchased just 3 percent of all subprime loans issued from 2004 through 2007, most of that in 2007 alone.<sup>153</sup> Subprime loans represented 2 percent of Fannie Mae’s single-family mortgage credit book of business at the end of 2006, and 3 percent at the end of 2005.<sup>154</sup>

Fannie and Freddie’s large-scale purchases of subprime mortgage-back securities on the secondary market may have facilitated greater subprime lending than otherwise would have occurred, but to a considerable extent the companies were victims rather than perpetrators of the subprime crisis. That is, they were not driving the market, so much as getting stuck with bad products already placed on the market.

<sup>153</sup> Ronald Campbell, “Most Subprime Lenders Weren’t Subject to Federal Lending Law,” *Orange County Register*, November 16, 2008, available at: <<http://www.ocregister.com/articles/loans-subprime-banks-2228728-law-lenders>>.

<sup>154</sup> Fannie Mae form 10-K, for the fiscal year ending December 31, 2006, pF-78.

The two companies also trailed the market, entering into the subprime arena because they felt at a competitive disadvantage as against other housing market players. Internal Fannie memos obtained by the House Oversight Committee show the company was very concerned that it was rapidly losing market share to Wall Street securitizers. “Our pricing is uncompetitive. According to our models, market participants today are not pricing legitimately for risks,” noted a top-level memo.<sup>155</sup> The same memo noted the risks of pursuing more aggressive strategies — noting that Fannie had a “lack of knowledge of the credit risks”<sup>156</sup> — and urged that the company “stay the course.” Numerous other internal sources echoed this recommendation.<sup>157</sup> Yet

**Perceived as quasi-governmental agencies, Fannie and Freddie were in fact subjected to government regulation — but the regulators’ hands were tied by a Congress heavily lobbied by Fannie and Freddie.**

Fannie increased its direct investment in riskier loans despite these cautionary warnings — and even as the housing bubble was coming to an end.

Today, Freddie and Fannie own or guarantee more than \$5 trillion in mortgages<sup>158</sup> and regularly issue MBSs. Fannie itself is the largest issuer and guarantor of MBSs. Both agencies were purchasing risky subprime loans on the secondary market from 2004 to 2007, but they were not required to report mortgage losses on the balance

sheet. As a result, both investors and regulators were unaware of the extent of their growing mortgage problems. The companies’ significant investments in the riskiest elements of the market would bring their demise in Fall 2008, when the federal government placed them in conservatorship to prevent them from collapsing altogether.<sup>159</sup>

The federal government has infused

<sup>155</sup> “Single Family Guaranty Business: Facing Strategic Crossroads,” June 27, 2005, p. 18, available at: <http://oversight.house.gov/documents/20081209103003.pdf>.

<sup>156</sup> “Single Family Guaranty Business: Facing Strategic Crossroads,” June 27, 2005, p. 9, available at: <http://oversight.house.gov/documents/20081209103003.pdf>.

<sup>157</sup> See Opening Statement of Rep. Henry A. Waxman, Committee on Oversight and Government Reform, “The Role of Fannie Mae and Freddie Mac in the Financial Crisis,” December 9, 2008, available at:

<http://oversight.house.gov/story.asp?ID=2252>.

<sup>158</sup> “Freddie Mac lobbied against regulation bill,” Associated Press, October 19, 2008, available at: <http://www.msnbc.msn.com/id/27266607/>.

<sup>159</sup> See statement by Treasury Secretary Henry Paulson, September 7, 2008, and related materials, available at: <http://www.ustreas.gov/press/releases/hp1129.htm>.

\$200 billion into Fannie and Freddie, and more will follow. Even if Fannie and Freddie did not create the financial crisis, their reckless decisions are now forcing a mammoth drain of taxpayer resources.

Perceived as quasi-governmental agencies, Fannie and Freddie were in fact subjected to government regulation — but the regulators’ hands were tied by a Congress lobbied by Fannie and Freddie. The companies lobbied heavily to avoid requirements for larger capital reserves, stronger government oversight, or to limit their acquisition of packages of risky loans. In general, Democrats were far more protective of Fannie and Freddie than Republicans, many of whom were hostile to the GSEs’ government ties. Many Democrats sought to protect Fannie and Freddie from stringent regulatory oversight and capital reserve requirements, but Republicans were heavily lobbied as well.

In 2005, for example, Freddie Mac paid \$2 million to Republican lobbying firm DCI Inc. to defeat legislation sponsored by Senator Chuck Hagel, R-Nebraska, that would have imposed tougher regulations on Freddie’s loan repurchase activities.<sup>160</sup> The legislation languished in the Senate Banking, Housing and Urban Affairs Committee

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<sup>160</sup> “Freddie Mac Lobbied Against Regulation Bill,” Associated Press, October 19, 2008, available at: <<http://www.msnbc.msn.com/id/27266607/>>.

with all Republican committee members supporting it and all Democratic members opposed. Hagel and 25 other Republican senators pleaded unsuccessfully with Senate Majority Leader Bill Frist, R-Tennessee, to allow a vote on the bill.

“If effective regulatory reform legislation ... is not enacted this year, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system and the economy as a whole,” the senators wrote in a letter.<sup>161</sup>

The Associated Press reported, “In the end, there was not enough Republican support for Hagel’s bill to warrant bringing it up for a vote because Democrats also opposed it and the votes of some would be needed for passage.”<sup>162</sup> The former chair of the House Financial Services Committee, Michael Oxley, R-Ohio, complained that efforts to regulate Fannie and Freddie were blocked by the Bush administration, the Treasury Department and the Federal Reserve.

“What did we get from the White House? We got a one-finger salute,” Oxley

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<sup>161</sup> “Freddie Mac Lobbied Against Regulation Bill,” Associated Press, October 19, 2008, available at: <<http://www.msnbc.msn.com/id/27266607/>>.

<sup>162</sup> “Freddie Mac Lobbied Against Regulation Bill,” Associated Press, October 19, 2008, available at: <<http://www.msnbc.msn.com/id/27266607/>>.

would recall in 2008.<sup>163</sup>

Democrats believed in Fannie and Freddie as ways to expand credit to low- and middle-income communities, but they were also responsive to massive lobbying efforts. From 1998 to 2008, Fannie Mae spent \$80.53 million on federally registered lobbyists. During the same period, Freddie Mac spent \$96.16 million on lobbyists.<sup>164</sup>



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<sup>163</sup> Greg Farrell, "Oxley Hits Back at Ideologues," *Financial Times*, September 9, 2008.  
<<http://thinkprogress.org/2008/09/15/barney-frank-mccain-reform/>>.

<sup>164</sup> Totals compiled from annual data available from the Center for Responsive Politics, <[www.opensecrets.org](http://www.opensecrets.org)>.

## Community Reinvestment Act: Not Guilty

Congress passed and President Jimmy Carter signed the Community Reinvestment Act (CRA) into law in 1977. The purpose of this law was to encourage banks to increase their very limited lending in low- and moderate-income and minority neighborhoods and more generally to low- and moderate-income and minority borrowers.<sup>165</sup>

Congress passed this law in large part because too many lenders were discriminating against minority and low- and moderate-income neighborhoods. “Redlining” was the name given to the practice by banks of literally drawing a red line around minority areas and then proceeding to deny loans to people within the red border even if they were otherwise qualified. The CRA has been in place for 30 years, but some corporate-backed and libertarian think tanks and policy groups, as well as some Republican members of Congress, now claim CRA is responsible for the current financial disaster. Nothing in the CRA requires banks to make risky loans.<sup>166</sup>

Leading regulators agree that CRA was not responsible for predatory lending, let

alone the broader financial crisis.

John Dugan, Comptroller of the Currency said, “CRA is not the culprit behind the sub-prime mortgage lending abuses, or the broader credit quality issues in the marketplace.”<sup>167</sup>

Federal Reserve Board Governor Randall S. Kroszner said he has not seen any evidence that “CRA has contributed to the erosion of safe and sound lending practices.”<sup>168</sup>

FDIC Chairman Sheila Bair said, “I think we can agree that a complex interplay of risky behaviors by lenders, borrowers, and investors led to the current financial storm. To be sure, there’s plenty of blame to go around. However, I want to give you my verdict on CRA: NOT guilty.”<sup>169</sup>

Most predatory loans were issued by non-bank lenders that were not subject to CRA requirements.

<sup>165</sup> Federal Financial Institutions Examination Council website, “Community Reinvestment Act: Background & Purpose,” Undated, available at: <http://www.ffiec.gov/cra/history.htm>.

<sup>166</sup> Federal Reserve Board website, “Community Reinvestment Act,” Undated, available at: <http://www.federalreserve.gov/dcca/cra/>.

<sup>167</sup> Reuters, “U.S. financial system in better shape-OCC’s Dugan,” November 19, 2008, available at: <http://www.reuters.com/article/regulatoryNewsFinancialServicesAndRealEstate/idUSN1946588420081119>.

<sup>168</sup> Remarks of Randall S. Kroszner, Governor of the Board of Governors of the Federal Reserve System, “Confronting Concentrated Poverty Policy Forum,” December 3, 2008, available at: <http://www.federalreserve.gov/newsevents/speech/kroszner20081203a.htm>.

<sup>169</sup> Remarks by Sheila Bair, Chairperson of the FDIC, Before the New America Foundation, December 17, 2008, available at: <http://www.fdic.gov/news/news/speeches/archives/2008/chairman/spdec1708.html>.

# 11 MERGER MANIA

## IN THIS SECTION:

*The effective abandonment of antitrust and related regulatory principles over the last two decades has enabled a remarkable concentration in the banking sector, even in advance of recent moves to combine firms as a means to preserve the functioning of the financial system. The megabanks achieved too-big-to-fail status. While this should have meant they be treated as public utilities requiring heightened regulation and risk control, other deregulatory maneuvers (including repeal of Glass-Steagall) enabled these gigantic institutions to benefit from explicit and implicit federal guarantees, even as they pursued reckless high-risk investments.*

Merger mania in the financial industry has been all the rage for more than 25 years. “Bigger is indeed better,” proclaimed the CEO of Bank of America in announcing its merger with NationsBank in 1998.<sup>170</sup>

In the United States, about 11,500 bank mergers took place from 1980 through 2005,

an average of about 440 mergers per year.<sup>171</sup> The size of the mergers has increased to phenomenal levels in recent years: In 2003, Bank of America became a \$1.4 trillion financial behemoth after it bought FleetBoston, making it the second-largest U.S. bank holding company in terms of assets.<sup>172</sup> In 2004, JPMorgan Chase agreed to buy Bank One, creating a \$1.1 trillion bank holding company.<sup>173</sup>

From 1975 to 1985, the number of commercial banks was relatively stable at about 14,000. By 2005 that number stood at 7,500, a nearly 50 percent decline.<sup>174</sup>

<sup>171</sup> Loretta J. Mester, Senior Vice President and Director of Research at the Federal Reserve Bank of Philadelphia, “Some Thoughts on the Evolution of the Banking System and the Process of Financial Intermediation,” *Economic Review*, First & Second Quarters, 2007, available at: <[http://www.frbatlanta.org/filelegacydocs/erq107\\_Mester.pdf](http://www.frbatlanta.org/filelegacydocs/erq107_Mester.pdf)>.

<sup>172</sup> Loretta J. Mester, Senior Vice President and Director of Research at the Federal Reserve Bank of Philadelphia, “Some Thoughts on the Evolution of the Banking System and the Process of Financial Intermediation,” *Economic Review*, First & Second Quarters, 2007, available at: <[http://www.frbatlanta.org/filelegacydocs/erq107\\_Mester.pdf](http://www.frbatlanta.org/filelegacydocs/erq107_Mester.pdf)>.

<sup>173</sup> Loretta J. Mester, Senior Vice President and Director of Research at the Federal Reserve Bank of Philadelphia, “Some Thoughts on the Evolution of the Banking System and the Process of Financial Intermediation,” *Economic Review*, First & Second Quarters, 2007, available at: <[http://www.frbatlanta.org/filelegacydocs/erq107\\_Mester.pdf](http://www.frbatlanta.org/filelegacydocs/erq107_Mester.pdf)>.

<sup>174</sup> Loretta J. Mester, Senior Vice President and Director of Research at the Federal Reserve Bank of Philadelphia, “Some Thoughts on the Evolution of the Banking System and the Process of Financial Intermediation,” *Eco-*

<sup>170</sup> Dean Foust, “BofA: A Megabank in the Making,” *BusinessWeek*, September 13, 1999, available at: <<http://www.businessweek.com/archives/1999/b3646163.arc.htm>>.

By mid-2008 — before a rash of mergers consummated amidst the financial crash — the top 5 banks held more than half the assets controlled by the top 150.<sup>175</sup>

Regulators rarely challenged bank mergers and acquisitions as stock prices skyrocketed and the financial party on Wall Street drowned out the critics. But many argued that “bigger is not better” because it raised the specter that any one individual bank could become “too big to fail” (TBTF) or at least “too big to discipline adequately” by regulators. The current financial crisis has confirmed these fears.

In the modern era, “TBTF” reared its head in 1984, when the federal government contributed \$1 billion to save Continental Illinois Bank from default. As the seventh largest bank in the United States, Continental held large amounts of deposits from hundreds of smaller banks throughout the Midwest. The failure of such a large institution could have forced many smaller banks into default. As a result, the U.S. Comptroller of the Currency orchestrated an unprecedented rescue of the bank, including its shareholders. During congressional hearings on the matter, Representative Stewart B. McKinney, R-Connecticut, pointedly observed, “We have a new kind of bank. It is

called too big to fail, TBTF, and it is a wonderful bank.”<sup>176</sup> The Comptroller of the Currency agreed that the eleven largest U.S. banks were “too big to fail,” implying they would be rescued regardless of how much risk they took on.

Seven years later, U.S. banking law recognized TBTF with passage of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The Act authorizes federal regulators to rescue uninsured depositors in large failing banks if such action is needed to prevent “serious adverse effects on economic conditions or financial stability.” FDICIA effectively implies that any bank whose failure poses a serious risk to the stability of the U.S. banking system (i.e. “systemic risk”) is exempt from going bankrupt and thus qualifies for a taxpayer-financed rescue. It constitutes a significant exception to the FDICIA’s general rule prohibiting the rescue of uninsured depositors.

The FDICIA also acts as an implicit insurance program for large financial institutions and an incentive for banks to gain TBTF status by growing larger through merger and acquisition. In 1999, economists within the Federal Reserve System warned that “some institutions may try to increase the value of their access to the government’s financial safety net (including deposit insur-

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conomic Review, First & Second Quarters, 2007, available at: <[http://www.frbatlanta.org/filelegacydocs/erq107\\_Mester.pdf](http://www.frbatlanta.org/filelegacydocs/erq107_Mester.pdf)>.

<sup>175</sup> Based on data from American Banker.

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<sup>176</sup> Hearings before the Subcommittee on Financial Institutions, 1984.



ance, discount window access, payments system guarantees) through consolidation. If financial market participants perceive very large organizations to be ‘too big to fail’ — i.e., that explicit or implicit government guarantees will protect debtholders or shareholders of these organizations — there may be incentives to increase size through consolidation....”<sup>177</sup>

International comparisons over a 100-year period show that changes in the structure and strength of safety net guarantees may incentivize additional financial institution risk-taking, and by extension, the motive to consolidate to increase the value of access to the safety net.<sup>178</sup>

Studies have shown that compared to smaller banks, large banks take on greater risk in the form of lower capital ratios (i.e.

increased leverage),<sup>179</sup> more investments in derivatives,<sup>180</sup> higher percentages of uninsured deposits, lower levels of core deposits,<sup>181</sup> higher percentages of loans,<sup>182</sup> and lower levels of cash and marketable securities. TBTF policy effectively operates as a government subsidy — and worse, an incentive — for this kind of risk-taking, thereby increasing the vulnerability of the entire banking system and the likelihood of massive taxpayer-funded bailouts. Federal Reserve economists found that the banking crisis of the late 1980s occurred because “large banks adopted a riskier stance, be-

<sup>177</sup> Allen N. Berger, Board of Governors of the Federal Reserve System, and Rebecca S. Demsetz and Philip E. Strahan of the Federal Reserve Bank of New York, “The Consolidation of the Financial Services Industry: Causes, Consequences, and Implications for the Future,” *J. Banking & Finance*, Vol. 23, 1999, available at: <http://www.federalreserve.gov/pubs/feds/1998/199846/199846pap.pdf>.

<sup>178</sup> Allen N. Berger, Board of Governors of the Federal Reserve System, and Rebecca S. Demsetz and Philip E. Strahan of the Federal Reserve Bank of New York, “The Consolidation of the Financial Services Industry: Causes, Consequences, and Implications for the Future,” *J. Banking & Finance*, Vol. 23, 1999, available at: <http://www.federalreserve.gov/pubs/feds/1998/199846/199846pap.pdf> (citing A. Saunders and B.K. Wilson, “Bank capital and bank structure: A comparative analysis of the U.S., U.K., and Canada,” *J. Banking & Finance*, 1999).

<sup>179</sup> Rebecca S. Demsetz and Philip E. Strahan, Federal Reserve Bank of New York, Research Paper 9506, April 1995, available at: [http://www.newyorkfed.org/research/staff\\_reports/research\\_papers/9506.pdf](http://www.newyorkfed.org/research/staff_reports/research_papers/9506.pdf). See also Arnold Danielson, “Getting Ready for the 21st Century: A Look at Recent Banking Trends,” *Banking Pol’y Rep.*, March 15, 1999. (Banks larger than \$50 billion had an average capital ratio of seven percent while banks between \$100 million to \$2 billion in size had an average capital ratio of just over nine percent).

<sup>180</sup> Rebecca S. Demsetz and Philip E. Strahan, Federal Reserve Bank of New York, Research Paper 9506, April 1995, available at: [http://www.newyorkfed.org/research/staff\\_reports/research\\_papers/9506.pdf](http://www.newyorkfed.org/research/staff_reports/research_papers/9506.pdf).

<sup>181</sup> Ron J. Feldman and Jason Schmidt, Federal Reserve Bank of Minneapolis, “Increased use of uninsured deposits: Implications for market discipline,” March 2001. Available at: [http://www.minneapolisfed.org/publications\\_papers/pub\\_display.cfm?id=2178](http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=2178).

<sup>182</sup> Ron J. Feldman and Jason Schmidt, Federal Reserve Bank of Minneapolis, “Increased use of uninsured deposits: Implications for market discipline,” March 2001. Available at: [http://www.minneapolisfed.org/publications\\_papers/pub\\_display.cfm?id=2178](http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=2178).

yond what could sensibly be explained by scale economies.”<sup>183</sup>

Supporters of bank consolidation argue that bigger banks create greater efficiencies because of their larger economies of scale. But several studies have shown that large bank mergers during the 1980s and 1990s failed to improve overall efficiency or profitability.<sup>184</sup> Indeed, most studies found that post-merger cost increases and revenue losses offset any savings that the resulting banks accrued from cutting staff or closing branches.<sup>185</sup>

<sup>183</sup> John H. Boyd and Mark Gertler, “The Role of Large Banks in the Recent U.S. Banking Crisis,” 18 Fed. Res. Bank of Minneapolis Q. Rev. 1, Winter 1994, available at: <<http://www.minneapolisfed.org/research/QR/QR1811.pdf>>.

<sup>184</sup> Allen N. Berger and David B. Humphrey, “The Dominance of Inefficiencies Over Scale and Product Mix Economies in Banking,” J. Monetary Econ., 117-48, August 28, 1991; Allen N. Berger & David B. Humphrey, “Megamergers in Banking and the Use of Cost Efficiency as an Antitrust Defense,” 37 Antitrust Bull. 541, 554-65 (1992); Simon Kwan & Robert A. Eisenbeis, “Mergers of Publicly Traded Banking Organizations Revisited,” Fed. Res. Bank of Atlanta, Econ. Rev., 4th Qtr. 1999; Jane C. Linder & Dwight B. Crane, “Bank Mergers: Integration and Profitability,” 7 J. Fin. Servs. Res. 35, 40-52 (1992); Stavros Peristiani, “Do Mergers Improve the X-Efficiency and Scale Efficiency of U.S. Banks? Evidence from the 1980s,” 29 J. Money, Credit & Banking 326, 329-33, 336-37 (1997); Steven J. Pilloff, “Performance Changes and Shareholder Wealth Creation Associated with Mergers of Publicly Traded Banking Institutions,” 28 J. Money, Credit & Banking 294, 297-98, 301, 308-09 (1996).

<sup>185</sup> Arthur E. Wilmarth, Jr., “The Transformation of the U.S. Financial Services Industry, 1975-2000: Competition, Consolidation and

Evidence indicates executive compensation plays a central role in the quest for larger banks. This “empire-building,” as Federal Reserve economists put it, occurs because compensation tends to increase with firm size, “so managers may hope to achieve personal financial gains by engaging in [mergers and acquisitions].”<sup>186</sup> George Washington University banking law professor Arthur E. Wilmarth, Jr. agrees. “Not surprisingly,” he said, “studies have shown that managerial self-interest plays a major role in determining the frequency of mergers among both corporations and banks.”<sup>187</sup>

In words that appear prescient today, Professor Wilmarth aptly observed in 2002 that “the quest by big banks for TBTF status — like their pursuit of market power — should be viewed as a dangerous flight from discipline that will likely produce inefficient growth and greater risk.” Reliance on finan-

Increased Risks” 2002 U. Ill. L. Rev. 2 215 (2002), available at: <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=315345](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=315345)>.

<sup>186</sup> Allen N. Berger, Board of Governors of the Federal Reserve System, and Rebecca S. Demsetz and Philip E. Strahan of the Federal Reserve Bank of New York, “The Consolidation of the Financial Services Industry: Causes, Consequences, and Implications for the Future,” Journal of Banking and Finance, Vol. 23, 1999, available at: <<http://www.federalreserve.gov/pubs/feds/1998/199846/199846pap.pdf>>.

<sup>187</sup> Arthur E. Wilmarth, Jr., “The Transformation of the U.S. Financial Services Industry, 1975-2000: Competition, Consolidation and Increased Risks” 2002 U. Ill. L. Rev. 2 215 (2002), available at: <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=315345](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=315345)>.

cial derivatives, for example, is extremely concentrated among the largest commercial banks (the five largest commercial banks own 97 percent of the total amount of notional derivatives), and limited almost entirely to the biggest 25.<sup>188</sup> All of these banks are of a size — and most the product of mergers — that regulators and antitrust enforcers would not have tolerated a quarter century ago.

Taxpayers are now footing the bill for the financial industry's investment in risky, over-leveraged and poorly understood financial schemes. By the end of 2008, the federal government pledged \$8.5 trillion in economic assistance for financial institutions,<sup>189</sup> primarily large commercial banks, that the federal government says were TBTF.<sup>190</sup>

**As banking regulators fell under the spell of industry lobbyists and propagandists who alleged that bigger banks would be more efficient, so too did anti-trust enforcement agencies fail to act to slow banking consolidation.**

Although the early consolidation of banks, including related to the authorization of interstate banking, had some support among public interest advocates as a means to create competition in very localized markets,<sup>191</sup> the intensive consolidation of the last 25 years goes far beyond whatever might have been needed to enhance competition. Yet regulators averted their eyes from the well-known risks of banking consolidation.<sup>192</sup>

As banking regulators fell under the spell of industry lobbyists and propagandists who alleged that bigger banks would be more efficient, so too did antitrust enforcement agencies fail to act to slow banking consolidation.

As with the erosion of effective banking regulation, the corrosion of antitrust enforcement traces back more than three

<sup>188</sup> Comptroller of the Currency, "OCC's Quarterly Report on Bank Trading and Derivatives Activities, Second Quarter 2008," available at: <<http://www.occ.treas.gov/ftp/release/2008-115a.pdf>>.

<sup>189</sup> Kathleen Pender, "Government bailout hits \$8.5 trillion," San Francisco Chronicle, November 26, 2008, available at: <<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2008/11/26/MNVN14C8QR.DTL>>.

<sup>190</sup> U.S. Department of the Treasury, Troubled Asset Relief Program Transaction Report, December 9, 2008, available at:

<<http://www.treasury.gov/initiatives/eesa/transactions.shtml>>.

<sup>191</sup> See "The Centralization of Financial Power: Unintended Consequences of Government-Assisted Bank Mergers," "An Interview with Bert Foer," Multinational Monitor, November/December 2008, available at: <[www.multinationalmonitor.org/mm2008/12008/interview-foer.html](http://www.multinationalmonitor.org/mm2008/12008/interview-foer.html)>.

<sup>192</sup> Jake Lewis, "The Making of the Banking Behemoths," Multinational Monitor, June 1996, available at: <<http://www.multinationalmonitor.org/hyper/mm0696.04.html>>.

decades, the victim of industry lobbies and laissez-faire ideology. In the case of anti-trust, a conservative, corporate-backed campaign began in the 1970s to overturn many common-sense insights on the costs of mergers. The “law-and-economics” movement came to dominate law schools, scholarly writing and, eventually, the thinking of the federal judiciary. Its principles became the guiding doctrine for the Reagan-Bush Justice Department and Federal Trade Commission, the two U.S. agencies charged with enforcing the nation's antitrust laws. Based on a theoretical understanding of market efficiency, law-and-economics holds that many outlawed or undesirable anticompetitive practices are irrational, and therefore should never occur, or are possible only in extreme and unlikely situations.

Antitrust enforcers operating under these premises confined themselves to addressing extreme abuses, like overt price-fixing and hard-core cartels. Although the Clinton administration moved away from a hard-line law-and-economics approach, it watched over a period of industry consolidation that had seen no parallel since the merger wave at the start of the 20th century.<sup>193</sup>

The great banking mergers of the last

quarter century were generally permitted with little quarrel from the Department of Justice, which typically mandated only the sell-off of a few overlapping banking branches.<sup>194</sup>




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<sup>194</sup> See James Brock, “Merger Mania and Its Discontents: The Price of Corporate Consolidation,” *Multinational Monitor*, July/August 2005, available at: <<http://www.multinationalmonitor.org/mm2005/072005/brock.html>>. (In a brief review of mergers through 2005, Brock writes, “Banking and finance has witnessed the same scene of cumulative consolidation: Through two decades of ever-larger acquisitions, NationsBank became one of the country’s largest commercial banking concerns, absorbing C&S/Sovran (itself a merged entity), Boatmen’s Bancshares (\$9.7 billion deal), BankSouth and Barnett Bank (\$14.8 billion acquisition). Then, in 1998, NationsBank struck a spectacular \$60 billion merger with the huge Bank of America, which itself had been busily acquiring other major banks. The merger between NationsBank and B of A created a financial colossus controlling nearly \$600 billion in assets, with 5,000 branch offices and nearly 15,000 ATMs. Bank of America then proceeded to acquire Fleet Boston — which had just completed its own multi-billion dollar acquisitions of Bank Boston, Bay Bank, Fleet Financial, Shawmut, Summit Bancorp and NatWest. Giants Banc One and First Chicago NBD — their size the product of numerous serial acquisitions — merged, and the combined entity was subsequently absorbed by J.P. Morgan which, in turn, had just acquired Chase, after the latter had merged with Manufacturers Hanover and Chemical Bank in the financial business of underwriting stocks and bonds. Other mega-mergers include the \$73 billion combination of Citicorp and Travelers Group in 1998, as well as the acquisition of leading brokerage firms by big banks, including Morgan Stanley’s ill-fated acquisition of Dean Witter.”)

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<sup>193</sup> See Walter Adams and James Brock, “The Bigness Complex: Industry, Labor, and Government in the American Economy,” Palo Alto: Stanford Economics and Finance, 2004.

# 12 RAMPANT CONFLICTS OF INTEREST: CREDIT RATINGS FIRMS' FAILURE

## IN THIS SECTION:

*Credit ratings are a key link in the financial crisis story. With Wall Street combining mortgage loans into pools of securitized assets and then slicing them up into tranches, the resultant financial instruments were attractive to many buyers because they promised high returns. But pension funds and other investors could only enter the game if the securities were highly rated.*

*The credit rating firms enabled these investors to enter the game, by attaching high ratings to securities that actually were high risk — as subsequent events have revealed. The credit ratings firms have a bias to offering favorable ratings to new instruments because of their complex relationships with issuers, and their desire to maintain and obtain other business dealings with issuers.*

*This institutional failure and conflict of interest might and should have been forestalled by the SEC, but the Credit Rating Agencies Reform Act of 2006 gave the SEC insufficient oversight authority. In fact, the SEC must give an approval rating to credit ratings agencies if they are adhering to their own standards — even if the SEC knows those standards to be flawed.*

The stability and safety of mortgage-related assets are ostensibly monitored by private credit rating companies — overwhelmingly the three top firms, Moody's Investors Service, Standard & Poor's and Fitch Ratings Ltd.<sup>195</sup> Each is supposed to issue independent, objective analysis on the financial soundness of mortgages and other debt traded on Wall Street. Millions of investors rely on the analyses in deciding whether to buy debt instruments like mortgage-backed securities (MBSs). As home prices skyrocketed from 2004 to 2007, each agency issued the highest quality ratings on billions of dollars in what is now unambiguously recognized as low-quality debt, including subprime-related mortgage-backed securities.<sup>196</sup> As a result, millions of investors lost billions of dollars after purchasing (directly or through investment funds) highly rated MBSs that were, in reality, low quality, high risk and prone to default.

The phenomenal losses had many wondering how the credit rating firms could have gotten it so wrong. The answer lies in the cozy relationship between the rating companies and the financial institutions whose mortgage assets they rate. Specifi-

<sup>195</sup> Often labeled "credit ratings agencies," these are private, for-profit corporations.

<sup>196</sup> Edmund L. Andrews, "U.S. Treasury Secretary Calls for Stronger Regulation on Housing Finance," *International Herald Tribune*, March 13, 2008, available at: <<http://www.iht.com/articles/2008/03/13/business/credit.php>>.

cally, financial institutions that issue mortgage and other debt had been paying the three firms for credit ratings. In effect, the “referees” were being paid by the “players.” One rating analyst observed, “This egregious conflict of interest may be the single greatest cause of the present global economic crisis ... . With enormous fees at stake, it is not hard to see how these [credit rating] companies may have been induced, at the very least, to gloss over the possibilities of default or, at the worst, knowingly provide inflated ratings.”<sup>197</sup> A Moody’s employee stated in a private company e-mail that “we had blinders on and never questioned the information we were given [by the institutions Moody was rating].”

The CEO of Moody’s reported in a confidential presentation that his company is “continually ‘pitched’ by bankers” for the purpose of receiving high credit ratings and that sometimes “we ‘drink the kool-aid.’”<sup>198</sup> A former managing director of credit policy at Moody’s testified before Congress that,

“Originators of structured securities [e.g. banks] typically chose the agency with the lowest standards,”<sup>199</sup> allowing banks to engage in “rating shopping” until a desired credit rating was achieved. The agencies made millions on MBS ratings and, as one Member of Congress said, “sold their independence to the highest bidder.”<sup>200</sup> Banks paid large sums to the ratings companies for advice on how to achieve the maximum, highest quality rating. “Let’s hope we are all wealthy and retired by the time this house of cards falters,” a Standard & Poor’s employee candidly revealed in an internal e-mail obtained by congressional investigators.<sup>201</sup>

Other evidence shows that the firms adjusted ratings out of fear of losing customers. For example, an internal e-mail between senior business managers at one of the three ratings companies calls for a “meeting” to

<sup>197</sup> Testimony of Sean J. Eagan, before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102906.pdf>>.

<sup>198</sup> Opening Statement of Rep. Henry Waxman, Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102221.pdf>> (quoting a confidential presentation made by Moody’s CEO Ray McDaniel to the board of directors in October 2007).

<sup>199</sup> Testimony of Jerome S. Fons, Former Managing Director of Credit Policy, Moody’s, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102726.pdf>>.

<sup>200</sup> Rep. Christopher Shays, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081023162631.pdf>>.

<sup>201</sup> Opening Statement of Rep. Henry Waxman, Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102221.pdf>> (quoting a confidential e-mail from an S&P employee).

“discuss adjusting criteria for rating CDOs [collateralized debt obligations] of real estate assets this week because of the ongoing threat of losing deals.”<sup>202</sup> In another e-mail, following a discussion of a competitor’s share of the ratings market, an employee of the same firm states that aspects of the firm’s ratings methodology would have to be revisited in order to recapture market share from the competing firm.<sup>203</sup>

The credit rating business was spectacularly profitable, as the firms increasingly focused in the first part of this decade on structured finance and new complex debt products, particularly credit derivatives (complicated instruments providing a kind of insurance on mortgages and other loans). Moody’s had the highest profit margin of any company in the S&P 500 for five years in a row.<sup>204</sup> Its ratings on

MBSs and CDOs — heavily weighted with toxic subprime mortgages — contributed to more than half of the company’s ratings revenue by 2006.<sup>205</sup>

Although the ratings firms are for-profit companies, they perform a quasi-public function. Their failure alone could be considered a regulatory failure. But the credit rating failure has a much more direct public connection. Government agencies explicitly relied on private credit rating firms to regulate all kinds of public and private

activities. And, following the failure of the credit ratings firms in the Enron and related scandals, Congress passed legislation giving the SEC regulatory power, of a sort, over the firms. However, the 2006 legislation prohibited the SEC from actually regulating the credit ratings process.

The Securities and Exchange Commission was the first government agency to

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man, Before the Committee on Oversight and Government Reform, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102221.pdf>>.

<sup>205</sup> Rep. Jackie Speier, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081023162631.pdf>>.

**“With enormous fees at stake, it is not hard to see how these [credit rating] companies may have been induced, at the very least, to gloss over the possibilities of default or, at the worst, knowingly provide inflated ratings.”**

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<sup>202</sup> “Summary Report of Issues Identified in the Commission Staff’s Examinations of Select Credit Rating Agencies,” Securities and Exchange Commission, July 2008, available at: <[http://www.sec.gov/news/studies/2008/cra\\_examination070808.pdf](http://www.sec.gov/news/studies/2008/cra_examination070808.pdf)>.

<sup>203</sup> “Summary Report of Issues Identified in the Commission Staff’s Examinations of Select Credit Rating Agencies,” Securities and Exchange Commission, July 2008, available at: <[http://www.sec.gov/news/studies/2008/cra\\_examination070808.pdf](http://www.sec.gov/news/studies/2008/cra_examination070808.pdf)>.

<sup>204</sup> Opening Statement of Rep. Henry A. Wax-

incorporate credit rating requirements directly into its regulations. In response to the credit crisis of the early 1970s, the SEC promulgated Rule 15c3-1 (the net capital rule) which formally approved the use of credit rating firms as National Recognized Statistical Ratings Organizations (NRSROs).<sup>206</sup> Rule 15c3-1 requires investment banks to set aside certain amounts of capital whenever they purchase a bond from a corporation or government. By requiring “capital set asides,” a financial “cushion” is created on which investment banks can fall in the event of bond default. The amount of capital required to be set aside depends on the risk assessment of each bond by the credit rating firms. Purchasing bonds that have a high risk of default, as determined by one of the credit rating companies, requires a larger capital set asides than bonds that are assessed to present a low risk of default. The “risk” or probability of default is determined for each bond by a credit rating company hired by the issuer of the bond.

Since the SEC’s adoption of the net capital rule, credit ratings have been incorporated into hundreds of government regulations in areas including securities, pensions, banking, real estate, and insurance.

For example, Moody’s Investor Service

<sup>206</sup> Arthur R. Pinto, “Section III: Commercial and Labor Law: Control and Responsibility of Credit Rating Agencies in the United States,” *American Journal of Comparative Law*, 54 Am. J. Comp. L. 341, Supplement, Fall 2006.

gives a rank of “C” for the lowest rated (i.e. high risk) bonds and a rank of “Aaa” — “triple A” — for bonds that are low risk and earn its highest rating. Examples of highly rated bonds include those issued by well-capitalized corporations, while bonds issued by corporations with a history of financial problems earn a low rating.

If a bank begins experiencing financial problems, Moody’s may downgrade the bank’s bonds. It might downgrade from a high grade of “Aaa” to a medium grade of “Baa” or even the dreaded “C,” depending on the severity of the bank’s financial problems. Downgrading bonds can trigger a requirement imposed by regulations or private contracts that require the corporation to immediately raise capital to protect its business. Banks might be forced to raise capital by selling securities or even the real estate it owns.

Evidence of falling home values began emerging in late 2006, but there were no downgrades of subprime mortgage-related securities by credit rating agencies until June 2007.<sup>207</sup> Indeed, the credit ratings firms had

<sup>207</sup> Testimony of Jerome S. Fons, Former Managing Director of Credit Policy, Moody’s, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, October 22, 2008, available at: <<http://oversight.house.gov/documents/20081022102726.pdf>> (citing Gary Gorton, 2008, “The Panic of 2007,” NBER working paper #14358); but see Gretchen Morgenenson, “Investors in mortgage-backed securities fail to react to market plunge,” *International Herald Tribune*, February 18,



failed to recognize the housing bubble, and the inevitability that when the enormous bubble burst, it would lead to massive mortgage defaults and the severe depreciation in value of mortgage-backed securities. The firms also failed to consider that many mortgage-backed securities were based on dubious subprime and exploitative predatory loans that could not conceivably be repaid.

The current financial crisis is not the first time credit rating companies dropped the ball. During the dot-com bubble of the late 1990s, they were the “last ones to react, in every case” and “downgraded companies only after all the bad news was in, frequently just days before a bankruptcy filing.”<sup>208</sup> In addition, the firms were criticized in 2003 for failing to alert investors to the impending collapse of Enron and World-Com. As a result, Congress passed the Credit Rating Agency Reform Act of 2006<sup>209</sup> which requires disclosure to the SEC of a general description of each firm’s procedures and methodologies for determining credit ratings, including historical downgrade and default rates within each of its credit rating categories. It also grants the

SEC broad authority to examine all books and records of the companies. However, intense lobbying by the rating firms blocked further reforms, and the law expressly states that the SEC has no authority to regulate the “substance of the credit ratings or the procedures and methodologies” by which any firm determines credit ratings. In 2007, SEC Chair Christopher Cox said, “it is not our role to second-guess the quality of the rating agencies’ ratings.”<sup>210</sup>

In the highly deregulated financial markets of the last few decades, the credit rating firms were supposed to be the independent watchdogs that carefully scrutinized corporations and the financial products that they offered to investors. Like the federal agencies and Congress, the credit rating companies failed to protect the public.




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2007, available at:  
<http://www.iht.com/articles/2007/02/18/yournmoney/morgenson.php>. (Moody’s “downgraded only 277 subprime home equity loan tranches [in 2006], just 2 percent of the home equity securities rated by the agency.”)

<sup>208</sup> Frank Partnoy, *Infectious Greed: How Deceit and Risk Corrupted the Financial Markets* 352, New York: Times Books (2003).

<sup>209</sup> 15 U.S.C. § 78o-7.

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<sup>210</sup> Testimony of SEC Chairman Christopher Cox, Before the U.S. Senate Committee on Banking, Housing and Urban Affairs, September 26, 2007, available at:  
<http://www.sec.gov/news/testimony/2007/ts092607cc.htm>.

## **Part II:**

# **Wall Street's Washington Investment**

# Wall Street's Campaign Contributions and Lobbyist Expenditures

The financial sector invested more than \$5 billion in political influence purchasing in the United States over the last decade.

The entire financial sector (finance, insurance, real estate) drowned political candidates in campaign contributions, spending more than \$1.738 billion in federal elections from 1998-2008. Primarily reflecting the balance of power over the decade, about 55 percent went to Republicans and 45 percent to Democrats. Democrats took just more than half of the financial sector's 2008 election cycle contributions.

The industry spent even more — topping \$3.3 billion — on officially registered lobbyists during the same period. This total certainly underestimates by a considerable amount what the industry spent to influence policymaking. U.S. reporting rules require that lobby firms and individual lobbyists disclose how much they have been paid for lobbying activity, but lobbying activity is defined to include direct contacts with key government officials, or work in preparation for meeting with key government officials. Public relations efforts and various kinds of indirect lobbying are not covered by the

reporting rules.

During the decade-long period:

- Commercial banks spent more than \$154 million on campaign contributions, while investing \$383 million in officially registered lobbying;
- Accounting firms spent \$81 million on campaign contributions and \$122 million on lobbying;
- Insurance companies donated more than \$220 million and spent more than \$1.1 billion on lobbying; and
- Securities firms invested more than \$512 million in campaign contributions, and an additional nearly \$600 million in lobbying. Hedge funds, a subcategory of the securities industry, spent \$34 million on campaign contributions (about half in the 2008 election cycle); and \$20 million on lobbying. Private equity firms, a subcategory of the securities industry, contributed \$58 million to federal candidates and spent \$43 million on lobbying.

Individual firms spent tens of millions of dollars each. During the decade-long period:

- Goldman Sachs spent more than \$46 million on political influence buying;
- Merrill Lynch spent more than \$68 million;

- Citigroup spent more than \$108 million;
- Bank of America devoted more than \$39 million;
- JPMorgan Chase invested more than \$65 million; and
- Accounting giants Deloitte & Touche, Ernst & Young, KPMG and Pricewaterhouse spent, respectively, \$32 million, \$37 million, \$27 million and \$55 million.

The number of people working to advance the financial sector's political objectives is startling. In 2007,<sup>211</sup> the financial sector employed a staggering 2,996 separate lobbyists to influence federal policy making, more than five for each Member of Congress. This figure only counts officially registered lobbyists. That means it does not count those who offered "strategic advice" or helped mount policy-related PR campaigns for financial sector companies. The figure counts those lobbying at the federal level; it does not take into account lobbyists at state houses across the country. To be clear, the 2,996 figure represents the number of separate individuals employed by the financial sector as lobbyists in 2007. We do not double count individuals who lobby for more than one company; the total number of financial sector lobby hires in 2007 was a

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<sup>211</sup> We chose 2007 as the most recent year for which full data was available at the time we conducted our research.

whopping 6,738.

Within the financial sector, industry groups deployed legions of lobbyists. In 2007:<sup>212</sup>

- Accounting firms employed 178 lobbyists;
- Insurance companies had 1,219 lobbyists working for them;
- Real estate interests hired 1,142 lobbyists;
- Finance and credit companies employed 415 lobbyists;
- Credit unions maintained 96 lobbyists;
- Commercial banks employed 421 lobbyists;
- Securities and investment firms maintained 1,023 lobbyists; and
- Miscellaneous other financial companies employed 134 lobbyists.

A great many of those lobbyists entered and exited through the revolving door connecting the lobbying world with government. Surveying only 20 leading firms in the financial sector (none from the insurance industry or real estate), we found that 142

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<sup>212</sup> These figures do not double count within the industry group, but total more than the figure for the entire financial sector because we did not eliminate overlaps between industry sectors. Thus, for these totals, if John Smith works as a lobbyist for two accounting firms, he counts as only one lobbyist for the accounting industry. If he works as a lobbyist for an accounting firm and an insurance company, he counts as one for the accounting industry and one for the insurance industry.

industry lobbyists during the period 1998-2008 had formerly worked as “covered officials” in the government. “Covered officials” are top officials in the executive branch (most political appointees, from members of the cabinet to directors of bureaus embedded in agencies), Members of Congress, and congressional staff.

Nothing evidences the revolving door — or Wall Street’s direct influence over policymaking — more than the stream of Goldman Sachs expatriates who left the Wall Street goliath, spun through the revolving door, and emerged to hold top regulatory positions. Topping the list, of course, are former Treasury Secretaries Robert Rubin and Henry Paulson, both of whom had served as chair of Goldman Sachs before entering government.

In the charts that follow in this part, we detail campaign contributions and lobby expenditures from 1998-2008 for the overall financial sector and for the industry components of the sector. We also provide aggregated information on number of industry lobbyists and number of industry lobbyists circling through the revolving door. In the appendix to this report, we provide extensive information on the campaign contributions and lobbyists of 20 leading companies in the financial sector — five each from commercial banking, securities, accounting and hedge fund industries. For each profiled company, we identify the top 20 recipients

of their campaign contributions for each election cycle over the last decade; the lobby firms they employed each year, and the amount paid to those firms; and covered official lobbyists they employed (i.e., lobbyists formerly employed as top officials in the executive branch, or as former Members of Congress or congressional staff).



## Methodological Note

Our information on campaign contributions and lobby expenditures comes from mandated public filings, and the enormously helpful data provided by the Center for Responsive Politics.

Our figures on total and annual sector, industry and firm campaign contributions and lobby expenditures are drawn from the Center for Responsive Politics.

Our campaign contribution data is organized by biannual Congressional election cycles. Thus the total for 1998 also includes contributions made in 1997.

Our data on total number of official lobbyists is compiled from data prepared by the Center for Responsive Politics. The Center for Responsive Politics lobbyist database lists all individual lobbyists reporting to the Senate Office of Public Records. We tallied up totals from that database.

Our data on number of covered official

lobbyists is drawn from the original disclosure statements filed with the Senate Office of Public Records.

Our listing of the top 20 biannual recipients of campaign contributions from our 20 profiled firms uses data compiled from the Center for Responsive Politics where possible. In four cases where the Center had not compiled the data, we compiled the information using the Center's raw data on individual campaign contributors and information on the company's political action committee (PAC) contributions. That is, we tracked donations from every person with, for example, Lehman Brothers as an employer,<sup>213</sup> compiled them into a database; added in the Lehman Brothers PAC contributions; and then list the top 20 recipients. We compiled donations for Lehman Brothers, Wachovia, Wells Fargo and KPMG.

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<sup>213</sup> Our compilation is based only on the top 1,000 largest contributors affiliated with each company.

**Financial Sector**  
**Campaign Contributions and Lobbying Expenditures**  
 Finance, Insurance, Real Estate

**\$5,178,835,253**

Decade-long campaign contribution total (1998-2008): **\$1,738,284,032**

Decade-long lobbying expenditure total (1998-2008): **\$3,440,551,221**

**Campaign Contributions**

2008	\$442,535,157
2006	\$259,023,355
2004	\$339,840,847
2002	\$233,156,722
2000	\$308,638,091
1998	\$155,089,860

**Lobbying Expenditures**

2008	\$454,879,133
2007	\$417,401,740
2006	\$374,698,174
2005	\$371,576,173
2004	\$338,173,874
2003	\$324,865,802
2002	\$268,886,799
2001	\$235,129,868
2000	\$231,218,026
1999	\$213,921,725
1998	\$209,799,907

**Financial Sector**  
**Official Lobbyists**  
Finance, Insurance, Real Estate

2007 total official lobbyists for financial sector: **2,996**

Covered official lobbyists for 20 profiled firms,  
Decade-long total (1998-2008): **142**



## Securities Firms

Decade-long campaign contribution industry total (1998-2008):  
**\$512,816,632**

Decade-long lobbying expenditure industry total (1998-2008):  
**\$599,955,649**

### Campaign Contributions for 5 Leading Firms

Bear Stearns	\$6,355,737
Goldman Sachs	\$25,445,983
Lehman Brothers	\$6,704,574
Merrill Lynch	\$9,977,724
Morgan Stanley	\$14,367,857

### Lobbying Expenditures for 5 Leading Firms

Bear Stearns	\$9,550,000
Goldman Sachs	\$21,637,530
Lehman Brothers	\$8,660,000
Merrill Lynch	\$59,076,760
Morgan Stanley	\$20,835,000

## Commercial Banks

Decade-long campaign contribution industry total (1998-2008):  
**\$154,868,392**

Decade-long lobbying expenditure industry total (1998-2008):  
**\$382,943,342**

### Campaign Contributions for 5 Leading Firms

Bank of America	\$11,629,260
Citigroup	\$19,778,382
JP Morgan Chase & Co	\$15,714,953
Wachovia Corp.	\$3,946,727
Wells Fargo	\$5,330,022

### Lobbying Expenditures for 5 Leading Firms

Bank of America	\$28,635,440
Citigroup	\$88,460,000
JP Morgan Chase & Co	\$49,372,915
Wachovia Corp.	\$11,996,752
Wells Fargo	\$16,637,740

## Hedge Funds\*

Decade-long campaign contribution industry total (1998-2008):  
**\$33,742,815**

Decade-long lobbying expenditure industry total (1998-2008):  
**\$20,252,000**

### Campaign Contributions for 5 Leading Firms

Bridgewater Associates	\$274,650
DE Shaw Group	\$3,100,255
Farallon Capital Management	\$1,058,953
Och-Ziff Capital Management	\$338,552
Renaissance Technologies	\$1,560,895

### Lobbying Expenditures for 5 Leading Firms

Bridgewater Associates	\$855,000
DE Shaw Group	\$680,000
Farallon Capital Management	\$1,005,000
Och-Ziff Capital Management	\$200,000
Renaissance Technologies	\$740,000

\* Hedge fund contributions are included in the overall securities campaign contributions and lobbying expenditure totals.

Source: Center for Responsive Politics, <[www.opensecrets.org](http://www.opensecrets.org)>.

## Accounting Firms

Decade-long campaign contribution industry total (1998-2008):  
**\$81,469,000**

Decade-long lobbying expenditure industry total (1998-2008):  
**\$121,658,156**

### Campaign Contributions for 5 Leading Firms

Arthur Andersen	\$3,324,175
Deloitte & Touche	\$12,120,340
Ernst & Young	\$12,482,407
KPMG LLP	\$8,486,392
Pricewaterhouse	\$10,800,772

### Lobbying Expenditures for 5 Leading Firms

Arthur Andersen	\$1,900,000
Deloitte & Touche	\$19,606,455
Ernst & Young	\$25,108,536
KPMG LLP	\$19,103,000
Pricewaterhouse	\$44,291,084

# **Conclusion and Recommendations: Principles for a New Financial Regulatory Architecture**

For more than 25 years, regulatory control over the financial sector has steadily eroded. This deregulatory trend accelerated in the last decade: In 1999, Congress, with the support of the Clinton White House passed the Gramm-Leach-Bliley Act of 1999, removing the firewalls between commercial banking on the one hand and investment banking and insurance on the other; federal agencies declined to regulate financial derivatives and Congress then enshrined this head-in-the-sand policy as law; federal regulators rationalized the subprime lending boom as good housing policy rather than the ticking time bomb that it self-evidently was; and federal officials collaborated with Wall Street to permit extraordinary increases in the amount of money firms could lend or borrow for every dollar of their own capital.

All of these deregulatory moves created the conditions for the current financial implosion.

The dangers inherent in these policies were evident to any careful observer. Consumer groups, some investor advocates, independent economists and analysts, and some regulators all sounded the alarm as each of the actions chronicled in this report were first proposed.

Those warnings were ignored, however. They were drowned out by the cacophony of well-paid lobbyists and the jingle of cash registers opening and closing as Wall Street handed out hundreds of millions in political contributions.

Now, after the trillions of dollars in taxpayer money has been spent, there is widespread agreement that deregulation went too far, and that new regulatory initiatives are required. But as with each of the twelve steps on the road to financial ruin, the financial industry is resisting meaningful reforms.

The repeal of Glass-Steagall and the bank mergers already authorized cannot easily be undone, but both those issues require very careful scrutiny. The leading independent investment banks have all merged into commercial banks or converted themselves into bank holding companies; the very severe risk is that the investment bank culture will again influence traditional banking operations, and encourage dangerous and unsustainable risk-taking. The bank merger trend is actually escalating as a consequence of the financial crisis, as fed-

eral regulators bless shot-gun marriages in order to avoid committing still more taxpayer money to making depositors whole. But much more care should be taken in authorizing additional mergers. Also, as Bert Foer of the American Antitrust Institute points out, many of the recently consummated mergers are almost certain to fail. Policymakers need to take a comprehensive assessment of banking concentration; for if the existing high levels of concentration are to be permitted, regulatory review must be much more intensive, and controls on big bank activity much more extensive.

Beyond undoing the deregulatory maneuvers documented in this report, an affirmative regulatory agenda must establish a new framework for financial sector regulation. It should aim to reduce the size of the financial sector, reduce reliance on overly complicated financial instruments, and provide robust and multi-faceted protections for consumers. We, and many others, will be proposing specific regulatory reforms over the course of the next year. Here, we conclude with overarching premises that should guide the new financial regulatory architecture.

### **1. The financial sector should serve and be subordinate to the real economy.**

From 2004-2007, financial sector profits amounted to more than a third of overall corporate profits. This is — and should have

been treated as — conclusive evidence of a financial system out of control, one that was beginning to devour rather than serve the real economy. There should be no deference shown to Wall Street interests complaining that a new regulatory regime will hurt their profitability. The Wall Street operators have destroyed their own institutions, and their earlier profits are now revealed to be only the froth from a bubble economy and financial sleight-of-hand. In any case, the American economy cannot be based on finance and the trading of paper. Looking back, we see that the financial economy did not increase America's true wealth, but just the opposite: Wall Street siphoned profits from the real economy, and from the checking accounts of consumers, workers and investors, until the system collapsed, and consumer, workers and investors were asked to foot the bill.

### **2. Hedge funds and financial derivatives must be regulated.**

What is a hedge fund? As a legal matter, the term references investment funds that escape Securities and Exchange Commission regulatory authority on the grounds that they serve sophisticated investors. But the evidence is once again overwhelming that sophisticated investors cannot be trusted to protect their own interests (see Bernard Madoff). But more important, these non-regulated entities pose systemic risks to the

financial sector, not just to the wealthy. Cities, states, colleges, non-profit organizations, and every American turned out to be at risk from the machinations of the so-called sophisticated financial sector. All investment vehicles must be subjected to the same regulatory requirements — and those standards must be elevated dramatically. Finally, not all financial derivatives should be permitted to continue to trade. But those for which a legitimate purpose can be shown must be brought into the regulatory system, with guarantees of transparency, restrictions on leverage and requirements for “skin in the game.”

### **3. Enhanced standards of transparency.**

Hedge funds, investment banks, insurance companies and commercial banks have engaged in such complicated and intertwined transactions that no one could track who owes what, to whom. AIG apparently didn't even know who it had insured, and on what terms, through the credit default swaps it participated in. Moreover, the packaging and re-packaging of mortgages into various esoteric securities undermined the ability of the financial markets to correctly value these financial instruments. Baseline transparency requirements must include an end to off-the-books transactions, detailed reporting of holdings by all investment funds, and selling and trading of all permitted financial derivatives on regulated and public exchanges.

Other mechanisms will enhance transparency and simplify some overly complicated financial instruments: these include “skin in the game” requirements and prohibitions on certain practices (for example, tranching of securities<sup>214</sup>) that add complexity and confusion, but no social value.

### **4. Prohibit certain financial instruments.**

Wall Street has proved Warren Buffett right in labeling financial derivatives “weapons of financial destruction.” Synthetic collateralized debt obligations — a kind of credit default swap<sup>215</sup> — are among the worst abuses of the current system, enabling legalized, large-scale betting by entities not party to the underlying transaction. Whatever hypothetical benefit such instruments have for establishing a market price for credit default swaps is vastly outweighed by the actual and demonstrable damage they have done to the real economy. They should

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<sup>214</sup> For further discussion of the case for prohibiting tranching, see Robert Kuttner, “Financial Regulation: After the Fall,” Demos, January 2009, available at: <<http://www.demos.org/publication.cfm?currentpublicationID=B8B65B84%2D3FF4%2D6C82%2D5F3F750B53E44E1B>>.

<sup>215</sup> See also this helpful discussion explaining synthetic CDOs from Portfolio's Felix Salmon, available at: <<http://www.portfolio.com/views/blogs/market-movers/2008/11/28/understanding-synthetics>>. Essential, synthetic CDOs involve the creation of insurance on a bond (someone pays for the insurance, and someone agrees to insure against failure of the bond), with one important condition: neither party actually holds the bond.

be prohibited.

### **5. Adopt the precautionary principle<sup>216</sup> for exotic financial instruments.**

The burden should be placed on those urging the creation or trade of exotic financial instruments — existing and those yet to be invented — to show why they should be permitted. They should be required to show the affirmative, social benefit of the new instrument, and prove why these benefits outweigh risks. They should be specifically required to explain why the instrument does not worsen financial systemic risk, taking into account recent experience where purported diversification of risk led to its spread and exponential increase. Regulators should maintain a strong bias against complicated new instruments, recognizing that complexity both introduces inherent uncertainty and is often used to obscure dangers, risks and bad investments.<sup>217</sup>

<sup>216</sup> The precautionary principle is a term most frequently used in the environmental context. It suggests that, for example, before a chemical can be introduced on the market, it must be shown to be safe. This approach stands against the notion that a new chemical is presumed safe and permitted on the market, until regulators can prove that it is not.

<sup>217</sup> See “Plunge: How Banks Aim to Obscure Their Losses,” An Interview with Lynn Turner, *Multinational Monitor*, November/December 2008, available at: <<http://www.multinationalmonitor.org/mm2008/112008/interview-turner.html>> (“Wall Street typically designs these things so that they hide something from the public or their investors. So when you have the CDOs

### **6. Limit leverage.**

High flyers like leveraged investments because they offer the possibility of very high returns. But, as we have seen, they also enable extremely risky investments that can vastly exceed an investor's actual assets. This degree of leverage turns the financial system into a game of musical chairs — those left standing when the music stops are wiped out. The entire financial system is presently at risk because the amount of leverage far exceeded the assets needed to back it up once investors sought to convert their holdings to cash. There should be stringent restrictions on the use of leverage by all players in the financial system. These include enhanced capital requirements for banks and investment banks (and especially the build-up of capital in good times); and increased margin requirements, so that parties buying securities, futures or options must put up more collateral.

### **7. Impose a financial transactions tax.**

A small tax on each financial transaction<sup>218</sup>

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[collateralized debt obligations] built on top of the other CDOs, they hide what the underlying assets are really like, or what the underlying mortgages are really like. In some of the off-balance sheet special purpose entities, like with Enron, it was to hide their financing.”)

<sup>218</sup> Pollin, Baker and Schaberg suggest a .5 percent tax on stock trades, and comparable burdens on other transactions (for example, this works out to .01 percent for each remaining year of maturity on a bond.) See Robert Pollin, Dean Baker, and Marc



would discourage speculation, curb the turbulence in the markets, and, generally, slow things down. It would give real-economy businesses more space to operate without worrying about how today's decisions will affect their stock price tomorrow, or the next hour. And it would be a steeply progressive tax that could raise substantial sums for useful public purposes.

#### **8. Crack down on excessive pay and the Wall Street bonus culture.**

Wall Street salaries and bonuses are out of control. The first and most simple demand is to ensure no bonus payments for firms receiving governmental bailout funds. If they had to be bailed out, why does anyone in the firm deserve a bonus? Even more importantly, bonus payments with taxpayer money is an outrageous misuse of public funds.

Beyond the bailouts, however, there is a need to address the Wall Street bonus culture. Paid on a yearly basis, Wall Street bonuses can be 10 or 20 times base salary, and commonly represent as much as four fifths of employees' pay. In this context, it makes sense to take huge risks. The payoffs from benefiting from risky investments or a bubble are dramatic, and there's no reward

for staying out. Wall Street compensation should be lowered overall, but most important is imposing legal requirements that compensation be tied to long-term performance. If employees had to live with the long-term consequences of their investment decisions, they would employ very different strategies.

#### **9. Adopt a financial consumer protection agenda.**

Commercial banks and Wall Street backers have, to a considerable extent, built their business model around abusive lending practices. Predatory mortgage lenders, credit card companies, student loan corporations — all pushed unsustainable levels of credit, on onerous terms frequently indecipherable to borrowers, and with outrageous hidden fees and charges. A new financial consumer protection agency should be established; interest rates, fees and charges should all be capped (especially now that Americans who are in effect borrowing their own money from banks and credit card companies who received bailout funds). Impediments to legal accountability for fraud and other unlawful conduct, such as the holder in due course rule, preemption of state laws, and the Private Securities Litigation Reform Act should be withdrawn or repealed.

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Schaberg, "Financial Transactions Taxes for the U.S. Economy," 2002, Political Economy Research Institute, available at: <<http://www.peri.umass.edu/236/hash/aef97d8d65/publication/172>>.

**10. Give consumers the tools to organize themselves.**

Federal law should empower consumers to organize into independent financial consumers associations. Lenders should be required to facilitate such organization by their borrowers (through mailings to borrowers, on behalf of independent consumer organizations), as should corporations to their shareholders. With independent organizations funded by small voluntary fees, consumers could hire their own independent representatives to review financial players' activities, scour their books, and advocate for appropriate public policies.

■ ■ ■

Is this agenda politically feasible? It has the advantage of being necessary: Recent years' experience shows beyond any reasonable argument that a deregulated and unrestrained financial sector will destroy itself — and threaten the U.S. and global economies in the process.

The deregulatory decisions profiled in this report were not made on their merits. At

almost every step, public interest advocates and independent-minded regulators and Members of Congress cautioned about the hazards that lay ahead — and they were proven wrong only in underestimating how severe would be the consequences of deregulation. Good arguments could not compete with the combination of political influence and a reckless and fanatical zeal for deregulation. \$5 billion buys a lot of friends. In one sense, this report can be considered a case study in the need for the elimination of special interest money from American politics, but Congress will address financial re-regulation this year, and reform of our political process does not appear on the horizon. The emergent consensus on the imperative to re-regulate the financial sector demonstrates that, in the wake of the financial meltdown, the prevailing regulatory paradigm has shifted. Whether the forces that brought America's economy to the precipice can be forced to accede to that shift — whether the public interest will prevail — remains to be seen.

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## Investment Banks: Bear Stearns

Decade-long campaign contribution total (1998-2008): **\$6,355,737**

Decade-long lobbying expenditure total (1998-2008): **\$9,550,000**

### Bear Stearns Campaign Contributions:<sup>219</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$1,241,290</b>
1.	Rudy Giuliani (R)	\$130,091
2.	Hillary Clinton (D)	\$127,460
3.	John McCain	\$98,200
4.	Barack Obama (D)	\$60,503
5.	Christopher Dodd (D)	\$48,700
6.	Mitt Romney (R)	\$31,550
7.	Nita Lowey (D)	\$12,200
8.	Frank Lautenberg (D)	\$11,600
9.	Paul Kanjorski (D)	\$7,500
9.	Elizabeth Dole (R)	\$7,500
11.	Charles Rangel (D)	\$7,300
12.	John Edwards (D)	\$6,850
13.	Kirsten Gillibrand (D)	\$6,600
14.	Dick Durbin (D)	\$6,400
15.	Steny Hoyer (D)	\$6,000
16.	Bill Richardson (D)	\$5,250
17.	Tim Johnson (D)	\$5,000
17.	Spencer Bachus (R)	\$5,000
17.	Barney Frank (D)	\$5,000
20.	Christopher Shays (R)	\$4,800

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$938,619</b>
1.	Chris Dodd (D)	\$67,850
2.	Joe Lieberman (I)	\$49,610
3.	Martha Rainville (R)	\$14,800
4.	Hillary Clinton (D)	\$13,575
5.	Deborah Pryce (R)	\$13,000
6.	Spencer Bachus (R)	\$10,000
7.	Rick Santorum (R)	\$8,700
8.	Richard Baker (R)	\$7,500
8.	Jim McCrery (R)	\$7,500
10.	Paul Kanjorski (D)	\$6,500
11.	Rudy Giuliani (R)	\$6,300
12.	Christopher Shays (R)	\$6,165
13.	Barney Frank (D)	\$5,500
13.	Pete Sessions (R)	\$5,500
15.	Evan Bayh (D)	\$5,000
15.	Mike Crapo (RD)	\$5,000
15.	Michael Oxley (R)	\$5,000
15.	Bill Thomas (R)	\$5,000
15.	Patrick Tiberi (R)	\$5,000
20.	Mike Ferguson (R)	\$4,600

<sup>219</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients<sup>220</sup>**

<b>TOTAL:</b>		<b>\$1,458,005</b>
1.	George W Bush (R)	\$198,200
2.	John Kerry (D)	\$65,400
3.	Wesley Clark (D)	\$41,000
4.	Rick Santorum (R)	\$20,500
5.	Charles Schumer (D)	\$18,000
6.	Richard Gephardt (D)	\$13,500
7.	John Peterson (R)	\$12,000
8.	Charles Wieder Dent (R)	\$11,080
9.	Pete Sessions (R)	\$10,580
10.	Lowey, Nita M (D)	\$10,000
11.	Erskine Bowles (D)	\$8,080
12.	Tom Daschle (D)	\$8,000
12.	James DeMint (R)	\$8,000
12.	John Thun, (R)	\$8,000
12.	David Vitter (R)	\$8,000
16.	Rahm Emanuel (D)	\$7,000
16.	Luis Fortuno (3)	\$7,000
18.	John Edwards (D)	\$6,250
19.	Charles Boustany Jr (R)	\$6,080
20.	Timothy Bishop (D)	\$5,500

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$661,838</b>
1.	Charles Schumer (D)	\$94,900
2.	Christopher Dodd (D)	\$92,900
3.	Chuck Grassley (R)	\$16,000
4.	Jack reed (R)	\$13,000
5.	Nita Lowey (D)	\$11,250
6.	Jack Conway (D)	\$7,750

7.	John Kerry (D)	\$7,000
8.	Ron Kirk (D)	\$6,990
9.	Tim Johnson (D)	\$6,000
9.	Pete Domenici (R)	\$6,000
9.	Michael Oxley (R)	\$6,000
9.	Charles Rangel (D)	\$6,000
13.	Artur Davis (D)	\$5,400
14.	Denise Majette (D)	\$5,250
15.	Paul Kanjorski (D)	\$5,000
16.	Max Baucus (D)	\$4,500
16.	Pat Toomey (R)	\$4,000
16.	Bill Thomas (R)	\$4,000
19.	Deborah Pryce (R)	\$3,500
20.	Joe Biden (D)	\$3,250

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,243,379</b>
1.	Rick Lazio (R)	\$40,000
2.	Jon Corzine (D)	\$23,250
3.	Spencer Abraham (R)	\$18,500
4.	Hillary Clinton (D)	\$15,500
5.	Vito Fossella (R)	\$11,000
6.	Al Gore (D)	\$10,000
7.	Charles Schumer (D)	\$9,500
8.	George W Bush	\$7,000
9.	Charles Rangel (D)	\$5,811
10.	Orrin Hatch (R)	\$5,500
10.	David Lawther Johnson (D)	\$5,500
12.	Edolphus Towns (D)	\$5,000
13.	Tom Harkin (D)	\$3,000
13.	Marge Roukema (R)	\$3,000
13.	Howard Berman (D)	\$3,000
13.	George Allen (R)	\$3,000
17.	Richard Neal (D)	\$2,500

<sup>220</sup> Based on highest 1,000 contributions and PAC money.

18.	Steve Forbes (R)	\$2,250
18.	John McCain (R)	\$2,250
20.	William Roth (R)	\$2,000
20.	Trent Lott (R)	\$2,000
20.	Rod Grams (R)	\$2,000
20.	Robert Torricelli (D)	\$2,000
20.	Richard Lugar (R)	\$2,000
20.	Phil Gramm (R)	\$2,000
20.	Phil Crane (R)	\$2,000
20.	Paul Sarbanes (D)	\$2,000
20.	Kent Conrad (D)	\$2,000
20.	John Kerry (D)	\$2,000
20.	Jim Maloney (D)	\$2,000
20.	E Clay Shaw (R)	\$2,000
20.	Deborah Pryce (R)	\$2,000
20.	Dan Quayle (R)	\$2,000
20.	Christopher Dodd (D)	\$2,000
20.	Bill McCollum (R)	\$2,000
20.	Amo Houghton (R)	\$2,000

10.	Newt Gingrich (R)	\$3,000
13.	Rick White (R)	\$2,550
14.	Jerry Weller (R)	\$2,500
15.	Billy Tauzin (R)	\$2,050
15.	Thomas Manton (D)	\$2,050
17.	Amo Houghton (R)	\$2,000
17.	Bob Graham (D)	\$2,000
17.	Charles Grassley (R)	\$2,000
17.	Christopher Bond (R)	\$2,000
17.	Fritz Hollings (D)	\$2,000
17.	Jerry Kleczka (D)	\$2,000
17.	John Ensign (R)	\$2,000
17.	John LaFalce (D)	\$2,000
17.	Robert Bennett (R)	\$2,000

### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$812,606</b>
1.	Alfonse D'Amato (R)	\$38,950
2.	Charles Rangel (D)	\$7,050
3.	Blanche Lambert Lincoln (D)	\$7,000
3.	John Edwards (D)	\$7,000
5.	Tom Daschle (D)	\$6,250
6.	Scotty Baesler (D)	\$6,000
7.	Rick Lazio (R)	\$5,800
8.	Evan Bayh (D)	\$5,000
9.	John Breaux (D)	\$4,000
10.	Carol Moseley-Braun (D)	\$3,000
10.	John Kerry (D)	\$3,000

**Bear Stearns Lobbying Expenditures<sup>221</sup>:****2008**

<b>TOTAL:</b>	<b>\$460,000</b>
Bear Stearns	\$420,000
Step toe & Johnson	\$40,000
Venable LLP	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$1,120,000</b>
Bear Stearns	\$900,000
Step toe & Johnson	\$200,000
Venable LLP	\$20,000

**2006**

<b>TOTAL:</b>	<b>\$1,200,000</b>
Bear Stearns	\$780,000
Venable LLP	\$220,000
Step toe & Johnson	\$160,000
Angus & Nickerson	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$820,000</b>
Bear Stearns	\$540,000
Step toe & Johnson	\$180,000
Venable LLP	\$60,000
Angus & Nickerson	\$40,000

**2004**

<b>TOTAL:</b>	<b>\$900,000</b>
Bear Stearns	\$680,000
Step toe & Johnson	\$220,000
Venable LLP	> \$10,000*

**2003**

<b>TOTAL:</b>	<b>\$920,000</b>
Bear Stearns	\$620,000
Step toe & Johnson	\$240,000
Venable LLP	\$60,000

**2002**

<b>TOTAL:</b>	<b>\$800,000</b>
Bear Stearns	\$520,000
Step toe & Johnson	\$200,000
Venable LLP	\$80,000

**2001**

<b>TOTAL:</b>	<b>\$960,000</b>
Bear Stearns	\$640,000
Step toe & Johnson	\$200,000
Venable LLP	\$80,000
O'Connor & Hannan	\$40,000

**2000**

<b>TOTAL:</b>	<b>\$750,000</b>
Bear Stearns	\$440,000
Step toe & Johnson	\$190,000
O'Connor & Hannan	\$120,000

<sup>221</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

**1999**

<b>TOTAL:</b>	<b>\$760,000</b>
Bear Stearns	\$500,000
Steptoe & Johnson	\$140,000
O'Connor & Hannan	\$120,000

**1998**

<b>TOTAL:</b>	<b>\$860,000</b>
Bear Stearns	\$560,000
Steptoe & Johnson	\$160,000
O'Connor & Hannan	\$140,000



**Bear Stearns Covered Official Lobbyists:<sup>222</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Bear Stearns</b>		
Dombo III, Fred	Counsel, Office of Congressman Michael Forbes	1999-2000
<b>Venable LLP</b>		
Olchyk, Sam	Joint Committee on Taxation Staff	2004-2008
Beeman, E. Ray	Legislative Counsel, Joint Committee on Taxation Staff	2006-2008

<sup>222</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Investment Banks: Goldman Sachs

Decade-long campaign contribution total (1998-2008): **\$25,445,983**

Decade-long lobbying expenditure total (1998-2008): **\$21,637,530**

### Goldman Sachs Campaign Contributions<sup>223</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$5,635,501</b>
1.	Barack Obama (D)	\$884,907
2.	Hillary Clinton (D)	\$405,475
3.	John McCain (R)	\$229,695
4.	Mitt Romney (R)	\$229,675
5.	Jim Himes (D)	\$140,448
6.	Chris Dodd (D)	\$110,000
7.	Rudy Giuliani (R)	\$109,450
8.	John Edwards (D)	\$66,450
9.	Arlen Specter (R)	\$47,600
10.	Rahm Emanuel (D)	\$35,250
11.	John Sununu (R)	\$31,400
12.	Jack Reed (D)	\$30,100
13.	Max Baucus (D)	\$26,000
14.	Tom Harkin (D)	\$24,580
15.	Frank Lautenberg (D)	\$24,100
16.	Michael Peter Skelly (D)	\$23,364
17.	Susan M Collins (R)	\$21,900
18.	Mark Warner (D)	\$21,800
19.	Mary L Landrieu (D)	\$20,700
20.	Norm Coleman (R)	\$19,200

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$3,502,866</b>
1.	Hillary Clinton (D)	\$138,570
2.	Robert Menendez (D)	\$80,500
3.	Harold E Ford Jr (D)	\$80,497
4.	Evan Bayh (D)	\$52,750
5.	Sherrod Brown (D)	\$42,600
6.	Maria Cantwell (D)	\$39,800
7.	Joe Lieberman (I)	\$33,950
8.	Ben Cardin (D)	\$33,150
9.	Kent Conrad (D)	\$30,600
10.	Thomas H Kean Jr (R)	\$29,500
11.	Rick Santorum (R)	\$27,000
12.	Bill Nelson (D)	\$25,400
13.	Sheldon Whitehouse (D)	\$24,600
14.	Mike DeWine (R)	\$23,500
15.	Eric Cantor (R)	\$23,300
16.	Kay Bailey Hutchison (R)	\$22,500
17.	Richard Baker (R)	\$22,400
18.	Max Baucus (D)	\$21,900
19.	Rahm Emanuel (D)	\$18,800
20.	George Allen (R)	\$17,800

<sup>223</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$6,426,438</b>
1.	George W Bush (R)	\$390,600
2.	John Kerry (D)	\$303,250
3.	Jack Ryan (R)	\$218,161
4.	Tom Daschle (D)	\$143,500
5.	John Edwards (D)	\$102,300
6.	Evan Bayh (D)	\$72,000
7.	Charles Schumer (D)	\$58,040
8.	Chris Dodd (D)	\$58,000
8.	Barack Obama (D)	\$58,000
10.	Hillary Clinton (D)	\$55,000
11.	Arlen Specter (R)	\$51,000
12.	Erskine Bowles (D)	\$37,250
13.	Tony Knowles (D)	\$34,050
14.	Joe Lieberman (D)	\$34,000
15.	Dylan C Glenn (R)	\$33,000
16.	Wesley Clark (D)	\$32,500
17.	Howard Dean (D)	\$30,500
18.	Robert Menendez (D)	\$30,000
19.	Richard Burr (R)	\$29,496
20.	John McCain (R)	\$29,000

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$3,510,035</b>
1.	Charles Schumer (D)	\$124,550
2.	Jon Corzine (D)	\$47,970
3.	John Edwards (D)	\$41,000
4.	Robert Torricelli (D)	\$34,750
5.	Tom Strickland (D)	\$34,000
6.	Arlen Specter (R)	\$30,000
7.	Tim Johnson (D)	\$28,980
8.	Erskine Bowles (D)	\$28,000
9.	Max Baucus (D)	\$26,000

10.	Tom Harkin (D)	\$21,355
11.	Lamar Alexander (R)	\$20,500
12.	John E Sununu (R)	\$20,250
13.	Robert Menendez (D)	\$18,500
14.	Jean Carnahan (D)	\$18,355
15.	Max Cleland (D)	\$18,230
16.	John Cornyn (R)	\$18,000
16.	John Kerry (D)	\$18,000
18.	Norm Coleman (R)	\$15,500
19.	Saxby Chambliss (R)	\$15,250
20.	Maria Cantwell (D)	\$14,250

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$4,432,977</b>
1.	Jon S Corzine (D)	\$554,900
2.	Bill Bradley (D)	\$271,200
3.	Rick A Lazio (R)	\$175,300
4.	George W Bush (R)	\$137,499
5.	Charles Schumer (D)	\$99,500
6.	Al Gore (D)	\$95,050
7.	Hillary Clinton (D)	\$88,170
8.	John McCain (R)	\$67,320
9.	Dick Zimmer (R)	\$53,200
10.	Rudolph Giuliani (R)	\$40,000
11.	Phil Gramm (R)	\$29,000
12.	Rush Holt (D)	\$26,000
13.	Frank Pallone Jr (D)	\$19,000
14.	Nita M Lowey (D)	\$18,000
15.	Brian David Schweitzer (D)	\$16,250
16.	Dylan C Glenn (R)	\$15,500
17.	Kay Bailey Hutchi- son (R)	\$15,000
17.	Bill McCollum (R)	\$15,000
19.	Eliot L Engel (D)	\$14,000

19.	Edolphus Towns (D)	\$14,000
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### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$1,938,166</b>
1.	Charles Schumer (D)	\$107,550
2.	Alfonse D'Amato (R)	\$70,050
3.	Evan Bayh (D)	\$33,500
4.	Chris Dodd (D)	\$21,000
5.	Bob Kerrey (D)	\$17,495
6.	Shawn D Terry (R)	\$15,000
7.	Rick A Lazio (R)	\$14,500
8.	John Breaux (D)	\$14,158
9.	Kay Bailey Hutchi- son (R)	\$14,000
10.	Geraldine Ferraro (D)	\$11,750
11.	Amo Houghton (R)	\$11,500
12.	Check Hagel (R)	\$11,000
13.	John McCain (R)	\$10,400
14.	Daniel Patrick Moynihan (R)	\$10,000
15.	Jay R Pritzker (D)	\$9,200
16.	Arlen Specter (R)	\$9,000
17.	Nita M Lowey (D)	\$8,500
18.	Paul Coverdell (R)	\$8,375
19.	Lauch Faircloth (R)	\$8,000
19.	Bob Graham (D)	\$8,000

**Goldman Sachs Lobbying Expenditures<sup>224</sup>:****2008**

<b>TOTAL:</b>	<b>\$5,210,000</b>
Goldman Sachs	\$3,280,000
Duberstein Group	\$400,000
ML Strategies	\$280,000
Baptista Group	\$270,000
Capitol Tax Partners	\$240,000
Williams & Jensen	\$160,000
Rich Feuer Group	\$130,000
Angus & Nickerson	\$120,000
RR&G	\$80,000
Bingham McCutchen LLP	\$50,000
Law Offices of John T O'Rourke	\$60,000
Sullivan & Cromwell	\$30,000
Vinson & Elkins	\$40,000
Mattox Woolfolk LLC	> \$10,000*
Gephardt Group	\$70,000

**2007**

<b>TOTAL:</b>	<b>\$4,610,000</b>
Goldman Sachs	\$2,720,000
Baptista Group	\$280,000
Duberstein Group	\$260,000
Vinson & Elkins	\$160,000
ML Strategies	\$140,000
DLA Piper	\$140,000
Angus & Nickerson	\$120,000
Bigham McCutchen LLP	\$120,000
Rich Feuer Group	\$120,000

Sullivan & Cromwell	\$120,000
RR&G	\$90,000
Williams & Jensen	\$80,000
Law Offices of John T O'Rourke	\$80,000
Maddox Strategies	\$60,000
Capitol Tax Partners	\$60,000
Clark & Weinstock	\$60,000

**2006**

<b>TOTAL:</b>	<b>\$3,651,250</b>
Goldman Sachs	\$2,620,000
Baptista Group	\$200,000
DLA Piper	\$160,000
Rich Feuer Group	\$120,000
Angus & Nickerson	\$120,000
RR&G	\$110,000
Duberstein Group	\$100,000
Law Offices of John T O'Rourke	\$81,250
Vinson & Elkins	\$80,000
Williams & Jensen	\$60,000
Clark & Assoc	> \$10,000*

**2005**

<b>TOTAL:</b>	<b>\$1,712,000</b>
Goldman Sachs	\$600,000
Clark Consulting Federal Policy Group	\$140,000
Vinson & Elkins	\$140,000
Thelen, Reid & Priest	\$120,000
Law Offices of John T O'Rourke	\$102,000
Rich Feuer Group	\$100,000

<sup>224</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

\* Not included in totals

DCI Group	\$100,000
Mattox Woolfolk LLC	\$90,000
Duberstein Group	\$80,000
Angus & Nickerson	\$80,000
Clark & Assoc	\$80,000
Williams & Jensen	\$80,000

**2004**

<b>TOTAL:</b>	<b>\$1,230,000</b>
Clark & Assoc	\$60,000
Clark Consulting Federal Policy Group	\$260,000
DCI Group	\$100,000
Duberstein Group	\$40,000
Law Offices of John T O'Rourke	\$200,000
Mattox Woolfolk LLC	\$90,000
Rich Feuer Group	\$60,000
Thelen, Reid & Priest	\$240,000
Vinson & Elkins	\$160,000
Williams & Jensen	\$20,000

**2003**

<b>TOTAL:</b>	<b>\$1,030,000</b>
Clark & Assoc	\$100,000
Clark Consulting Federal Policy Group	\$240,000
Duberstein Group	\$80,000
Law Offices of John T O'Rourke	\$80,000
Mattox Woolfolk LLC	\$70,000
Thelen, Reid & Priest	\$240,000
Vinson & Elkins	\$100,000
Williams & Jensen	\$40,000
Wilmer, Culter & Pickering	\$60,000
Winning Strategies Wash.	\$20,000

**2002**

<b>TOTAL:</b>	<b>\$910,000</b>
Clark & Assoc.	> \$10,000*
Clark Consulting Federal Policy Group	\$200,000
Duberstein Group	\$220,000
Johnson, Madigan et al	\$120,000
Law Offices of John T O'Rourke	\$110,000
PriceWaterhouseCoopers	\$40,000
Sullivan & Cromwell	> \$10,000*
Verner, Liipfert et al	\$40,000
Vinson & Elkins	\$120,000
Williams & Jensen	\$20,000
Winning Strategies Wash- ington	\$40,000

**2001**

<b>TOTAL:</b>	<b>\$810,000</b>
Duberstein Group	\$100,000
Johnson, Madigan et al	\$80,000
Law Offices of John T O'Rourke	\$30,000
PriceWaterhouseCoopers	\$240,000
Verner, Liipfert et al	\$260,000
Vinson & Elkins	\$100,000

**2000**

<b>TOTAL:</b>	<b>\$500,000</b>
Duberstein Group	\$80,000
Law Offices of John T O'Rourke	\$40,000
Morgan, Lewis & Bockius	\$20,000
PriceWaterhouseCoopers	\$240,000
Verner, Liipfert et al	\$40,000

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\* Not included in totals

Vinson & Elkins	\$80,000
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**1999**

<b>TOTAL:</b>	<b>\$1,264,000</b>
Duberstein Group	\$140,000
Law Offices of John T O'Rourke	\$32,000
Morgan, Lewis & Bockius	> \$10,000 *
PriceWaterhouseCoopers	\$240,000
Sullivan & Cromwell	> \$10,000 *
Verner, Liipfert et al	\$60,000
Vinson & Elkins	\$160,000

**1998**

<b>TOTAL:</b>	<b>\$710,280</b>
Duberstein Group	\$140,000
Law Offices of John T O'Rourke	\$115,000
PriceWaterhouseCoopers	> \$10,000 *
Sullivan & Cromwell	> \$10,000 *
Verner, Liipfert et al	\$80,000
Vinson & Elkins	\$120,000
Washington Counsel	\$40,000

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\* Not included in totals

**Goldman Sachs Covered Official Lobbyists:<sup>225</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>PriceWaterhouseCoopers</b>		
Angus, Barbara	Business Tax Counsel, Committee on Taxation	1999- 2000
Kies, Kenneth	Chief of Staff, Committee on Taxation	1999- 2000
Hanford, Tim	Tax Counsel, Counsel on Ways and Means	2001
<b>Verner, Liipfert et al</b>		
Hawley, Noelle M.	Legislative Director, Rep. Bill Archer	1999
Jones, Brian C.	Investigator, Perm. Subcommittee on Investigations	2002
<b>Madigan, Johnson et al</b>		
English, James	Staff Director, Senate Appropriations, Min Staff	2001- 2002
Griffin, Patrick J.	Director of Legal Affairs, White House	2001- 2002
<b>Winning Strategies Washington</b>		
Mullins, Donna	Chief of Staff, Rep. Frelinghuysen	2002-2003
<b>Angus &amp; Nickerson</b>		
Angus, Barbara	Tax Counsel, Committee on Ways and Means	2005-2008,
Nickerson, Gregory	International Tax Counsel, Dept. of Treasury	2005- 2008
<b>Capitol Tax Partners LLP</b>		
Talisman, Johnathan	Assistant Treasury Secretary for Tax Policy	2008
Grafmeyer, Richard	Deputy Chief of Staff, JCT	2008
Mikrut, Joseph	Tax Legislative Counsel - US Treasury	2008
McKenney, William	Staff Director, Ways and Means Over Subcommittee	2008

<sup>225</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.



Wilcox, Lawrence	Staff Director, Senate Republican Policy Committee	2008
Dennis, James	Tax Counsel, Sen. Robb - Counsel, Sen Bingaman	2008
Javens, Christopher	Tax Counsel, Sen. Grassley, Senate Finance Committee	2008
<b>The Goldman Sachs Group. Inc</b>		
Connolly, Ken	S.A. Director of Office of Environmental Policy; LD,	2008
	Sen. Jeffords; LD, CEPW	
Shirzad, Faryar	Dept. Nat'l Security Adv. For Int'l Econ. Affairs	2008

## Investment Banks: Lehman Brothers

Decade-long campaign contribution total (1998-2008): **\$6,704,574**

Decade-long lobbying expenditure total (1998-2008): **\$8,660,000**

### Lehman Campaign Contributions:<sup>226</sup>

#### 2008 Top Recipients<sup>227</sup>

<b>TOTAL:</b>		<b>\$2,211,761</b>
1.	Barack Obama (D)	\$288,538
2.	Hillary Clinton (D)	\$227,150
3.	Rudy Giuliani (R)	\$140,000
4.	John McCain (R)	\$116,907
5.	Mitt Romney (R)	\$96,200
6.	Chris Dodd (D)	\$31,400
7.	Rahm Emanuel (D)	\$23,000
8.	Jack Reed (D)	\$21,600
9.	Joseph Biden Jr (D)	\$21,100
10.	John Edwards (D)	\$20,400
11.	Bill Richardson (D)	\$13,800
12.	Charles Rangel (D)	\$11,900
13.	Steny Hoyer (D)	\$9,300
14.	Jim Himes (D)	\$8,100
15.	Mark Warner (D)	\$7,600
16.	Lee Terry (R)	\$7,100
17.	Steve Israel (D)	\$6,600
18.	Jerrold Nadler (D)	\$5,600
19.	Norm Coleman (R)	\$5,300

19.	Arlen Specter (R)	\$5,300
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#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$917,414</b>
1.	Joe Lieberman (I)	\$82,900
2.	Hillary Clinton (D)	\$54,190
3.	Pete Ricketts (R)	\$13,600
4.	Rick Santorum (R)	\$10,500
5.	Harold Ford Jr (D)	\$9,600
6.	Frank Lautenberg (D)	\$9,000
7.	Robert Menendez (D)	\$8,900
8.	Bill Nelson (D)	\$7,300
9.	Ron Klein (D)	\$6,800
10.	Rudy Giuliani (R)	\$6,300
11.	Mike Crapo (R)	\$5,300
12.	Dianne Feinstein (D)	\$5,100
13.	Michael Oxley (R)	\$5,000
13.	Orrin Hatch (R)	\$5,000
13.	Dennis Hastert (R)	\$5,000
13.	Barney Frank (D)	\$5,000
13.	Vito Fossella (R-NY)	\$5,000
18.	Claire McCaskill (D)	\$4,500
18.	Jon Kyl (R)	\$4,500
18.	Richard Baker (R)	\$4,500

<sup>226</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

<sup>227</sup> Based on highest 1,000 contributions plus PAC money.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$1,985,718</b>
1.	George Bush (R)	\$237,650
2.	John Kerry (D)	\$92,312
3.	Chris Dodd (D)	\$55,000
4.	Joe Lieberman (D)	\$35,950
5.	Charles Schumer (D)	\$35,250
6.	Wesley Clark (D)	\$28,500
7.	Richard Gephardt (D)	\$19,500
8.	John Edwards (D)	\$18,650
9.	Tom Daschle (D)	\$16,970
10.	Erskine Bowles (D)	\$10,000
10.	Nancy Pelosi (D)	\$10,000
12.	Barack Obama (D)	\$9,062
13.	John Spratt Jr (D)	\$9,000
14.	Arlen Specter (R)	\$8,812
15.	Mel Martinez (R)	\$8,500
16.	Alcee Hastings (D)	\$7,500
17.	Richard Baker (R)	\$7,000
17.	James Stork (D)	\$7,000
19.	Joseph Edward Driscoll (D)	\$6,500
20.	Judd Gregg (R)	\$6,000

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$231,970<sup>228</sup></b>
1.	Charles Schumer (D)	\$14,500
2.	Robert Torricelli (D)	\$14,250
3.	Max Baucus (D)	\$11,000
4.	Michael Castle (R)	\$10,000
4.	Michael Oxley (R)	\$10,000
6.	Tom Strickland (D)	\$8,000
7.	Max Cleland (D)	\$7,000
8.	Dan Wofford (D)	\$5,550

<sup>228</sup> Based only on campaign contributions

9.	Richard Baker (R)	\$5,000
9.	Billy Tauzin (R)	\$5,000
11.	Lamar Alexander (R)	\$4,000
11.	Erskine Bowles (D)	\$4,000
11.	Nita Lowey (D)	\$4,000
14.	Timothy Carden (D)	\$3,250
14.	Ron Kirk (D)	\$3,250
16.	Rick Boucher (D)	\$3,000
16.	Chris Dodd (D)	\$3,000
16.	Vito Fossella (R)	\$3,000
16.	Tom Harkin (D)	\$3,000
16.	Dennis Hastert (R)	\$3,000
16.	Amo Houghton (R)	\$3,000
16.	Tim Johnson (D)	\$3,000
16.	Mary Landrieu (D)	\$3,000
16.	Carolyn Maloney (D)	\$3,000
16.	Jay Rockefeller (D)	\$3,000
16.	John Spratt Jr (D)	\$3,000

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$929,780</b>
1.	Bill Bradley (D)	\$51,800
2.	Brendan Thomas Byrne Jr (D)	\$31,300
3.	Jon Corzine (D)	\$20,200
4.	Rick Lazio (R)	\$19,750
5.	George W Bush (R)	\$11,000
6.	Hillary Clinton (D)	\$10,550
7.	Dianne Feinstein (D)	\$10,500
8.	Charles Schumer (D)	\$10,000
9.	Michael Oxley (R)	\$9,250
10.	William Roth Jr (R)	\$9,000
11.	Michael Castle (R)	\$8,000
11.	Chris Dodd (D)	\$8,000
13.	Spencer Abraham (R)	\$6,000

13.	Bob Kerrey (D)	\$6,000
15.	Dennis Hastert (R)	\$5,500
16.	Charles Rangel (D)	\$4,500
16.	Edolphus Towns (D)	\$4,500
18.	Richard Lugar (R)	\$4,000
19.	Rick Boucher (D)	\$3,500
19.	Rod Grams (R)	\$3,500
19.	Joe Lieberman (D)	\$3,500

### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$427,931</b>
1.	Charles Schumer (D)	\$10,200
2.	Chris Dodd (D)	\$9,500
3.	Tom Daschle (D)	\$7,500
4.	Alfonse D'Amato (R)	\$7,400
5.	Rick Lazio (R)	\$6,000
6.	Charles Rangel (D)	\$5,500
7.	Brendan Thomas Byrne Jr (D)	\$5,000
8.	John Breaux (D)	\$4,000
9.	Bob Kerrey (D)	\$3,500
10.	Christopher Bond (R)	\$3,000
11.	Rick White (R)	\$2,550
11.	Jerry Weller (R)	\$2,500
13.	Thomas Manton (D)	\$2,050
13.	Billy Tauzin (R)	\$2,050
15.	Robert Bennett (R)	\$2,000
15.	John Ensign (R)	\$2,000
15.	Newt Gingrich (R)	\$2,000
15.	Bob Graham (D)	\$2,000
15.	Fritz Hollings (D)	\$2,000
15.	Amo Houghton (R)	\$2,000
15.	Jerry Kleczka (D)	\$2,000
15.	John LaFalce (D)	\$2,000

**Lehman Lobbying Expenditures:<sup>229</sup>****2008**

<b>TOTAL:</b>	<b>\$720,000</b>
Lehman Brothers	\$590,000
O'Neill, Athy & Casey	\$60,000
DLA Piper	\$70,000

**2007**

<b>TOTAL:</b>	<b>\$840,000</b>
Lehman Brothers	\$720,000
O'Neill, Athy & Casey	\$80,000
DLA Piper	\$40,000

**2006**

<b>TOTAL:</b>	<b>\$1,140,000</b>
Lehman Brothers	\$920,000
American Continental Group	\$100,000
O'Neill, Athy & Casey	\$80,000
DLA Piper	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$1,080,000</b>
Lehman Brothers	\$820,000
American Continental Group	\$140,000
O'Neill, Athy & Casey	\$80,000
DLA Piper	\$40,000

**2004**

<b>TOTAL:</b>	<b>\$740,000</b>
Lehman Brothers	\$620,000
O'Neill, Athy & Casey	\$80,000
Piper Rudnick LLP	\$40,000

**2003**

<b>TOTAL:</b>	<b>\$660,000</b>
Lehman Brothers	\$540,000
O'Neill, Athy & Casey	\$80,000
Piper Rudnick LLP	\$40,000

**2002**

<b>TOTAL:</b>	<b>\$660,000</b>
Lehman Brothers	\$540,000
O'Neill, Athy & Casey	\$80,000
Verner, Liipfert et al	\$40,000
Piper Rudnick LLP	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$600,000</b>
Lehman Brothers	\$320,000
Verner, Liipfert et al	\$200,000
O'Neill, Athy & Casey	\$80,000

**2000**

<b>TOTAL:</b>	<b>\$560,000</b>
Lehman Brothers	\$280,000
Verner, Liipfert et al	\$200,000
O'Neill, Athy & Casey	\$80,000

<sup>229</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

\* Not included in totals

**1999**

<b>TOTAL:</b>	<b>\$860,000</b>
Lehman Brothers	\$580,000
Verner, Liipfert et al	\$200,000
O'Neill, Athy & Casey	\$80,000

**1998**

<b>TOTAL:</b>	<b>\$800,000</b>
Lehman Brothers	\$560,000
Verner, Liipfert et al	\$140,000
O'Neill, Athy & Casey	\$80,000
Palmetto Group	\$20,000

**Lehman Covered Official Lobbyists:<sup>230</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Verner, Liipfert et al</b>		
Hawley, Noelle M.	Legislative Director, Rep. Bill Archer	1999-2001
Krasow, Cristina L.	Sr. Cloakroom Asst., Sen. Dem. Cloakroom	1999-2000

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<sup>230</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Investment Banks: Merrill Lynch

Decade-long campaign contribution total (1998-2008): **\$9,977,724**

Decade-long lobbying expenditure total (1998-2008): **\$59,076,760**

### Merrill Lynch Campaign Contributions:<sup>231</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$2,780,347</b>
1.	John McCain (R)	\$360,620
2.	Barack Obama (D)	\$264,720
3.	Rudy Giuliani (R)	\$210,275
4.	Hillary Clinton (D)	\$202,568
5.	Mitt Romney (R)	\$172,025
6.	Chris Dodd (D)	\$67,300
7.	Mitch McConnell (R)	\$31,600
8.	Mark Pryor (D)	\$23,900
9.	Debbie Stabenow (D)	\$23,850
10.	Rahm Emanuel (D)	\$20,800
11.	John Edwards (D)	\$19,075
12.	Max Baucus (D)	\$17,800
13.	Joseph Biden (D)	\$15,900
14.	Christopher Shays (R)	\$14,675
15.	Jack Reed (D)	\$10,500
16.	Linda Ketner (D)	\$10,200
17.	Chuck Hagel (R)	\$10,000
18.	Gregory Meeks (D)	\$9,600
19.	Tim Ryan (D)	\$9,200
20.	Ron Paul (R)	\$9,001

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$1,153,733</b>
1.	Chris Dodd (D)	\$61,650
2.	Harold E Ford Jr (D)	\$50,450
3.	Hillary Clinton (D)	\$49,510
4.	Bob Corker (R)	\$33,900
5.	Mike DeWine (R)	\$30,000
6.	Robert Menendez	\$28,450
7.	Ben Nelson (D)	\$18,200
8.	Chuck Hagel (R)	\$17,300
9.	Rick Santorum (R)	\$16,800
10.	George Allen (R)	\$14,050
11.	Mike Ferguson (R)	\$12,400
12.	Jim Matheson (D)	\$11,500
13.	Christopher Shays (R)	\$10,450
14.	Joe Lieberman (I)	\$10,400
15.	Sheldon Whitehouse (D)	\$10,200
16.	Thomas Kean Jr (R)	\$10,150
17.	Michael McGavick (R)	\$9,900
18.	Ed Royce (R)	\$9,000
19.	Geoff Davis (R)	\$8,700
20.	David Dreier (R)	\$8,300

<sup>231</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.



**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$2,187,763</b>
1.	George W Bush (R)	\$580,004
2.	David M Beasley (R)	\$118,500
3.	John Kerry (D)	\$111,526
4.	Charles Schumer (D)	\$50,250
5.	Scott Paterno (R)	\$41,000
6.	Arlen Specter (R)	\$29,600
7.	Joe Lieberman (D)	\$27,900
8.	Barack Obama (D)	\$21,000
9.	Rick Santorum (R)	\$17,500
10.	Tom Daschle (D)	\$13,000
11.	Wesley Clark (D)	\$11,750
12.	Richard C Shelby (R)	\$11,000
13.	Howard Dean (D)	\$10,400
14.	Christopher s 'Kit' Bond (R)	\$9,000
15.	Christopher Shays (R)	\$8,200
16.	Jay Helvey (R)	\$8,150
17.	Christopher Cox (R)	\$7,675
18.	Jim Bunning (R)	\$7,500
19.	Lamar Alexander (R)	\$7,000
20.	Michael R Turner (R)	\$6,750

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$955,306</b>
1.	Charles Schumer (D)	\$76,750
2.	Robert Torricelli (D)	\$13,500
3.	Erskine Bowles (D)	\$12,000
4.	Arlen Specter (R)	\$10,700
5.	Lamar Alexander (R)	\$9,750
6.	Elizabeth Dole (R)	\$9,200
7.	Christopher Shays (R)	\$9,000
8.	John Kerry (D)	\$7,250

9.	Douglas Forrester (R)	\$6,750
10.	Chellie Pingree (D)	\$6,250
11.	Wayne Allard (R)	\$6,000
11.	Hillary Clinton (D)	\$6,000
13.	Rob Simmons (R)	\$5,500
14.	Suzanne Terrell (R)	\$5,000
15.	James M Talent (R)	\$4,700
16.	David Howard Fink (D)	\$4,500
17.	Jim Marshall (D)	\$4,250
17.	Tom Strickland (D)	\$4,250
19.	Max Baucus (D)	\$4,200
19.	Norm Coleman (R)	\$4,200

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,873,044</b>
1.	George W Bush (R)	\$132,425
2.	Bill Bradley (D)	\$87,780
3.	John McCain (R)	\$69,400
4.	Rick A Lazio (R)	\$63,550
5.	Al Gore (D)	\$28,500
6.	Jon S Corzine (D)	\$24,250
7.	Hillary Clinton (D)	\$22,925
8.	Charles Schumer (D)	\$20,000
9.	Spencer Abraham (R)	\$19,000
10.	Phil Gramm (R)	\$17,000
11.	Rudy Giuliani (R)	\$15,350
12.	Dick Zimmer (R)	\$14,000
13.	George Allen (R)	\$10,242
14.	Orrin Hatch (R)	\$8,750
15.	William Gormley (R)	\$8,500
16.	Kent Conrad (D)	\$8,000
17.	William Roth Jr (R)	\$7,250
18.	Joe Lieberman (D)	\$7,000
18.	Paul S Sarbanes (D)	\$7,000

18.	Robert Torricelli (D)	\$7,000
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### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$1,027,531</b>
1.	Alfonse D'Amato (R)	\$53,200
2.	Charles Schumer (D)	\$31,150
3.	Carol Moseley Braun (D)	\$17,750
4.	Bob Kerrey (D)	\$16,000
5.	Chris Dodd (D)	\$14,250
6.	Geraldine Ferraro (D)	\$10,500
7.	Lauch Faircloth (R)	\$10,400
8.	Evan Bayh (D)	\$10,300
9.	Daniel Patrick Moynihan (R)	\$10,000
10.	James M Casso (D)	\$9,000
10.	Paul Coverdell (R)	\$9,000
12.	Tom Daschle (D)	\$7,450
13.	Gary A Franks (R)	\$6,750
13.	Christopher Shays (R)	\$6,750
15.	Spencer Abraham (R)	\$6,500
15.	Michael Coles (D)	\$6,500
17.	Ben Nighthorse Campbell (R)	\$6,000
18.	David Wu (D)	\$5,750
19.	Matt Fong (R)	\$5,500
19.	Ellen Tauscher (D)	\$5,500

**Merrill Lynch Lobbying Expenditures:<sup>232</sup>****2008**

<b>TOTAL:</b>	<b>\$6,174,000</b>
Merrill Lynch	\$4,700,000
Ernst & Young	\$604,000
Johnson, Madigan et al	\$240,000
Mayer, Brown et al	\$150,000
DLA Piper	\$210,000
Brownstein, Hyatt et al	\$120,000
Davis & Harman	\$80,000
Baptista Group	\$60,000
John Kelly Consulting	\$10,000

**2007**

<b>TOTAL:</b>	<b>\$6,000,000</b>
Merrill Lynch	\$4,420,000
Ernst & Young	\$600,000
DLA Piper	\$340,000
Mayer, Brown et al	\$160,000
Brownstein, Hyatt et al	\$120,000
Davis & Harman	\$120,000
Baptista Group	\$80,000
James E Boland Jr	\$80,000
John Kelly Consulting	\$80,000

**2006**

<b>TOTAL:</b>	<b>\$6,397,760</b>
Merrill Lynch	\$3,952,760
Mayer, Brown et al	\$1,100,000
Ernst & Young	\$605,000
DLA Piper	\$300,000
Davis & Harman	\$140,000

Brownstein, Hyatt et al	\$120,000
James E Boland Jr	\$80,000
John Kelly Consulting	\$80,000
Baptista Group	\$20,000

**2005**

<b>TOTAL:</b>	<b>\$5,480,000</b>
Merrill Lynch	\$4,160,000
Ernst & Young	\$600,000
DLA Piper	\$200,000
Brownstein, Hyatt et al	\$140,000
Davis & Harman	\$140,000
Deloitte Tax	\$120,000
James E Boland Jr	\$80,000
John Kelly Consulting	\$40,000
Seward & Kissel	> \$10,000*

**2004**

<b>TOTAL:</b>	<b>\$5,770,000</b>
Merrill Lynch	\$4,210,000
Ernst & Young	\$600,000
Piper Rudnick LLP	\$380,000
Deloitte Tax	\$240,000
Brownstein, Hyatt et al	\$140,000
Davis & Harman	\$120,000
James E Boland Jr	\$80,000
Seward & Kissel	> \$10,000*

**2003**

<b>TOTAL:</b>	<b>\$4,825,000</b>
Merrill Lynch	\$3,300,000
Ernst & Young	\$600,000

<sup>232</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

\* Not included in totals

Piper Rudnick LLP	\$460,000
Deloitte Tax	\$240,000
Davis & Harman	\$140,000
James E Boland Jr	\$65,000
Brownstein, Hyatt et al	\$20,000
Seward & Kissel	> \$10,000*

Verner, Liipfert et al	\$240,000
Davis & Harman	\$200,000
OB-C Group	\$160,000
Ernst & Young	\$140,000
Swidler, Berlin et al	> \$10,000*
Wilmer, Culter & Pickering	> \$10,000*

**2002**

<b>TOTAL:</b>	<b>\$4,960,000</b>
Merrill Lynch	\$3,100,000
Ernst & Young	\$600,000
Verner, Liipfert et al	\$580,000
Piper Rudnick LLP	\$320,000
Davis & Harman	\$160,000
James E Boland Jr	\$80,000
Seward & Kissel	\$60,000
Deloitte & Touche	\$40,000
Capitol Tax Partners	\$20,000

**1999**

<b>TOTAL:</b>	<b>\$5,400,000</b>
Merrill Lynch	\$3,580,000
Ernst & Young	\$600,000
Swidler, Berlin et al	\$460,000
Verner, Liipfert et al	\$300,000
Davis & Harman	\$200,000
Rhoads Group	\$180,000
Seward & Kissel	\$40,000
George C Tagg	\$40,000
OB-C Group	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$4,160,000</b>
Merrill Lynch	\$2,940,000
Ernst & Young	\$620,000
Verner, Liipfert et al	\$300,000
Davis & Harman	\$140,000
OB-C Group	\$80,000
James E Boland Jr	\$60,000
Seward & Kissel	\$20,000

**1998**

<b>TOTAL:</b>	<b>\$5,510,000</b>
Merrill Lynch	\$3,800,000
Washington Counsel	\$480,000
Swidler, Berlin et al	\$300,000
Verner, Liipfert et al	\$260,000
Rhoads Group	\$200,000
OB-C Group	\$160,000
Davis & Harman	\$160,000
Seward & Kissell	\$100,000
George C Tagg	\$50,000

**2000**

<b>TOTAL:</b>	<b>\$4,400,000</b>
Merrill Lynch	\$3,660,000

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\* Not included in totals

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\* Not included in totals

**Merrill Lynch Covered Official Lobbyists:<sup>233</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Ernst &amp; Young</b>		
Badger, Doug	Chief of Staff, Senate Majority Whip 12/98	1999-2002
Giordano, Nick	Minority Chief, Tax Counsel, Senate Committee on Finance	1999-2000 2003-2008
Conklin, Brian	Special Assistant to the President	2004
<b>Merrill Lynch &amp; Co, Inc</b>		
Thompson Jr, Bruce E.	Vice President, Director of Government Relations	1999-2008
Kelly, John F.	Vice President, Government Relations	1999-2005
Costantino Jr, Louis A.	Director, Government Relations	2003-2008
Goldstein, Lon N.	Director, Government Relations	2008
Micali, Mark A.	Director, Government Relations	2008
Thibau, Janelle C. M.	Director, Government Relations	2007-2008
Berry, Steven K.	Managing Director, Government Relations	2008
<b>Verner, Liipfert et al</b>		
Krasow, Cristina L.	Sr. Cloakroom Assistant, Sen. Dem. Cloakroom	1999
Hyland, James E.	Legislative Director, Senator Kay Bailey Hutchison	2003
<b>OB-C Group</b>		
Calio, Nicholas E.	Assistant to the President	2000-2005
<b>Capitol Tax Partners, LLP</b>		
Fant, William	Dep. Asst. Secretary for Legislative Affairs - Treasury	2002
Mikrut, Joseph	Tax Legislative Counsel - US Treasury	2002
Talisman, Johnathan	Asst. Treasury Secretary for Tax Policy	2002

<sup>233</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

<b>Piper Rudnick, LLP</b>		
Hyland, James E.	Legislative Director, Senator Hutchison	2002-2004
<b>Brownstein Hyatt &amp; Farber, P.C.</b>		
Mottur, Alfred	Sr. Telecommunications Counsel - Commerce Committee	2003-2008
Chube, Ellen	Sr. Legislative Asst. - Cong. Harold Ford, Jr.	
Whonder, Carmencita	Staff Director - Subcommittee on House Transport and	2008
	Commercial Development; Min Stf Dir - Subcomm on Econ.	
	Policy; Legislative Corresp. - Office of Sen. Charles Schumer	
<b>Johnson, Madigan et al</b>		
Murphy, Sheila	LD, Senator Klobuchar	2008

## Investment Banks: Morgan Stanley

Decade-long campaign contribution total (1998-2008): **\$14,367,857**

Decade-long lobbying expenditure total (1998-2008): **\$20,835,000**

### Morgan Stanley Campaign Contributions:<sup>234</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$3,573,627</b>
1.	Barack Obama (D)	\$425,502
2.	Hillary Clinton (D)	\$376,980
3.	John McCain (R)	\$258,677
4.	Mitt Romney (R)	\$165,750
5.	Rudy Giuliani (R)	\$133,750
6.	Chris Dodd (D)	\$69,400
7.	Fred Thompson (R)	\$42,800
8.	Max Baucus (D)	\$30,500
9.	Mark Kirk (R)	\$23,850
10.	Jack Reed (D)	\$21,350
11.	Mark Warner (D)	\$19,450
12.	Michael N Castle (R)	\$17,850
13.	Niki Tsongas (D)	\$17,100
14.	Rahm Emanuel (D)	\$16,200
15.	Susan M Collins (R)	\$15,933
16.	Bill Richardson (D)	\$14,900
17.	John Boehner (R)	\$14,300
17.	Al Franken (D)	\$14,300
19.	Jim Himes (D)	\$13,200
19.	Scott Kleeb (D)	\$13,200

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$1,943,033</b>
1.	Hillary Clinton (D)	\$116,060
2.	Harold Ford Jr (D)	\$43,650
3.	Chris Dodd (D)	\$42,200
4.	Joe Lieberman (I)	\$24,700
5.	Rick Santorum (R)	\$19,250
6.	Orrin G Hatch (R)	\$19,000
7.	Jon Kyl (R)	\$17,100
8.	Michael N Castle (R)	\$16,100
9.	Mike DeWine (R)	\$15,600
10.	Dennis Hastert (R)	\$14,100
11.	Kathleen Troia McFarland (R)	\$14,000
12.	Mark Kirk (R)	\$13,900
13.	Thomas Kean Jr (R)	\$12,550
14.	Christopher Shays (R)	\$12,350
15.	Bob Corker (R)	\$12,200
16.	Robert Menendez (D)	\$12,150
17.	Tom Carper (D)	\$11,880
18.	Ned Lamont (D)	\$11,850
19.	Conrad Burns (R)	\$11,100
20.	Scott Kleeb (D)	\$11,050

<sup>234</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$3,286,484</b>
1.	George W Bush (R)	\$600,480
2.	John Kerry (D)	\$180,979
3.	Charles Schumer (D)	\$57,000
4.	Chris Dodd (D)	\$46,000
5.	Robert Bennett (R)	\$38,000
6.	Dennis Hastert (R)	\$34,750
7.	John Edwards (D)	\$33,050
8.	Erskine Bowles (D)	\$32,750
9.	Howard Dean (D)	\$29,350
10.	Arlen Specter (R)	\$27,750
11.	James DeMint (R)	\$20,750
12.	Barack Obama (D)	\$20,250
13.	Wesley Clark (D)	\$19,550
14.	Tom Daschle (D)	\$18,000
15.	Michael N Castle (R)	\$17,000
15.	Andrew McKenna (R)	\$17,000
17.	Richard Burr (R)	\$16,549
18.	Christopher S 'Kit' Bond (R)	\$15,400
19.	Evan Bayh (D)	\$15,000
19.	Mel Martinez (R)	\$15,000

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$1,899,242</b>
1.	Charles Schumer (D)	\$52,500
2.	Erskine Bowles (D)	\$27,000
3.	Elizabeth Dole (R)	\$23,750
4.	Rob Portman (R)	\$19,000
5.	Frank Lautenberg (D)	\$18,150
6.	Saxby Chambliss (R)	\$16,000
7.	Max Baucus (D)	\$15,500
8.	Norm Coleman (R)	\$15,450

9.	Michael N Castle (R)	\$14,800
10.	Evan Bayh (D)	\$14,450
11.	Richard Baker (R)	\$14,000
11.	Lindsey Graham (R)	\$14,000
13.	James M Talent (R)	\$13,000
14.	Mike Ferguson (R)	\$12,250
15.	Billy Tauzin (R)	\$12,000
16.	Roy Blunt (R)	\$11,000
17.	Arlen Specter (R)	\$10,250
18.	Mark Foley (R)	\$10,200
19.	Wayne Allard (R)	\$10,000
19.	Spencer Bachus (R)	\$10,000

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$2,656,627</b>
1.	George W Bush (R)	\$148,050
2.	Rick A Lazio (R)	\$139,450
3.	Charles Schumer (D)	\$126,000
4.	Bill Bradley (D)	\$97,850
5.	Al Gore (D)	\$52,300
6.	Phil Gramm (R)	\$41,500
7.	John McCain (R)	\$38,050
8.	Hillary Clinton (D)	\$30,400
9.	Tom Campbell (R)	\$24,500
10.	Charles S Robb (D)	\$23,000
11.	Bill McCollum (R)	\$18,700
12.	Spencer Abraham (R)	\$16,050
13.	Rudy Giuliani (R)	\$15,800
14.	William Roth Jr (R)	\$14,700
15.	John J LaFalce (D)	\$14,000
16.	Kent Conrad (D)	\$13,000
17.	Mark Kirk (R)	\$12,150
17.	Carolyn Maloney (D)	\$12,000
19.	Jon S Corzine (D)	\$11,500



20.	Bob Franks (R)	\$11,250
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### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$1,008,844</b>
1.	Lauch Faircloth (R)	\$48,100
2.	Evan Bayh (D)	\$31,750
3.	Charles Schumer (D)	\$31,500
4.	Alfonse D'Amato (R)	\$30,500
5.	Barbara Mikulski (D)	\$7,500
6.	Robert Bennett (R)	\$7,000
7.	Tom Daschle (D)	\$6,500
8.	Jon D Fox (R)	\$6,250
8.	Arlen Specter (R)	\$6,250
10.	Michael N Castle (R)	\$5,750
11.	Chris Dodd (D)	\$5,225
12.	Phil Crane (R)	\$5,000
12.	Edward Kennedy (D)	\$5,000
12.	Rick A Lazio (R)	\$5,000
12.	Trent Lott (R)	\$5,000
12.	Michael G Oxley (R)	\$5,000
12.	Larry Schneider (D)	\$5,000
12.	Billy Tauzin (R)	\$5,000
19.	Rick White (R)	\$4,800
20.	John J LaFalce (D)	\$4,750

**Morgan Stanley Lobbying Expenditures<sup>235</sup>:****2008**

<b>TOTAL:</b>	<b>\$3,005,000</b>
Morgan Stanley	\$2,500,000
Capitol Tax Partners	\$240,000
Eris Group	\$120,000
American Capitol Group	\$45,000
Baptista Group	\$60,000
Kate Moss Co	\$40,000
DCI Group	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$3,040,000</b>
Morgan Stanley	\$2,360,000
Capitol Tax Partners	\$240,000
Eris Group	\$120,000
American Capitol Group	\$80,000
Baptista Group	\$80,000
James E Boland Jr	\$80,000
Kate Moss Co	\$40,000
Alston & Bird	\$40,000
DCI Group	> \$10,000*

**2006**

<b>TOTAL:</b>	<b>\$3,360,000</b>
Morgan Stanley	\$2,720,000
Capitol Tax Partners	\$240,000
James E Boland Jr	\$120,000
Bartlett & Bendall	\$60,000
Alston & Bird	\$60,000
Eris Group	\$60,000

Kate Moss Co	\$40,000
American Capitol Group	\$40,000
Baptista Group	\$20,000
DCI Group	> \$10,000*

**2005**

<b>TOTAL:</b>	<b>\$2,840,000</b>
Morgan Stanley	\$2,280,000
Capitol Tax Partners	\$240,000
Bartlett & Bendall	\$120,000
James E Boland Jr	\$120,000
Kate Moss Co	\$40,000
Alston & Bird	\$40,000

**2004**

<b>TOTAL:</b>	<b>\$2,750,000</b>
Morgan Stanley	\$2,180,000
Capitol Tax Partners	\$240,000
Bartlett & Bendall	\$120,000
James E Boland Jr	\$120,000
Kate Moss Co	\$50,000
Alston & Bird	\$40,000

**2003**

<b>TOTAL:</b>	<b>\$2,580,000</b>
Morgan Stanley	\$2,000,000
Capitol Tax Partners	\$200,000
Bartlett & Bendall	\$120,000
James E Boland Jr	\$100,000
Alston & Bird	\$100,000
Kate Moss Co	\$60,000

<sup>235</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

\* Not included in totals

**2002**

<b>TOTAL:</b>	<b>\$1,960,000</b>
Morgan Stanley	\$1,540,000
Capitol Tax Partners	\$200,000
Alston & Bird	\$80,000
James E Boland Jr	\$80,000
Kate Moss Co	\$60,000

**2001**

<b>TOTAL:</b>	<b>\$1,300,000</b>
Morgan Stanley	\$920,000
James E Boland Jr	\$80,000
Capitol Tax Partners	\$80,000
Kate Moss Co	\$80,000
Alston & Bird	\$70,000
Palmetto Group	\$40,000
George C Tagg	\$30,000

**1998-2000**

N/A

**Morgan Stanley Covered Official Lobbyists:<sup>236</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year (s)</b>
<b>Capitol Tax Partners</b>		
Fant, William	Deputy Asst Sec. (treasury) for legislative affairs	2001-2004
Mikrut, Joseph	Tax Legislative Counsel - US Treasury	2001-2008
Talisman, Jonathan	Assistant Treasury Secretary for Tax Policy	2001-2008
Wilcox, Lawrence	Staff Director, Senate Republican Policy Committee	2006-2008
McKenny, William	Chief of Staff, Rep. Amo Houghton	2004-2008
Grafmeyer, Richard	Deputy Chief of Staff - JCT	2003-2008
Dennis, James	Tax Counsel, Sen. Robb - Counsel, Sen. Bingaman	2008
Javens, Christopher	Tax Counsel, Sen. Grassley, Sen. Finance Committee	2008
<b>Bartlett &amp; Bendall</b>		
Amy D. Smith	Deputy Assistant Secretary, US Treasury	2003
Gill, Shane	Legislative Director, Rep. Spencer Bachus	2004-2005 2007
<b>Alston &amp; Bird</b>		
Martino, Paul G	Tax Counsel, Senate Finance Committee	2006
<b>Eris Group</b>		
Kadesh, Mark	Chief of Staff, Sen. Feinstein	2006-2007

<sup>236</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Commercial Banks: Bank of America

Decade-long campaign contribution total (1998-2008): **\$11,292,260**

Decade-long lobbying expenditure total (1998-2008): **\$28,635,440**

### BOA Campaign Contributions:<sup>237</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$2,212,369</b>
1.	Barack Obama (D)	\$230,552
2.	John McCain (R)	\$126,175
3.	Hillary Clinton (D)	\$106,071
4.	Rudy Giuliani (R)	\$69,050
5.	Chris Dodd (D)	\$63,100
6.	Mitt Romney (R)	\$52,550
7.	Joseph R. Biden Jr. (D)	\$44,000
8.	Michael N. Castle (R)	\$25,250
9.	Dutch Ruppersberger (D)	\$17,200
10.	Melissa Bean (D)	\$16,000
10.	Rahm Emanuel (D)	\$16,000
12.	Dick Durbin (D)	\$13,600
13.	Melvin L. Watt (D)	\$13,500
14.	Mark Warner (D)	\$12,800
15.	Barney Frank (D)	\$12,750
16.	Kay R. Hagen (D)	\$12,600
17.	Peter Roskam (R)	\$11,500
18.	Jack Reed (D)	\$11,321
19.	James E. Clyburn (D)	\$11,000
20.	John E. Sununu (R)	\$10,950

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$2,098,533</b>
1.	John M. Spratt Jr. (D)	\$64,500
2.	Hillary Clinton (D)	\$53,085
3.	David McSweeney (R)	\$33,800
4.	Harold E. Ford Jr. (D)	\$32,400
5.	Michael N. Castle (R)	\$31,250
6.	Rick Santorum (R)	\$21,250
7.	Tom Carper (D)	\$20,130
8.	Spencer Bachus (R)	\$18,500
9.	Jack Reed (D)	\$17,828
10.	Pete Sessions (R)	\$17,700
11.	Patrick McHenry (R)	\$16,999
12.	Dutch Ruppersberger (D)	\$16,450
13.	Robert Menendez (D)	\$16,000
14.	Melissa Bean (D)	\$15,130
15.	Michael Fitzpatrick (R)	\$15,000
16.	Sue Myrick (R)	\$14,900
17.	John E. Sununu (R)	\$14,607
18.	Olympia J. Snowe (R)	\$14,600
19.	Joe Lieberman (I)	\$14,549
20.	James M. Talent (R)	\$14,500

<sup>237</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$2,360,786</b>
1.	George W. Bush (R)	\$195,761
2.	John Kerry (D)	\$126,202
3.	John M. Spratt Jr. (D)	\$50,700
4.	Richard Burr (R)	\$44,100
5.	Erskine B. Bowles (D)	\$43,800
6.	Barack Obama (D)	\$28,500
7.	Elizabeth Dole (R)	\$20,750
8.	John Edwards (D)	\$18,050
9.	Melvin L. Watt (D)	\$17,500
10.	Richard Gephardt (D)	\$17,450
11.	Sue Myrick (R)	\$16,500
12.	Harold E. Ford Jr. (D)	\$16,000
13.	Jay Helvey (R)	\$15,250
14.	Michael G. Oxley (R)	\$15,000
15.	Dennis Hastert (D)	\$14,500
16.	Mike Ferguson (R)	\$13,000
17.	David Vitter (R)	\$12,800
18.	Pete Sessions (R)	\$11,065
19.	Tim J. Michels (R)	\$10,950
20.	Johnny Isakson (R)	\$10,700

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$1,193,660</b>
1.	Charles Schumer (D)	\$57,500
2.	Erskine B. Bowles (D)	\$37,600
3.	Elizabeth Dole (R)	\$22,150
4.	John M. Spratt Jr. (D)	\$20,750
5.	Max Baucus (D)	\$18,450
6.	John Cornyn (R)	\$11,000
7.	Spencer Bachus (R)	\$10,000
7.	Martin Frost (D)	\$10,000
9.	Sue Myrick (R)	\$9,250

10.	David Dreier (R)	\$9,000
11.	Michael G. Oxley (R)	\$8,500
12.	Charlie Gonzalez (D)	\$8,000
12.	Tim Johnson (D)	\$8,000
14.	Lindsey Graham (R)	\$7,750
14.	Richard Baker (R)	\$7,500
16.	Richard Gephardt (D)	\$7,000
16.	Robin Hayes (R)	\$7,000
16.	John Linder (R)	\$7,000
19.	Jerry Weller (R)	\$6,888
20.	Ken Bentsen (D)	\$6,500

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,649,522</b>
1.	George W. Bush (R)	\$113,500
2.	Bill Bradley (D)	\$56,450
3.	John M. Spratt Jr. (D)	\$26,500
4.	Phil Gramm (R)	\$25,500
5.	Dianne Feinstein (D)	\$18,139
6.	Sue Myrick (R)	\$16,850
7.	Al Gore (D)	\$16,750
8.	Martin Frost (D)	\$15,000
9.	Rick A. Lazio (R)	\$13,550
10.	Bill Nelson (D)	\$13,000
11.	John McCain (R)	\$12,450
12.	Bill McCollum (R)	\$11,500
13.	Zell Miller (D)	\$11,000
14.	David Dreier (R)	\$10,000
14.	Richard Gephardt (D)	\$10,000
16.	John Edwards (D)	\$9,750
17.	Mel Carnahan (D)	\$8,150
18.	Elizabeth Dole (R)	\$7,750
18.	Charles S. Robb (D)	\$7,750
18.	Ellen Tauscher (D)	\$7,750

**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$2,114,390</b>
1.	Lauch Faircloth (R)	\$56,000
2.	Christopher S. 'Kit' Bond	\$21,900
3.	Bill McCollum (R)	\$18,500
4.	Bob Graham (D)	\$17,950
5.	John McCain (R)	\$17,550
6.	John M. Spratt Jr. (D)	\$17,500
7.	Richard Baker (R)	\$17,000
8.	Carol Moseley Braun (D)	\$16,050
9.	Robert F. Bennett (R)	\$16,000
9.	Tom Daschle (D)	\$16,000
11.	John Linder (R)	\$15,000
12.	Evan Bayh (D)	\$14,000
12.	Martin Frost (D)	\$14,000
14.	Matt Fong (R)	\$13,000
15.	Paul Coverdell (R)	\$12,500
15.	Alfonse D'Amato (R)	\$12,500
15.	Richard Gephardt (D)	\$12,500
15.	Rick A. Lazio (R)	\$12,500
19.	Ellen Tauscher (D)	\$12,300
20.	Dick Armey (R)	\$12,000

**BOA Lobbying Expenditures:<sup>238</sup>****2008**

<b>TOTAL:</b>	<b>\$5,755,000</b>
Bank of America	\$4,090,000
King & Spalding	\$480,000
Quinn, Gillespie & Assoc	\$360,000
Smith-Free Group	\$250,000
Bryan Cave Strategies	\$160,000
Public Strategies	\$165,000
Clark Consulting Federal Policy group	\$100,000
Quadripoint Strategies	\$90,000
American Capitol Group	\$60,000
Covington & Burling	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$4,946,400</b>
Bank of America	\$3,220,000
Quinn, Gillespie & Assoc	\$360,000
Kilpatrick Stockton	\$300,000
Clark Consulting Federal Policy group	\$300,000
Smith-Free Group	\$280,000
King & Spalding	\$180,000
Covington & Burling	\$100,000
Bryan Cave Strategies	\$100,000
Quadripoint Strategies	\$76,400
Public Strategies	\$30,000

**2006**

<b>TOTAL:</b>	<b>\$3,486,014</b>
Bank of America	\$1,986,014
Kilpatrick Stockton	\$400,000
Quinn, Gillespie & Assoc	\$360,000
Clark Consulting Federal Policy group	\$300,000
Smith-Free Group	\$240,000
Covington & Burling	\$120,000
Angus & Nickerson	\$40,000
Cypress Advocacy	\$20,000
Kate Moss Co	\$20,000

**2005**

<b>TOTAL:</b>	<b>\$1,900,000</b>
Bank of America	\$1,000,000
Clark Consulting Federal Policy group	\$300,000
Quinn, Gillespie & Assoc	\$240,000
Smith & Assoc	\$240,000
Kilpatrick Stockton	\$60,000
Angus & Nickerson	\$20,000
Covington & Burling	\$20,000
Kate Moss Co	\$20,000
Winston & Strawn	> \$10,000*

<sup>238</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

\* Not included in totals



**2004**

<b>TOTAL:</b>	<b>\$1,020,000</b>
Bank of America	\$660,000
Clark Consulting Federal Policy group	\$300,000
Kate Moss Co	\$40,000
Perkins, Smith & Cohen	\$20,000
Reed Smith LLP	> \$10,000*
Covington & Burling	> \$10,000*

**2003**

<b>TOTAL:</b>	<b>\$1,196,141</b>
Bank of America	\$656,141
Clark Consulting Federal Policy group	\$300,000
Perkins, Smith & Cohen	\$160,000
Covington & Burling	\$40,000
Kate Moss Co	\$40,000
Reed Smith LLP	> \$10,000*

**2002**

<b>TOTAL:</b>	<b>\$1,179,350</b>
Bank of America	\$679,350
Clark Consulting Federal Policy group	\$200,000
PriceWaterhouseCoopers	\$140,000
O'Connor & Hannan	\$120,000
Kate Moss Co	\$40,000

**2001**

<b>TOTAL:</b>	<b>\$1,932,204</b>
Bank of America	\$1,552,204
PriceWaterhouseCoopers	\$240,000
O'Connor & Hannan	\$100,000
Kate Moss Co	\$40,000

Holmes, Weddle & Barcott	> \$10,000*
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**2000**

<b>TOTAL:</b>	<b>\$1,947,331</b>
Bank of America	\$1,567,331
PriceWaterhouseCoopers	\$240,000
Beck, Edward A III	\$40,000
Kate Moss Co	\$40,000
O'Connor & Hannan	\$40,000
Hyjek & Fix	\$20,000
Winston & Strawn	> \$10,000*

**1999**

<b>TOTAL:</b>	<b>\$340,000</b>
Beck, Edward A III	\$20,000
Covington & Burling	> \$10,000*
Hyjek & Fix	\$20,000
Kate Moss Co	\$40,000
PriceWaterhouseCoopers	\$260,000
Winston & Strawn	> \$10,000*

**1998**

<b>TOTAL:</b>	<b>\$4,933,000</b>
Bank of America	\$3,960,000
NationsBank	\$620,000
Bergner, Bockorny et al	\$140,000
Kate Moss Co	\$73,000
PriceWaterhouseCoopers	\$60,000
Beck, Edward A III	\$60,000
Covington & Burling	> \$10,000*
Covington & Burling	\$20,000

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\* Not included in totals

**BOA Covered Official Lobbyists:<sup>239</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>American Capitol Group</b>		
Nate Gatten	Prof. Staff, Senate Banking Comm.	2008
	Leg. Asst, Sen. Bennett	
	Staff, Sen. Budget Comm.	
<b>Brian Cave Strategies LLC</b>		
Waldo McMillan	Intern, Rep. Chaka Fattah	2008
	Floor Asst, Counsel for Bus. Affairs, Sen. Harry Reid	
<b>Federal Policy Group (Clark &amp; Wamberg)</b>		
Ken Kies	Chief of Staff, Joint Comm on Taxation	2008
Matt Dolan	Counsel, Sen. David Durenberger	2008
Pat Raffaniello	Chief of Staff, Cong. Bill Brewster	2008
<b>King &amp; Spalding</b>		
William Clarkson	Legislative Asst, Sen. Susan Collins	2007-2008
Archibald Galloway III	Sr. Defense Policy Advisor, Sen. Jeff Sessions	2008
<b>Quinn Gillespie &amp; Associates</b>		
Jack Quinn	Counsel, Pres. Clinton; Chief of Staff, VP Gore	2008
Dave Hoppe	Staff Dir/CoS, Sen Lott; CoS Rep. Kemp and Coats	2008
Jeff Connaughton	Special Asst to chair of Sen. Judiciary Comm	2008
	Special Asst to White House Counsel	
Allison Giles	Chief of Staff, Ways & Means Comm	2007-2008
	Legislative Asst, Rep. Thomas	
Elizabeth Hogan	Special Asst, Dept of Commerce	2005-2008
	Assoc. Dir, EOP; Intern, Rep. McCrery	
Bonnie Hogue Duffy	Staff, Sen. Comm on Aging	2008

<sup>239</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

	Legislative Asst, Sen. Reed	
Harriet James Melvin	Prof. Staff, Rep Charles Hatcher	2008
Kevin Kayes	Chief Counsel, Sen. Reid	2006-2008
Marc Lampkin	Policy Dir, Sen Coverdell	2008
Nick Maduros	Cloakroom assistant; Intern, Sen Lehman	2008
Christopher McCannell	Chief of Staff, Cong. Crowley	2007-2008
Amy Jensen Cunniffiee	Special Asst to the Pres for Legal Affairs	2005-2006
Mike Hacker	Comm Dir, Rep. Dingell	2005
<b>Covington &amp; Burling</b>		
Holly Fechner	Policy Dir, Sen. Edward Kennedy	2007
<b>Angus &amp; Nickerson</b>		
Barbara Angus	Int'l Tax Counsel, Dept of Treausry	2006
Gregory Nickerson	Tax Counsel, Ways and Means Comm	2006
<b>Cypress Advocacy</b>		
Patrick Cave	Asst Sec, Dept of Treasury	2006
<b>Kilpatrick Stockton</b>		
Armand Dekeyser	Chief of Staff, Sen. Jeff Sessions	2005-2006
<b>The Smith-Free Group</b>		
Jon Deuser	Chief of Staff, Sen. Bunning	2006
<b>PricewaterhouseCoopers</b>		
Tim Hanford	Tax Counsel, Ways and Means Comm.	2001-2002
Kenneth Kies	Chief of Staff, Joint Comm. on Taxation	2000-2001
Barbara Angus	Business Tax Counsel, Joint Comm. on Taxation	2000-2001

## Commercial Banks: Citigroup

Decade-long campaign contribution total (1998-2008): **\$19,778,382**

Decade-long lobbying expenditure total (1998-2008): **\$88,460,000**

### Citigroup Campaign Contributions:<sup>240</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$4,270,678</b>
1.	Barack Obama (D)	\$543,430
2.	Hillary Clinton (D)	\$423,417
3.	John McCain (R)	\$301,301
4.	Mitt Romney (R)	\$168,550
5.	Chris Dodd (D)	\$157,244
6.	Rudy Giuliani (R)	\$151,100
7.	Charles B. Rangel (D)	\$61,450
8.	John Edwards (D)	\$44,600
9.	Saxby Chambliss (R)	\$40,350
10.	Dick Durbin (D)	\$40,250
11.	Spencer Bachus (R)	\$35,450
12.	David Landrum (R)	\$30,450
13.	Rahm Emanuel (D)	\$28,000
14.	John E. Sununu (R)	\$26,850
15.	Shelley Moore Capito (R)	\$25,700
16.	Richard C. Shelby (R)	\$25,200
17.	Max Baucus (D)	\$24,500
18.	Chuck Hagel (R)	\$24,100
19.	Joe Biden Jr. (D)	\$23,950
20.	Jim Marshall (D)	\$23,050

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$2,576,066</b>
1.	Hillary Clinton (D)	\$134,610
2.	Christopher J. Dodd (D)	\$107,800
3.	Joe Lieberman (I)	\$59,450
4.	Tom Carper (D)	\$55,300
5.	Kent Conrad (D)	\$36,000
6.	John E. Sununu (R)	\$35,250
7.	Jim McCrery (R)	\$34,300
8.	Mitch McConnell (R)	\$33,700
9.	Jon Kyl (R)	\$33,400
10.	Rick Santorum (R)	\$29,850
11.	Christopher Shays (R)	\$23,000
12.	Mike DeWine (R)	\$21,850
13.	Thomas H. Kean Jr. (R)	\$21,550
14.	Harold E. Ford Jr. (D)	\$19,800
15.	Robert Menendez (D)	\$19,550
16.	Ben Nelson (D)	\$18,200
17.	Doris O. Matsui (D)	\$18,050
18.	Bob Corker (R)	\$17,250
19.	David Yassky (D)	\$16,050
20.	James M. Talent (R)	\$15,900

<sup>240</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$3,003,758</b>
1.	George W. Bush (R)	\$315,820
2.	John Kerry (D)	\$280,881
3.	Hillary Clinton (D)	\$91,250
4.	Charles Schumer (D)	\$80,800
5.	Richard Shelby (R)	\$65,000
6.	Tom Daschle (D)	\$56,700
7.	Chris Dodd (D)	\$50,200
8.	Michael G. Oxley (R)	\$40,550
9.	Mike Crapo (R)	\$34,450
10.	Harry Reid (D)	\$32,250
11.	Wesley Clark (D)	\$30,650
12.	Rob Portman (R)	\$30,000
13.	Joe Lieberman (D)	\$29,000
14.	Howard Dean (D)	\$26,886
15.	Erskine B. Bowles (D)	\$25,550
16.	Barack Obama (D)	\$21,350
17.	Mel Martinez (R)	\$20,600
18.	Evan Bayh (D)	\$17,543
19.	Arlen Specter (R)	\$17,500
20.	James W. DeMint (R)	\$17,250

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$3,021,725</b>
1.	Tim Johnson (D)	\$54,560
2.	Chris Dodd (D)	\$41,550
3.	Charles B. Rangel (D)	\$40,500
4.	Jean Carnahan (D)	\$39,750
5.	Charles Schumer (D)	\$30,750
6.	Shelley Moore Capito (R)	\$17,448
7.	Amo Houghton (R)	\$17,050
8.	Max Baucus (D)	\$16,250
9.	John E. Sununu (R)	\$15,750

10.	Nancy L. Johnson (R)	\$15,250
10.	Ron Kirk (D)	\$15,250
12.	Max Cleland (D)	\$14,950
13.	Rahm Emanuel (D)	\$14,250
14.	Norm Coleman (R)	\$12,000
14.	Elizabeth Dole (R)	\$12,000
16.	Bill Janklow (R)	\$11,000
16.	Jim Maloney (D)	\$11,000
16.	Billy Tauzin (R)	\$11,000
19.	Nita M. Lowey (D)	\$10,500
19.	Carolyn Maloney (D)	\$10,500

**2000**

<b>TOTAL:</b>		<b>\$4,157,926</b>
1.	Charles Schumer (D)	\$135,550
2.	Bill Bradley (D)	\$127,500
3.	Rick A. Lazio (R)	\$127,390
4.	George W. Bush (R)	\$115,700
5.	Al Gore (D)	\$115,500
6.	Hillary Clinton (D)	\$99,650
7.	Joe Lieberman (D)	\$55,296
8.	John McCain (R)	\$42,700
9.	Rudy. Giuliani (R)	\$37,015
10.	Spencer Abraham (R)	\$29,750
11.	Bob Franks (R)	\$28,208
12.	Carolyn Maloney (D)	\$22,000
13.	William Roth Jr. (R)	\$20,650
14.	Charles S. Robb (D)	\$19,250
15.	Tim Johnson (D)	\$18,500
16.	Nita M. Lowey (D)	\$18,000
17.	John J. LaFalce (D)	\$15,250
18.	Bill Nelson (D)	\$14,750
19.	Nancy L. Johnson (R)	\$14,050
20.	Phil Gramm (R)	\$13,500

**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$2,748,229</b>
1.	Alfonse D'Amato (R)	\$105,914
2.	Charles Schumer (D)	\$99,116
3.	Chris Dodd (D)	\$40,250
4.	Tom Daschle (D)	\$39,000
5.	Nancy L. Johnson (D)	\$26,975
6.	Geraldine Ferraro (D)	\$25,724
7.	Charles B. Rangel (D)	\$25,500
8.	Paul Coverdell (R)	\$19,964
9.	Bob Graham (D)	\$19,857
10.	Rick A. Lazio (R)	\$19,500
10.	Nita M. Lowey (D)	\$19,500
12.	Richard Gephardt (D)	\$18,000
13.	Bob Kerrey (D)	\$16,500
14.	Newt Gingrich (R)	\$16,000
15.	Lauch Faircloth (R)	\$15,775
16.	Carol Moseley Braun (D)	\$15,450
17.	Daniel Patrick Moynihan (D)	\$14,949
18.	Richard Baker (R)	\$14,000
19.	Evan Bayh (D)	\$13,750
20.	Tom Delay (R)	\$12,000

**Citigroup Lobbying Expenditures:<sup>241</sup>****2008**

<b>TOTAL:</b>	<b>\$7,875,000</b>
Citigroup Management Corp	\$5,520,000
Avenue Solutions	\$100,000
Barnett, Sivon & Natter	\$260,000
Capitol Hill Strategies	\$240,000
Capitol Tax Partners	\$200,000
Cypress Advocacy	\$200,000
Ernst & Young	\$320,000
Ogilvy Government Relations	\$320,000
Elmendorf Strategies	\$140,000
BGR Holding	\$110,000
Roberti Assoc	\$225,000
Timmons & Co	\$240,000

**2007**

<b>TOTAL:</b>	<b>\$10,640,000</b>
Citigroup Inc	\$8,180,000
Ernst & Young	\$320,000
Barnett, Sivon & Natter	\$320,000
Ogilvy Government Relations	\$320,000
Kilpatrick Stockton	\$300,000
Capitol Hill Strategies	\$240,000
Avenue Solutions	\$240,000
Capitol Tax Partners	\$200,000
Cypress Advocacy	\$120,000
Dewey Square Group	\$40,000
Angus & Nickerson	\$40,000
King & Spalding	\$20,000

Timmons & Co	\$300,000
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**2006**

<b>TOTAL:</b>	<b>\$9,100,000</b>
Citigroup Inc	\$6,760,000
Kilpatrick Stockton	\$400,000
Ernst & Young	\$340,000
Barnett, Sivon & Natter	\$340,000
Federalist Group	\$320,000
Avenue Solutions	\$170,000
O'Melveny & Myers	\$160,000
Capitol Hill Strategies	\$120,000
Cypress Advocacy	\$120,000
Capitol Tax Partners	\$110,000
Angus & Nickerson	\$60,000
Timmons & Co.	\$200,000

**2005**

<b>TOTAL:</b>	<b>\$5,140,000</b>
Citigroup Inc	\$3,600,000
Barnett, Sivon & Natter	\$360,000
Ogilvy Government Relations	\$240,000
Avenue Solutions	\$180,000
Ernst & Young	\$160,000
Cypress Advocacy	\$120,000
Capitol Hill Strategies	\$120,000
Capitol Tax Partners	\$120,000
Angus & Nickerson	\$80,000
Kilpatrick Stockton	\$60,000
Cleary, Gottlieb et al	\$100,000

<sup>241</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

**2004**

<b>TOTAL:</b>	<b>\$8,520,000</b>
Citigroup Inc	\$7,200,000
Barnett, Sivon & Natter	\$360,000
Ernst & Young	\$280,000
Federalist Group	\$240,000
Avenue Solutions	\$180,000
Capitol Hill Strategies	\$120,000
Capitol Tax Partners	\$120,000
Walker, Lynda K	> \$10,000*
Skadden, Arps et al	\$20,000

**2003**

<b>TOTAL:</b>	<b>\$10,400,000</b>
Citigroup Inc	\$7,800,000
Akin, Gump et al	\$960,000
Barnett, Sivon & Natter	\$360,000
Quinn, Gillespie & Assoc	\$240,000
Ernst & Young	\$200,000
Van Scoyoc Assoc	\$180,000
Barbour, Griffith & Rogers	\$160,000
Federalist Group	\$120,000
Avenue Solutions	\$90,000
Tonio Burgos & Assoc	\$50,000
Campbell-Crane & Assoc	\$40,000
Franzel, Brent S	\$40,000
Mayer, Brown et al	\$40,000
Capitol Tax Partners	\$120,000

**2002**

<b>TOTAL:</b>	<b>\$7,730,000</b>
Citigroup Inc	\$5,400,000
Akin, Gump et al	\$620,000

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\* Not included in totals

Barnett, Sivon & Natter	\$400,000
Ernst & Young	\$240,000
Verner, Liipfert et al	\$220,000
Avenue Solutions	\$150,000
Barbour, Griffith & Rogers	\$120,000
Mayer, Brown et al	\$80,000
Baker & Hostetler	\$80,000
Campbell-Crane & Assoc	\$80,000
Franzel, Brent S	\$80,000
Thaxton, Richard R	\$70,000
Tonio Burgos & Assoc	\$50,000
Van Scoyoc Assoc	\$40,000
Venn Strategies	\$40,000
Hogan & Hartson	\$20,000
Heidepriem & Mager	> \$10,000*
Capitol Tax Partners	\$40,000

**2001**

<b>TOTAL:</b>	<b>\$5,930,000</b>
Citigroup Inc	\$4,100,000
Barnett, Sivon & Natter	\$440,000
Verner, Liipfert et al	\$380,000
Baker & Hostetler	\$260,000
Ernst & Young	\$240,000
Mayer, Brown et al	\$100,000
PodestaMattoon	\$100,000
Campbell-Crane & Assoc	\$80,000
Thaxton, Richard R	\$60,000
Hogan & Hartson	\$40,000
Franzel, Brent S	\$40,000
Tonio Burgos & Assoc	\$30,000
Heidepriem & Mager	\$20,000
Rhoads Group	\$40,000

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\* Not included in totals



**2000**

<b>TOTAL:</b>	<b>\$6,420,000</b>
Citigroup Inc	\$4,120,000
Associates First Capital	\$300,000
Verner, Liipfert et al	\$560,000
Barnett, Sivon & Natter	\$480,000
Akin, Gump et al	\$120,000
Ernst & Young	\$120,000
Baker & Hostetler	\$120,000
Thaxton, Richard R	\$90,000
Mayer, Brown et al	\$80,000
Campbell-Crane & Assoc	\$80,000
Franzel, Brent S	\$60,000
Barrett, Michael F Jr	\$60,000
Walker, Lynda K	\$50,000
Arter & Hadden	\$40,000
Heidepriem & Mager	> \$10,000*
Rhoads Group	\$120,000
Wilmer, Cutler & Pickering	\$20,000

**1999**

<b>TOTAL:</b>	<b>\$7,570,000</b>
Citigroup Inc	\$5,080,000
Associates First Capital	\$300,000
Barnett, Sivon & Natter	\$500,000
Verner, Liipfert et al	\$480,000
Baker & Hostetler	\$240,000
Walker, Lynda K	\$180,000
Akin, Gump et al	\$160,000
Arter & Hadden	\$140,000
Franzel, Brent S	\$100,000
Wilmer, Cutler & Pickering	\$80,000

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\* Not included in totals

Campbell-Crane & Assoc	\$60,000
Silbey, Franklin R	\$40,000
Thaxton, Richard R	\$40,000
Barrett, Michael F Jr	\$30,000
Heidepriem & Mager	\$20,000
Rhoads Group	\$120,000
Cleary, Gottlieb et al	> \$10,000*

**1998**

<b>TOTAL:</b>	<b>\$9,135,000</b>
Citigroup Inc	\$7,290,000
Verner, Liipfert et al	\$420,000
Barnett, Sivon & Natter	\$320,000
Arter & Hadden	\$260,000
Baker & Hostetler	\$260,000
Akin, Gump et al	\$180,000
Walker, Lynda K	\$80,000
Campbell-Crane & Assoc	\$60,000
Franzel, Brent S	\$40,000
Callister, Nebeker & McCullough	\$40,000
Thaxton, Richard R	\$35,000
Silbey, Franklin R	\$20,000
Ely & Co	\$20,000
Barrett, Michael F Jr	\$20,000
Davis & Harman	> \$10,000*
Heidepriem & Mager	> \$10,000*
Biklen, Stephen C	> \$10,000*
Alston & Bird	\$30,000
Cleary, Gottlieb et al	\$60,000

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\* Not included in totals

**Citigroup Covered Official Lobbyists:<sup>242</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Angus &amp; Nickerson</b>		
Angus, Barbara	Tax Counsel, Committee on Ways and Means	2005-2007
Nickerson, Gregory	International Tax Counsel, Dept. of Treasury	2005-2007
<b>Avenue Solutions</b>		
Tejral, Amy	Legislative Director, Senator Ben Nelson	2007
<b>Baker &amp; Hostetler</b>		
Kennelly, Barbara	Assoc. Commissioner - Social Security Admin.	2001
<b>Barnett, Sivon &amp; Natter</b>		
Barnett, Robert E.	President (Attorney)	1999
Sivon, James C.	VP/ Secretary (Attorney)	1999
Rivas, Jose S.	Legislative/Regulatory Specialist	1999
<b>Capitol Tax Partners</b>		
Fant, William	Deputy Asst. Sec (Treasury) for Legislative Affs	2002-2008
Mikrut, Joseph	Tax Legislative Counsel - US Treasury	2002-2008
Talisman, Johnathan	Assistant Treasury Secretary for Tax Policy	2002-2008
Grafmeyer, Rick	Deputy Chief of Staff - JCT	2002-2008
McKenney, William	Chief of Staff - Rep. Amo Houghton	2002-2008
Willcox, Lawrence G.	Staff Director, Senate Republican Policy Committee	2006-2008
Dennis, James	Tax Counsel, Sen. Robb - Counsel, Sen. Bingaman	2008
Javens, Christopher	Tax Counsel, Sen. Grassley, Sen. Finance Committee	2008
<b>Cypress Advocacy</b>		
Cave, J. Patrick	Deputy Asst. Sec./Acting Asst. Sec, Treasury	2005-2007

<sup>242</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

<b>Ernst &amp; Young</b>		
Badger, Doug	Chief of Staff, Office of Senator Nickles	2000-2002
Conklin, Brian	Special Assistant to the President	2004
<b>Federalist Group LLC</b>		
Cave, J. Patrick	Deputy Asst. Sec./ Acting Asst. Sec., Treasury	2003-2004
Dammann, Julie	Chief of Staff, Senator Christopher S. Bond	2006
Sternhall, Alexander	Deputy Staff Director, Sen. Banking Comm.	2008
<b>Hogan &amp; Hartson</b>		
Kyle, Robert D.	Associate Director, OMB	2001
<b>Kilpatrick Stockton</b>		
Dekeyser, Armand	C/S Senator Jeff Sessions	2005-2006
<b>King &amp; Spalding LLP</b>		
Clarkson, William	Legislative Assistant, Sen. Susan Collins	2007-2008
<b>Ogilvy Government Relations</b>		
Dammann, Julie	Chief of Staff, Senator Christopher S. Bond	2007-2008
<b>PodestaMattoon</b>		
Clark, Bill	Executive Office of POTUS - Office of Personnel	2001
Tornquist, David	Office of Management and Budget	2001
<b>PriceWaterhouseCoopers</b>		
Angus, Barbara	Business Tax Counsel, JCT	1999-2000
Kies, Kenneth J.	Chief of Staff, JCT	1999, 2000
<b>Timmons &amp; Co</b>		
Shapiro, Daniel	Deputy Cos - Office of Sen. Bill Nelson	2007-2008
Paone, Martin	Secretary for the Majority, US Senate	2008

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<b>Van Scoyoc Assoc</b>		
Porterfield, Lendell	Maj. Econ. US Committee on Banking	2002

## Commercial Banks: JP Morgan Chase & Co.

Decade-long campaign contribution total (1998-2008): **\$15,714,953**

Decade-long lobbying expenditure total (1998-2008): **\$49,372,915**

### JP Morgan Campaign Contributions:<sup>243</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$4,247,991</b>
1.	Barack Obama (D)	\$559,210
2.	Hillary Clinton (D)	\$272,694
3.	John McCain (R)	\$205,657
4.	Rudy Giuliani (R)	\$94,300
5.	Mitt Romney (R)	\$78,250
6.	Chris Dodd (D)	\$68,950
7.	Harry Reid (D)	\$53,300
8.	John Cornyn (R)	\$48,598
9.	Charles B. Rangel (D)	\$47,900
10.	Rahm Emanuel (D)	\$44,700
11.	Mary L. Landrieu (D)	\$41,399
12.	Steny H. Hoyer (D)	\$34,300
13.	Spencer Bachus (R)	\$33,000
14.	Richard C. Shelby (R)	\$31,500
15.	Dave Camp (R)	\$30,500
16.	Fred Thompson (R)	\$29,450
17.	Jack Reed (D)	\$27,850
18.	Norm Coleman (R)	\$26,900
19.	Tim Johnson (D)	\$26,495
20.	Eric Cantor (R)	\$24,000

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$2,163,356</b>
1.	Hillary Clinton (D)	\$113,965
2.	Richard Baker (R)	\$45,100
3.	Tom Carper (D)	\$38,268
4.	Michael G. Oxley (R)	\$35,100
5.	Chris Dodd (D)	\$31,300
6.	Mitch McConnell (R)	\$31,000
7.	Mel Martinez (R)	\$30,600
8.	Tim Johnson (D)	\$29,600
9.	Steny H. Hoyer (D)	\$29,500
10.	Harold E. Ford Jr. (D)	\$27,100
11.	Max Baucus (D)	\$27,000
12.	Kent Conrad (D)	\$25,000
13.	Joe Lieberman (I)	\$23,901
14.	Mike DeWine (R)	\$23,500
15.	John E. Sununu (R)	\$22,500
16.	Orrin G. Hatch (R)	\$21,000
17.	Christopher Shays (R)	\$19,366
18.	Melissa Bean (D)	\$18,542
19.	David McSweeney (R)	\$17,950
20.	Debbie Stabenow (D)	\$15,650

<sup>243</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$3,042,399</b>
1.	John Kerry (D)	\$200,565
2.	George W. Bush (R)	\$187,150
3.	Erskine B. Bowles (D)	\$59,750
4.	Jay Helvey (R)	\$54,750
5.	Charles Schumer (D)	\$47,550
6.	Barack Obama (D)	\$47,300
7.	Michael G. Oxley (R)	\$36,250
8.	Richard C. Shelby (R)	\$35,000
9.	Chris Dodd (D)	\$30,500
10.	Tom Daschle (D)	\$28,450
11.	Spencer Bachus (R)	\$20,000
12.	John Edwards (D)	\$19,750
13.	Jeb Hensarling (R)	\$19,500
14.	Tom Carper (D)	\$19,411
15.	Blanche Lincoln (D)	\$18,357
16.	Martin Frost (D)	\$17,250
17.	Michael N. Castle (R)	\$17,000
18.	Pete Sessions (R)	\$16,800
19.	Richard Baker (R)	\$16,500
20.	Howard Dean (D)	\$16,161

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$2,277,188</b>
1.	Charles Schumer (D)	\$160,000
2.	Ron Kirk (D)	\$85,400
3.	Max Baucus (D)	\$41,604
4.	Erskine B. Bowles (D)	\$38,556
5.	John Kerry (D)	\$37,000
6.	Richard Baker (R)	\$24,000
7.	Amo Houghton (R)	\$21,000
8.	Wayne Allard (R)	\$20,000
8.	Spencer Bachus (R)	\$20,000

10.	Jim Maloney (D)	\$17,000
11.	Mike Enzi (R)	\$16,000
11.	Carolyn Maloney (D)	\$16,000
13.	Ken Bentsen (D)	\$15,000
13.	Phil English (R)	\$15,000
13.	Bart Gordon (D)	\$15,000
13.	Pat Toomey (R)	\$15,000
17.	John Edwards (D)	\$14,500
18.	Michael G. Oxley (R)	\$14,000
18.	Rob Portman (R)	\$14,000
20.	Tom Strickland (D)	\$13,146

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$2,502,414</b>
1.	Bill Bradley (D)	\$133,255
2.	Rick A. Lazio (R)	\$122,361
3.	George W. Bush (R)	\$101,205
4.	Charles Schumer (D)	\$89,250
5.	Hillary Clinton (D)	\$53,750
6.	Phil Gramm (R)	\$36,250
7.	Al Gore (D)	\$36,050
8.	Rudy Giuliani (R)	\$24,850
9.	John McCain (R)	\$24,703
10.	Richard G. Lugar (R)	\$24,550
11.	Peter Staub Wareing (R)	\$21,500
12.	Spencer Abraham (R)	\$21,250
13.	Kay Bailey Hutchison (R)	\$21,000
14.	John J. LaFalce (D)	\$19,750
15.	Richard Baker (R)	\$17,000
16.	Tom Campbell (R)	\$14,250
17.	Pat Toomey (R)	\$13,500
18.	Martin Frost (D)	\$13,000
18.	Marge Roukema (R)	\$13,000

20.	Bill McCollum (R)	\$12,500
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### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$1,481,605</b>
1.	Alfonse D'Amato (R)	\$32,850
2.	Charles Schumer (D)	\$27,650
3.	Lauch Faircloth (R)	\$24,500
4.	Rick A. Lazio (R)	\$19,350
5.	Chris Dodd (D)	\$19,023
6.	Kay Bailey Hutchison (R)	\$16,500
6.	John J. LaFalce (D)	\$16,500
8.	Christopher S. 'Kit' Bond (R)	\$13,000
8.	Chuck Hagel (R)	\$13,000
10.	Robert F. Bennett (R)	\$12,500
10.	Tom Daschle (D)	\$12,500
12.	Bill McCollum (R)	\$12,000
13.	Martin Frost (D)	\$11,250
13.	Pete King (R)	\$11,250
15.	Richard Baker (R)	\$11,000
15.	Bart Gordon (D)	\$11,000
17.	Michael N. Castle (R)	\$10,550
17.	Dick Armey (R)	\$10,500
19.	Paul E. Gillmor (R)	\$10,000
19.	Sue Kelly (R)	\$10,000

**JP Morgan Lobbying Expenses:<sup>244</sup>****2008**

<b>TOTAL:</b>	<b>\$6,336,000</b>
JP Morgan Chase & Co	\$5,390,000
OB-C Group	\$240,000
Equale & Assoc	\$147,500
BKSH & Assoc	\$120,000
Richard F Hohlt	\$130,000
Triangle Assoc	\$88,000
Mayer, Brown et al	\$80,000
Walter Group	\$80,500
Fennel Consulting	\$50,000
David L Horne LLC	\$10,000
B&D Consulting	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$6,452,500</b>
JP Morgan Chase & Co	\$5,440,000
OB-C Group	\$240,000
BKSH & Assoc	\$140,000
Richard F Hohit	\$95,500
Triangle Assoc	\$80,000
Mayer, Brown et al	\$80,000
David L Horne LLC	\$60,000
Equale & Assoc	\$60,000
Fennel Consulting	\$52,000
American Continental Group	\$40,000
Walter Group	\$40,000
Wilmer, Cutler & Pickering	\$40,000
B&D Consulting	\$20,000

Bryan Cave LLP	\$20,000
Thaxton, Richard R	\$45,000

**2006**

<b>TOTAL:</b>	<b>\$7,204,040</b>
JP Morgan Chase & Co	\$6,120,000
American Continental Group	\$200,000
Tongour Simpson Group	\$140,000
BKSH & Assoc	\$120,000
Mayer, Brown et al	\$100,000
Triangle Assoc	\$80,000
Zeliff Enterprises	\$80,000
Richard F Hohlt	\$74,800
Private/Public Solutions	\$62,500
Angus & Nickerson	\$40,000
B&D Consulting	\$36,740
David L Horne LLC	\$20,000
Fennel Consulting	\$20,000
OB-C Group	\$20,000
Thaxton, Richard R	\$90,000

**2005**

<b>TOTAL:</b>	<b>\$4,448,500</b>
JP Morgan Chase & Co	\$3,540,000
Mayer, Brown et al	\$140,000
B&D Sagamore	\$120,000
BKSH & Assoc	\$120,000
Tongour Simpson Group	\$100,000
Richard F Hohit	\$83,500
Zeliff Enterprises	\$80,000
Triangle Assoc	\$70,000
Patton Boggs LLP	\$60,000
Angus & Nickerson	\$20,000

<sup>244</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals



Clark & Weinstock	\$20,000
Kerrigan & Assoc	> \$10,000*
Thaxton, Richard R	\$95,000

**2004**

<b>TOTAL:</b>	<b>\$5,072,500</b>
JP Morgan Chase & Co	\$3,580,000
Bank One Corp	\$415,000
Clark & Weinstock	\$310,000
B&D Sagamore	\$140,000
Mayer, Brown et al	\$140,000
BKSH & Assoc	\$120,000
Zeliff Enterprises	\$80,000
Richard F Hohit	\$67,500
Patton Boggs LLP	\$60,000
Triangle Assoc	\$40,000
Kerrigan & Assoc	\$40,000
Covington & Burling	> \$10,000*
Thaxton, Richard R	\$60,000
Brownstein, Hyatt et al	\$20,000

**2003**

<b>TOTAL:</b>	<b>\$8,246,575</b>
JP Morgan Chase & Co	\$6,706,575
BankOne Corp	\$720,000
Patton Boggs LLP	\$220,000
Williams & Jensen	140,000
BKSH & Assoc	\$120,000
B&D Sagamore	\$100,000
Richard F Hohit	\$80,000
Kerrigan & Assoc	\$40,000
Triangle Assoc	> \$10,000*
Covington & Burling	\$40,000

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\* Not included in totals

Thaxton, Richard R	\$60,000
Carmen Group	\$20,000

**2002**

<b>TOTAL:</b>	<b>\$5,062,800</b>
JP Morgan Chase & Co	\$4,700,000
B&D Sagamore	\$120,000
BKSH & Assoc	\$96,000
Williams & Jensen	\$80,000
Richard F Hohit	\$66,800
Triangle Assoc	> \$10,000*
Kerrigan & Assoc	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$6,550,000</b>
JP Morgan Chase & Co	\$6,300,000
BKSH & Assoc	\$88,000
Richard F Hohit	\$62,000
B&D Sagamore	\$60,000
Williams & Jensen	\$40,000

**1998-2000**

N/A

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\* Not included in totals

**JP Morgan Covered Official Lobbyists:<sup>245</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Carmen Group, Inc</b>		
Hoitsma, Gary	Press Secretary, Senator Inhofe	2003
Wassmer, Victoria	Program Examiner, Transport Branch, OMB	2003
<b>Clark &amp; Wienstock</b>		
Godes, Niles	Chief of Staff to Sen. Byron Dorgan	2003
Lehman, Dirksen	Spec. Asst. for Legal Affairs for the President	2003
<b>Angus &amp; Nickerson</b>		
Angus, Barbara	Tax Counsel, Committee on Ways and Means	2005-2006
Nickerson, Gregory	International Tax Counsel, Dept. of Treasury	2005-2006
<b>Zeliff Enterprises</b>		
Zeliff, William H.	Former member of Congress: NH 1991-1997	2005-2006
<b>OB-C Group LLC</b>		
Stevenson, Robert	Sen. Bill Frist Communications Director	2006
<b>Private Public Solutions</b>		
Moffett, Anthony J.	Former Member of Congress	2006
<b>BKSH &amp; Associates</b>		
Turner, Pam	Asst. Sec for LA Homeland Security, 2003-2006	2008
	Dep Asst to Pres for LA 82-89	

<sup>245</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

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<b>Fennel Consulting</b>		
Fennel, Melody	Assistant Secretary, HUD	2005-2008

## Commercial Banks: Wachovia Corp.

Decade-long campaign contribution total (1998-2008): **\$3,946,727**

Decade-long lobbying expenditure total (1998-2008): **\$11,996,752**

### Wachovia Campaign Contributions:<sup>246</sup>

#### 2008 Top Recipients<sup>247</sup>

<b>TOTAL:</b>		<b>\$934,381</b>
1.	Barack Obama (D)	\$178,382
2.	John McCain (R)	\$155,658
3.	Hillary Clinton (D)	\$77,000
4.	Rudy Giuliani (R)	\$49,400
5.	Mitt Romney (R)	\$36,550
6.	Robin Hayes (R)	\$18,929
7.	Eric Cantor (R)	\$17,750
8.	Elizabeth Dole (R)	\$16,700
9.	Mark Warner (D)	\$15,550
10.	Lindsey Graham (R)	\$15,400
11.	Patrick McHenry (R)	\$15,350
11.	Sue Myrick (R)	\$15,350
13.	James Clyburn (D)	\$13,500
14.	Chris Dodd (D)	\$12,750
15.	Melvin Watt (D)	\$12,500
16.	Artur Davis (D)	\$10,250
16.	Tim Johnson (D)	\$10,250
18.	Spencer Bachus (R)	\$10,000

18.	David Scott (D)	\$10,000
18.	John Boehner (R)	\$10,000

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$742,384</b>
1.	George Allen (R)	\$30,650
2.	Rick Santorum (R)	\$26,600
3.	Robin Hayes (R)	\$21,470
4.	Sue Myrick (R)	\$17,700
5.	Eric Cantor (R)	\$16,700
6.	Patrick McHenry (R)	\$15,250
7.	Richard Burr (R)	\$13,250
8.	Michael Fitzpatrick (R)	\$11,050
9.	Michael Steele (R)	\$10,450
10.	Vernon Buchanan (R)	\$10,100
11.	Robert Menendez (D)	\$10,000
11.	Deborah Pryce (R)	\$10,000
11.	Jim McCrery (R)	\$10,000
11.	David Dreier (R)	\$10,000
11.	John Boehner (R)	\$10,000
11.	Richard Baker (R)	\$10,000
11.	Spencer Bachus (R)	\$10,000
18.	Jon Kyl (R)	\$9,000
18.	Mitch McConnell (R)	\$9,000
20.	John Spratt Jr (D)	\$8,800

<sup>246</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

<sup>247</sup> Based on highest 1,000 contributions plus PAC contributions.

**2004 Top Recipients<sup>248</sup>**

<b>TOTAL:</b>		<b>\$1,237,468</b>
1.	George W Bush (R)	\$223,960
2.	Erskine Bowles (D)	\$95,750
3.	Richard Burr (R)	\$76,000
4.	John Kerry (D)	\$33,850
5.	Eric Cantor (R)	\$23,000
6.	Robin Hayes (R)	\$18,750
7.	Sue Myrick (R)	\$16,500
8.	Melvin Watt (D)	\$15,550
9.	Arlen Specter (R)	\$14,300
10.	Elizabeth Dole (R)	\$13,250
10.	Jay Helvey (R)	\$13,250
12.	Charlie Condon (R)	\$12,200
13.	Johnny Isakson (R)	\$10,070
14.	Chris Dodd (D)	\$10,000
14.	Tom Carper (D)	\$10,000
16.	John Thune (R)	\$9,500
17.	Mel Martinez (R)	\$8,700
18.	Pete Sessions (R)	\$8,250
19.	Howard Dean (D)	\$7,460
20.	Jim McCrery (R)	\$7,250

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$790,969</b>
1.	Erskine Bowles (D)	\$77,200
2.	Elizabeth Dole (R)	\$31,325
3.	Robin Hayes (R)	\$19,470
4.	Melvin Watt (D)	\$12,500
5.	Richard Burr (R)	\$11,800
6.	Saxby Chambliss (R)	\$10,500
7.	Lindsey Graham (R)	\$10,250
8.	Michael Oxley (R)	\$10,000

8.	Richard Baker (R)	\$10,000
8.	Spencer Bachus (R)	\$10,000
11.	Walter Jones Jr (R)	\$9,500
12.	Ed Royce (R)	\$6,000
12.	Eric Cantor (R)	\$6,000
12.	Max Baucus (D)	\$6,000
15.	Calder Clay (R)	\$5,900
16.	Cass Ballenger (R)	\$5,000
16.	Gregory Meeks (D)	\$5,000
16.	Jim Maloney (D)	\$5,000
16.	Sue Myrick (R)	\$5,000
16.	Wayne Allard (R)	\$5,000
16.	Pete King (R)	\$5,000

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$130,175</b>
1.	Elizabeth Dole (R)	\$9,450
2.	Richard Burr (R)	\$8,450
3.	Robin Hayes (R)	\$8,000
4.	Walter Jones Jr (R)	\$6,500
5.	John Edwards (D)	\$5,250
6.	Zell Miller (D)	\$4,000
6.	Sue Myrick (R)	\$4,000
8.	Al Gore (D)	\$3,250
8.	Bill McCullum (R)	\$3,250
10.	Johnny Isakson (R)	\$3,000
10.	Melvin Watt (D)	\$3,000
12.	Lindsey Graham (R)	\$2,825
13.	Bob Barr (R)	\$2,500
13.	George W Bush (R)	\$2,500
13.	Roger Kahn (D)	\$2,500
13.	Trent Lott (R)	\$2,500
13.	Floyd Spence (R)	\$2,500
18.	Charles Norwood (R)	\$2,250

<sup>248</sup> Based on highest 1,000 contributions plus PAC contributions.

19.	Bill Bradley (D)	\$2,000
19.	George Allen (R)	\$2,000
19.	Jack Kingston (R)	\$2,000
19.	John Linder (R)	\$2,000
19.	Lamar Alexander (R)	\$2,000
19.	Mack Mattingly (R)	\$2,000
19.	Richard Baker (R)	\$2,000
19.	Saxby Chambliss (R)	\$2,000
19.	William Roth Jr (R)	\$2,000
19.	Doug Haynes (R)	\$2,000
19.	Mike McIntyre (D)	\$2,000
19.	Charles Taylor (R)	\$2,000

18.	John Kasich (R)	\$1,000
18.	Bob Barr (R)	\$1,000
18.	David Price (D)	\$1,000
18.	Dan Page (R)	\$1,000
18.	Howard Coble (R)	\$1,000
18.	Cass Ballenger (R)	\$1,000
18.	Jesse Helms (R)	\$1,000
18.	Michael Fair (R)	\$1,000
18.	John Spratt Jr (D)	\$1,000

### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$102,350</b>
1.	Lauch Faircloth (R)	\$15,100
2.	Richard Burr (R)	\$13,000
3.	Max Cleland (D)	\$7,500
4.	Paul Coverdell (R)	\$5,750
5.	Frank Lautenberg (R)	\$5,000
6.	Fritz Hollings (D)	\$4,600
7.	Walter Jones Jr (R)	\$4,500
8.	Michael Coles (D)	\$4,000
9.	Robin Hayes (R)	\$3,500
9.	Mike McIntyre (D)	\$3,500
11.	Melvin Watt (D)	\$3,250
12.	Bob Ethridge (D)	\$3,000
13.	John Linder (R)	\$2,500
13.	Sue Myrick (R)	\$2,500
15.	Charles Taylor (R)	\$2,250
15.	Johnny Isakson (R)	\$2,250
17.	James Clyburn (D)	\$1,500
18.	Bob Graham (D)	\$1,000
18.	Ernest Hollings (D)	\$1,000

**Wachovia Lobbying Expenditures:<sup>249</sup>****2008**

<b>TOTAL:</b>	<b>\$2,561,000</b>
Wachovia Corp	\$1,781,000
C2 Group	\$200,000
Angus & Nickerson	\$120,000
Porterfield & Lowenthal	\$120,000
Public Strategies	\$80,000
Dixon, Dan	\$60,000
Jenkins Hill Group	\$80,000
Capitol Hill Strategies	\$80,000
Cypress Advocacy	\$20,000
Barnett, Sivon & Natter	\$20,000
Sullivan & Cromwell	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$2,295,752</b>
Wachovia Corp	\$1,360,000
Kilpatrick Stockton	\$365,752
C2 Group	\$240,000
Capitol Hill Strategies	\$120,000
Jenkins Hill Group	\$100,000
Dixon, Dan	\$40,000
Public Strategies	\$30,000
Angus & Nickerson	\$20,000
Cypress Advocacy	\$20,000
Sullivan & Cromwell	> \$10,000*

**2006**

<b>TOTAL:</b>	<b>\$1,740,000</b>
Wachovia Corp	\$900,000
Kilpatrick Stockton	\$400,000
C2 Group	\$240,000
Capitol Hill Strategies	\$100,000
Jenkins Hill Group	\$80,000
Cypress Advocacy	\$20,000

**2005**

<b>TOTAL:</b>	<b>\$1,220,000</b>
Wachovia Corp	\$840,000
C2 Group	\$240,000
Jenkins Hill Group	\$60,000
Kilpatrick Stockton	\$60,000
Capitol Hill Strategies	\$20,000

**2004**

<b>TOTAL:</b>	<b>\$1,030,000</b>
Wachovia Corp	\$720,000
C2 Group	\$240,000
Jenkins Hill Group	\$70,000

**2003**

<b>TOTAL:</b>	<b>\$320,000</b>
Wachovia Corp	\$220,000
C2 Group	\$100,000

<sup>249</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not counted in total

**2002**

<b>TOTAL:</b>	<b>\$420,000</b>
Wachovia Corp	\$120,000
Williams & Jensen	\$300,000
Sullivan & Cromwell	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$730,000</b>
Wachovia Corp	\$10,000
Williams & Jensen	\$620,000

**2000**

<b>TOTAL:</b>	<b>\$480,000</b>
Wachovia Corp	> \$10,000*
Williams & Jensen	\$460,000
Groom Law Group	\$20,000

**1999**

<b>TOTAL:</b>	<b>\$600,000</b>
Wachovia Corp	\$20,000
Williams & Jensen	\$440,000
Groom Law Group	\$140,000
Sullivan & Cromwell	> \$10,000*
Bradley, Arant et al	> \$10,000*

**1998**

<b>TOTAL:</b>	<b>\$600,000</b>
Groom Law Group	\$20,000
Sullivan & Cromwell	> \$10,000*
Williams & Jensen	\$580,000

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\* Not included in total



**Wachovia Covered Official Lobbyists:<sup>250</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>William &amp; Jensen, PC</b>		
Bechtel, Phillip	General Counsel - Senate Banking Committee	1999-2002
Landers, David M.	Legislative Counsel for Lauch Faircloth	1999-2002
McCarlle, Christine C.	Special Assistant to Trent Lott	1999-2002
<b>C2 Group, LLC</b>		
Hanson, Michael	Chief of Staff to Congressman Sam Johnson	2003-2008
Murray, Jefferies	Chief of Staff to Congressman Bud Cramer	2003-2008
Litterst, Nelson	Special Asst. to the President for Leg Affairs	2004-2008
Knight, Shahira	Senior Advisor to Chair of Ways & Means Committee	2006-2008
Elliott, Lesley	Deputy Chief of Staff, Secretary of the Senate	2007-2008
<b>Golden West Financial Corp</b>		
LaFalce, John	Member of Congress	2005
<b>Kilpatrick Stockton LLP</b>		
Dekeyser, Armand	C/S Sen. Jeff Sessions	2005-2007
<b>Cypress Advocacy</b>		
Cave, J. Patrick	Deputy Asst. Sec./ Acting Asst. Sec., Treasury	2005-2008

<sup>250</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Commercial Banks: Wells Fargo

Decade-long campaign contribution total (1998-2008): **\$5,330,022**

Decade-long lobbying expenditure total (1998-2008): **\$16,637,740**

### Wells Fargo Campaign Contributions:<sup>251</sup>

#### 2008 Top Recipients<sup>252</sup>

<b>TOTAL:</b>	<b>\$1,448,197</b>
1. Barack Obama (D)	\$160,089
2. Hillary Clinton (D)	\$103,322
3. John McCain (R)	\$42,436
4. Norm Coleman (R)	\$36,500
5. Mitt Romney (R)	\$33,200
6. Rudy Giuliani (R)	\$19,450
7. John Edwards (D)	\$16,950
8. Max Baucus (D)	\$14,700
9. Erik Paulsen (R)	\$12,700
10. Ed Royce (R)	\$12,300
10. Paul Kanjorski (D)	\$12,300
12. John Cornyn (R)	\$11,500
13. John Sununu (R)	\$11,000
13. Tom Latham (R)	\$11,000
15. Pete Sessions (R)	\$10,000
15. Collin Peterson (D)	\$10,000
15. Nancy Pelosi (D)	\$10,000
15. George Miller (D)	\$10,000
15. Steny Hoyer (D)	\$10,000

15. James Clyburn (D)	\$10,000
15. James Clyburn (D)	\$10,000
15. Spencer Bachus (R)	\$10,000
15. John Barrasso (R)	\$10,000

#### 2006 Top Recipients

<b>TOTAL:</b>	<b>\$1,054,492</b>
1. Dianne Feinstein (D)	\$21,750
2. Amy Klobuchar (D)	\$18,585
3. Rick Santorum (R)	\$14,750
4. Michael McGavick (R)	\$14,250
5. Orrin Hatch (R)	\$13,900
6. Richard Baker (R)	\$13,500
7. Ed Royce (R)	\$13,000
8. Jon Kyl (R)	\$11,250
9. Christopher Shays (R)	\$11,000
10. Jeffery Lamberti (R)	\$10,350
11. Deborah Pryce (R)	\$10,000
11. Nancy Pelosi (D)	\$10,000
11. Jim McCrery (R)	\$10,000
11. Robert Byrd (D)	\$10,000
11. Conrad Burns (R)	\$10,000
16. Tom Latham (R)	\$9,750
17. Joe Lieberman (I)	\$9,200
18. Earl Pomeroy (D)	\$9,000
18. Spencer Bachus (R)	\$9,000

<sup>251</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

<sup>252</sup> Based on highest 1,000 contributions plus PAC contributions.

20.	Ben Nelson (D)	\$8,650
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**2004 Top Recipients<sup>253</sup>**

<b>TOTAL:</b>		<b>\$1,190,226</b>
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1.	John Kerry (D)	\$67,700
2.	George W Bush (R)	\$63,735
3.	Chuck Grassley (R)	\$21,250
4.	Tom Daschle (D)	\$19,250
5.	Nancy Pelosi (D)	\$16,000
6.	Howard Dean (D)	\$13,750
7.	Jim Bunning (R)	\$13,000
7.	Randy Neugebauer (R)	\$13,000
7.	Richard Baker (R)	\$13,000
10.	Barney Frank (D)	\$11,800
11.	Bob Beuprez (R)	\$11,000
12.	Lisa Murkowski (R)	\$10,250
13.	Robert Bennett (R)	\$10,000
13.	Michael Oxley (R)	\$10,000
13.	Spencer Bachus (R)	\$10,000
13.	Pete Domenici (R)	\$10,000
17.	Richard Shelby (R)	\$9,750
18.	John Thune (R)	\$9,400
19.	Jeb Hensarling (R)	\$9,000
20.	Mark Kennedy (R)	\$8,250

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$613,262</b>
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1.	Wayne Allard (R)	\$23,550
2.	Norm Coleman (R)	\$18,500
3.	John Thune (R)	\$16,500
4.	Richard Baker (R)	\$12,000
5.	Tim Johnson (D)	\$11,750

6.	Max Baucus (D)	\$9,000
7.	John Cornyn (R)	\$8,950
8.	Chuck Hagel (R)	\$8,000
9.	Jim Ramstad (R)	\$6,750
10.	Gordon Smith (R)	\$6,500
11.	Larry Craig (R)	\$6,000
11.	Mike Enzi (R)	\$6,000
11.	Jack Reed (D)	\$6,000
14.	Earl Pomeroy (D)	\$5,750
15.	Dick Armey (R)	\$5,000
15.	Chuck Grassley (R)	\$5,000
17.	Mark Kennedy (R)	\$4,900
18.	Nancy Pelosi (D)	\$4,750
19.	Ron Kirk (D)	\$4,500
19.	Silvestre Reyes (D)	\$4,500
19.	Ted Stevens (R)	\$4,500
19.	Michael Oxley (R)	\$4,500
19.	Charlie Gonzalez (D)	\$4,500

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$676,676</b>
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1.	Dianne Feinstein (D)	\$24,000
2.	Jim Ramstad (R)	\$11,400
3.	Bill Bradley (D)	\$10,500
3.	Kent Conrad (D)	\$10,500
5.	Jon Kyl (R)	\$10,250
6.	George W Bush (R)	\$10,000
7.	Rod Grams (R)	\$9,500
8.	Bob Kerrey (D)	\$8,500
8.	Bruce Vento (D)	\$8,500
8.	Kay Bailey Hutchison (R)	\$8,250
11.	Al Gore (D)	\$7,550
12.	Conrad Burns (R)	\$7,250
12.	John Ensign (R)	\$7,250

<sup>253</sup> Based on highest 1,000 contributions plus PAC contributions.

14.	Slade Gorton (R)	\$6,900
15.	Jeff Bingaman (D)	\$6,750
15.	Paul Sarbanes (D)	\$6,750
17.	Hillary Clinton (D)	\$6,460
18.	Charlie Gonzalez (D)	\$5,500
18.	Max Baucus (D)	\$5,500
18.	Rick Lazio (R)	\$5,500
18.	Tom Carper (D)	\$5,500

18.	Jerry Kleczka (D)	\$3,000
18.	Armando Falcon (D)	\$3,000
18.	Mark Baker (R)	\$3,000
18.	Chuck Hagel (R)	\$3,000

### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$347,169</b>
1.	Robert Bennet (R)	\$10,550
2.	Chuck Grassley (R)	\$10,000
3.	Chris Dodd (D)	\$8,000
4.	Byron Dorgan (D)	\$7,500
5.	Rod Grams (R)	\$6,500
6.	Jeff Sessions (R)	\$6,000
7.	Matt Fong (R)	\$5,500
8.	Bill Clinton (D)	\$5,000
8.	Bob Kerrey (D)	\$5,000
10.	Bruce Vento (D)	\$4,750
12.	Pete Sessions (R)	\$4,500
12.	Steven Kuykendall (R)	\$4,000
12.	Richard Baker (R)	\$4,000
12.	Tom Daschle (D)	\$4,000
15.	Buck McKeon (R)	\$3,500
15.	Blanche Lincoln (D)	\$3,500
17.	Robert Greenlee (R)	\$3,300
18.	John McCain (R)	\$3,000
18.	David Dreier (R)	\$3,000
18.	Earl Pomeroy (D)	\$3,000
18.	Scott McInnis (R)	\$3,000
18.	Rick Lazio (R)	\$3,000
18.	Ray LaHood (R)	\$3,000

### Wells Fargo Lobbying Expenditures:<sup>254</sup>

#### 2008

<b>TOTAL:</b>	<b>\$1,674,740</b>
Wells Fargo	\$1,200,740
Doremus, Theodore A Jr	\$444,000
Chesapeake Enterprises	\$30,000

#### 2007

<b>TOTAL:</b>	<b>\$2,347,000</b>
Wells Fargo	\$1,919,000
Doremus, Theodore A Jr	\$428,000

#### 2006

<b>TOTAL:</b>	<b>\$2,565,000</b>
Wells Fargo	\$1,765,000
Doremus, Theodore A Jr	\$400,000
Kilpatrick Stockton	\$400,000

#### 2005

<b>TOTAL:</b>	<b>\$2,050,000</b>
Wells Fargo	\$1,590,000
Doremus, Theodore A Jr	\$400,000
Kilpatrick Stockton	\$60,000

#### 2004

<b>TOTAL:</b>	<b>\$1,680,000</b>
Wells Fargo	\$1,280,000
Doremus, Theodore A Jr	\$400,000

#### 2003

<b>TOTAL:</b>	<b>\$1,560,000</b>
Wells Fargo	\$960,000
Doremus, Theodore A Jr	\$400,000
Davis, Polk & Wardwell	\$200,000

#### 2002

<b>TOTAL:</b>	<b>\$820,000</b>
Wells Fargo	\$620,000
Doremus, Theodore A Jr	\$200,000

#### 2001

<b>TOTAL:</b>	<b>\$870,000</b>
Wells Fargo	\$650,000
HD Vest Financial Services	\$20,000
Davis, Pol & Wardwell	\$100,000
Doremus, Theodore A Jr	\$100,000
Kirkpatrick & Lockhart	> \$10,000*

#### 2000

<b>TOTAL:</b>	<b>\$800,000</b>
Wells Fargo	\$720,000
Davis, Pol & Wardwell	\$80,000

#### 1999

<b>TOTAL:</b>	<b>\$671,000</b>
Wells Fargo	\$471,000
Davis, Polk & Wardwell	\$200,000

<sup>254</sup> Source: Center for Responsive Politics. Lobbying amounts accessed February 2009.

\* Not included in the total amount

**1998**

<b>TOTAL:</b>	<b>\$1,600,000</b>
Norwest Corp	\$1,180,000
Canfield & Assoc	\$20,000
Hogan & Hartson	> \$10,000*
Davis, Polk & Wardwell	\$200,000
Miller & Chevalier	\$20,000
Vickers, Linda	\$180,000

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\* Not included in the total amount

**Wells Fargo Covered Official Lobbyists:<sup>255</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Kilpatrick Stockton LLP</b>		
Dekeyser, Armand	C/S Sen. Jeff Sessions	2005-2006

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<sup>255</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Hedge Funds: Bridgewater Associates

Decade-long campaign contribution total (1998-2008): **\$274,650**

Decade-long lobbying expenditure total (1998-2008): **\$855,000**

### Bridgewater Campaign Contributions:<sup>256</sup>

#### 2008 All Recipients

<b>TOTAL:</b>		<b>\$239,400</b>
1.	John McCain (R)	\$69,050
2.	Barack Obama (D)	\$13,700
3.	David John Cappiello (R)	\$4,600
4.	Rudolph Giuliani (R)	\$3,300
5.	Mitt Romney (R)	\$2,300
5.	Paul Hodes (D)	\$2,300
7.	Christopher Shays (R)	\$2,000
8.	Patrick Murphy	\$200

#### 2004 All Recipients

<b>TOTAL:</b>		<b>\$25,500</b>
1.	George W Bush (R)	\$250
1.	Wesley Clark (D)	\$250

**2002**  
N/A

#### 2000 All Recipients

<b>TOTAL:</b>		<b>\$1,000</b>
1.	Stephanie Hunter Sanchez (D)	\$1,000

#### 2006 All Recipients

<b>TOTAL:</b>		<b>\$8,750</b>
1.	Christopher Shays (D)	\$2,250
2.	Ned Lamont (D)	\$1,250
3.	Paul Hodes (D)	\$1,000
4.	Jon Tester (D)	\$750
5.	Diane Goss Farrell (D)	\$250
5.	James Webb (D)	\$250

**1998-1999**  
N/A

<sup>256</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.



**Bridgewater Lobbying Expenses:<sup>257</sup>****2008**

<b>TOTAL:</b>	<b>\$135,000</b>
Rich Feuer Group	\$135,000

**2007**

<b>TOTAL:</b>	<b>\$220,000</b>
Quinn, Gillespie & Assoc.	\$60,000
Rich Feuer Group	\$160,000

**2006**

<b>TOTAL:</b>	<b>\$440,000</b>
Quinn, Gillespie & Assoc.	\$340,000
Rich Feuer Group	\$100,000

**2005**

<b>TOTAL:</b>	<b>\$60,000</b>
Rich Feuer Group	\$60,000

**1998-2004**

N/A

**Bridgewater Covered Official Lobbyists:**

N/A

<sup>257</sup> Source: Center for Responsive Politics. Lobbying amounts accessed January 2009 and may not include 4th Quarter amounts.

## Hedge Funds: DE Shaw Group

Decade-long campaign contribution total (1998-2008): **\$3,100,255**

Decade-long lobbying expenditure total (1998-2008): **\$680,000**

### DE Shaw Campaign Contributions:<sup>258</sup>

#### 2008 All Recipients

<b>TOTAL:</b>		<b>\$841,541</b>
1.	Hillary Clinton (D)	\$18,650
2.	Barack Obama (D)	\$13,320
3.	Max Baucus (D)	\$3,250
4.	Jeff Merkley (D)	\$2,700
5.	Darcy Burner (D)	\$2,300
5.	Kay Hagan (D)	\$2,300
5.	Chellie Pingree (D)	\$2,300
5.	Jerry McNerney (D)	\$2,300
5.	Jeanne Shaheen (D)	\$2,300
5.	Andrew Rice (D)	\$2,300
5.	Jim Himes (D)	\$2,300
5.	Mary Landrieu (D)	\$2,300
13.	Bob Inglis (R)	\$2,000
13.	Susan Collins (R)	\$2,000
14.	Mitch McConnell (R)	\$2,000
15.	Ron Klein (D)	\$1,500
16.	Ron Paul (R)	\$1,100
17.	Heather Wilson (R)	\$1,000
17.	Steny Hoyer (D)	\$1,000
17.	Roger Wicker (R)	\$1,000
17.	James Risch (R)	\$1,000
17.	Micahel Johanns (R)	\$1,000

17.	Norm Coleman (R)	\$1,000
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#### 2006 All Recipients

<b>TOTAL:</b>		<b>\$485,200</b>
1.	Bob Casey (D)	\$4,100
2.	Maria Cantwell (D)	\$4,000
3.	Robert Menendez (D)	\$3,600
4.	Heather Wilson (R)	\$3,000
5.	Tim Mahoney (D)	\$2,100
5.	Ben Nelson (D)	\$2,100
5.	Evan Bayh (D)	\$2,100
8.	Jo Bonner (R)	\$2,000
8.	Chet Edwards (D)	\$2,000
8.	Joe Lieberman (I)	\$2,000
8.	Mike Ferguson (R)	\$2,000
8.	Clay Shaw (R)	\$2,000
8.	Mark Pryor (D)	\$2,000
8.	Baron Hill (D)	\$2,000
8.	Darcy Burner (D)	\$2,000
8.	Patricia Madrid (D)	\$2,000
17.	Edwin Perlmutter (D)	\$1,000
17.	Olympia Snowe (R)	\$1,000
17.	Max Baucus (D)	\$1,000
17.	Nancy Johnson (R)	\$1,000

<sup>258</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 All Recipients**

<b>TOTAL:</b>		<b>\$256,250</b>
1.	John Kerry (D)	\$6,250
2.	Blanche Lincoln (D)	\$4,000
2.	Patty Murray (D)	\$4,000
4.	Hillary Clinton (D)	\$2,000
5.	Erskine Bowles (D)	\$1,000
5.	Joseph Hoeffel (D)	\$1,000
5.	Charles Rangel (D)	\$1,000
8.	Joe Lieberman (D)	\$500

**2002 All Recipients**

<b>TOTAL:</b>		<b>\$769,296</b>
1.	Erskine Bowles (D)	\$1,000
1.	Jeanne Shaheen	\$1,000

**2000**

<b>TOTAL:</b>		<b>\$503,968</b>
1.	Richard Gephardt (D)	\$1,000
2.	John McCain (R)	\$750

**1998**

<b>TOTAL:</b>		<b>\$244,000</b>
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No contributions to individual candidates

**DE Shaw Lobbying Expenses:<sup>259</sup>****2008**

<b>TOTAL:</b>	<b>\$20,000</b>
Mehlman Vogel Castagnetti Inc	\$20,000

**2007**

N/A

**2006**

<b>TOTAL:</b>	<b>\$70,000</b>
Mehlman Vogel Castagnetti Inc	\$30,000
Navigant Consulting	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$110,000</b>
Mehlman Vogel Castagnetti Inc	\$30,000
Navigant Consulting	\$80,000

**2004**

<b>TOTAL:</b>	<b>\$80,000</b>
Mehlman Vogel Castagnetti Inc	\$20,000
Navigant Consulting	\$60,000

**2003**

<b>TOTAL:</b>	<b>\$20,000</b>
Navigant Consulting	\$20,000

**2002**

N/A

**2001**

<b>TOTAL:</b>	<b>\$20,000</b>
Commonwealth Group	\$20,000

**2000**

<b>TOTAL:</b>	<b>\$160,000</b>
DE Shaw & Co	\$120,000
Commonwealth Group	\$40,000

**1999**

<b>TOTAL:</b>	<b>\$80,000</b>
DE Shaw & Co	\$40,000
Commonwealth Group	\$40,000

**1998**

<b>TOTAL:</b>	<b>\$120,000</b>
DE Shaw & Co	\$80,000
Commonwealth Group	\$40,000

<sup>259</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

**DE Shaw Covered Official Lobbyists:<sup>260</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Position</b>	<b>Year(s)</b>
<b>Mehlman Vogel Castagnetti Inc</b>		
Kelly Bingel	Chief of Staff, Sen. Blanche Lincoln	2005-2006
Elise Finley Pickering	Chief of Staff, Rep. Shaddegg; Exec Director, RPC	2006
Dean Rosen	Health Policy Director, Senate Majority Leader	2005-2006
David Thomas	Chief of Staff, Rep. Zoe Lofgren	2006
C. Stewart Verdery Jr	Asst Sec for Homeland Security	2005
Alex Vogel	Chief Council, Senate Majority Leader	2005

<sup>260</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Hedge Funds: Farallon Capital Management

Decade-long campaign contribution total (1998-2008): **\$1,058,953**

Decade-long lobbying expenditure total (1998-2008): **\$1,005,000**

### Farallon Campaign Contributions:<sup>261</sup>

#### 2008 All Recipients

<b>TOTAL:</b>		<b>\$372,863</b>
1.	Hillary Clinton (D)	\$94,600
2.	Barack Obama (D)	\$15,550
3.	David Obey (D)	\$13,800
3.	Chris Dodd (D)	\$13,800
4.	Rahm Emanuel (D)	\$10,200
5.	John McCain (R)	\$8,900
6.	Howard Berman (D)	\$8,600
7.	John Thune (R)	\$7,100
8.	Tim Johnson (D)	\$4,600
8.	Gary Trauner (D)	\$4,600
9.	Mark Warner (D)	\$3,300
10.	Donna Edwards (D)	\$2,000
11.	Charles Rangel (D)	\$1,000
12.	Allyson Schwartz (D)	\$500
13.	Mitt Romney (R)	\$250

#### 2006 All Recipients

<b>TOTAL:</b>		<b>\$328,890</b>
1.	Hillary Clinton (D)	\$33,190
2.	Kent Conrad (D)	\$8,400

3.	Rahm Emanuel (D)	\$8,000
4.	Evan Bayh (D)	\$6,300
5.	John Thune (R)	\$4,400
6.	Judy Aydelott (D)	\$4,200
6.	John Hall (D)	\$4,200
8.	Joe Sestak (D)	\$2,100
8.	Ken Lucas (D)	\$2,100
8.	Chris Carney (D)	\$2,100
8.	Michael Arcuri (D)	\$2,100
8.	Edwin Perlmutter (D)	\$2,100
8.	Charles Brown (D)	\$2,100
8.	Chris Murphy (D)	\$2,100
15.	Dianne Feinstein (D)	\$1,000
15.	Howard Berman (D)	\$1,000
16.	Patrick Murphy (D)	\$500

#### 2004 All Recipients

<b>TOTAL:</b>		<b>\$233,950</b>
1.	John Kerry (D)	\$14,000
2.	Tom Daschle (D)	\$9,250
3.	Russell Feingold (D)	\$4,000
3.	Chris John (D)	\$4,000
3.	Tony Knowles (D)	\$4,000
3.	Brad Carson (D)	\$4,000
7.	Lisa Quigley (D)	\$2,500
8.	Erskine Bowles (D)	\$2,000
8.	Howard Dean (D)	\$2,000

<sup>261</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

8.	Ken Salazar (D)	\$2,000
8.	Inez Tenenbaum (D)	\$2,000
8.	Joe Lieberman (D)	\$2,000
8.	Harold Ford, Jr (D)	\$2,000
8.	Betty Castor (D)	\$2,000
15.	Rob Bishop (R)	\$1,200
16.	Robert Bennett (R)	\$1,000
17.	Jamie Metzl (D)	\$500

**1998 All Recipients**

<b>TOTAL:</b>		<b>\$7,500</b>
1.	John McCain (R)	\$1,000
1.	Matt Fong (R)	\$1,000
3.	Dick Lane (D)	\$750
4.	Matt Fong (R)	\$250

**2002 All Recipients**

<b>TOTAL:</b>		<b>\$97,250</b>
1.	John Kerry (D)	\$17,000
2.	Tom Daschle (D)	\$7,500
3.	John P Murtha (D)	\$4,000
4.	Howard Berman (D)	\$2,500
5.	Robert Bennett (R)	\$1,000
5.	Rahm Emanuel (D)	\$1,000
5.	Howard Berman (D)	\$1,000
5.	John Thune (R)	\$1,000
9.	Steven Peter Andreasen (D)	\$750

**2000 All Recipients**

<b>TOTAL:</b>		<b>\$18,500</b>
1.	Norm Dicks (D)	\$9,000
2.	Bill Bradley (D)	\$5,000
3.	John McCain (R)	\$1,000
3.	Ed Bernstein (D)	\$1,000
3.	Nancy Pelosi (D)	\$1,000

**Farallon Lobbying Expenses:**<sup>262</sup>**2004-2008**

N/A

**2003**

<b>TOTAL:</b>	<b>\$310,000</b>
Timmons & Co.	\$310,000

**2002**

<b>TOTAL:</b>	<b>\$335,000</b>
Timmons & Co.	\$335,000

**2001**

<b>TOTAL:</b>	<b>\$360,000</b>
Fleischman & Walsh	\$40,000
Timmons & Co.	\$320,000

**1998-2000**

N/A

<sup>262</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.



**Farallon Covered Official Lobbyists:<sup>263</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Position</b>	<b>Year(s)</b>
<b>Fleischman &amp; Walsh</b>		
Louis Dupart	Senate Judiciary Subcommittee on Antitrust, Business Rights & Competition	2001, 2003-2005
<b>Timmons &amp; Co.</b>		
Richard Tarplin	Asst Secretary for Legislation, Dept of HHS	2001-2004

<sup>263</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Hedge Funds: Och-Ziff Capital Management

Decade-long campaign contribution total (1998-2008): **\$338,552**

Decade-long lobbying expenditure total (1998-2008): **\$200,000**

### Och-Ziff Campaign Contributions:<sup>264</sup>

#### 2008 All Recipients

<b>TOTAL:</b>	<b>\$106,300</b>
1. Mark Pryor (D)	\$11,500
2. Barack Obama (D)	\$7,900
3. Hillary Clinton (D)	\$6,800
4. John Thune (R)	\$4,600
5. Mitt Romney (R)	\$2,300
5. Eric Cantor (R)	\$2,300
7. Rahm Emanuel (D)	\$1,000
7. Norm Coleman (R)	\$1,000
7. Joe Biden (D)	\$1,000

#### 2006 All Recipients

<b>TOTAL:</b>	<b>\$82,650</b>
1. Sheldon Whitehouse (D)	\$3,000
2. Olympia Snowe (R)	\$2,000
2. James Talent (R)	\$2,000
2. George Allen (R)	\$2,000
5. Mitch McConnell (R)	\$1,000
5. Eric Cantor (R)	\$1,000
5. Rahm Emanuel (D)	\$1,000
5. Robert Menendez (D)	\$1,000

5. Jon Kyl (R)	\$1,000
5. Bill Nelson (D)	\$1,000
11. Chris Shays (R)	\$250

#### 2004 All Recipients

<b>TOTAL:</b>	<b>\$95,002</b>
1. John Kerry (D)	\$14,802
2. Tom Daschle (D)	\$3,000
2. Charles Schumer (D)	\$3,000
4. Evan Bayh (D)	\$2,000
4. Steny Hoyer (D)	\$2,000
4. Charles Rangel (D)	\$2,000
4. Rahm Emanuel (D)	\$2,000
4. Barack Obama (D)	\$2,000
4. Joe Lieberman (D)	\$2,000
10. Patty Murray (D)	\$1,000
10. Barbara Boxer (D)	\$1,000
10. James DeMint (R)	\$1,000
10. John McCain (R)	\$1,000
10. Jamie Metzl (D)	\$1,000
10. Peter Deutsch (D)	\$1,000
10. Daniel Inouye (D)	\$1,000
10. Denise Majette (D)	\$1,000

<sup>264</sup> Source: Center for Responsive Politics.

Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2002 All Recipients**

<b>TOTAL:</b>		<b>\$26,600</b>
1.	Charles Schumer (D)	\$3,000
2.	Denise Majette (D)	\$2,000
3.	Tom Harkin (D)	\$1,000
3.	Arlen Specter (R)	\$1,000

**2000 All Recipients**

<b>TOTAL:</b>		<b>\$26,000</b>
1.	Charles Schumer (D)	\$8,000
2.	Hillary Clinton (D)	\$2,000
3.	Conrad Burns (R)	\$1,000

**1998 All Recipients**

<b>TOTAL:</b>		<b>\$2,000</b>
1.	Charles Schumer (D)	\$1,000
1.	Russell Feingold	\$1,000

**Och-Ziff Lobbying Expenses:<sup>265</sup>****2007-2008**

N/A

**2006**

<b>TOTAL:</b>	<b>\$40,000</b>
Navigant Consulting	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$80,000</b>
Navigant Consulting	\$80,000

**2004**

<b>TOTAL:</b>	<b>\$60,000</b>
Navigant Consulting	\$60,000

**2003**

<b>TOTAL:</b>	<b>\$20,000</b>
Navigant Consulting	\$20,000

**1998-2002**

N/A

**Och-Ziff Covered Official Lobbyists:**

N/A

<sup>265</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

## Hedge Funds: Renaissance Technologies

Decade-long campaign contribution total (1998-2008): **\$1,560,895**

Decade-long lobbying expenditure total (1998-2008): **\$740,000**

### Renaissance Campaign Contributions:<sup>266</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$721,250</b>
1.	Hillary Clinton (D)	\$59,600
2.	Barack Obama (D)	\$39,250
3.	Chris Dodd (D)	\$16,450
4.	Timothy Bishop (D)	\$12,000
5.	Tom McClintock (R)	\$6,900
6.	Jeff Merkley (D)	\$6,100
7.	John McCain (R)	\$5,100
8.	Rudy Giuliani (R)	\$4,850
9.	Nancy Pelosi (D)	\$4,600
9.	Charles Rangel (D)	\$4,600
9.	Sean Parnell (R)	\$4,600
9.	Steve Pearce (R)	\$4,600
9.	Steve Israel (D)	\$4,600
9.	Gary Ackerman (D)	\$4,600
15.	Scott Kleeb (D)	\$2,300
15.	Jeanne Shaheen (D)	\$2,300
15.	Gabrielle Giffords (D)	\$2,300
15.	Harry Mitchell (D)	\$2,300
15.	Bob Lord (D)	\$2,300
15.	Ann Kirkpatrick (D)	\$2,300

15.	Dina Titus (D)	\$2,300
15.	Bart Gordon (D)	\$2,300
15.	Dan Maffei (D)	\$2,300
15.	Jerry McNerney (D)	\$2,300
15.	Rahm Emanuel (D)	\$2,300
15.	Steve Buehrer (R)	\$2,300
15.	Andy Harris (R)	\$2,300
15.	Paul Broun Jr (R)	\$2,300
15.	Bob Schaffer (R)	\$2,300
15.	Charlie Ross (R)	\$2,300
15.	Woody Jenkins (R)	\$2,300
15.	Christopher L Hackett (R)	\$2,300
15.	Kirsten Gillibrand (D)	\$2,300

#### 2006 All Recipients

<b>TOTAL:</b>		<b>\$364,700</b>
1.	Hillary Clinton (D)	\$21,125
2.	Timothy Bishop (D)	\$4,200
2.	Chris Dodd (D)	\$4,200
2.	Michael McGavick (R)	\$4,200
2.	Ben Cardin (D)	\$4,200
6.	Steve Israel (D)	\$4,100
7.	John Yarmuth (D)	\$2,100
7.	Michael Steele (R)	\$2,100
7.	John Gard (R)	\$2,100

<sup>266</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

7.	Michael Bouchard (R)	\$2,100
7.	Sharron Angle (R)	\$2,100
7.	Adrian Smith (R)	\$2,100
7.	Rick O'Donnell (R)	\$2,100
7.	William Sali (R)	\$2,100
7.	Chris Chocola (R)	\$2,100
16.	John Sununu (R)	\$2,000
17.	Francine Busby (D)	\$1,000
17.	Claire McCaskill (D)	\$1,000
17.	Debbie Stabenow (D)	\$1,000
20.	Kirsten Gillibrand (D)	\$500
20.	Scott Kleeb (D)	\$500
20.	Tammy Duckworth (D)	\$500

**2004 All Recipients**

<b>TOTAL:</b>		<b>\$239,950</b>
1.	John Kerry (D)	\$8,200
2.	Timothy Bishop (D)	\$7,500
2.	Hillary Clinton (D)	\$7,500
4.	George Bush (R)	\$4,000
5.	Betty Castor (D)	\$2,000
5.	Joe Lieberman (D)	\$2,000
5.	Michael Oxley (R)	\$2,000
5.	Steve Israel (D)	\$2,000
9.	Stephanie Herseth (D)	\$1,000
9.	Patricia Lamarch (3)	\$1,000
11.	Howard Dean (D)	\$550
12.	Inez Tenenbaum (D)	\$500
12.	Daniel Montiaro (D)	\$500
12.	Allyson Schwartz (D)	\$500
12.	Tom Daschle (D)	\$500

**2002 All Recipients**

<b>TOTAL:</b>		<b>\$92,445</b>
1.	Charles Schumer (D)	\$15,000
2.	Vivian Vilorio-Fisher (D)	\$4,000
3.	Steve Israel (D)	\$2,000
3.	Denise Majette (D)	\$2,000
5.	Hillary Clinton (D)	\$1,000
5.	Frank Lautenberg (D)	\$1,000
7.	Jill Long Thompson (D)	\$300
8.	Martha Fuller Clark (D)	\$250
8.	Carol Roberts (D)	\$250
8.	Stephanie Herseth (D)	\$250
8.	Jim Maloney (D)	\$250
8.	Rick Larsen (D)	\$250
8.	Rush Holt (D)	\$250
8.	Jay Inslee (D)	\$250

**2000 All Recipients**

<b>TOTAL:</b>		<b>\$49,550</b>
1.	Hillary Clinton (D)	\$14,700
2.	John McCain (R)	\$1,000
2.	Bill Bradley (D)	\$1,000

**1998 All Recipients**

<b>TOTAL:</b>		<b>\$93,000</b>
1.	Charles Schumer (D)	\$4,000

**Renaissance Lobbying Expenditures:<sup>267</sup>****2008**

<b>TOTAL:</b>	<b>&gt;\$10,000*</b>
E-Copernicus	> \$10,000*

**2005-2006**

N/A

**2004**

<b>TOTAL:</b>	<b>\$200,000</b>
Liz Robbins Assoc.	\$200,000

**2003**

<b>TOTAL:</b>	<b>\$220,000</b>
Liz Robbins Assoc.	\$220,000

**2002**

<b>TOTAL:</b>	<b>\$220,000</b>
Liz Robbins Assoc.	\$220,000

**2001**

<b>TOTAL:</b>	<b>\$100,000</b>
Liz Robbins Assoc.	\$100,000

**1998-2000**

N/A

**Renaissance Official Covered Lobbyists:**

N/A

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<sup>267</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

## Accounting Firms: Arthur Andersen

Decade-long campaign contribution total (1998-2008): **\$3,324,175**

Decade-long lobbying expenditure total (1998-2008): **\$1,900,000**

### Arthur Andersen Campaign Contributions:<sup>268</sup>

#### 2006-2008

N/A

#### 2004 Top Recipients

<b>TOTAL:</b>		<b>\$86,586</b>
1.	George W Bush (R)	\$12,950
2.	John Edwards (D)	\$7,000
3.	John Kerry (D)	\$6,750
4.	George Allen (R)	\$1,000
4.	Orrin G Hatch (R)	\$1,000
4.	Paul Kanjorski (D)	\$1,000
4.	Jim Moran (D)	\$1,000
4.	David Vitter (R)	\$1,000
9.	Bob Graham (D)	\$500
9.	Nancy Johnson (R)	\$500
9.	Pete Sessions (R)	\$500
12.	Barack Obama (D)	\$300
13.	Mike Ferguson (R)	\$250
13.	Barbara Mikulski (D)	\$250
13.	George Nethercutt Jr (R)	\$250
13.	Earl Pomeroy (D)	\$250
13.	David Scott (D)	\$250

#### 2002 Top Recipients

<b>TOTAL:</b>		<b>\$705,263</b>
1.	Rahm Emanuel (D)	\$11,250
2.	Billy Tauzin (R)	\$10,000
3.	Tom Harkin (D)	\$9,000
4.	Wayne Allard (R)	\$7,500
5.	Ron Wyden (D)	\$7,050
6.	Mike Ferguson (R)	\$6,950
7.	Max Baucus (D)	\$6,500
7.	Walter B Jones Jr (R)	\$6,500
9.	Ken Bentsen (D)	\$6,250
10.	Jim McCrery (R)	\$6,000
10.	Charles "Chip" Pickering Jr (R)	\$6,000
12.	Christopher Cox (R)	\$5,500
13.	Dick Armey (R)	\$5,335
14.	John Shadegg (R)	\$5,250
15.	Martin Frost (D)	\$5,000
15.	Dennis Hastert (R)	\$5,000
15.	Jim Moran (D)	\$5,000
15.	Harry Reid (D)	\$5,000
19.	Dennis Moore (D)	\$4,750
20.	Vito Fosella (R)	\$4,500

<sup>268</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009.



**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,564,270</b>
1.	George W Bush (R)	\$150,900
2.	Rick A Lazio (R)	\$44,550
3.	Charles Schumer (D)	\$34,334
4.	Bill Bradley (D)	\$30,600
5.	Jon Kyl (R)	\$20,101
6.	Al Gore (D)	\$19,350
7.	Spencer Abraham (R)	\$17,650
8.	John Ensign (R)	\$17,000
9.	John McCain (R)	\$14,750
10.	John Ashcroft (R)	\$11,500
11.	Chris Dodd (D)	\$10,500
12.	Mel Carnahan (D)	\$9,000
12.	Billy Tauzin (R)	\$9,000
14.	E Clay Shaw Jr (R)	\$8,500
15.	Rudy Giuliani (R)	\$8,250
16.	Rod Grams (R)	\$8,199
17.	Lamar Alexander (R)	\$8,000
17.	Cal Dooley (D)	\$8,000
19.	Peter Fitzgerald (R)	\$7,565
20.	George Allen (R)	\$7,500

**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$968,056</b>
1.	Alfonse D'Amato (R)	\$27,000
2.	Evan Bayh (D)	\$13,750
3.	Matt Fong (R)	\$13,536
4.	Paul Coverdell (R)	\$10,700
5.	Ron Wyden (D)	\$10,650
6.	Carol Moseley Braun (D)	\$9,750
7.	Peter Fitzgerald (R)	\$9,350
8.	John Ensign (R)	\$8,350
9.	George Voinovich (R)	\$8,250
10.	Sherrod Brown (D)	\$8,187
11.	Lauch Faircloth (R)	\$8,000
11.	Billy Tauzin (R)	\$8,000
13.	Robert F Bennett (R)	\$7,805
14.	Joe Barton (R)	\$7,500
15.	Fritz Holings (D)	\$7,460
16.	Leslie Ann Touma (R)	\$7,250
17.	Rick White (R)	\$7,200
18.	Barbara Mikulski (D)	\$7,000
19.	Jim Bunning (R)	\$6,874
20.	Christopher S 'Kit' Bond (R)	\$6,250

**Arthur Andersen Lobbying  
Expenditures:<sup>269</sup>**

**1999-2008**

N/A

**1998**

<b>TOTAL:</b>	<b>\$1,900,000</b>
Arthur Andersen & Co	\$1,600,000
Johnson, Madigan et al	\$120,000
Mayer, Brown et al	\$40,000
OB-C Group	\$140,000

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<sup>269</sup> Source: Center for Responsive Politics.  
Lobbying amounts accessed February 2009.

**Arthur Andersen Covered Official Lobbyists:<sup>270</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year (s)</b>
<b>Mayer, Brown et al</b>		
Rothfeld, Charles A	House Sub Comm on Select US Role/Iranian Arms Transfers to Croatia & Bosnia	1998
<b>OB-C Group</b>		
Mellody, Charles J	Aide, House Ways & Means Comm.	1998

<sup>270</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

## Accounting Firms: Deloitte & Touche

Decade-long campaign contribution total (1998-2008): **\$12,120,340**

Decade-long lobbying expenditure total (1998-2008): **\$19,606,455**

### Deloitte Campaign Contributions:<sup>271</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$2,420,112</b>
1.	Barack Obama (D)	\$177,598
2.	John McCain (R)	\$90,850
3.	Hillary Clinton (D)	\$68,300
4.	Mitt Romney (R)	\$58,550
5.	Chris Dodd (D)	\$51,250
6.	Norm Coleman (R)	\$26,750
7.	Rudy Giuliani (R)	\$24,800
8.	Christopher Shays (R)	\$21,800
9.	Saxby Chambliss (R)	\$12,300
10.	Max Baucus (D)	\$11,000
10.	Barney Frank (D)	\$11,000
10.	Michael McCaul (R)	\$11,000
13.	Mike Conaway (R)	\$10,500
13.	Vito Fossella (R)	\$10,500
15.	Spencer Bachus (R)	\$10,000
15.	Roy Blunt (R)	\$10,000
15.	John Boehner (R)	\$10,000
15.	Allen Boyd (D)	\$10,000
15.	John Campbell (R)	\$10,000
15.	Chris Cannon (R)	\$10,000

#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$2,180,294</b>
1.	Mark Kennedy (R)	\$42,100
2.	Spencer Bachus (R)	\$32,500
3.	Chris Dodd (D)	\$29,000
4.	Christopher Shays (R)	\$22,900
5.	Richard Baker (R)	\$20,921
6.	Tom Price (R)	\$20,000
7.	Sherrod Brown (D)	\$19,160
8.	Vito Fossella (R)	\$18,400
9.	Henry Bonilla (R)	\$18,000
10.	Hillary Clinton (D)	\$17,970
11.	Rick Santorum (R)	\$16,950
12.	John Campbell (R)	\$16,500
13.	Jon Kyl (R)	\$14,600
14.	George Allen (R)	\$14,000
15.	Joe Lieberman (I)	\$13,500
16.	Daniel K Akaka (D)	\$13,000
17.	Deborah Pryce (R)	\$12,498
18.	Eric Cantor (R)	\$12,000
18.	David Dreier (R)	\$12,000
18.	Ben Nelson (D)	\$12,000

<sup>271</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$2,233,483</b>
1.	George W Bush (R)	\$290,450
2.	John Kerry (D)	\$73,152
3.	Charles Schumer (D)	\$39,999
4.	Richard C Shelby (R)	\$28,500
5.	Chris Dodd (D)	\$27,750
6.	Vito Fossella (R)	\$23,300
7.	Mark Kennedy (R)	\$19,700
8.	John Thune (R)	\$15,450
9.	Robert "Bob" Conaway (D)	\$15,000
10.	James W DeMint (R)	\$13,850
11.	Daniel K Inouye (D)	\$13,500
12.	Eric Cantor (R)	\$13,000
13.	Patty Murray (D)	\$12,050
14.	Tom Latham (R)	\$12,000
15.	Joseph Crowley (D)	\$11,000
15.	David Vitter (R)	\$11,000
17.	Richard Burr (R)	\$10,798
18.	Tom Davis (R)	\$10,500
19.	Erskine Bowles (D)	\$10,250
20.	Spencer Bachus (R)	\$10,000

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$1,873,011</b>
1.	Mike Enzi (R)	\$44,249
2.	Vito Fossella (R)	\$16,500
3.	Connie Morella (R)	\$15,172
4.	Mark Kennedy (R)	\$14,000
5.	Eric Cantor (R)	\$12,999
6.	Norm Coleman (R)	\$12,884
7.	Elizabeth Dole (R)	\$12,750
8.	Billy Tauzin (R)	\$12,000
9.	John Thune (R)	\$11,800

10.	Felix Grucci Jr (R)	\$11,200
11.	James Talent (R)	\$11,000
12.	Anne Northup (R)	\$10,500
13.	Max Baucus (D)	\$10,000
13.	Thad Cochran (R)	\$10,000
13.	Susan Collins (R)	\$10,000
13.	J D Hayworth (R)	\$10,000
13.	Tim Hutchinson (R)	\$10,000
13.	Dennis Moore (D)	\$10,000
13.	Charles "Chip" Pickering Jr (R)	\$10,000
20.	Sue Kelly (R)	\$9,999

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,982,826</b>
1.	George W Bush (R)	\$83,850
2.	Charles Schumer (D)	\$48,500
3.	Rick A Lazio (R)	\$48,250
4.	Hillary Clinton (D)	\$40,750
5.	Rudy Giuliani (R)	\$38,700
6.	Spencer Abraham (R)	\$30,000
7.	Bill Bradley (D)	\$25,000
8.	John McCain (R)	\$18,200
9.	Charles Rangel (D)	\$14,750
10.	Chris Dodd (D)	\$14,500
11.	Mike DeWine (R)	\$13,650
12.	Vito Fossella (R)	\$12,750
13.	Edolphus Towns (D)	\$11,000
14.	E Clay Shaw, Jr (R)	\$10,800
15.	James E Rogan (R)	\$10,724
16.	Jim Maloney (D)	\$10,500
16.	Brad Sherman (D)	\$10,500
18.	John Ashcroft (R)	\$10,450
19.	James M Jeffords (R)	\$10,000
19.	Steven Kuykendall (R)	\$10,000

**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$1,430,614</b>
1.	Chris Dodd (D)	\$66,145
2.	Alfonse D'Amato (R)	\$45,000
3.	Charles Schumer (D)	\$28,450
4.	Ron Wyden (D)	\$22,850
5.	Vito Fossella (R)	\$20,050
6.	Matt Fong (R)	\$13,050
7.	Lauch Faircloth (R)	\$12,875
8.	George Voinovich (R)	\$12,000
9.	Chuck Grassley (R)	\$11,500
10.	Anna Eshoo (D)	\$10,000
10.	Rick White (R)	\$10,000
12.	Don Nickles (R)	\$9,500
13.	Christopher S 'Kit' Bond (R)	\$9,000
13.	Collin C Peterson (D)	\$9,000
13.	Heather Wilson (R)	\$9,000
16.	Carol Moseley Braun (D)	\$8,800
17.	Robert F Bennett (R)	\$8,000
17.	Ben Nighthorse Campbell (R)	\$8,000
17.	Trent Lott (R)	\$8,000
20.	Paul Coverdell (R)	\$7,500

**Deloitte Lobbying Expenditures:**<sup>272</sup>**2008**

<b>TOTAL:</b>	<b>\$1,140,000</b>
Deloitte & Touche	\$650,000
Clark & Assoc	\$50,000
Clark & Weinstock	\$80,000
Johnson, Madigan et al	\$240,000
Mayer, Brown et al	> \$10,000*
BGR Holding	\$120,000

**2007**

<b>TOTAL:</b>	<b>\$2,220,000</b>
Deloitte & Touche	\$440,000
Clark & Assoc	\$40,000
Clark & Weinstock	\$80,000
Deloitte LLP	\$1,060,000
Johnson, Madigan et al	\$240,000
Mayer, Brown et al	\$40,000
BGR Holding	\$120,000
Tew Cardenas	\$200,000

**2006**

<b>TOTAL:</b>	<b>\$1,960,000</b>
Deloitte & Touche	\$360,000
Clark & Assoc	\$40,000
Clark & Weinstock	\$80,000
Deloitte LLP	\$840,000
Johnson, Madigan et al	\$240,000
Mayer, Brown et al	\$80,000
MWW Group	> \$10,000*
Barbour, Griffith & Rogers	\$120,000

Tew Cardenas LLP	\$200,000
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**2005**

<b>TOTAL:</b>	<b>\$1,440,000</b>
Clark & Assoc	\$20,000
Clark & Weinstock	\$80,000
Deloitte Tax	\$860,000
Johnson, Madigan et al	\$240,000
Barbour, Griffith & Rogers	\$120,000
Tew Cardenas LLP	\$120,000

**2004**

<b>TOTAL:</b>	<b>\$1,520,000</b>
Deloitte Tax	\$20,000
Barbour, Griffith & Rogers	\$120,000
Holland & Knight	\$100,000
Tew Cardenas LLP	\$60,000
Clark & Assoc	\$20,000
Clark & Weinstock	\$80,000
Deloitte Tax	\$840,000
Johnson, Madigan et al	\$240,000
Public Strategies	\$40,000

**2003**

<b>TOTAL:</b>	<b>\$1,125,000</b>
Deloitte Tax	\$660,000
Holland & Knight	\$145,000
Clark & Assoc	\$20,000
Clark & Weinstock	\$60,000
Johnson, Madigan et al	\$240,000

<sup>272</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

**2002**

<b>TOTAL:</b>	<b>\$1,677,455</b>
Deloitte & Touche	\$1,107,455
Clark & Assoc	\$60,000
Clark & Weinstock	\$100,000
Thelen, Reid et al	\$10,000
Velasquez Group	\$240,000
Johnson, Madigan et al	\$160,000

**2001**

<b>TOTAL:</b>	<b>\$2,625,000</b>
Deloitte & Touche	\$300,000
Deloitte & Touche	\$160,000
Dewey Ballantine LLP	\$1,600,000
Ickes & Enright Group	\$25,000
Johnson, Madigan et al	\$320,000
Velasquez Group	\$220,000

**2000**

<b>TOTAL:</b>	<b>\$4,609,000</b>
Deloitte & Touche	\$2,524,000
Deloitte & Touche	\$240,000
Dewey Ballantne LLP	\$1,180,000
Greenberg Traurig LLP	\$60,000
Ickes & Enright Group	\$65,000
Johnson, Madigan et al	\$280,000
Clark & Weinstock	\$80,000
Mayer, Brown et al	\$60,000
Velasquez Group	\$120,000

**1999**

<b>TOTAL:</b>	<b>\$870,000</b>
Deloitte & Touche	\$440,000
Greenberg Traurig LLP	\$130,000

Ickes & Enright Group	\$20,000
Deloitte LLP	\$240,000
Mayer, Brown et al	\$40,000

**1998**

<b>TOTAL:</b>	<b>\$420,000</b>
Deloitte & Touche	\$360,000
Deloitte & Touche	> \$10,000*
Latham & Watkins	\$20,000
Mayer, Brown et al	\$40,000

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\* Not included in totals



**Deloitte Covered Official Lobbyists:<sup>273</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Clark &amp; Assoc.</b>		
Sam Geduldig	Dir of Coalitions, House Fin. Serv. Comm	2008
	Sr. Advisor, Majority Whip Roy Blunt	
<b>Clark &amp; Weinstock</b>		
Ed Kutler	Asst, Office of the Speaker, House of Reps	2006-2008
	Asst, House Republic Whip	
Vin Weber	Member of Congress (MN)	2006-2008
Jon Schwantes	Gen. Counsel, Sen. Judiciary Comm.	2007-2008
Margaret McGlinch	Chief of Staff, Rep. Tim Walz	2007-2008
	Leg. Director, Rep. Richard Neal	
	Leg. Counsel, Sen. Harry Reid	
	Leg. Aide, Sen. Daniel Moynihan	
Sandra Stuart	Asst Sec for Leg Affairs, Dept. of Defense	2006-2008
	Chief of Staff, Rep. Vic Fazio	
Brian Bieron	Policy Director, House Rules Comm.	2002
Kent Bonham	Policy Director, Sen. Chuck Hagel	2002
Juleanna Glover Weiss	Press Secretary to the Vice President	2003
Timothy Morrison	Assoc. Dir, Presidential Personnel	2003
<b>Clark Lytle &amp; Geduldig</b>		
Sam Geduldig	Dir. Of Coalitions, House Fin. Serv Comm	2007
	Sr Advisor, Majority Whip Roy Blunt	
<b>Deloitte &amp; Touche LLP</b>		
Janet Hale	Undersecretary for Mgt, DHS	2007
William Ezzell	Partner	2007
Cindy Stevens	Director	2007
Charles Heeter	Principal	2007

<sup>273</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

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<b>Holland &amp; Knight</b>		
Leigh A. Bradley	Gen Counsel, Dept of Veterans Affairs	2003
Tillie Fowler	Former U.S. Representative	2003
Chris DeLacy	Leg. Aide, Sen. John Warner	2003
David Gilliland	Chief of Staff, Rep. Tillie Fowelr	2003
<b>Mayer, Brown et al</b>		
Jeffrey Lewis	Legislative Asst, Sen Breaux	2001-2000

## Accounting Firms: Ernst & Young

Decade-long campaign contribution total (1998-2008): **\$12,482,407**

Decade-long lobbying expenditure total (1998-2008): **\$25,108,536**

### Ernst & Young Campaign Contributions:<sup>274</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$2,170,392</b>
1.	Rudy Giuliani (R)	\$292,350
2.	Hillary Clinton (D)	\$165,692
3.	Barack Obama (D)	\$150,207
4.	John McCain (R)	\$105,606
5.	Chris Dodd (D)	\$70,750
6.	Mitt Romney (R)	\$37,800
7.	John Cornyn (R)	\$19,550
8.	Max Baucus (D)	\$18,850
9.	John Boehner (R)	\$13,500
9.	Norm Coleman (R)	\$13,500
11.	Susan M Collins (R)	\$13,300
12.	Charles B Rangel (D)	\$13,287
13.	Eric Cantor (R)	\$12,100
14.	Chris Van Hollen (D)	\$11,000
15.	Barney Frank (D)	\$10,900
16.	Spencer Bachus (R)	\$10,000
16.	Elizabeth Dole (R)	\$10,000
16.	Steny H Hoyer (D)	\$10,000
16.	Jay Rockefeller (D)	\$10,000

16.	David Scott (D)	\$10,000
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#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$1,592,550</b>
1.	Hillary Clinton (D)	\$81,500
2.	Rudy Giuliani (R)	\$46,200
3.	Ben Cardin (D)	\$23,003
4.	Richard Baker (R)	\$20,250
5.	Mike DeWine (R)	\$20,100
6.	John Boehner (R)	\$19,300
7.	Rick Santorum (R)	\$16,700
8.	George Allen (R)	\$15,650
9.	Mark Kennedy (R)	\$15,250
10.	Deborah Pryce (R)	\$14,650
11.	Joe Lieberman (I)	\$14,200
12.	Jon Kyl (R)	\$13,500
13.	Tom DeLay (R)	\$12,100
14.	James M Talent (R)	\$11,999
15.	Barney Frank (D)	\$11,750
16.	Jim McCrery (R)	\$11,500
17.	Eric Cantor (R)	\$11,200
18.	John Campbell (R)	\$11,000
18.	Anne Northrup (R)	\$11,000
20.	Michael Fitzpatrick (R)	\$10,500

<sup>274</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$2,140,864</b>
1.	George W. Bush (R)	\$305,140
2.	John Kerry (D)	\$101,425
3.	George Voinovich (R)	\$43,600
4.	Charles Schumer (D)	\$38,250
5.	Richard C Shelby (R)	\$33,700
6.	Richard Burr (R)	\$24,061
7.	Pete Sessions (R)	\$20,097
8.	Michael G. Oxley (R)	\$19,800
9.	Chris John (D)	\$17,978
10.	Hillary Clinton (D)	\$16,500
11.	Mel Martinez (R)	\$16,261
12.	John Thune (R)	\$15,000
13.	Tom Daschle (D)	\$14,000
14.	Arlen Specter (R)	\$13,750
15.	Christopher S 'Kit' Bond (R)	\$13,000
15.	Lisa Murkowski (R)	\$13,000
17.	Steny H Hoyer (D)	\$11,000
18.	Evan Bayh (D)	\$10,500
18.	James DeMint (R)	\$10,500
18.	John Tanner (D)	\$10,500

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$2,012,978</b>
1.	Charles Schumer (D)	\$63,550
2.	John Cornyn (R)	\$16,700
3.	Max Baucus (D)	\$16,261
4.	Jay Rockefeller (D)	\$12,550
5.	Saxby Chambliss (R)	\$12,500
5.	Norm Coleman (R)	\$12,500
7.	Mary L Landrieu (D)	\$12,250
8.	James M Talent (R)	\$12,000

9.	John Thune (R)	\$11,300
10.	Connie Morella (R)	\$10,999
11.	Anna Eshoo (D)	\$10,500
11.	Rob Portman (R)	\$10,500
13.	Dennis Moore (D)	\$10,200
14.	Susan M Collins (R)	\$10,169
15.	Roy Blunt (R)	\$10,000
15.	Mark Kennedy (R)	\$10,000
15.	Michael G Oxley (R)	\$10,000
18.	Jennifer Dunn (R)	\$9,916
19.	E Clay Shaw, Jr (R)	\$9,750
20.	Robert Torricelli (D)	\$9,250

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$2,845,336</b>
1.	George W. Bush (R)	\$181,949
2.	Al Gore (D)	\$136,675
3.	Bill Bradley (D)	\$67,750
4.	Rick A Lazio (R)	\$30,850
5.	Hillary Clinton (D)	\$30,450
6.	Dianne Feinstein (D)	\$17,150
7.	Mike DeWine (R)	\$15,750
8.	John McCain (R)	\$14,525
9.	George Allen (R)	\$14,450
10.	Sherrod Brown (D)	\$14,000
10.	Robert Torricelli (D)	\$14,000
12.	John Ashcroft (R)	\$13,999
13.	Spencer Abraham (R)	\$13,000
14.	Bill Frist (R)	\$12,500
15.	Charles S. Robb (D)	\$12,450
16.	Chris Dodd (D)	\$12,250
17.	Richard Gephardt (D)	\$12,000
17.	Orrin G Hatch (R)	\$12,000
19.	John R Kasich (R)	\$11,500

20.	E Clay Shaw, Jr. (R)	\$11,250
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**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$1,720,281</b>
1.	Charles Schumer (D)	\$26,700
2.	Alfonse D'Amato (R)	\$13,750
3.	Newt Gingrich (R)	\$12,000
4.	Christopher S 'Kit' Bond (R)	\$11,750
4.	John Linder (R)	\$11,750
6.	George Voinovich (R)	\$11,450
6.	Rick White (R)	\$11,450
8.	Barbara Boxer (D)	\$11,000
9.	Peter Fitzgerald (R)	\$10,500
10.	John Breaux (D)	\$10,249
11.	Evan Bayh (D)	\$10,000
11.	Thomas Bliley Jr (R)	\$10,000
11.	Paul Coverdell (R)	\$10,000
11.	Tom DeLay (R)	\$10,000
11.	Jennifer Dunn (R)	\$10,000
11.	John Ensign (R)	\$10,000
11.	Martin Frost (D)	\$10,000
11.	Chuck Grassley (R)	\$10,000
11.	Fritz Hollings (D)	\$10,000
20.	Anna Eshoo (D)	\$9,999

**Ernst & Young  
Lobbying Expenditures:<sup>275</sup>**

**2008**

<b>TOTAL:</b>	<b>\$3,173,056</b>
Ernst & Young	\$2,103,056
RR&G	\$240,000
Elmendorf Strategies	\$200,000
Glover Park Group	\$160,000
American Continental Group	\$120,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$60,000
Mayer, Brown et al	>\$10,000*
Jolly/Rissler	\$210,000

**2007**

<b>TOTAL:</b>	<b>\$3,560,480</b>
Ernst & Young	\$2,440,480
RR&G	\$240,000
Glover Park Group	\$200,000
Elmendorf Strategies	\$200,000
American Continental Group	\$120,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$40,000
Mayer, Brown et al	\$40,000
Jolly/Rissler Inc	\$200,000

**2006**

<b>TOTAL:</b>	<b>\$1,741,500</b>
Ernst & Young	\$861,500
RR&G	\$160,000

Glover Park Group	\$140,000
Alpine Group	\$140,000
American Continental Group	\$120,000
Mayer, Brown et al	\$80,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$40,000
Jolly/Rissler Inc	\$120,000

**2005**

<b>TOTAL:</b>	<b>\$2,549,640</b>
Ernst & Young	\$1,749,640
Alpine Group	\$200,000
Glover Park Group	\$160,000
American Continental Group	\$120,000
Clark & Weinstock	\$80,000
Bryan Cave Strategies	\$40,000
Clark & Assoc	\$40,000
Thelen, Reid & Priest	\$20,000
Jolly/Rissler Inc	\$140,000

**2004**

<b>TOTAL:</b>	<b>\$2,650,000</b>
Ernst & Young	\$1,790,000
Alpine Group	\$220,000
Harbour Group	\$140,000
Clark & Weinstock	\$140,000
American Continental Group	\$120,000
Clark & Assoc	\$60,000
Public Strategies	\$40,000
Jolly/Rissler Inc	\$140,000

<sup>275</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

**2003**

<b>TOTAL:</b>	<b>\$2,880,000</b>
Ernst & Young	\$1,980,000
Public Strategies	\$180,000
Clark & Weinstock	\$180,000
Alpine Group	\$160,000
American Continental Group	\$120,000
Clark & Assoc	\$80,000
Jolly/Rissler Inc	\$80,000
Harbour Group	\$60,000
Barrett, Michael F. Jr	\$40,000

**1999**

<b>TOTAL:</b>	<b>\$1,400,000</b>
Ernst & Young	\$1,200,000
Fleishman-Hillard	\$100,000
Mayer, Brown et al	\$100,000

**1998**

<b>TOTAL:</b>	<b>\$1,640,000</b>
Ernst & Young	\$1,420,000
Fleishman-Hillard	\$180,000
Mayer, Brown et al	\$40,000

**2002**

<b>TOTAL:</b>	<b>\$2,573,860</b>
Ernst & Young	\$2,343,860
American Continental Group	\$120,000
Clark & Weinstock	\$100,000
Thelen, Reid et al	\$10,000
Clark & Assoc	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$1,600,000</b>
Ernst & Young	\$1,320,000
American Continental Group	\$80,000
Mayer, Brown et al	\$60,000

**2000**

<b>TOTAL:</b>	<b>\$1,340,000</b>
Ernst & Young	\$1,200,000
American Continental Group	\$80,000
Mayer, Brown et al	\$60,000

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\* Not included in totals

**Ernst & Young Covered Official Lobbyists:<sup>276</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Mayer, Brown, &amp; Platt</b>		
Jeffery Lewis	Legislative Assitant to Senator Breaux	1999-2001
<b>Clark and Weinstock</b>		
Brian Bieron	Policy Director, House Rules Committee	2002
Kent Bonham	Policy Director for Sen. Chuck Hagel	2002-2003
Juleanna Glover Weiss	Press Secretary to the Vice President	2002-2003
Jonathan Schwantes	General Counsel, Senate Judiciary Committee	2007
Ed Kutler	Assistant Office of the Speaker House of Reps	2008
	Assistant, House Republic Whip	
Sandra Stuart	Asst. Sec. for Leg Affairs, DoD	2008
	Chief of Staff, Rep. Vic Fazio	
Vin Weber	Member of Congress (MN)	2008
Margaret McGlinch	Chief of Staff, Rep. Tim Walz,	2008
	Leg. Director, Rep. Richard Neal	
	Legislative Aide, Sen Daniel Moynihan	
	Leg. Counsel, Sen Harry Reid	
<b>Jolly/Rissler Inc.</b>		
Thomas R. Jolly	Chairman	2003-2004
<b>Glover Park Group</b>		
Joyce Brayboy	Chief of Staff, Rep. Mel Watt	2007
Joel Johnson	Chief of Staff, Sen. Howard Metzenbaum, Exec. Director, House Democratic Study Group	2008
	Assistant Secretary of the Minority US Senate	
	Staff Director, Democratic Leadership Committee, Special Assistant to the Presi-	

<sup>276</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.



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	dent for Policy, Communications	
Susan Brophy	Chief of Staff, Rep. Byron Dorgan	2008
	Chief of Staff Senator Tim Wirth	
	Deputy Assistant to the President for Legislative Affairs	
<b>Clark, Lytle, &amp; Geduldig</b>		
Sam Geduldig	Dir of Coalitions, House Fin Serv Com, Sr Advisor, Majority Whip Roy Blunt	2008

## Accounting Firms: KPMG LLP

Decade-long campaign contribution total (1998-2008): **\$8,486,392**

Decade-long lobbying expenditure total (1998-2008): **\$19,103,000**

### KPMG Campaign Contributions:<sup>277</sup>

#### 2008 Top Recipients<sup>278</sup>

<b>TOTAL:</b>		<b>\$1,746,293</b>
1.	Barack Obama (D)	\$67,500
2.	Hillary Clinton (D)	\$40,900
3.	John McCain (R)	\$22,490
4.	Chris Dodd (D)	\$21,000
5.	Elizabeth Dole (R)	\$12,300
6.	Steve Chabot (R)	\$10,300
7.	Jim Ryun (R)	\$10,300
8.	Michele Marie Bachmann (R)	\$10,000
9.	Melissa Bean (D)	\$10,000
9.	Allen Boyd (D)	\$10,000
9.	John Campbell (R)	\$10,000
9.	Michael Castle (R)	\$10,000
9.	James Clyburn (D)	\$10,000
9.	Norm Coleman (R)	\$10,000
9.	Susan Collins (R)	\$10,000
9.	Mike Conaway (R)	\$10,000
9.	John Cornyn (R)	\$10,000
9.	Joseph Crowley (D)	\$10,000
9.	Artur Davis (D)	\$10,000

9.	Lincoln Davis (D)	\$10,000
9.	Barney Frank (D)	\$10,000
9.	Jim Gerlach (R)	\$10,000
9.	Jeb Hensarling (R)	\$10,000
9.	Michael Johanns (R)	\$10,000
9.	Paul Kanjorski (D)	\$10,000
9.	Ron Kind (D)	\$10,000
9.	Ron Klein (D)	\$10,000
9.	Tim Mahoney (D)	\$10,000
9.	Carolyn Maloney (D)	\$10,000
9.	Jim Marshall (D)	\$10,000
9.	Jim Matheson (D)	\$10,000
9.	Dennis Moore (D)	\$10,000
9.	Chris Murphy (D)	\$10,000
9.	Steve Pearce (R)	\$10,000
9.	Edwin Perlmutter (D)	\$10,000
9.	Charles Rangel (D)	\$10,000
9.	Harry Reid (D)	\$10,000
9.	Peter Roskam (R)	\$10,000
9.	Ed Royce (R)	\$10,000
9.	Paul Ryan (R)	\$10,000
9.	David Scott (D)	\$10,000
9.	Christopher Shays (R)	\$10,000
9.	Lamar Smith (R)	\$10,000
9.	John Tanner (D)	\$10,000
9.	Mike Thompson (D)	\$10,000

<sup>277</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

<sup>278</sup> Based on highest 1,000 contributions and PAC money.

9.	Melvin Watt (D)	\$10,000
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**2006 Top Recipients<sup>279</sup>**

<b>TOTAL:</b>		<b>\$1,320,683</b>
1.	Heather Wilson (R)	\$15,000
2.	Max Baucus (D)	\$13,233
3.	Chris Dodd (D)	\$13,000
3.	James Talent (R)	\$13,000
5.	Rick Santorum (R)	\$11,200
6.	Patrick McHenry (R)	\$10,704
7.	Spencer Bachus (R)	\$10,000
7.	Roy Blunt (R)	\$10,000
7.	Conrad Burns (R)	\$10,000
7.	Eric Cantor (R)	\$10,000
7.	Hillary Clinton (D)	\$10,000
7.	Bob Corker (R)	\$10,000
7.	Michael Fitzpatrick (R)	\$10,000
7.	Barney Frank (D)	\$10,000
7.	Jeb Hensarling (R)	\$10,000
7.	Jon Kyl (R)	\$10,000
7.	Jim Matheson (D)	\$10,000
7.	Raymond Meier (R)	\$10,000
7.	Dennis Moore (D)	\$10,000
7.	Marilyn Musgrave (R)	\$10,000
7.	Rick O'Donnell (R)	\$10,000
7.	Rick Renzi (R)	\$10,000
7.	Tom Reynolds (R)	\$10,000
7.	David Scott (D)	\$10,000
7.	E Clay Shaw Jr (R)	\$10,000
7.	Gordon Smith (R)	\$10,000
7.	Patrick Tiberi (R)	\$10,000

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$1,459,303</b>
1.	Charles Schumer (D)	\$32,000
2.	Richard Shelby (R)	\$25,000
3.	John Kerry (D)	\$22,750
4.	Chris Dodd (D)	\$19,000
5.	Peter Coors (R)	\$18,000
6.	Mike Conaway (R)	\$16,000
7.	James DeMint (R)	\$15,201
8.	Richard Baker (R)	\$15,000
8.	Jeb Hensarling (R)	\$15,000
10.	Christopher S 'Kit' Bond (R)	\$12,000
10.	George W Bush (R)	\$12,000
12.	Gresham Barrett (R)	\$11,500
13.	Mel Martinez (R)	\$11,000
14.	Spencer Bachus (R)	\$10,000
14.	Bob Beauprez (R)	\$10,000
14.	Roy Blunt (R)	\$10,000
14.	Eric Cantor (R)	\$10,000
14.	Shelley Moore Capito (R)	\$10,000
14.	Vito Fossella (R)	\$10,000
14.	Katherine Harris (R)	\$10,000
14.	Bill Jones (R)	\$10,000
14.	Sue Kelly (R)	\$10,000
14.	Michael Oxley (R)	\$10,000
14.	Jim Ryun (R)	\$10,000

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$1,740,139</b>
1.	Saxby Chambliss (R)	\$16,050
2.	Mike Ferguson (R)	\$14,500
3.	Norm Coleman (R)	\$12,500
3.	Felix J Grucci Jr (R)	\$12,500

<sup>279</sup> Based on highest 1,000 contributions and PAC money.

5.	Jim McCrery (R)	\$11,750
6.	Phil Gramm (R)	\$11,000
7.	Connie Morella (R)	\$10,450
8.	Lamar Alexander (R)	\$10,250
8.	Charles "Chip" Pickering Jr (R)	\$10,250
10.	Roy Blunt (R)	\$10,000
10.	Shelley Moore Capito (R)	\$10,000
10.	Vito Fossella (R)	\$10,000
10.	Robin Hayes (R)	\$10,000
10.	Tim Hutchinson (R)	\$10,000
10.	Chris John (D)	\$10,000
10.	Sue Kelly (R)	\$10,000
10.	Mark Kennedy (R)	\$10,000
10.	Candice Miller (R)	\$10,000
10.	Dennis Moore (D)	\$10,000
10.	Michael Oxley (R)	\$10,000
10.	Mike Rogers (R)	\$10,000
10.	John Shadegg (R)	\$10,000
10.	Rob Simmons (R)	\$10,000
10.	John Sununu (R)	\$10,000
10.	John Thune (R)	\$10,000

### 2000 Top Recipients

<b>TOTAL:</b>		<b>\$1,371,159</b>
1.	George W Bush (R)	\$89,567
2.	Charles Schumer (D)	\$42,948
3.	Spencer Abraham (R)	\$14,999
4.	Rick Lazio (R)	\$14,550
5.	Chris Dodd (D)	\$14,000
6.	George Allen (R)	\$10,943
7.	William Roth Jr (R)	\$10,500
8.	John Ashcroft (R)	\$10,000
8.	Slade Gorton (R)	\$10,000

8.	Rod Grams (R)	\$10,000
11.	Rick Santorum (R)	\$9,000
12.	Rudy Giuliani (R)	\$8,999
13.	Conrad Burns (R)	\$8,500
14.	David Phelps (D)	\$8,000
15.	John Ensign (R)	\$7,775
16.	James Rogan (R)	\$7,725
17.	Dick Armey (R)	\$7,500
18.	Jane Harman (D)	\$7,400
19.	Al Gore (D)	\$7,300
20.	Heather Wilson (R)	\$7,225

### 1998 Top Recipients

<b>TOTAL:</b>		<b>\$848,815</b>
1.	Thomas Bliley Jr (R)	\$10,000
1.	Billy Tauzin (R)	\$10,000
3.	Barbara Mikulski (D)	\$8,219
4.	Lauch Faircloth (R)	\$8,000
5.	Ron Wyden (D)	\$7,795
6.	Paul Coverdell (R)	\$7,500
7.	Rick White (R)	\$6,225
8.	Robert Bennett (R)	\$6,000
8.	John Boehner (R)	\$6,000
8.	Molly Bordonaro (R)	\$6,000
8.	Heather Wilson (R)	\$6,000
12.	Matt Fong (R)	\$5,750
13.	Don Nickles (R)	\$5,500
14.	Alfonse D'Amato (R)	\$5,300
15.	Dick Armey (R)	\$5,000
15.	Brian Bilbray (R)	\$5,000
15.	Jim Bunning (R)	\$5,000
15.	Christopher Cox (R)	\$5,000
15.	Tom DeLay (R)	\$5,000
15.	Peter Fitzgerald (R)	\$5,000

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15.	Newt Gingrich (R)	\$5,000
15.	Trent Lott (R)	\$5,000
15.	Bill Redmond (R)	\$5,000

**KPMG Lobbying Expenses:<sup>280</sup>****2008**

<b>TOTAL:</b>	<b>\$2,985,000</b>
KPMG LLP	\$2,525,000
KPMG LLP	> \$10,000*
Velasquez Group	\$200,000
Public Strategies	\$130,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$50,000
Mayer, Brown et al	> \$10,000*

**2007**

<b>TOTAL:</b>	<b>\$2,590,000</b>
KPMG LLP	\$2,130,000
KPMG LLP	> \$10,000*
Velasquez Group	\$180,000
Public Strategies	\$120,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$40,000
Mayer, Brown et al	\$40,000

**2006**

<b>TOTAL:</b>	<b>\$2,190,000</b>
KPMG LLP	\$1,650,000
KPMG LLP	\$40,000
Velasquez Group	\$180,000
Public Strategies	\$120,000
Mayer, Brown et al	\$80,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$1,210,000</b>
KPMG LLP	\$890,000
KPMG LLP	\$40,000
Public Strategies	\$120,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$40,000
Velasquez Group	\$40,000

**2004**

<b>TOTAL:</b>	<b>\$1,838,000</b>
KPMG LPP	\$1,368,000
KPMG LPP	\$60,000
KPMG LPP	> \$10,000*
Clark & Weinstock	\$200,000
Velasquez Group	\$140,000
Public Strategies	\$50,000
Clark & Assoc	\$20,000

**2003**

<b>TOTAL:</b>	<b>\$1,575,000</b>
KPMG LLP	\$925,000
KPMG LLP	> \$10,000*
KPMG LLP	\$180,000
Clark & Weinstock	\$180,000
Velasquez Group	\$160,000
Public Strategies	\$90,000
McGovern & Smith	\$40,000
Clark & Assoc	> \$10,000*

<sup>280</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

\* Not included in totals

**2002**

<b>TOTAL:</b>	<b>\$1,850,000</b>
KPMG LLP	\$1,430,000
KPMG LLP	\$40,000
KPMG LLP	\$60,000
KPMG LLP	\$10,000
Public Strategies	\$160,000
Clark & Weinstock	\$100,000
McGovern & Smith	\$20,000
Capitol Tax Partners	\$20,000
Thelen, Reid et al	\$10,000
Clark & Assoc	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$1,455,000</b>
KPMG LLP	\$1,175,000
KPMG LLP	> \$10,000*
KPMG LLP	\$80,000
Public Strategies	\$120,000
Palmetto Group	\$80,000

**2000**

<b>TOTAL:</b>	<b>\$1,580,000</b>
KPMG LLP	\$1,340,000
KPMG LLP	\$80,000
Palmetto Group	\$100,000
Mayer, Brown et al	\$60,000

**1999**

<b>TOTAL:</b>	<b>\$1,190,000</b>
KPMG LLP	\$850,000
Palmetto Group	\$280,000
Mayer, Brown et al	\$40,000

Spectrum Group	\$20,000
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**1998**

<b>TOTAL:</b>	<b>\$640,000</b>
KPMG LLP	\$600,000
Mayer, Brown et al	\$40,000
Spectrum Group	> \$10,000*

\* Not included in totals

\* Not included in totals

**KPMG Covered Official Lobbyists:<sup>281</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>Clark &amp; Assoc.</b>		
Sam Geduldig	Dir of Coalitions, House Fin. Serv Comm. Sr Advisor, Majority Whip Roy Blunt	2007-2008
<b>Clark &amp; Weinstock</b>		
Ed Kutler	Asst, Office of Speaker, House of Reps Asst, House Republican Whip	2007-2008
Johathan Schwantes	Gen Counsel, Senate Judiciary Comm	2007-2008
Sandra Stuart	Asst Sec for Legislative Affairs, DoD Chief of Staff, Rep. Vic Fazio	2008
Vin Weber	Member of Congress (MN)	2007-2008
Margaret McGlinch	Chief of Staff, Rep. Tim Walz Legislative Dir, Rep. Richard Neal Legislative Counsel, Sen. Harry Reid	2008
Kent Bonham	Policy Dir, Sen Chuck Hagel	2002-2003
Juleanna Glover Weiss	Press Secretary, Vice President	2002-2003
Brian Bieron	Policy Director, House Rulse Comm.	2002
Timothy Morrison	Assoc Dir, Presidential Personnel	2002
Anne Urban	Legislative Dir, Sen. Robert Kerrey	2002
<b>Capital Tax Partners</b>		
William Fant	Deputy Asst Sc for Leg Affairs, Treasury	2002-2003
Joseph Mikrut	Tax Legislative Counsel, Treasury	2002-2003
Jonathan Talisman	Asst Treasury Secretary for Tax Policy	2002-2003
<b>Public Strategies, Inc</b>		
Wallace Henderson	Counsel, Rep. Tauzin	2001-2002
<b>Mayer, Brown &amp; Platt</b>		
Jeffrey Lewis	Legislative Asst, Sen. Breaux	1999-2000

<sup>281</sup>Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.



## Accounting Firms: Pricewaterhouse

Decade-long campaign contribution total (1998-2008): **\$10,800,772**

Decade-long lobbying expenditure total (1998-2008): **\$44,291,084**

### Pricewaterhouse Campaign Contributions:<sup>282</sup>

#### 2008 Top Recipients

<b>TOTAL:</b>		<b>\$2,652,971</b>
1.	Barack Obama (D)	\$205,318
2.	Hillary Clinton (D)	\$190,200
3.	John McCain (R)	\$166,970
4.	Mitt Romney (R)	\$90,150
5.	Chris Dodd (D)	\$64,800
6.	Rudy Giuliani (R)	\$16,250
7.	Susan M Collins (R)	\$16,100
8.	Norm Coleman (R)	\$13,050
9.	Elizabeth Dole (R)	\$12,000
10.	Steny H Hoyer (D)	\$11,000
11.	Dean F Andal (R)	\$10,500
11.	Mike Conaway (R)	\$10,500
13.	Keith S Fimian (R)	\$10,200
14.	John Edwards (D)	\$10,100
	Michele Marie	
15.	Bachmann (R)	\$10,000
15.	Spencer Bachus (R)	\$10,000
15.	Max Baucus (D)	\$10,000
15.	Melissa Bean (D)	\$10,000
15.	Judy Biggert (R)	\$10,000

15.	John Boehner (R)	\$10,000
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#### 2006 Top Recipients

<b>TOTAL:</b>		<b>\$1,388,604</b>
1.	Tom Davis (R)	\$71,208
2.	Mark Kennedy (R)	\$35,600
3.	Rick Santorum (R)	\$23,546
4.	Richard Baker (R)	\$23,488
5.	Tom Carper (D)	\$20,499
6.	Spencer Bachus (R)	\$20,000
7.	Joe Lieberman (I)	\$17,000
8.	Deborah Pryce (R)	\$14,750
9.	Mike Ferguson (R)	\$14,150
10.	George Allen (R)	\$13,850
11.	James M Talent (R)	\$13,000
12.	Mike DeWine (R)	\$11,600
	Michael Fitzpatrick	
13.	(R)	\$11,000
13.	Jon Kyl (R)	\$11,000
15.	Tom DeLay (R)	\$10,500
16.	Barney Frank (D)	\$10,250
16.	Nancy L Johnson (R)	\$10,250
16.	Tom Reynolds (R)	\$10,250
	Christopher Shays	
16.	(R)	\$10,250
20.	E Clay Shaw Jr (R)	\$10,204

<sup>282</sup> Source: Center for Responsive Politics. Campaign contribution totals accessed February 2009. Individual recipient numbers do not include the 4th Quarter of 2008.

**2004 Top Recipients**

<b>TOTAL:</b>		<b>\$1,882,353</b>
1.	George W. Bush (R)	\$513,750
2.	John Kerry (D)	\$73,000
3.	Richard C Shelby (R)	\$61,250
4.	Michael G Oxley (R)	\$50,550
5.	Charles Schumer (D)	\$27,476
6.	Mike Conaway (R)	\$17,000
7.	James W DeMint (R)	\$12,500
8.	Arlen Specter (R)	\$12,350
9.	Chuck Grassley (R)	\$12,000
9.	Scott Paterno (R)	\$12,000
9.	John Thune (R)	\$12,000
12.	Johnny Isakson (R)	\$11,000
13.	Mark Kennedy (R)	\$10,500
14.	Spencer Bachus (R)	\$10,000
14.	Richard Baker (R)	\$10,000
14.	Roy Blunt (R)	\$10,000
14.	Max Burns (R)	\$10,000
18.	Rick Renzi (R)	\$10,000
19.	Richard Burr (R)	\$9,750
20.	Eric Cantor (R)	\$9,500

**2002 Top Recipients**

<b>TOTAL:</b>		<b>\$1,357,480</b>
1.	Norm Coleman (R)	\$13,500
2.	Roy Blunt (R)	\$11,000
3.	Connie Morella (R)	\$10,750
4.	John E Sununu (R)	\$10,500
5.	Dennis Hastert (R)	\$10,000
5.	Mark Kennedy (R)	\$10,000
5.	Michael G Oxley (R)	\$10,000
8.	James M Talent (R)	\$9,950
9.	Elizabeth Dole (R)	\$9,500

9.	John Thune (R)	\$9,500
11.	Max Baucus (D)	\$9,000
12.	Phil Crane (R)	\$8,566
13.	Tim Hutchinson (R)	\$8,000
14.	Ken Lucas (D)	\$7,950
15.	Susan M Collins (R)	\$7,750
16.	Wayne Allard (R)	\$7,500
16.	Jim Mcrery (R)	\$7,500
16.	Dennis Moore (D)	\$7,500
19.	Robin Hayes (R)	\$7,000
19.	William Jefferson (D)	\$7,000

**2000 Top Recipients**

<b>TOTAL:</b>		<b>\$1,868,674</b>
1.	George W Bush (R)	\$131,798
2.	Rick A Lazio (R)	\$53,086
3.	Bill Bradley (D)	\$51,550
4.	Rudy Giuliani (R)	\$41,150
5.	Charles Schumer (D)	\$33,974
6.	Spencer Abraham (R)	\$29,550
7.	Al Gore (D)	\$23,630
8.	John McCain (R)	\$19,080
9.	John Ashcroft(R)	\$12,500
10.	Edward Kennedy (D)	\$12,250
11.	James E Rogan (R)	\$11,950
11.	William Roth Jr (R)	\$11,950
13.	Chris Dodd (D)	\$11,750
14.	Ernie Fletcher (R)	\$11,000
15.	Steven Kuykendall (R)	\$10,750
16.	E Clay Shaw Jr (R)	\$10,270
17.	Rod Grams (R)	\$10,000
17.	Dennis Hastert (R)	\$10,000
17.	Billy Tauzin (R)	\$10,000
20.	Sherrod Brown (D)	\$9,999

**1998 Top Recipients**

<b>TOTAL:</b>		<b>\$1,650,690</b>
1.	Alfonse D'Amato (R)	\$25,970
2.	Chris Dodd (D)	\$17,800
3.	George Voinovich (R)	\$15,500
3.	Billy Tauzin (R)	\$15,000
5.	Lauch Faircloth (R)	\$14,000
5.	Martin Frost (D)	\$14,000
7.	Sherrod Brown (D)	\$13,948
8.	Rick White (R)	\$13,825
9.	Newt Gingrich (R)	\$13,800
10.	Paul Coverdell (R)	\$13,500
10.	Anna Eshoo(D)	\$13,500
10.	Ron Wyden (D)	\$13,500
13.	Robert F Bennett (R)	\$13,000
13.	Matt Fong (R)	\$13,000
15.	Thomas Bliley Jr. (R)	\$12,500
16.	Michael Coles (D)	\$11,750
17.	Christopher S 'Kit' Bond (R)	\$11,500
18.	Don Nickles (R)	\$11,000
19.	Harry Reid (D)	\$10,000
20.	Christopher Cox (R)	\$9,111

**Pricewaterhouse Lobbying Expenditures:**<sup>283</sup>

**2008**

<b>TOTAL:</b>	<b>\$3,165,000</b>
PriceWaterhouseCoopers	\$2,340,000
Quinn, Gillespie & Assoc	\$370,000
Rich Feuer Group	\$160,000
American Capitol Group	\$125,000
Clark & Weinstock	\$80,000
Clark & Assoc	\$50,000
Commonwealth Group	> \$10,000*
Covington & Burling	> \$10,000*
Donna McLean Assoc	> \$10,000*
Mayer, Brown et al	> \$10,000*
Patton Boggs LLP	> \$10,000*
Cypress Advocacy	\$40,000

**2007**

<b>TOTAL:</b>	<b>\$3,630,584</b>
PriceWaterhouseCoopers	\$2,650,584
Quinn, Gillespie & Assoc	\$600,000
Rich Feuer Group	\$80,000
Clark & Weinstock	\$80,000
American Capitol Group	\$60,000
Clark & Assoc	\$40,000
Donna McLean Assoc	\$40,000
Mayer, Brown et al	\$40,000
Patton Boggs LLP	\$40,000

**2006**

<b>TOTAL:</b>	<b>\$4,413,500</b>
PriceWaterHouseCoopers	\$3,333,500
Quinn, Gillespie & Assoc	\$600,000
Patton Boggs LLP	\$240,000
Clark & Weinstock	\$80,000
Mayer, Brown et al	\$80,000
Clark & Assoc	\$40,000
Donna McLean Assoc	\$40,000

**2005**

<b>TOTAL:</b>	<b>\$13,600,000</b>
PriceWaterhouseCoopers	\$12,580,000
Quinn, Gillespie & Assoc	\$600,000
Patton Boggs LLP	\$200,000
Clark & Weinstock	\$80,000
Thelen, Redi & Priest	\$60,000
Donna McLean Assoc	\$40,000
Clark & Assoc	\$40,000

**2004**

<b>TOTAL:</b>	<b>\$2,505,000</b>
PriceWaterhouseCoopers	\$1,660,000
PriceWaterhouseCoopers	> \$10,000*
Quinn, Gillespie & Assoc	\$580,000
Thelen, Reid & Priest	\$105,000
Clark & Weinstock	\$80,000
Public Strategies	\$40,000
Donna McLean Assoc	\$20,000
Clark & Assoc	\$20,000

<sup>283</sup> Source: Center for Responsive Politics.

Lobbying amounts accessed February 2009.

\* Not included in totals

\* Not included in totals

**2003**

<b>TOTAL:</b>	<b>\$2,390,000</b>
PriceWaterhouseCoopers	\$1,680,000
PriceWaterhouseCoopers	> \$10,000*
Quinn, Gillespie & Assoc	\$560,000
Clark & Weinstock	\$80,000
Thelen, Reid & Priest	\$70,000
Clark & Assoc	> \$10,000*

**2002**

<b>TOTAL:</b>	<b>\$4,445,000</b>
PriceWaterhouseCoopers	\$3,160,000
PriceWaterhouseCoopers	\$155,000
PriceWaterhouseCoopers	\$260,000
PriceWaterhouseCoopers	> \$10,000*
Alcalde & Fay	\$200,000
Quinn, Gillespie & Assoc	\$540,000
Clark & Weinstock	\$100,000
Arnold & Porter	\$20,000
Thelen, Reid et al	\$10,000
Clark & Assoc	> \$10,000*

**2001**

<b>TOTAL:</b>	<b>\$4,560,000</b>
PriceWaterhouseCoopers	\$1,240,000
PriceWaterhouseCoopers	\$560,000
PriceWaterhouseCoopers	\$700,000
PriceWaterhouseCoopers	\$840,000
PriceWaterhouseCoopers	\$120,000
PriceWaterhouseCoopers	\$360,000
Alcalde & Fay	\$220,000
Quinn, Gillespie & Assoc	\$460,000
Cathy Abernathy Consult.	\$60,000

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\* Not included in totals

**2000**

<b>TOTAL:</b>	<b>\$2,186,000</b>
PriceWaterhouseCoopers	\$580,000
PriceWaterhouseCoopers	\$800,000
PriceWaterhouseCoopers	\$360,000
Quinn, Gillespie & Assoc	\$350,000
Mayer, Brown et al	\$60,000
Fleishman-Hillard Inc	\$36,000
Downey-McGrath Group	> \$10,000*
Alcalde & Fay	> \$10,000*

**1999**

<b>TOTAL:</b>	<b>\$2,316,000</b>
PriceWaterhouseCoopers	\$1,220,000
PriceWaterhouseCoopers	\$1,000,000
Mayer, Brown et al.	\$40,000
Fleishman-Hillard Inc	\$36,000
McDonald, Jack H	\$20,000
Dierman, Wortley et al	> \$10,000*
Downey McGrath Group	> \$10,000*

**1998**

<b>TOTAL:</b>	<b>\$1,080,000</b>
PriceWaterhouseCoopers	\$620,000
PriceWaterhouseCoopers	\$60,000
Coopers & Lybrand	\$340,000
Mayer, Brown et al	\$40,000
Downey Chandler Inc	\$20,000

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\* Not included in totals

**Pricewaterhouse Covered Official Lobbyists:<sup>284</sup>**

<b>Firm / Name of Lobbyist</b>	<b>Covered Official Position</b>	<b>Year(s)</b>
<b>PWC Leasing Corp.</b>		
Barabara M. Angus	Business Tax Counsel, Joint Committee on Taxation	1999
Kenneth J. Kies	Chief of Staff, Joint Committee on Taxation	1999
<b>Mayer, Brown, &amp; Platt</b>		
Jeffery Lewis	Legislative Assitant to Senator Breaux	1999-2000
<b>Quinn Gillespie Associates LLC</b>		
John M. Quinn	White House Counsel, Chief of Staff to VP	2000
Bruce Andrews	Legislative Director, Rep. Tim Holden	2000
<b>Section 170 Coalition</b>		
Tim Hanford	Tax Counsel, Committee on Ways and Means	2001
<b>PwC Structured Finance Coalition</b>		
Tim Hanford	Tax Counsel, Committee on Ways and Means	2001
John Meager	Special Counsel, Committee on Ways and Means	2001
<b>PwC Leasing Coalition</b>		
Tim Hanford	Tax Counsel, Committee on Ways and Means	2001
<b>Dierman, Wortley et al</b>		
Norman D'Amours	Chairman National Credit Union Admin	2002
<b>Clark &amp; Weinstock</b>		
Brian Bieron	Policy Director, House Rules Committee	2002

<sup>284</sup> Source: Senate Office of Public Records <<http://soprweb.senate.gov/>>. Accessed January 2009.

Kent Bonham	Policy Director for Sen. Chuck Hagel	2002-2003
Juleanna Glover Weiss	Press Secretary to the Vice President	2002-2003
Jonathan Schwantes	General Counsel, Senate Judiciary Committee	2007
<b>Pricewaterhouse Coopers</b>		
Beverly Bell	Administrative Assistant, Rep. Don Johnson	2003
Amy Best	Deputy Director of Public Affairs	2005-2006
Laura Cox	Managing Executive External Affairs	2005-2006
Michael O'Brien	Legislative Affairs Specialist	2005-2006
<b>Donna Mclean Assoc.</b>		
Donna Mclean	US Dept. of Transportation, Asst Sec for Budeget & Programs & CFO	2004-2006
<b>Quinn Gillespie Associates LLC</b>		
Mike Hacker	Communications Dir. (Rep. John Dingell)	2004-2005
Amy Cunniffe	Special Asst. to the Pres for Leg. Affairs	2005-2006
Elizabeth Hogan	Speical Asst, Dept of Commerce	2005-2006
Kevin Kayes	Chief Counsel Senator Reid	2006-2007
Allison Giles	Chief of Staff, House Ways and Means Committee	2007
Christopher Mccannell	Chief of Staff, Congressman Joe Crowley	2007
<b>Patton Boggs LLP</b>		
Stephen Mchale	Deputy Administrator, TSA	2005
<b>Clark, Lytle, &amp; Geduldig</b>		
Sam Geduldig	Dir of Coalitions, House Fin Serv Com	2007-2008
	Sr Advisor, Majority Whip Roy Blunt	2007-2008