Mr. Chairman, thank you for convening this hearing. As you know, I have been focused on the mortgage servicing industry since this Committee first began addressing the subprime meltdown and foreclosure crisis. Like many, I had not previously understood the critical role mortgage servicers play in the modern mortgage markets, where few loans remain with the financial institution that made them. Adding to the confusion is the fact that a number of large mortgage servicing industry players—including the financial institution formerly known as Countrywide—are both significant loan originators <u>and</u> loan servicers, but not necessarily of the loans they originated. After two Subcommittee hearings—in Los Angeles last November and here on April 16th— and a lot of additional study, I am still finding out more that I don't know yet about this industry, but there are few key things we've learned.

First, this industry was woefully underregulated during the boom years, and wholly unprepared for the challenges it confronted when the subprime meltdown hit. Depending on the type of financial institution they are – bank, thrift, etc.--mortgage servicers are subject to regulation by the alphabet soup of agencies and other entities, like the Federal Reserve, that currently oversee our financial markets. But there is no coherent statutory and regulatory framework for them. That is no surprise: the regulators failed to put together a decent body of law on <u>making</u> loans during the boom years, there is no reason to expect that they would think ahead to regulating the sector of the mortgage industry responsible for addressing those loans when things went south.

When the crisis hit, it rapidly became clear that the mortgage servicing "muscle" of the industry had largely atrophied. Nobody was sufficiently staffed up or trained to do the kind of workouts and modifications needed. I think this has changed a bit, but not as much as it should—and the capacity to do loss mitigation at scale in a down market should never have been allowed by regulators to wither, or perhaps more accurately, not to be put in place at all. Most troubling to me is that, because of the underregulation, we have a near complete lack of transparency about what is going on with servicers now. In contrast to loan origination, where HMDA data gives us a pretty clear and comprehensive picture of what's going on with loan origination, we are reliant in this crisis on industry-provided data that I would argue is, at best, incomplete and somewhat opaque.

Second, I continue to be concerned that we have what is known as an "agency problem" here. While the industry repeatedly says that "nobody wins in a foreclosure," there is some evidence that a mortgage servicer—ostensibly the agent of the investment trust—may do better in terms of fees when it forecloses, or at least keeps a borrower in a state of prolonged delinquency, than if it does a sustainable loan workout <u>even where to do so would be in the best interest of the trust</u>. I won't pretend to have fully grasped yet the complex fee structure in mortgage servicing—I look forward to exploring that today—but a study by researchers from the University of Iowa and Stanford Law Schools, described in this New York Times article I would seek unanimous consent to put into the hearing record, showed that servicers generate significant revenues from late fees, delivery and fax charges, and other fees they can only charge if a borrower remains in distress and at foreclosure's doorstep. Just a few days ago, in another article I would ask unanimous consent to put into the record, New York Federal Home Loan Bank Chief Executive Alfred DelliBovi—not exactly an unsophisticated player in the mortgage market--- was quoted as saying "servicers make more money on a foreclosure than when the loan is worked out." This isn't dispositive, but I think we have to at least look carefully at whether the incentives for servicers are really set up the way they ought to be to get us out of this crisis.

I say this in part because, even after all these months, I continue to hear things that suggest servicers aren't acting as if they really want to help borrowers, rather than give them the runaround or squeeze them for late fees. Witnesses at hearings and town hall attendees paint a different picture of the mortgage servicers' response to the subprime crisis than industry press releases. Homeowners, homeownership counselors, Legal Aid attorneys, and local government officials all testified to the difficulties they encountered in getting prompt, reasonable action by mortgage servicers. Too often, individual borrowers and even their trained advocates find it difficult even to find an actual person to speak to about loss mitigation-- much less one authorized to offer the kind of loan modifications that the borrowers needed to remain in the home for the long-term. I had exactly this experience when I called the HOPE Now line myself from a town hall in LA.

Finally, prior to the subprime crisis, the only Federal Reserve Governor to call attention to the brewing problem, Ed Gramlich, asked why so many exotic loan products – like the notorious "2-28" and "3-27" subprime ARMs—were being provided to the households least likely to understand or be able to handle them financially. At this moment, in the middle of the greatest foreclosure crisis since the Great Depression, a variation of that question can be asked about loss mitigation by mortgage servicers—why are the loans we know are most likely to be worked out in a way that is affordable to the borrower for the long term the <u>safest</u> loans in the market, while the most dangerous loans—the Alt A and subprime portfolios of the major servicers—are the ones we know the <u>least</u> about when it comes to the affordability of loss mitigation offers that servicers are making to delinquent borrowers? To explain why I say this, I want to turn to the 40% or more of the servicing market that is subject to a Fannie, Freddie, FHA, or VA loan guarantees. These entities issue clear guidance, and set up compensation schemes to enforce, affordability standards for their servicers' loss mitigation activities-- in Fannie's case, the benchmark is $200 in monthly residual income after all debt service and household expenses—including emergency expenses—are taken into account; in Freddie's, a 20 percent residual income cushion using a similar approach to assessing the borrower's income and expenses. So we know what affordability standards govern the safest part of Wells Fargo's, Bank of America's, and other mortgage servicers' portfolios—after all, the strict underwriting standard of VA, FHA, and the GSEs mean those loans are the least likely be "no doc" loans, or subprime ARMs. Yet, as it stands now, we have no idea what affordability standard is being applied to the Alt A and subprime components of these servicers' portfolios. Actually, we do have some idea—ones that aren't working: Moody's reports that 42% of loans that were modified in the first half of 2007 were 90 or more days delinquent as of March 31, 2008. This suggests that too many of the loan workouts being offered are simply 'kicking the can down the road' rather than making realistic assessments of what borrowers can afford for the long-term.

This clearly calls for federal intervention. I will conclude by saying that the fundamental problem is that the mortgage servicers have no legal obligation to engage in reasonable loss mitigation efforts to keep a borrower in delinquency in his or her home, even where that borrower may have been the victim of a predatory, unaffordable loan. Absent a statutory duty of some kind, I am concerned that consumers have little leverage with mortgage servicers in the current crisis, and will continue to lack it in the future. The legislation I have introduced, H.R. 5679, the Foreclosure Prevention and Sound Mortgage Servicing Act creates this enforceable legal duty. Although it has been mischaracterized in the industry press, I believe that H.R. 5679 is a prudent piece of legislation, designed to balance the needs of lenders, investors, servicers and borrowers in an effort to reduce foreclosures. I also see it as an important first step in regulating what has been, to date, a largely below-the-radar-screen and under-regulated sector of the mortgage industry. I look forward to the testimony today, and especially the question period, Mr. Chairman, and I yield back.