

Statement of Ari Schwartz
Vice President Center for Democracy & Technology
before the Subcommittee on Oversight and Investigations,
U. S. House of Representatives Committee on Financial Services

Hearing on

Utilizing Technology to Improve TARP and Financial Oversight

September 17, 2009

Chairman Moore, Ranking Member Biggert, and members of the Committee, on behalf of the Center for Democracy & Technology (CDT), thank you for the opportunity to participate in this hearing on the use of technology to improve financial oversight.

CDT is a nonprofit, public interest organization dedicated to promoting privacy, civil liberties, and democratic values on the open, innovative, and free Internet. CDT has been a leader in advocating both for stronger protections for online privacy and for greater government transparency. In particular, CDT has advocated for the use of technology to increase public access to government information and to make government more transparent, interactive, efficient and accountable.

Before the Subcommittee are two bills with laudable goals: increased oversight of TARP funds and assistance to local governments to create technical tools to address property vacancy and abandonment.

TARP Transparency (H.R. 1242, S. 910)

CDT supports H.R. 1242, a bill that would amend the Emergency Economic Stabilization Act to add greater transparency to the Troubled Assets Relief Program (TARP). The bill would require the Treasury Department to establish a database that would provide ongoing, continuous and close to real-time updates of the distribution of TARP funds. Information would be combined from private and public sources, including the 25 agencies distributing TARP funds, to track their progress.

Money from TARP is intended to stimulate lending and strengthen the health of the financial institutions receiving the funds, but it is currently difficult to evaluate. The H.R. 1242 database would bring together regulatory filings, internal agency models, and analytics associated with the financial assistance received, and thus would allow the TARP Special Investigator General, the Congressional Oversight Panel to conduct detailed analysis of the effectiveness of the TARP funds in stimulating prudent lending and strengthening bank capital.

Giving the oversight bodies access to this data will greatly improve oversight and increase citizen confidence in the TARP program.

CDT, as well as OpenTheGovernment.org, The Project on Government Oversight, OMBWatch, and Taxpayers for Common Sense, urge that H.R. 1242 go a step further and require the non-proprietary parts of this centralized repository of TARP information be made available to the public on the Web.¹ While FinancialStability.gov is an excellent start for TARP oversight, there are many TARP activities and related data that are not captured there, specifically those requested in this bill. The Department of the Treasury, who administers the TARP fund, has previously committed to putting more materials about TARP online, but has not done so.

Providing TARP information directly to the public online will strengthen oversight, by making it possible for the media, watchdog groups, researchers and concerned citizens the ability to analyze the data, reuse it and present it in novel ways, and uncover risky practices among TARP institutions.

We recognize that there is no prohibition in the bill against online access, but we ask that the text of the bill explicitly require that the TARP resources be made available to the public on the Web.

▣ Geospatial Information for Oversight

Another bill, H.R. 932, proposes the creation of geographic information systems (GIS) containing regional land parcel data to better monitor the effects of the housing crisis and inform the actions in response. GIS are used to present, manage, and analyze data in relation to location. For instance, the CDC uses GIS to predict and track epidemics in order to more effectively treat them. H.R. 932, the Community Regeneration, Sustainability, and Innovation Act of 2009, calls for the creation of regional real property data systems, tying property records to land parcels. These data systems could tie tax and foreclosure information to GIS to create new ways to analyze and mitigate predatory

¹ Letter re: S. 910, May 18 2009, <http://www.openthegovernment.org/otg/S910Letter3.pdf>

lending practices, reverse redlining, and foreclosures. The bill also calls for improvement of these data systems in order to streamline and improve procedures around urban renewal strategies.

CDT supports the goals of this bill, but we urge the Committee to specifically require privacy and security protections and improve data accuracy in the effort to create centralized data systems. Currently, counties manage their own local geospatial data; as less localized data systems are created and merged, concerns over differing standards for this data must be addressed.

We support the idea of using information systems to build smart government and ensure the effective use of government money. In doing so, we hope that best practices for privacy and security will be employed as regional real property data systems are developed. Information about addresses and land is largely publicly available through online mapping applications. However, tying this information to financial records and property records and other data has posed a privacy and identity theft risk in some localities.

For example, from 2000-2006 Hamilton County Ohio allowed access to aerial photographs of homes for property tax purposes and also to court records with details of Social Security Numbers and other personal data. Privacy advocates warned that the photos could provide thieves with information on means to break into homes and that the personal information posted was an identity theft risk. In 2006, after cases of identity theft were directly tied to the Web site, the County finally removed the data that raised concerns.² Similarly, commercial entities such as Zillow and Google, with its Maps, Earth and Street View products, confronted similar privacy and security issues in providing publicly available data in an aggregated way online.

The key to protecting personal information when putting public records online is to put in place a set of Fair Information Practices (FIPs). First articulated in the early 1970s by the Health, Education and Welfare Department, these principles govern not just the initial collection of information, but also its use and maintenance.³ FIPs require notice to and consent from individuals when information is collected and shared about them, gives them the right to see the information that is held about them, and gives them the chance to correct information in the database. These principles remain central to ensuring privacy as new databases of information are created and made widely available and that information is used to make decisions about people and their property.

² <http://www.privacyrights.org/ar/ChronDataBreaches.htm> Court records data posted online has led to several known cases of identity theft. The rise of these cases was well documented by John Leland and Tom Zeller Jr, "Technology and Easy Credit Give Identity Thieves an Edge," *The New York Times*, May 30, 2001, p.1.

³ CDT's Guide to Online Privacy, Fair Information Practices, <http://www.cdt.org/privacy/guide/basic/fips.php>

The Privacy Act of 1974 was created to ensure the protection of personal information in the hands of the federal government, but that law and the guidance to implement it has not been comprehensively updated since it was first implemented. In order to protect personal information such as personal data tied to mapping information, this law will eventually need to be updated. CDT has been working on an effort to gather feedback on the best means to update this important law,⁴ but until that revision is complete, new projects to gather and share data such as those in H.R. 932 will need to address concerns through the use of Fair Information Practices. Specifically, we recommend that the committee require publication of a privacy impact assessment that clarify how pilots will address the FIPs before implementation of the pilot can begin.

■ Conclusion

Information coordination and sharing can provide new and enhanced tools for federal oversight of the financial and housing markets. This information should also be made directly available on the Web to help provide greater transparency to the public. In doing so, we must ensure the quality and privacy of this data.



FOR MORE INFORMATION

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⁴ Information about this update to the Privacy Act of 1974 can be found at our online, collaborative drafting site eprivacyact.org. CDT has drafted updates and taken suggestions from experts and the public on the protections that should be included in an updated Privacy Act, including protections for new technologies and linked data.