Ms. NORTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the initial request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, MAY 3, 1995

Mr. WALSH. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, May 3, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. WALSH. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, May 1, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

[Mr. BILIRAKIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. WYNN] is recognized for 5 minutes.

[Mr. WYNN addressed the House. His remarks will appear hereafter in the Extensions of Remarks].

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Idaho [Mrs. CHENOWETH] is recognized for 5 minutes.

[Mrs. CHENOWETH addressed the House. Her remarks will appear hereafter in the Extensions of Remarks].

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

[Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks].

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks].

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

[Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks].

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

[Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONGRESS MUST ACT NOW TO PRESERVE INTEGRITY OF DEPOSIT INSURANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, today I am introducing several bills designed to address the serious problems posed for the Savings Association Insurance Fund [SAIF] by the current obligations imposed on the thrift industry and the pending disparity between the premiums paid by BIF-insured and SAIF-insured institutions.

Not too many weeks ago, many were denying that a problem even existed. The discussion has now proceeded past that stage, and I believe there is a substantial consensus the problem is real and should be addressed quickly—before it becomes a crisis.

There are a multitude of competing interests involved in the resolution of this difficult problem. These bills need not, and are not intended to, satisfy anyone's or everyone's concerns, and the options I have incorporated are not exhaustive, nor are they mutually exclusive. But I believe they do set forth the major issues we must address, and provide mechanisms for doing so that are reasonably calculated to put this problem behind us. They are intended to move the dialog on this issue to the next stage.

The regulators have now presented quite clearly the nature, extend, and urgency of the problem, and discussed a range of options available to the Congress in general terms. It is my hope that these bills will now move us to focus more concretely on the elements of any meaningful resolution, and allow us to begin to work with the administration, the regulators, and affected parties to identify the specifics of alternative solutions, assess and evaluate them, and then select a course of action.

I. THE PROBLEM

The art of governance is not addressing crises. It is anticipating them and developing public policy options that will preclude their occurrence. In this sense, the Congress now has a rare opportunity.

Had we anticipated and addressed the problems posed by an undercapitalized thrift insurance fund in the mid-1980's, we would never have faced the thrift crisis of 1989. Despite warnings from myself and others, the Congress did not anticipate, and the result was an enormous burden placed on the American taxpayer in the FIRREA legislation.

A. DIFFICULTIES CONFRONTING SAIF

How, different but related problems confront us again. All of the relevant regulators, the Treasury Department, and the GAO—in a report commissioned by myself and Senator D'AMATO—have officially alerted the Congress that we have serious problems which must be addressed in the near term. In summary, those problems are as follows:

The SAIF insurance fund is seriously undercapitalized just at the point it will newly have to assume responsibility for thrift failures from the RTC effective July of this year; the mechanism by which thrift premiums are diverted to pay the interest on the FICO bonds, which were issued to pay for the thrift failures of the 1980's, is no longer viable. According to the FDIC, there is no question that there will eventually not be sufficient thrift premium income to service the FICO obligations. The only question is when that deficiency will occur; and, finally, within the next few months there will be a premium disparity between BIF-insured and SAIF-insured institutions of as much as 20 basis points. Such a substantial differential could adversely affect the thrift industry in a number of ways, inhibiting its ability to raise capital; placing it as a serious competitive disadvantage; causing higher rates of thrift failures; and providing incentives for legal and regulatory maneuvering that will further reduce the moneys available to recapitalize the SAIF and service the FICO obligations.

B. FINDING A SOLUTION

Some have voiced concerns that the regulators or the administration have not recommended a specific solution. I believe they have done as they should have done, at least thus far—alerted us to the problem, defined it fairly and clearly, and provided several alternative solutions which would address it, which discussing the policy advantages and disadvantages of each. None of the alternatives is clearly substantively correct, intuitively appealing, or politically easy. No regulatory or administration imprimatur will make them so.

Others have suggested that the affected industries need to sit down at the table and arrive at an agreed-upon solution. I welcome the input of the affected thrift institutions, and I believe the industry has behaved responsibly in helping to bring the problem to our attention. I also believe the banking industry has both a policy and a political interest in helping to craft an intelligent and fair solution. But we cannot allow any industry's opinion to finally shape our views. Bank and thrift industry members have an obvious interest in minimizing their own losses. That is a legitimate interest on their part. But it is not our interest as policymakers.

The choice between the various alternatives is a choice for the Congress to make. In making that choice, we must be concerned about questions of equity and ensure that we do not place an undue burden on members of either the thrift or banking industry, and certainly that we not place an inappropriate burden on the taxpayer. But I believe we must not take any reasonable option off the table at this point. Our primary goal must be to safeguard the depositor and preserve the integrity of the deposit insurance system.

Both industries also have an interest in our doing that successfully. No one wins there is a crisis of confidence in the deposit insurance system. Any alternative that will maintain that confidence merits serious consideration.

In preparing these bills, I have explored a multitude of options. I am open to suggestions of other options, but I see only three realistic sources which can provide the funds to solve these problems: The thrift industry; use of the resources already authorized and appropriated to the RTC to handle thrift failures; and some form of participation by BIF-insured institutions. I am willing to consider seriously any and all of these approaches, and combinations thereof, and welcome recommendations about how best to refine them. The best solution may well be that which combines some or all of these options. The best solution clearly will be one on which a majority of the House and the Senate can agree before June 30.

There is, however, yet another option—lowering the standards which govern the reserves which must be held by the insurance funds to protect the depositor. That is an option I would hope we'd reject.

Some of the options I put forward may be viewed as hitting the thrifts too hard. Others may be seen as placing unjustified burdens on the banking industry. Still others may be criticized for their reliance on excess RTC funds which have already been authorized and appropriated for what I believe are comparable purposes. Those criticisms are not my key concerns, although I will certainly take any legitimate criticism into account. But our primary goal must be to safeguard depositors and ensure the integrity of our deposit insurance system.

Any solutions advanced, or any combinations thereof, will necessarily be subject to legitimate criticism and can easily be tossed aside as politically unfeasible. The challenge for the Congress is to avoid the easy path of naysaying and risk avoidance, and work together to craft a reasonable solution.

C. TIMING OF A RESPONSE

Because this issue will be politically difficult to address, it may prove virtually impossible to move independent legislation. Some have suggested attaching a solution to the pending financial services modernization bill or regulatory consolidation legislation. But I believe these bills will move too slowly for us to address the BIF–SAIF problem in a timely manner—that is, before June 30.

I believe a more appropriate legislative vehicle would be the pending regulatory relief bill. Such relief, if properly crafted, is long overdue and the legislation can be expected to move quickly. I also believe the BIF–SAIF issue appropriately arises in this context. It is reasonable, as part of an effort to reduce regulatory and supervisory burdens, to also move to ensure that the deposit insurance program is stabilized and any risks to that system are removed.

We must act quickly. As a policy matter, the problem is upon us. The FDIC has already issued draft regulations which will reduce bank premiums substantially, while leaving thrift premiums at current high levels. In doing so, the FDIC is meeting its statutory obligation. But the premium disparity will be in place in just a few months, and will exacerbate existing thrift industry problems. Politically, it is essential that we act before a change in the premium structure is put in place. Should Congress choose to require any financial participation by the banking industry, it would be much more difficult to impose new financial obligations than to make slight changes in the level of reduction of those existing obligations.

Most importantly, on June 30 of this year, the SAIF will assume responsibility for thrift failures. According to the FDIC, it will do so in a seriously undercapitalized state. A serious economic downturn or the unanticipated failure of a large thrift could bankrupt the fund. We cannot afford to run that risk.

As we move to devise a solution, we must have an eye to the longer term. Some have suggested that it is time to stop talking about banks and thrifts and start talking about moving toward one industry, one charter, and one regulator. That is an issue which merits serious deliberation, and issues like the bad debt reserve which could inhibit such movement from occurring naturally warrant examination.

But if that is our ultimate goal—a question we have yet to decide—we must have an intelligent approach to making the transition. It cannot be achieved by default, because public policy toward the thrift industry is so bankrupt that flight from the industry is the only sensible business solution. In the nearer term, we must make sure our policies do not inadvertently destroy an industry before we even have an opportunity to determine if and how we might wish to restructure it as part of a broader restructuring of our financial services system.

If we are to legislate intelligently on a solution, we must have some perspective regarding how we got to where we are today and some criteria to govern our action going forward. In the balance of my statement, I will discuss the source of the problems we face, the criteria which should govern our search for a solution, and the major issues we must confront as we continue our deliberations.

II. THE SOURCE OF THE PROBLEM

A. STATUS OF THE DEPOSIT INSURANCE FUNDS

In the late 1980's and early 1990's, the Banking Committee and the Congress focused considerable attention on enhancing regulatory oversight of the thrift and banking industries and stabilizing the condition of their insurance funds, through passage of FIRREA in 1989 and FDICIA in 1991.

THE BANK INSURANCE FUND [BIF]

We have arguably been more successful in the context of the Bank Insurance Fund [BIF]. The FDIC reports that the BIF is in very good condition and its prospects are favorable. The BIF is expected to reach its designated reserve ratio, 1.25 percent of insured deposits—the amount reserved to handle anticipated losses and protect depositors—within the next few months. Current law requires that the FDIC move to reduce bank premiums when that occurs, and the FDIC is proposing to lower premiums from the current level of about 24 basis points to approximately 4.5 basis points.

THE SAVINGS ASSOCIATION INSURANCE FUND [SAIF]

In contrast, the FDIC and the OTS report that, while the thrift industry itself is in very good condition, the Savings Association Insurance Fund [SAIF] is deeply troubled. On June 30 of this year, the SAIF must newly assume responsibility for thrift failures from the RTC, yet it is seriously underfunded. While the BIF is approaching its 1.25 reserve ratio, the SAIF has only $1.9 billion, or 28 cents in reserves for every $100 in insured deposits. Faced with that situation, the FDIC is constrained to keep thrift premiums at current levels. The result will be a premium disparity in the neighborhood of 20 basis points.

Such a disparity will place thrift institutions at a significant competitive disadvantage, inhibiting their ability to raise capital, encouraging them to look to other funding sources which will reduce the assessment base even further, and providing incentives to escape the industry, its charter and its problems. We have already seen Great Western and several other thrift institutions make initial moves to obtain new bank charters. Such efforts are legally permissible and market driven. But they will exacerbate the industry's problems.

B. STRUCTURAL PROBLEMS CONFRONTING THRIFT INDUSTRY

The premium disparity is in fact only an outward manifestation of more fundamental difficulties which become obvious when we examine why the SAIF is so underfunded. Certainly, it should be the industry's obligation to adequately capitalize its insurance fund, and capitalizing that fund should be our priority as policymakers. From 1989 to 1994, SAIF assessment revenue amounted to $9.3 billion. If that revenue had been put solely toward recapitalizing the SAIF, the thrift insurance fund would have been fully capitalized long before now. However, $7 billion of that money—95 percent of SAIF assessments—were diverted from the SAIF to pay off obligations from thrift failures in the 1980s through either the Resolution Funding Corporation—REFCORP—$1.1 billion; the Federal Savings and Loan Insurance Corporation Resolution Fund—FRF—$2 billion; or the Financing Corporation—FICO—$3.9 billion to date. REFCORP and FRF no longer have claims on the SAIF, but the FICO claim will remain as an impediment to recapitalizing SAIF for 24 years.

Establishing parity between the BIF and the SAIF today would require approximately $15.1 billion—$6.7 billion to move the SAIF to the $8.6 billion which would constitute the amount necessary to achieve the designated reserve ratio, and $8.4 billion, which is the amount necessary at current interest rates to defease the FICO obligation. As OTS Director Jonathan Feichter points out, simple mathematics indicates that SAIF members will be unable to generate sufficient premium flows to both recapitalize the SAIF and service the FICO obligations. The SAIF assessment base is declining, and is likely to decline further, and that will worsen both problems.

The situation is further aggravated by the fact that the premiums from the so-called Oakar and Sasser banks are considered unavailable for FICO purposes—making a large portion of the assessment base unavailable for that purpose. Yet making those funds available—if done alone—provides no real solution as it just depletes the funds available to capitalize the SAIF.

1. FICO

The FICO Program was flawed from its inception. I was one of the few Members of Congress to finally vote against the CEBA legislation incorporating this change in 1987. First of all, the level of funding provided—$10.8 billion—was totally insufficient to meet the need. Further, such stringent restrictions were imposed on the expenditure of the money as to render the funding almost useless. The legislation placed an annual $3.75 billion cap on the issuance of FICO bonds in response to industry pressure to minimize the industry's burden of servicing the bonds. In a letter to President Reagan urging him to veto the legislation, I urged that the amount provided was woefully inadequate and would require the Congress to revisit the issue. I noted at the time, ''a poorly funded plan is guaranteed to perpetuate the crisis atmosphere and could eventually result in a taxpayer bailout.''

2. FIRREA

Unfortunately, we have revisited the issue—again and again and again—and the taxpayer bailout devised in the FIRREA legislation became a cornerstone of what proved to be only another partial solution. I opposed FIRREA as I had opposed the 1987 legislation for a number of reasons, but most basically because I not only believed it would not work, but I strongly believed it would make the situation far, far worse. I believed in 1987, and in 1989, and I believe today that a fully funded recapitalization scheme is the only way to restore public confidence in the thrift insurance fund and in the deposit insurance program more generally. Despite repeated efforts, we have still not achieved that goal.

The FIRREA legislation had many laudable goals. Unfortunately it did not strike the proper balance in achieving them. It was no accident that under FIRREA the thrifts remained responsible for the FICO obligation. There was an intentional effort to place as much of the burden of paying for failed thrift institutions and recapitalizing the thrift insurance fund on the thrift industry as possible, so as to minimize the taxpayer contribution.

In the abstract, these are laudable goals. But they are meaningless if the plan devised to achieve them does not work. The ability of the thrift industry to sustain these and other obligations placed on it was justified by FIRREA's proponents on the basis of economic and other assumptions that have proved grievously flawed. Most notably, in 1989 the administration projected annual thrift deposit growth of 6 to 7 percent a year. Since SAIF's inception, however, total SAIF deposits have declined an average of five percent annually.

That should not have been surprising, and I questioned these assumptions and others at the time. The FIRREA legislation was otherwise so punitive to the industry that I believe it forced potentially viable thrifts into failure. The result was to leave fewer thrifts and a smaller assessment base to bear the brunt of the obligations imposed, and increase pressures on the declining number of healthy thrifts which remained.

The previous administration and the Congress constructed a solution that has not worked. The obligations imposed on the thrift industry are not obligations it alone can sustain without once again posing a risk to the taxpayer. We have revisited this issue time and again. It appears we must now do so one more time. If we are to sustain confidence in the Government's ability to manage its deposit insurance system and meet its commitment to depositors, it is imperative that this time we construct a workable and permanent solution.

III. STANDARDS TO BE BROUGHT TO BEAR IN FORMULATING SOLUTIONS

In attempting to do so, we should bring certain standards to bear on the solutions we examine. Most basically, any solution we devise should not rely on optimistic assumptions and projections about what will happen sometime in the future—whether about economic growth, thrift failures, thrift profits, deposit growth, et cetera—for its success. The solution should be workable and permanent.

Beyond that basic point, I concur with the standards that the FDIC has suggested. First of all, any solution should reduce the premium disparity and eliminate to the extent possible the portion of SAIF premiums diverted to FICO assessments. Optimally, the SAIF institutions should and can capitalize their own insurance fund. However, they cannot do so if other obligations eat up a substantial portion of the premium flow. Second, any solution should result in SAIF being capitalized relatively quickly. Third, any solution should address the immediate problem presented by the fact that on June 30 of this year, the SAIF will take over from the RTC the responsibility of handling thrift failures in a seriously undercapitalized state.

I have tried to be sensitive to all of these standards in crafting the various solutions I am putting forward. Not all of them meet all of these goals to the maximum degree I would hope. But I believe if we give serious attention to the specific problems and opportunities posed by various solutions, we can craft an ultimate solution which will.

I am hopeful that the bills I have introduced will focus attention on the relative legitimacy and effectiveness of various specific alternatives. I would now like to discuss some of the major issues we must consider in making the necessary judgments.

IV. THE MAJOR ISSUES

A. BURDENS ON THE THRIFT INDUSTRY

1. UTILITY OF A SPECIAL ASSESSMENT

There is much to comment some reliance on a reasonable one-time special assessment on the thrift industry, as part of a broader solution which otherwise addresses the current problems. Such an assessment could never be sufficient to solve the problems we confront, or even to fully capitalize the fund. Any onerous assessment would simply place the industry, and especially weaker institutions, in an even more difficult position than the one in which they now find themselves. But a reasonable assessment provides a real opportunity to frontload the capitalization of the SAIF and that is an important goal.

Certain principles should govern any such assessment. It should be reasonable. It should be structured to be paid in installments so it is not necessarily an immediate hit on capital. Some flexibility should be granted to institutions in terms of the payment schedule. The FDIC should be given some discretionary authority to exempt, or reduce the assessment for, institutions which are troubled or would become troubled if the assessment were imposed.

Any special assessment should be structured so as to capture current members of the SAIF. Otherwise, the potential for such an assessment will simply provide yet another incentive for thrifts to move out of the system.

2. CAPITALIZATION OF THE THRIFT FUND

There are various approaches to sharing the two primary obligations which arise—capitalizing the SAIF and servicing the FICO obligations. However, from my point of view it is more intuitively appealing and has more substantive merit to have the thrifts focus their primary effort on recapitalizing their insurance fund. Premiums are intended for insurance fund purposes and ideally we should minimize diversion of those monies, in either fund, for other purposes. We may not be able to totally honor that standard and solve the problem, but we should try, and in the future we should avoid diverting insurance fund premiums to multiple uses.

It is also true that the FICO bond servicing imposes the more onerous obligation, not so much in overall amount—although the amount needed to defease the bonds is somewhat greater than the amount needed to recapitalize the fund—but because it creates the prospect of a long-term and substantial premium disparity if the thrifts alone must service the bonds. These bonds are 30-year bonds and noncallable. They will not be paid off until 2019. Such a long-term disparity is fundamentally debilitating for the thrift industry and will simply create greater incentives for legal and regulatory maneuvering.

3. PREMIUM DIFFERENTIAL

Any solution should attempt to minimize the premium differential between BIF and SAIF institutions. A differential of the size currently pending places thrifts at a serious competitive disadvantage, will reduce thrift ability to raise capital, and could induce additional failures, creating further problems for the industry and its fund.

I believe the ability of the thrifts to sustain the adverse impact of such a differential depends on its size and longevity: a modest disparity—nothing as large as the pending disparity—might be manageable for three or four years, if the certainty of parity were to follow. But a long-term disparity of any consequence—for example, double digits—is fundamentally debilitating and only provides incentives for thrifts to reduce their assessment base, change their charter, or otherwise remove themselves from the line of fire.

I have tried to generally construct options that would keep any disparity at no more than a 9-basis-point level. Even that may be too high. Moreover, I am disposed toward those options which minimize not only the size but the term of the differential.

B. APPROPRIATE USE OF EXCESS RTC FUNDS

Some argue that it is politically impossible for the Congress to make any use of the taxpayer money represented by the estimated $10 to $14 billion in excess RTC funds that have been authorized and appropriated, but not expended, on thrift losses. If there is conceptual justification for utilizing those resources—and I believe there is—we should not be too timid to even discuss it. I am unwilling to take any option completely off the table without some reasonable substantive discussion. Some or all of these moneys could, in theory, be made available to help capitalize the SAIF or help service the FICO obligations, or at least to provide a backstop against thrift losses while the SAIF fully recapitalizes.

I have always tried to minimize the adverse impact of the SAIF recapitalization effort on taxpayers. In fact, I voted against FIRREA because I believed that, in two important respects, it did not minimize the taxpayer burden.

First of all, I believed that borrowing to pay for the legislation unnecessarily increased the costs to the taxpayer and passed those costs on to future generation. I believed that borrowing was both fiscally and morally irresponsible, and I offered an amendment on the House floor which would have required that we pay for what we were doing. Unfortunately that amendment failed, the final legislation required that the Government once again borrow, and the cost to the taxpayer—and burden on future generations—has been greater as a result.

My opposition to FIRREA was also based on the fact that I believed that the rapid imposition of much stricter standards on thrifts precipitated the failure of otherwise viable institutions, increasing the cost of thrift failures and the burden on the taxpayer. Had more thrifts survived, the then optimistic projections about deposit growth and the size of the assessment base might have proved more accurate and we might not be confronting the problems we face today.

While I believe we must try to minimize the burden on the taxpayer, that does not mean we should not consider using moneys already authorized and appropriated for the purposes it was intended to be used. It is clear from the legislative history that Congress fully realized that its assumptions in FIRREA might prove overly optimistic, and that additional Treasury funds would be required to fully capitalize the SAIF. The legislation did in fact provide for that contingency.

FIRREA authorized the appropriation of funds to the SAIF in an aggregate amount of up to $32 billion to supplement assessment revenue by ensuring an income stream of $2 billion each year through 1999 and to maintain a statutory minimum net worth through 1999. Subsequent legislation extended the date for receipt of Treasury payments to 2000. Despite repeated requests by the FDIC, however, appropriations for these purposes were never requested and SAIF never received any of these intended funds. Had they been received, the SAIF would have been capitalized by now.

The FDIC again raised the looming problems in the thrift industry at the time Congress considered the RTC Completion Act. As the FDIC noted at that time, the legislation left ‘‘unresolved issues regarding the viability and the future of the thrift industry and the SAIF.’’ The failure to address the issue then has only postponed the inevitable.

The fundamental tension on this issue is reflected in existing legislative provisions intended to deal with the possibility that additional Treasury moneys might be necessary, although these provisions limit their use to covering losses. The excess RTC money is technically available to pay for losses until 1998. In fact, two other funding sources are in theory available to pay for losses: First, an authorization for payments from the U.S. Treasury of up to $8 billion for losses incurred by the SAIF in fiscal years 1994 through 1998; and second, unspent RTC money during the 2 years following the RTC's termination on December 31, 1995.

However, to obtain these funds, the FDIC must certify to Congress that an increase in SAIF premiums would reasonably be expected to result in greater losses to the Government, and that SAIF members are unable to pay assessments to cover losses without adversely affecting their ability to raise and maintain capital or maintain the assessment base. The certification requirement was made onerous to make taxpayer money the last resort. In theory, that is appropriate. But I believe that the standard was made so high that certification is virtually impossible.

There is ample evidence that Congress anticipated the need for, and attempted in various ways to provide for, greater use of taxpayer dollars to capitalize the SAIF or cover losses. Moneys to help capitalize the SAIF were, however, never requested of the Congress or made available by it, and FDIC access to additional resources even for purposes of covering losses has been unduly restricted. Using excess RTC moneys to service FICO obligations, help capitalize the SAIF, or serve as a backstop against losses while the fund recapitalizes are conceptually consistent with that original congressional intent and merit consideration.

It was also anticipated in FIRREA that the bulk of thrift failures would have been resolved by the time the SAIF assumed responsibility from the RTC. However, repeated delays in providing adequate funds to the RTC delayed the resolution process. As a result, the burden and risk the SAIF will be assuming this summer is greater than it might have been. At the very least, we should therefore consider using excess RTC funds as a backstop for the SAIF to cover additional losses until the SAIF is better capitalized.

There may indeed be some intractable Budget Act or pay-go problems associated with using the excess RTC funds, although the problems may be more readily addressed if the funds are somehow used as a backstop. Whether, and to what extent, these problems exist, and how they might be resolved, merit exploration before the option is dismissed. If the administration and the Congress believed use of these funds in any of these fashions were appropriate, and were committed to such an option, I would imagine a solution to these problems might be found.

C. POSSIBLE USE OF FUNDS FROM BIF-INSURED INSTITUTIONS

Some have suggested that BIF-insured institutions participate financially in the solution, either through participation in the FICO obligation, a fund merger, or both. I appreciate their reluctance to be called upon to do so. They argue it is not their industry and not their problem, and that they have committed substantial resources to putting their own insurance fund on a sound footing. These arguments have substantial merit. But they are not the whole story.

First of all, I believe both the banking and thrift industries have a common interest in the integrity of the deposit insurance program. No constituent of mine has ever spoken of the confidence generated in his financial institution by the soundness of the BIF or the SAIF. In most cases, consumers have little idea which fund insures their deposits. What they have confidence in is the fact that their deposits are FDIC insured. A breach of that confidence adversely affects both thrifts and banks.

Moreover, we have only to look at the degree to which the FIRREA legislation and associated taxpayer costs have poisoned the well as we have considered legislation on financial modernization and safety and soundness issues affecting our banks to know that a problem in one industry is a problem for both. We have yet to pass modernization legislation. We may yet be unable to do so, because of concerns about safety and soundness and putting taxpayer dollars at risk. While FDICIA incorporated some real accomplishments, it was also in many ways an extreme regulatory overreaction to the thrift crisis that we are still trying to ameliorate. The relationships drawn in the public's mind between these issues demonstrates that neither industry can afford to be indifferent to the concerns of the other.

On a more practical level, the relationships between the industries, and the desire for fuller relationships, are real. Banks hold at least one-third of SAIF deposits. They use the Federal Home Loan Bank advance window. They have purchased thrifts—often less expensively than might otherwise been possible because onerous burdens placed on the industry put many thrifts on the auction block at the same time—to enhance their branching network or make use of the benefits of a broader thrift charter. Banks can and do become Federal savings banks which, while BIF-insured, constitute a variant of the thrift charter. Bank holding companies have thrift subsidiaries. It seems then unreasonable to suggest that thrift holding companies cannot form comparable relationships with banks.

Many banks support modernization legislation that would remove arbitrary barriers between types of financial institutions—yet they seem to want to maintain some arbitrary barriers in this instance. These industries are not two completely segregated subgroups that have nothing to do with each other. Clear relationships exist. It is somewhat disingenuous to suggest that those relationships should only exist when they are of benefit to the banking industry.

I do have great sympathy for the desire of the banking industry to see bank premiums reduced substantially later this year. I believe such a reduction is rightfully expected and warranted, given the provisions of current law. It has also been earned by the substantial contributions the banks have made to their fund in recent years. Many banks have already incorporated such anticipated changes into their business plans, as they might reasonably do. Once the fund is appropriately recapitalized, moneys which have been put into premiums can usefully be made available to provide loans to bank customers.

In my view, any solution involving the banks should not delay a reduction, or substantially intrude upon the level of such a reduction. I do believe, however, a reasonable argument can be made that it might be prudent not to take the premiums below 6 basis points this year until a solution to the broader problems the FDIC has identified in the thrift component of the deposit insurance program is found.

I also believe that the idea of merging the funds merits serious discussion. Even if this is not effected in the near term, I believe an eventual move to one fund, one charter, and one Federal regulator is something we should seriously consider. Were we to consider such an option in the short term, however, it would need to be done with great care. In order for bank premiums to come down substantially this year, as the industry has a right to expect, additional time might be required to allow the combined fund to meet its designated reserve ratio, and a special assessment on the thrifts might reasonably be considered in order to provide coverage for any new risks they bring to the combined fund.

I understand and appreciate the banking industry's argument that it did not solve the thrift industry problems of the 1980's and should not be responsible for solving them. But the healthy thrifts which remain did not create those problems either. Moreover, a focus on placing blame makes no meaningful contribution to the debate. Banking industry funds may or may not need to be part of any solution to pending thrift industry problems, but in either case I believe the quality of the solution will be enhanced by their participation in the discussion.

D. FDIC AUTHORITY

1. RESERVE RATIO

In recent testimony before the Banking Committee, one of the witnesses, Professor Kenneth Thomas of Wharton, argued that the 1.25 reserve ratio was an inadequate safeguard and should be increased to 1.5. I have not proposed that such a change be made, and the bills I am introducing do not include a proposal that the reserve ratio be increased. Nor should any proposal I am including delay a premium reduction once the BIF reaches the 1.25 reserve ratio. I do believe, however, that the proper level of that ratio is a serious issue which merits examination.

Some have characterized such a suggestion as outrageous. I believe it is only responsible and prudent. It is critical that the insurance funds maintain sufficient reserves to protect depositors and taxpayers. To the best of my knowledge, there has been no meaningful analytical work demonstrating clearly that 1.25 is the appropriate ratio. Certainly, no fund could realistically be sufficient to address the kinds of structural problems both the banking and thrift industries have faced in the past decade, and that should not be our goal. We should also try to avoid excessive fund build-up. Once the fund is adequately protected, resources are better used for lending and community investment than to an unnecessary piling up of reserves. Nevertheless, we should be prudent. I will be looking to the FDIC and the GAO for more substantial analysis of this important issue.

I do believe, however, that it is important to clarify that the 1.25 ratio is not an absolute and precise target. It should be viewed as a floor, with some limited discretion available to the FDIC to maintain a cushion above that level without permitting an excessive build-up. I believe it is excessive to require that the FDIC establish significant risk of substantial future losses to the fund for the year before being permitted to increase the reserve even very modestly above that level.

Chairman Helfer has made a convincing argument that the FDIC should refocus its mission, seeing its role less as resolving failed institutions and more as anticipating future problems. I believe there is overwhelming merit in that argument. Economic conditions change, as do the risks posed by bank portfolios. If the FDIC is to effectively play that new role, it must have some flexibility. There have in fact been recent indications that bank investment strategies have changed, some of the sources fueling bank incomes will not continue to be available over the long-term and some banks might be at risk in an economic downturn. We cannot ignore the lessons of the past.

We must however balance concerns about protecting depositors with the need to increase credit availability. Money going into an insurance fund is not going to consumers. I believe the FDIC should proceed to reduce bank premiums substantially, as planned, once the BIF reaches the 1.25 ratio set under current law. If a further cushion is deemed prudent, it can be built up gradually without impeding the near-term reduction.

2. FDIC DISCRETION

I also believe it is time to examine the issue of FDIC discretion more broadly. As Chairman Helfer has emphasized, the FDIC is precluded by a variety of statutory provisions from addressing the problems it has identified on its own authority. I would not casually give congressional authority over to a regulatory agency. However, I believe that some of the strictures under which the FDIC is currently operating are excessive and unnecessary. One of the legislative options I suggest would clarify or expand the FDIC's regulatory authority in a number of regards: provide it with greater authority to administer the FICO bond obligation; modify the certification requirements; provide discretionary authority to impose a modest special assessment on thrift institutions to frontload the capitalization of the fund; provide greater discretion to maintain a small cushion beyond the target reserve ratio in each fund; and provide limited authority to transfer resources between funds.

The last item may be particularly controversial. But that does not mean we should not examine it. In general, I concur that the premium levels for each fund should be set independently. However, the job of the FDIC is not to manage two funds. It is to manage a deposit insurance program and protect depositors of both banks and thrifts. It cannot do so effectively if its hands are tied so that it is forced to explicitly ignore the impact that the status of one fund has on the members of the other. The FDIC should have some flexibility to address that problem.

E. POSSIBLE PROBLEMS POSED BY GOODWILL CASES

Some of the bills I have introduced address the issue of creating a reserve to have available should adverse judgments against the Government be made in the pending goodwill cases. These cases point out yet again that the consequences of FIRREA are with us still.

In the 1980's, some healthy thrift institutions entered into contracts with the Government under which they purchased failed or failing thrift institutions the then thrift insurance fund—FSLIC—did not have the funds to resolve. Since the Government could not make depositors whole by covering the loss, the acquiring institutions were instead permitted to count as tangible capital for a limited period of time an intangible asset called ''supervisory goodwill'' which they were to work off their books over time, thus absorbing those losses slowly.

In FIRREA, supervisory goodwill was no longer permitted to count as tangible capital and institutions holding this asset were required to remove it from their books precipitously. I never questioned that the Government could break these contracts. But I consistently argued that it could not do so without being subject to damages. Recent court cases indicate the courts have considerable sympathy for my argument. The FDIC has already paid out claims on two such cases; many others are pending. Rulings adverse to the Government could cost the taxpayer additional billions.

Again, this is a problem we should have anticipated. I argued that an undue emphasis on being tough on the thrift industry in FIRREA would result in yet greater cost to the taxpayer in the long-term, and argued against the rapid imposition of the new standards, unfortunately to no avail. The possibility I foresaw may unfortunately now become a reality.

It is sometimes cost effective to be temperate, and I hope the lessons of the past will help encourage some temperance as we deal with current problems.

V. CONCLUSION

The problems are real, and I believe we have an obligation to address them now. It is my hope that placing some more specific options on the table will generate useful information, reactions, discussion, debate, and then, resolution.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

[Ms. JACKSON-LEE addressed the House. Her remarks will appear hereafter in the Extension of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

[Mr. SANDERS addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

CALL FOR CLARIFICATION OF ETHICS COMMITTEE'S RULES

The SPEAKER pro tempore. There being no designee of the majority leader, under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. TORRICELLI] is recognized for 60 minutes as the designee of the minority leader.

Mr. TORRICELLI. Mr. Speaker, several weeks ago in one of those moments that comes to define an individual's values and sense of responsibility, several members of the executive branch came to me with extraordinary information. It was revealed to me that several years ago an American citizen in Guatemala was murdered by a contract employee of the Central Intelligence Agency. It was further revealed to me that in the years that passed there was a conscious effort to prevent that information from being known. Indeed the person responsible for the murder of an American citizen was never brought to justice. This was, Mr. Speaker, a difficult moment because I recognized the importance of maintaining confidentiality of sources of intelligence information, and indeed, as a member of the Intelligence Committee, I signed an oath not to reveal classified information. It was my judgment to ascertain from the Intelligence Committee confirmation that I never participated in classified briefings and had never received classified information with regard to Guatemala. This was a measure of how seriously I took my oath to preserve confidentiality.

I then proceeded to consult with the ranking member of the Committee on International Relations where I serve and with the minority leader, the gentleman from Missouri [Mr. GEPHARDT], to receive their advice and good counsel before proceeding in writing to the President of the United States to reveal this rather extraordinary information. Their counsel was that I should be guided by my own sense of ethics and responsibility, but proceed in informing the President and the American people.

In the days that have followed this country has learned a good deal. Indeed the President and this Congress have learned a great deal about activities of the Central Intelligence Agency in Guatemala, their adherence to the law,