In early October of 2008, the Kirwan Institute convened close to 200 civil rights, housing, and legal activists and scholars for an in-depth look at the subprime and foreclosure crisis, its disproportionate effects on communities of color, and possible pathways forward. One need that participants articulated was for an introductory primer on the crisis that would dispel erroneous myths, contextualize the crisis, and start a productive discussion on where we go from here. This primer is a response to this request. We are indebted to the expertise, insight, time and effort of all of our conference participants and particularly, those who authored commissioned papers for us on various structural aspects of the crisis: Rick Cohen, Ira Goldstein, and Christopher Peterson.

For more comprehensive information on the subprime lending phenomenon and its effect on people and communities of color, please visit our website to view materials – commissioned reports, videos, PowerPoints, and transcripts -- from our October 2008 “National Convening on Subprime Lending, Foreclosure, and Race” at


If you would like to learn more about the initiative or become involved in upcoming working groups or lend your expertise, please contact Jason Reece or Christy Rogers at The Kirwan Institute for the Study of Race and Ethnicity.

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Have mortgage loans always been available to everyone?

No. Although home mortgages are much more widely available than they were prior to New Deal creations of the Federal Home Loan Banks, the Federal Housing Administration, the Home Owners Loan Corporation and Fannie Mae in the 1930s, they have historically been denied entirely or offered on different terms to communities of color.

In the early 1900s, most mortgages required a large down payment of around 40 percent of the home purchase price. The loans had terms averaging between three and six years, often followed by a large balloon payment of the remaining balance. Therefore, “relatively few families could overcome these financial hurdles. Moreover, lenders had both formal and informal policies discriminating against minorities and women. As a result, none but the most affluent men of European ancestry had reliable and widespread access to home finance.”

New Deal legislation transformed the industry. The federal government facilitated a vast expansion of home ownership. Mortgages had loan terms of up to thirty years, making monthly payments more affordable; and the down payment shrank to 20% of the home value. The innovative development of federal insurance made lenders more likely to extend credit. However, this expansion of homeownership opportunity was limited largely to white families, through explicit criteria that encouraged all-white neighborhoods in suburban, new housing stock -- and devalued or refused to insure integrated, minority, or old housing stock neighborhoods.

In the early 1900s, lenders had both formal and informal policies discriminating against minorities and women.
These racially discriminatory federal guidelines were then absorbed into private market practices. Refusing to extend credit to low-income communities of color became known as “redlining” due to the red lines drawn on property maps. Below is a redlining map of Philadelphia.

Although de jure racial segregation in lending is no longer legal, the patterns and practices of discrimination in housing markets have persisted into the 21st Century. With little residential or commercial lending from mainstream banking institutions for decades, isolated communities of color have suffered from high-cost credit institutions that have little competition: payday lenders, rent-to-own, check cashing, and most recently, subprime home loans. Without competitive credit institutions, families lack information about options, making them prime targets for subprime lending. In other words, “the old inequality helped make the new inequality possible.”

Although de jure racial segregation in lending is no longer legal, the patterns and practices of discrimination in housing markets have persisted into the 21st Century.

What is a subprime loan?

There are four basic types of home loans. Conventional, or prime (fixed-rate) loans; government (FHA and VA)-insured loans; low-and-moderate income (“LMI”) targeted prime loans with reduced down payment requirements and greater underwriting flexibility (products encouraged by the CRA and the Affordable Housing Goals for government-sponsored enterprises such as Fannie Mae and Freddie Mac); and subprime loans. A subprime loan is characterized by higher interest rates (sometimes with a low “teaser” introductory rate that then gets adjusted upward), high fees and points, prepayment penalties, balloon payments, and broker solicitation. Subprime loans began in the credit card and auto loan industries, then gravitated into home equity loans, which encouraged borrowers to consolidate their consumer debt. Most subprime loans are a home equity refinancing; only recently did subprime loans become available for first-time home purchases. Subprime loans typically have much higher delinquency and default rates than conventional loans.
Are we all offered the same choice of loans?

No. In fact, the recent mortgage delivery system has been characterized as separate but unequal:

In most instances the new mortgage delivery system has expanded access to prime mortgages on favorable terms, yet all too often lower-income and minority communities are served by a distinctly different set of organizations offering a distinctively different mix of products. This dual-delivery system is currently defined less by outright credit denial than by discriminatory terms. In 1999, HUD released a study by the Urban Institute that showed “persistent discrimination among minorities, not just in the rates in which they were rejected, but in the terms of their loans (price discrimination).”

People of color are more than three times as likely as whites to have subprime mortgages.

United for a Fair Economy, in Foreclosed: State of the Dream 2008 reports that people of color are more than three times as likely as whites to have subprime mortgages and that high-cost loans account for 55 percent of loans to African-Americans and Latinos. Similarly, Federal Reserve studies in 2004, 2005 and 2006 found disparities in the rate that minorities and those living in neighborhoods with significant minority concentrations received subprime loans. Even after controlling for income, there is a racial gap in the ability of minorities to secure prime loans. A study by the Center for Responsible lending found that borrowers of color were more than 30 percent more likely to receive a higher-rate loan than white borrowers, even after accounting for differences in risk. A HUD study showed that the African American differential is 21 to 42 basis points; for non-white Hispanics, 13-15 basis points, even when controlling for differentials in available household, loan and property characteristics.

Rick Cohen reports that in Newark’s North Ward and Ironbound neighborhoods, “immigrant groups were targeted by mortgage brokers peddling high cost mortgages to families that could have qualified for conventional financing.” Because less than half of immigrants use formal banking institutions, they are easy targets for high-cost mortgage products:

The payday lenders, pawn shops, and rent-to-own stores that specialize in immigrant neighborhoods do not help customers build credit histories and generally escape the oversight and regulation of consumer regulatory entities, or, as weak as the protection might be, the Community Reinvestment Act scrutiny by the Comptroller of the Currency or state banking departments of conventional bank lenders.
**What Happened and Why?**

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**Were most subprime borrowers first-time borrowers?**

No. 56% of all subprime loans originated in 2006 were subprime refinance loans. These refinance loans had a disproportionate racial impact: "studies comparing neighborhoods by race and income revealed that these refinance loans were disproportionately marketed to African American neighborhoods." People often refinanced to pay down other debt, including higher-cost credit card debt, medical care, and educational expenses. Scholars and activists have been decrying the aggressive – and sometimes predatory marketing of these loans to elderly, minority, low-income, and disabled homeowners.

In fact, because many subprime mortgages are for second homes, over the period 1998 – 2006, the Center for Responsible Lending estimates that only 9% of all subprime loans went to first time homebuyers.

**Why were people taking subprime loans, if there were other options?**

Community-based organizations that offered more fair and sustainable products were being out-competed by the "aggressively marketed, higher-cost subprime loans originated with the latest technology." Also, not everyone understood what they were getting: "brokers and lenders offered loans that looked much less expensive than they really were, because of low initial monthly payments and hidden costly features.

The maze of transactions involved in modern financial markets left consumers largely without transparent information or -- in a context where you most need one -- an advocate. When brokers became disconnected from both borrowers and lenders and answered (rationally) to their bonus and incentive structure, consumers got pitched the worst possible product disguised as a great deal. Considering credit markets in general, researchers from the Joint Center for Housing Studies at Harvard University point out that:

Ample evidence has recently accrued that credit markets violate many of the essential assumptions for competitive markets to operate efficiently and fairly. Credit markets involve increasingly complex decisions about heterogeneous products that involve probabilistic judgments. Pricing is not transparent, comparison shopping is costly and difficult, and consumer decisions are prone to systematic and predictable errors in estimating the true probability of certain events that govern the long-term cost of the product and their capacity to repay it.

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Subprime Loans, Foreclosure, and the Credit Crisis

Could some people who got subprime loans have gotten prime loans?

Studies estimate that “up to 35% of subprime borrowers could qualify for prime mortgage loans.”

Why did brokers push these high-cost subprime loans?

The broker’s incentive is to close the loan while charging the highest combination of fees and mortgage interest rates they can get. They have no long term interest in the performance of the loan, because the loan is purchased and re-sold on the secondary market. Further, brokers can be compensated for getting borrowers to pay higher rates than those for which the borrower would qualify. This is known as the “yield spread premium.”

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What is securitization and how did it affect the mortgage markets?

Securitization is the process by which public and private agencies buy home mortgages, deposit large amounts of them in pools of mortgages, and then sell participations in the pools of mortgages to investors on Wall Street. Securitization provided a way for capital markets to finance -- and capture some of the profits from -- large-scale mortgage lending. The process, dependent upon sophisticated data analysis, spread profits and risk throughout the markets by bundling the mortgages into different pools and selling various securities. A securitized mortgage note is actually held by a special purpose vehicle (SPV), a business entity with the sole purpose of holding the pool of mortgages. The SPV hires a servicer to collect and distribute payments of principal and interest.

Modern securitization began in 1970, with the issuance of the first publicly traded mortgage backed security by the Government National Mortgage Association (Ginnie Mae). Legal scholar and securitization expert Chris Peterson observes that:

With these new pass-through investment vehicles, investors could hold a share of large (and diversified) numbers of mortgages insured by the government in the case of Ginnie Mae, or guaranteed by the large stable government sponsored enterprises (GSEs) in the case of Freddie Mac and Fannie Mae (who also began securitizing shortly thereafter). Because the agencies now guaranteed the principal and interest income of their securities even when mortgagors defaulted, investors saw the securities as a low risk investment even without the assurances of a rating organization, such as Standard and Poor’s or Moody’s.

Securitization provided a way for capital markets to finance - and capture some of the profits from - large-scale mortgage lending. In efforts to meet growing capital market demand, more loans were issued with little regard for the borrower’s needs.

The private sector’s ability to securitize separately from GSE’s grew after 1975, when rating organizations began rating the securities. Subprime lending and securitization became popular quickly on Wall Street, and capital flowed heavily into the securitized mortgage markets. Loans were packaged and sold as quickly as they were originated, and new loans were secured with funding from previous sales.
In efforts to meet growing capital market demand, more loans were issued with little regard for the borrower’s needs. Worse yet, some lenders anticipated that the borrower would be unable to repay the loan. This resulted in “equity stripping” (where the borrower taps any remaining equity to pay fees or penalties) or a new round of expensive refinancing.

In the event of a massive wave of foreclosures, the investors take the loss of income from the mortgage pools (while the homeowners and their neighborhoods face the myriad issues related to foreclosed, vacant and abandoned homes). A large-scale loss starts the financing cycle spiraling in the other direction: as investors lose money, they have less to use to finance more loans. Banks grow nervous loaning to other banks who may be hemorrhaging assets as well, and credit starts to tighten.

Investors will not take this loss lightly. A recent Wall Street Journal article reported that investors who hold securities backed by Countrywide Financial mortgages are protesting Bank of America’s home-loan-modification program (modifications of Countrywide loans BofA inherited from its purchase of Countrywide). This program was part of a settlement with various state attorneys general, who had charged Countrywide with predatory lending. Some securities investors are considering litigation, calling for Bank of America to repurchase the loans before they modify them.

Why weren’t subprime loans better regulated by consumer protection law?

Unfortunately, the law has not kept up with the times. Many federal and state consumer protection laws were written before the establishment of privately securitized mortgages, and are not well suited to regulate the subprime market. For example, because the Truth in Lending Act (TILA) “presupposes a unitary notion of a single individual or business that solicits, documents, and funds a loan, the most basic term defining the scope of the act does not reflect the simple reality of typical business practices.” More recent legislation, such as The Home Ownership and Equity Protection Act of 1994 (and subsequent state versions of the law), has been criticized for inadequate reach and enforcement. A 2006 study found that “the typical [state] law has little impact on the flow of subprime credit.”
What was the role of deregulation and financial services legislation?

Three pieces of legislation are largely credited for setting the stage for a rise in subprime and predatory lending: The Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA), The Alternative Mortgage Transaction Parity Act of 1982 (AMTPA), and the 1986 Tax Reform Act. DIDMCA effectively eliminated states’ interest rate ceilings on home mortgages where the lender has a first lien. Two years after DIDMCA, the Alternative Mortgage Transaction Parity Act (AMTPA) was passed. AMTPA preempted state statutes that regulated alternative mortgage transactions, such as those with balloon payments, variable rates, and negative amortization. Subprime lending did not grow significantly, however, until after the Tax Reform Act of 1986. Under TRA86, taxpayers could no longer deduct interest from consumer loans, but could deduct interest on loans secured by the taxpayer’s principal (and one other) residence. This “gave consumers an incentive to shift their consumer borrowing that was not secured by their home into home equity borrowing.” In the 1990s, aggregate consumer debt rose along with housing values. In 1999, 76% of the lending by subprime lending institutions was home equity lending.

By 2007, subprime loans accounted for 29% of total home loans. The vast majority of the subprime loans causing today’s massive foreclosures were issued by institutions and independent mortgage brokers not covered by the CRA.

In addition, the Gramm-Leach-Bliley Act, passed in 1999, facilitated affiliation among banks, securities firms, and insurance companies, and permitted financial conglomerates to cross-sell a variety of financial products to their customers. Deregulation, the growth of the securities market and the landmark financial services “modernization” enabled by the Gramm-Leach-Bliley Act created competition with the CRA-regulated loan products. As Judith Bell, President of PolicyLink, explains:

The strength of the CRA was significantly weakened in 1999 when financial legislation allowed investment and securities firms to enter the mortgage world. Prior to these changes, the home mortgage industry was fairly simple—banks offered loans, those loans were purchased, held and backed by the General Service Enterprises of Fannie Mae and Freddie Mac. The CRA applied to the regulated institutions issuing loans. After the 1999 legislation broke down the firewalls between players, however, the network of firms financing homes included more than 20 types of entities that could purchase, repackage, and securitize loans. Brokers became free agents to recruit these loans for players that made money on high-fee, high-interest transactions. This massive web of financial entities offering, bundling, and trading mortgages was not covered by the CRA. The vast majority of the subprime loans causing today’s massive foreclosures were issued by institutions not covered by the CRA.

Back up … what is the CRA?

The Community Reinvestment Act was passed in 1977 to counter the practice of denying credit to low- and moderate-income and minority communities, also known as “redlining.”
As CRA expert and law professor Michael Barr explained before Congress, the CRA "encourages federally insured banks and thrifts to meet the credit needs of the communities they serve, including low- and moderate-income areas, consistent with safe and sound banking practices." CRA examiners look at the number and amount of loans to low- and moderate-income borrowers and areas, and innovative or flexible lending practices, in the "lending test," when they rate a bank’s CRA performance. Banks are also rated on the amount of their investments, on their innovation, and their responsiveness to community needs under the "investment test" and how well the bank delivers retail banking and community development services under the "service test." These ratings are taken into account when an institution applies to merge or take over another depository institution, or to start offering new financial services, such as insurance and securities. The regulations therefore have real "teeth" in the industry.

Studies have shown that the CRA improved access to home mortgage credit for low-income borrowers during the 1990s. In fact, CRA lenders increased their CRA-eligible home purchase lending faster than those not regulated by CRA from 1993-1999, even controlling for factors such as economic and income growth, low unemployment, low interest rates, innovation, and consolidation. A Federal Reserve Board survey concluded that CRA lending was profitable or marginally profitable, and not overly risky.

Did the CRA force banks to issue loans to high-risk borrowers?

No. The CRA only applies to banks and thrifts that are federally insured. Most of the loans made by depository institutions which fall under CRA were not higher-priced loans; studies have shown that the CRA has increased the volume of responsible lending to low- and moderate-income households. Independent mortgage brokers not covered by the CRA issued the bulk of subprime loans:

According to recent Fed data, 75 percent of higher-priced loans during the peak years of the subprime boom were made by independent mortgage firms and bank affiliates that were not covered by the act.

Would subprime borrowers have done better with the CRA-regulated loans?

Many of them might have. A recent study shows that "mortgage default risk may not be attributed to borrower credit risk only; the high default risk seems significantly associated with characteristics of loans products." What made the difference? "The broker-origination channel, the adjustable-rate terms, and the prepayment penalty ... seem to contribute substantially to the elevated default risk among subprime loans." The study also found that subprime loans from 2005-2006 had higher defaults than those issued in 2003-2004 (47.0% in 2006 vs. 16.3% in 2004), probably due to changes in underwriting standards, decline in house prices, and changes in economic conditions. When researchers compared subprime to CRA-regulated loans -- in this study, issued via a program called CAP -- they found that the CAP loans were 70% less likely to default than a subprime loan. When broker-originated subprimes had both an adjustable rate (or ARM) and prepayment penalty, the default risk was between 4 and 5 times higher than the CAP loans.
What happened with Fannie Mae and Freddie Mac?

Fannie and Freddie were government chartered, publicly traded companies before their historic takeover by the Federal government in September 2008. They purchased mortgages from lenders to hold or, in most cases, resell as mortgage-backed securities, providing significant amounts of financing for the mortgage lending industry. Currently, Fannie and Freddie guarantee about 70% of all new home loans. They are under “conservatorship,” and Treasury Secretary Paulson is deferring decisions regarding the mission of the companies for the next President and Congress. So how did Fannie and Freddie get into trouble? Investigative journalists are just beginning to bring the pressures on the companies to light:

The subprime boom was led by investment banks and mortgage brokers, not by government-sponsored enterprises. Fannie and Freddie became unhinged in the middle of this decade when they tried to play catch-up. Their shareholders and managers pushed them to recover the securitization market share they had lost to unregulated investment banks getting absurd AAA ratings for packaging subprime dross. From 2005 to 2008, Fannie Mae purchased or guaranteed $270 billion in loans to risky borrowers — triple the amount in all its earlier years combined.

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Did subprime loans cluster in certain regions and neighborhoods?

The subprime crisis is nationwide, but there is evidence that a group of “risky lenders” clustered their lending in lower income and minority communities. Subprime loans go into delinquency and foreclosure more often than prime and FHA loans. Therefore, minority and low-income neighborhoods have been bearing the brunt of the foreclosure crisis. For example, The Reinvestment Fund reviewed data in Philadelphia and found that neighborhoods with the greatest concentrations of minorities received the highest percentages of subprime loans. Similarly, in Baltimore, “both minority group members and the neighborhoods where they live are more likely to receive subprime loans than White borrowers and borrowers in predominantly White areas.” These neighborhoods were ripe for subprime loans because they were either “equity rich but cash poor,” or starved of prime credit entirely.

Subprime loans go into delinquency and foreclosure more often than prime and FHA loans. The subprime crisis is nationwide, but minority and low-income neighborhoods have been bearing the brunt of the foreclosure crisis.
Although low-income communities of color have been disproportionately impacted, subprime lending occurred in middle class and wealthy suburban communities as well: “As home prices accelerated across the country over the past decade, more affluent families turned to high-rate loans to buy expensive homes they could not have qualified for under conventional lending standards.”

The states with the highest foreclosure rates are those with overheated housing markets, such as California and Florida. However, Rust Belt cities, rural Southern communities, and small towns – “weak market” regions with struggling economies and depressed housing markets – may not have the resources to rebound like strong markets do.

What’s the effect of foreclosures?

• Lost equity for homeowners
• Investors lose income stream
• Reversal of gain in minority homeownership rates (which was driving the overall national gain in homeownership rates)
• Decline in surrounding property values (and other challenges that come from increased vacancy, such as increased crime and further disinvestment)
• Inflated property taxes in high-foreclosure neighborhoods (where property taxes are not adjusted to reflect current market values) mean homeowners may be at risk for overpayment of taxes. High property taxes can scare off future affordable housing buyers, the homes sit vacant, values continue to decline...a vicious cycle that destabilizes entire neighborhoods
• Unpaid property taxes on foreclosed homes negatively impact municipal budgets
• Future neighborhood revitalization plans are threatened (foreclosures, lost momentum, municipal budget cuts)

What are we going to do with all that vacant housing?

No one knows for certain. The subprime crisis has exacerbated an already significant rise in vacant properties, particularly in declining or “weak market” cities. As Cohen points out, “nationally, housing vacancies have been increasing steadily since the 1990s, with a significant increase between 2000 and 2004 – largely before the spike in subprime mortgage foreclosures.”

Housing policy expert Alan Mallach, in his recent report Tackling the Mortgage Crisis: 10 Action Steps for State Government, suggests that states work-
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ing to mitigate the impact of foreclosure on neighborhoods should (a) establish creditor responsibility to maintain vacant properties (b) make sure the process is as expeditious as possible (c) ensure that the property is ultimately conveyed to a responsible owner. The responsible owner can include a CDC, land-bank, or responsible developers and landlords who can return the property to productive use, either in the private market or as affordable housing.

Does this problem affect renters at all?

Absolutely. Many foreclosures are multi-family units: by the end of 2007, roughly one in five new foreclosures involved absentee owners of one- to four-unit rental properties. Unfortunately, when a property goes into foreclosure, the tenant “effectively has no rights and can be evicted virtually on the spot.” Even if the property is acquired by a bank or servicer, the new owner is not required to honor the landlord’s lease with the tenant.

When a property goes into foreclosure, the tenant “effectively has no rights and can be evicted virtually on the spot.”

Where do we go from here?

The modernization and globalization of financial services and capital markets is here to stay. The question is how to ensure that credit is fair and sustainable for everyone, particularly for marginalized groups who need it most. The Kirwan Institute considers the following questions as highest priority for the next Congress and Administration:

- What global intermediaries do we need to manage global credit markets?
- What is the revamped mission of Fannie and Freddie?
- How can those most adversely affected by predatory credit – low-income communities of color – have an effective voice in these discussions?
- How do we improve the chances that homeownership is the road to wealth building, not the road to ruin?
- What are the most promising alternative equity-building instruments for low-income families and communities of color?

It is also important to note that providing financing for a home does not necessarily advance a robust conception of “fair housing” if the home is in a racially and socio-economically isolated and disinvested area. A recent study showed that loans from regulated lenders tended to decrease segregation, while subprime and manufactured housing loans either had no statistically significant effect or increased segregation. Fair housing must be reconceptualized to encompass not only fair access to credit, but fair access to opportunity-rich neighborhoods and stable home-equity building.

How do we ensure that credit is fair and sustainable for everyone, particularly for marginalized groups who need it most? Fair housing must be reconceptualized to encompass not only fair access to credit, but fair access to opportunity-rich neighborhoods and stable home-equity building.
REFERENCES

1. This paper benefited greatly from review by Jason Reece, Susan Adams, John O’Callaghan, Stanley Hirtle and Thomas J. Fitzpatrick IV, but any errors remain my own. Graphic formatting and design by Samir Gambhir, Senior GIS/Demographic Specialist. Research assistance by Brandon Moss, graduate student in City and Regional Planning at The Ohio State University. This primer is not intended to convey legal opinions or advice.


8. At least 100 basis points higher than the relevant Treasury yield for a comparable maturity. (See Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, "Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?" Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.)


12. Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, “Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?” Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.


14. Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, “Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?” Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.


22. In a 2002 law review article, Eggert discusses "predatory" loans as encompassing both illegal actions and "those that bedevil the regulators of the lending industry: activities that are legal but, when misused by unprincipled lenders, cause borrowers to pay interest rates and fees higher than the market and the borrowers’ credit rating would justify." Eggert points out that while a borrower might choose a non-prime option with a potential benefit to them (i.e. pay a higher interest rate in order to get lower fees) during a negotiation, that often these terms are “neither negotiated over nor understood by the borrowers” and thus become tools of predation. For the purposes of this primer, subprime loans can include both "legal but bedeviling" predatory loans and non-prime loans, which are not necessarily predatory. For further reading on predatory lending, see Kurt Eggert, "Held Up In Due Course: Predatory Lending, Securitization, and the Holder In Due Course Doctrine." 35 Creighton L. Rev. 503 and Kathleen C. Engel and Patricia McCoy, “A Tale of Three Markets: The Law and Economics of Predatory Lending” 80 Tex. L. Rev. 1255.


31. In many cases, mortgage-backed securities were held by foreign investors, which spread risk beyond the borders of the United States.


35. Christopher L. Peterson, “Subprime Lending, Foreclosure and Race: An Introduction to the Role of Securitization in Residential Mortgage Finance,” paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity’s National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008. Peterson notes in his cite: “Although Ginnie Mae securities are guaranteed by the full faith and credit of the U.S. government, Fannie Mae and Freddie Mac securities are not. Nevertheless, many investors have traditionally regarded the two GSEs as "too big to fail,"—the view that there is an implicit government guarantee of agency securities, if not an actual one. Richard Scott Carnell, Handling the Failure of a Government-Sponsored Enterprise, 80 WASH. L. REV. 565, 630-31 (2005). Whether investors are correct in this view is a matter of growing debate. See id. at 596; Benton E. Gup, Are Fannie Mae and Freddie Mac Too Big to Fail?, in, POLICIES AND PRACTICES IN GOVERNMENT BAILOUTS 285, 310 (Benton E. Gup, ed., 2003).”


38. Kurt Eggert notes that while it is possible the investors could make money on the foreclosure process (if the amount of the loan was far less than the value of the property), early repayment and foreclosure are the two greatest investor risks. “Held Up In Due Course: Predatory Lending, Securitization, and the Holder In Due Course Doctrine.” 35 Creighton L. Rev. 503. Page 21.


44. Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, “Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?” Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.


59. Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, “Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?” Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008. Page 8.


61. Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, “Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?” Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008. Page 11.


