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RETIREMENT SECURITY AND CORPORATE RESPONSIBILITY

FIELD HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

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RETIREMENT SECURITY AND CORPORATE RESPONSIBILITY

THURSDAY, AUGUST 8, 2002

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Indianapolis, IN

The committee met, pursuant to notice, at 2 p.m., at the Senior Center, Indiana State Fairgrounds, Indianapolis, IN, Hon. Evan Bayh presiding.

Present: Senator Evan Bayh

OPENING STATEMENT OF SENATOR EVAN BAYH

Senator BAYH. I want to thank all of you for coming and call this meeting of the Senate Special Committee on Aging to Order.

I would like to thank everybody at the Indiana State Fair for their cooperation in bringing us together now for the third straight year on Senior Day here at the Fair. I want to thank Bill Stinson and everybody else here at the Fair who have been so, so helpful.

I would like to thank all of you. I know that there are other things that you could be doing on a beautiful day like this. The fact that you would be here to help us focus on making corporations more responsible and accounting more accurate to protect the investments of our senior citizens I think is very, very significant.

I am particularly glad to be here today. If I speak a little less clearly than normal, I hope you will forgive me. I was in the dentist's chair for 2 hours this morning, so I am particularly glad to be out here and to be with you.

I would like to take this one moment of personal privilege, if I could. The three most important members of my family are with me today at the Indiana State Fair, and that is my wife, Susan, and my sons, Nicholas and Beau. So I would like to introduce all of you.

Stand up and wave, fellows.

I promised them as soon as I introduced them to the crowd they could go off and get some cotton candy or go on the rides. So fellows, you are released as soon as your mother says that is OK.

All right. Have fun.

Today's hearing is going to focus on the recent corporate financial scandals and their impacts on seniors. Most importantly, what can be done to prevent the kind of losses to senior citizens and other investors that we have seen in recent months. Millions of Americans were adversely impacted, but seniors were disproportionately adversely impacted. Shareholders, employees, and retirees have lost billions of hard-earned dollars. Uncertainty about financial scandals has deepened the retreat of our financial markets, causing further losses, and it has reduced investments, both from at home and abroad, that would make our economy stronger. So we need to remove this uncertainty, because it is important to the overall health of our economy.

It has been tragic for everyone, but for seniors, they have been particularly hard-hit. The statistics—and I think Dr. Christopher may—or the gentleman, rather, from the AARP may discuss these in just a few moments—62 percent of our seniors now rely upon investment income to supplement their standard of living in retirement, and 43 percent of our senior citizens rely in whole or in part on pension income. Obviously investments and pension funds alike have been hurt by the recent corporate scandals. I think Dr. Christopher may have some testimony about how Indiana has been affected.

Although the worst of the abuses have been located in other States, Hoosiers have also been affected. I believe that the Teachers Retirement Fund has lost about $25 million as a result of investments in Worldcom and things of that nature, and the Public Employees Retirement Fund for state employees has lost a further $66 million. Of course that is on top of the private losses that individual investors have suffered in 401(k)s and other private investments. So losses to Hoosiers have been real and significant as a result of these corporate frauds and scandals.

To prevent further abuses Congress has acted quickly, and the President just recently signed into law the Corporate and Auditing Accountability Act. It was bipartisan. The vote in the U.S. Senate was unanimous. That does not happen very often, and that shows you how strongly people are interested in doing something about this. This Act is going to do things to try to make sure that these sorts of financial frauds and shenanigans never happen again.

First we want to ensure that the auditors, who are supposed to be the independent watchdogs of our publicly held companies, are truly independent. There is going to be a new Auditing Standards Board created. It is going to be completely independent of the auditing industry, and that is to make sure that the standards and the auditors' conduct is in the best interests of shareholders and public citizens like those of you here, and not just in the best interests of the auditing profession itself. There will be limits placed upon the conflicts of interest that exist in the auditing profession, where auditors make substantial amounts of money from the companies in other services that they are also providing audit services to.

This legislation will ensure management accountability on the part of CEOs and chief financial officers and others who are running America's largest corporations. CEOs and chief financial officers will be required to personally attest to the validity of financial statements, with strong criminal penalties, including jail time, for those who knowingly sign false reports to America's shareholders.

Self-dealing, like getting large loans from the company, from those of you who are shareholders, giving your money to corporate officers and directors, that is prohibited except in a very, very few limited instances.

Top officials in companies who have cashed out and taken their money and run, only to then restate financial earnings and other statements to—in other words, they cashed out at the top, then said, "Never mind" and restated their earnings, saying that all the facts were not exactly so—they are going to be required to disgorge those profits, those earnings, and give them back to the company. So there is no more taking the money and running in corporate America.

Executives are going to be subject to the same kind of severe penalties that other employees are for things like securities fraud, which is a new crime created in this legislation. It actually was not a crime in the United States to engage in securities fraud; the prosecutors and law-enforcement authorities had to pursue these individuals who had ripped off all this money using other statutes, but now it is a specific crime to engage in securities frauds.

There is going to be tougher enforcement, with real teeth. The Securities & Exchange Commission is going to have its budget substantially increased, to hire more investigators, and so that they can review very thoroughly, on an annual basis, the financial reports that are filed with the Securities & Exchange Commission.

There are whistle-blower protections, so that when individuals like this woman in Enron who came forward, stepped forward to blow the whistle on fraud and other abuse in large companies, they will be protected from retribution by those upon who they are blowing the whistles.

We are going to hear about all of this from four witnesses today, on two panels.

Our first witness will be Keith Taylor. Where is Keith?

Keith, thank you for joining us today.

Mr. Taylor is going to share his first-hand experience. Keith, I understand unfortunately you have lost about two thirds of your investment income.

I am going to get to the panels in just one minute.

He is going to tell us how that has impacted his life and share with us some thoughts about what we can do and what the impact of the new legislation may mean, in terms of protecting people's retirement security. I appreciate your willingness, Keith, to share with us your personal experience in this regard, so that others will not be similarly impacted in the future.

Also testifying will be Dr. Christopher, who I referred to earlier. Bill is the Executive Director of the Indiana State Teachers Retirement Fund. As I mentioned, the fund has suffered some losses as a result of these financial frauds, and obviously that is the kind of thing that we do not want to see teachers have to suffer, and gives us a strong interest in preventing these kinds of frauds.

Catherine is showing the chart here. OK.

Mr. Chuck Leven—Chuck, did I pronounce that correctly? Good. Thank you.

Chuck Leven, a member of AARP's Board of Directors, is here today to explain some of the work that has been done to protect seniors and how the Corporate and Auditing Accountability Act will help to stop Worldcoms and other situations like Enron, Adelphia, and others from recurring in the future.

Chuck, I want to thank you and AARP; you have been great from the beginning, supporting this accountability legislation, and your track record in terms of protecting Indiana's and the rest of America's seniors is exemplary, so I want to thank you for your presence today, and we are looking forward to hearing from you about a host of things, including what our seniors can do to help protect their savings.

I think we have both AARP's toll-free number and their website here, that you can contact for further information about what to do if you think you have been the victim of financial fraud, and some tips on what to do to protect your savings.

I believe we have handed out these yellow packets. For those of you who have not gotten a yellow packet, we are handing them out. They also include information—for example, here are the top ten investment tips for seniors, how to protect your retirement savings. There is other good information in here about the basics of investing in the stock market, other things like that to help protect retirement savings and to tell you where to go if you think you have been the subject of fraud or investment abuse.

So Chuck, thank you for being with us today.

Our final witness will be Miss Elisse Walter. Where is Elisse?

Thank you for coming today. Appreciate your making a trip here to the Indiana State Fair.

Miss Walter is the Executive Vice President for regulatory policy and programs at the National Association of Securities Dealers, the NASD.

I would like to thank all of you for being here today. We are looking forward to hearing from our witnesses.

There are cards included in the packets, like this. If you have questions for any of our panelists, please feel free to pass out these cards. At the end of the panels, I am going to ask that the cards be collected at the end of the first panel and at the end of the second panel. They will be collected. We are going to get to as many as possible. For those of you whose questions we do not have time to ask here today, we are going to get you a written response. I think there is a place here for your address. Please include your address, so that if a panelist cannot give you an oral answer today, we will give you a written reply, so that every question will be responded to. So, for those of you who have questions, here are the cards. Please fill them out. We will collect them at the end of each and every panel.

The final thing I would say—and I am going to ask our first panelists to come up—is this: This is a very important topic. It affects the life savings of millions and millions of American seniors, in 401(k)s and other retirement vehicles. It affects the health and wellbeing of our national economy, because when there is uncertainty about our financial information people are less willing to invest, investors from abroad are less willing to put their money into the United States America, and this harms us in a lot of ways.

But folks, at the end of the day what this is about more than anything else are our values as a country, the kind of behavior we are willing to tolerate and the kind of behavior that we will not tolerate. I hope that with the passage of this new Accounting Responsibility Act we are sending a loud and clear message to corporate

America, but also to people in government and other walks of life, that the United States of America is going to continue to be the land of opportunity, not based upon fraud or deceit or financial chicanery, but upon hard work and ability and thrift and those basic virtues that have always made this country great. That is what we are here today to endorse and protect, and in the final analysis that is what it is going to take to have better accounting standards for the large companies and others across America.

So thank you for coming. Let us ask the first panel to come up. Will Dr. Christopher and Keith please come up? We are looking forward to hearing from you.

Again, ladies and gentlemen, thank you for your time today. I appreciate your presence. Let us get to the first panel.

Keith, we are going to start with you. Again, I want to thank you for your willingness to share your personal experience with us.

Dr. Christopher, if neither you or Keith will be insulted, I am going to take my coat off. So you feel free to do the same.

Mr. TAYLOR. Can I leave my hat on?

Senator BAYH. You can leave your hat on, and be proud of it.

Pull the microphone forward, so we can hear you.

Mr. TAYLOR. OK.

Yes.

Senator BAYH. Mr. Taylor, please. The floor is yours.

STATEMENT OF KEITH TAYLOR, RETIREE

Mr. TAYLOR. My name is Keith Taylor. I was born and raised in Indianapolis, IN. I quit school when I was 16 years old, to go to work. I worked hard for the next 50 years, and then I retired. That was about 4 years ago.

I do not know much about business, and my only claim to fame is that all my life I have worked very hard. I worked a lot of hours, and I saved a lot of money—maybe not a lot——but some.

Well, I saved a lot of money, more or less. When I was 18, you know, I got a great opportunity from who I consider a great man, Mr. Carl Gruenman, owner of Universal Tool & Engineering. He gave me my first break, and from then on I worked mostly 60 and 80 hours a week as a toolmaker.

For most of my life I had two jobs: I worked for Ford Motor Company, and I had a small machine shop in my garage. I saved money I made, and I invested it. I thought I had a solid amount of money for my retirement for me and my wife.

My wife and I were going to travel. We cannot necessarily do that now. In the last year I have lost two thirds of my retirement investments because of the wrongdoings by the CEOs, and because of the lack of confidence in business leaders in the market. The entire market is suffering.

I think that most of my stock will come back, but there are several that were my pride and joy, that will not because of the shenanigans of the CEOs and the board of directors. I just thank God each day that I have my Social Security and my Ford UAW pension. [Applause.]

The recent events have taught me how important Social Security is and how it needs to be available for everyone. Social Security has to remain stable and secure, and we should not make any changes to privatize it. [Applause.]

I never dreamed I would be in the situation I am today. Like I said, I worked hard and always played by the rules. What makes me mad is that every day you see where these corrupt CEOs have ripped off millions of dollars from innocent people. Do you know where that money comes from? It comes from people like you and me, who invested it, and who had faith and trust in their CEOs.

When you buy into a company, you are hiring the CEO, and the board of directors, to look after your investment. Not just my investment, but every investor's money. They should do their job, not just for the enhancement of the corporate elite and for their own CEO salary.

I just read somewhere where CEO salaries have jumped something like 500 hundred times that of the average employees. Ten years ago they were at something like 50 times greater; and that was a lot. Are they really worth millions of dollars a year? Do they really need that much? They should be putting some of that money back into the company, so that the shareholders can benefit. It is a sad commentary on our culture and society to have people in very high positions that are interested only in their personal gain rather than the fulfillment of their sworn obligations.

These are people who are supposed to be running the company. The board of directors are hand-picked by the CEO's. They are hand-packed, too. Sorry about that, secretary.

Senator BAYH. Tell it like it is, Keith. [Laughter.]

Mr. TAYLOR. The CEO dictates to the board what his salary or severance pay should be, and the board just rubber-stamps it. The basic stockholder, like me, does not really have a choice at all. We can vote for, abstain, or vote against the board, but we cannot nominate them. As long as the CEOs have control of the board of directors, there will be no check on the CEOs. What these CEOs have done is like shooting fish in a rain barrel. You can get a lot of fish this way, but it is not very sportsmanlike.

Instead, they rip off people like me. We had faith, trust, and confidence in them, we should not have had.

I do have faith and confidence in my Senators and my country. Indiana has two of the greatest Senators around. I really believe that honestly. I know, Senator Bayh, if someone with real integrity was CEO of the companies that I invested in this would not have happened. I wish you were the CEO of one of the companies in particular I invested in.

Senator Bayh, I want to thank you for your work on the Accounting Reform bill. That law will be very helpful in protecting investors like me and putting corporate criminals behind bars. [Applause.]

Yes, behind bars; that is where they belong.

Before, high-level crooks would get fined millions of dollars, but that does not help. Money is never going to be a deterrent to the higher-level crooks. They have insurance to cover themselves, insurance me and other investors helped buy for them. Jail time is different. You cannot get insurance for your jail time, and you cannot pay somebody to go to jail, to do jail time for you. Jail is a real deterrent. If I am a CEO with a big house in Florida, being in the

Big House, the jail, is not going to allow me to enjoy all my money. Jail will get the attention of high-level crooks.

So let me say thank you again, Senator, for passing that bill. I really appreciate it.

I have a personal plea I would like to leave you all with: Our society needs to restore its ethics and its conscience. People need to remember to do the right thing, the moral thing. All the laws in the world will not make a difference if people do not change their behavior. We have the greatest country in the world, the greatest economy. What has happened is, CEOs thought their behavior was OK. We cannot go on letting people get away with lying, cheating, and stealing.

Thank you for letting me testify today. God bless the two great Senators from Indiana, and finally, God bless U.S.A.

[The prepared statement of Mr. Taylor follows:]

Keith Taylor
Special Committee on Aging
Indianapolis, Indiana Field Hearing
Retirement Security and Corporate Responsibility
August 8, 2002

Good afternoon Senator Bayh and thank you very much for the opportunity to tell you my story and share my thoughts regarding retirement security and corporate responsibility.

My name is Keith Taylor, and I was born and raised in Indianapolis, Indiana. I quit school when I was 16 years old to go to work. I worked hard for the next 50 years then I retired. That was about four years ago.

I don't know that much about business, and my only claim to fame is that all of my life I have worked very hard -- I worked a lot of hours, and I saved a lot of money. When I was 18 years old, I got a great opportunity from a great man, Mr. Carl Gruenman, the owner of Universal Tool & Engineering. He gave me my first break. From then on, I worked mostly 60-80 hours a week.

For most of my life, I had two jobs. I worked for Ford Motor Company, and I had a small machine shop in my garage. I saved a lot of the money I made, and invested it. I thought I had a solid amount of money for my retirement for me and my wife. My wife and I were going to travel. We can't necessarily do that now.

In the last year, I have lost 2/3 of my retirement investments because of the wrongdoings by the CEOs and because of the lack of confidence in business leaders and the market. The entire market is suffering.

I think that most of my stock will come back. But, there are several that were my pride and joy that won't, because of the shenanigans of the CEOs and the Board of Directors.

I just thank God each day that I have my social security and Ford [UAW] pension. The recent events have taught me how important Social Security is and how it needs to be available for everyone. Social Security has to remain stable and secure. We should not make any changes to privatize it.

I never dreamed that I would be in the situation I am today. Like I said, I worked hard and always played by the rules. What makes me mad is that every day you see where these corrupt CEOs have ripped off millions of dollars from innocent people. Do you know where that money comes from? It comes from people like me, who invest, who had faith and trust in the CEOs.

When you buy into a company you are hiring the CEO and Board of Directors to look after your investment -- not just my investment, but every investor's money. They should do their job not just for the enhancement of the corporate elite and for their CEO's salary.

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These are the people who are supposed to be running the company -- The Board of Directors are handpicked by the CEOs. The CEO dictates to the Board what his salary or severance pay should be, and the Board just rubber stamps it. The basic stockholder, like me, doesn't really have the choice at all. We can vote for, abstain, or vote against the Board, but we can't nominate them. As long as the CEOs have control of the Board of Directors, there will be no check on the CEO. What these CEOs have done is like "shooting fish in a rain barrel." You can get a lot of fish this way, but it is not very sportsman like.

Instead, they rip off people like me. We had faith, trust, and confidence in them. We shouldn't have.

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Senator Bayh, I want to thank you for your work on the Accounting Reform bill, too. That law will be very helpful at protecting investors like me, and putting corporate criminals behind bars. Before, high level crooks would get fined millions of dollars, but that doesn't help. Money is never going to be a deterrent to high level crooks. They have insurance to cover themselves -- insurance me and other investors help buy for them.

Jail time is different. You can't get insurance for your jail time and you can't pay someone to do jail time for you. Jail is a real deterrent. If I am a CEO with a big house in Florida, being in the "BIG HOUSE" (JAIL) is not going to allow me to enjoy all my money. Jail will get the attention of high level crooks.

So let me say thank you again, Senator, for passing that bill.

I have a personal plea I'd like to leave you all with, our society needs to restore its ethics and conscience. People need to remember to do the right thing, the moral thing. All the laws in the world won't make a difference if people don't change their behavior. We have the greatest country in the world, the greatest economy – What has happened that CEOs thought their behavior was okay? We can't go on letting people get away with lying, cheating and stealing.

Thank you for letting me to testify today. God bless the two great Senators from Indiana and the USA.

Senator BAYH. Thank you very much, Mr. Taylor.

Dr. Christopher.

STATEMENT OF WILLIAM CHRISTOPHER, EXECUTIVE DIRECTOR, INDIANA TEACHERS RETIREMENT FUND

Dr. CHRISTOPHER. Senator Bayh; ladies and gentlemen:

I am Bill Christopher. I am the Executive Director of the Indiana Teachers Retirement Fund. I am also an Educator and Administrator. I have been Director for almost 4 years, but I have been a member of the fund for over 42 years. It does not seem that long, but it has been. The Executive Director of the Teachers Retirement Fund is the Chief Executive Officer of the fund.

Senator Bayh, I thank you for inviting the Teachers Retirement Fund to testify on behalf of our membership. Your leadership for our State and Nation are much appreciated, and respected. I feel especially fortunate in having worked with you in the past, and I appreciate your guidance and help in my past work, and look forward to working together on behalf of Indiana citizens, especially teachers, in the future.

At the Teachers Retirement Fund we are fortunate to have a board of trustees of five very supportive and involved former educators and private citizens of our State, who are very knowledgeable about pension systems and investments. The trustees freely give of their time in helping to improve our fund.

Our membership consists of all of the licensed public school teachers and administrators in Indiana. We also serve as the pension fund for a large number of college professors and administrators. For the first time this year, we are currently enrolling teachers and administrators of the newly formed charter schools.

The Indiana Teachers Retirement Fund has over 114,000 members. Most are citizens of Indiana, or they live somewhere in the United States. We have a very small number who currently are living in foreign countries. Almost 34,000 of that number are currently living as retired people, receiving monthly retirement checks. About 100 of these retired members left teaching before 1950, if you can imagine. We have one who retired in 1939. 75,650 are active teachers or administrators. Of the active teachers, about 10,000 are over the age of 60, and have been in education for over 35 years. Thirty are past the age of 75 and still teaching. Essentially, we have a working relationship with Indiana teachers and educators that can span over a period of 75 years.

The Teachers Retirement Fund manages about $6 billion in assets on behalf of our membership. We continually rank in the upper quartile on our investments when compared with other pension funds. At the end of the last calendar year we were the only fund of our group of 65 plans that had a positive year-end earnings rate. We are an independent body corporate and politic, with an independent board of trustees.

Many of our retired members are actively engaged, serving as leaders and important members of their local communities. They often continue their participation in the education of young people, and in many, many other community service organizations. Of the 34,000 retired members, we have 44 who are over 100 years old; 37 survivors of former teachers are receiving pensions that are also above the century mark. If you can believe it, we have four members who are receiving pensions who are over the age of 106.

Indiana is unique of the teacher retirement funds of the country. Our uniqueness comes from the fact that teachers in Indiana have the opportunity to make investment choices with money contributed to their annuity savings account. This makes our retirement system a blend of the traditional defined-benefit plan, or, as most States support, a plan that consists of the basic pension and a defined-benefit plan.

This has worked well for our teachers. They have the stability of the more traditional pension and the opportunity for participation in a growing economy with the annuity savings portion of their retirement program. Teachers can direct the investment of their annuity savings portion of their retirement plan as they so choose. Teachers have a choice of five investment options, including the Guarantee Fund, currently paying 7 percent; an S&P 500 account; small-cap investments; an international fund; and a domestic bond fund. Indiana teachers are vitally interested in their annuity savings account and the investment of those accounts.

Most recently, teachers have expressed their concern about the highly reported losses from Enron, Worldcom, Q-West, and others. This fund lost about $37 million. Now I have to quickly add that that is less than one tenth of a percent of our total holdings. We are troubled with the reasons underlying these losses.

Senator Bayh, we really appreciate your leadership and the actions of Congress for the review and completion of legislation concerning accounting and other regulatory rules and regulations.

When we communicate with our members, we continually remind them that, although any short-term loss is not good, we are, however, in long-term investments. Losses and gains are part of the normal cycle of investment. Actuaries account for our investments over a 40-year period. I suppose the argument could be made that we invest on an infinite timeline. This is especially true when we have people beginning their investment in our fund as teachers at the age of 21 and currently retiring at an average age of 58, and some living past 106.

The message to our members is that we are unhappy with any loss in these equities markets, but because of our long-term investments and the relatively small percentage of the loss, we will recover. We have an extensive asset allocation plan that contemplates losses and gains.

Senator Bayh, your leadership in developing the new legislation that addresses accounting fraud is appropriate, and certainly was needed. Especially welcome is the establishment of the Federal oversight board for the accounting industry. By restricting the nonaudit services that accounting firms may provide to clients, the statute strengthens the concept of an independent audit. Your handling of stock analyst conflicts of interest is certainly positive, considering the recent disclosures of such conflicts. Major changes in severity and length of penalties strengthen the concept of accountability, and offers renewed faith in financial markets. By supporting the SEC with greater funding authority, the Congress has given that regulation needed to bring back a greater faith in our economy. The bottom line, however, is defined by having people with integrity and a sense of basic honesty heading companies and systems invested in by pension funds and by individuals.

We are pleased that we are able to talk with you today. Thank you for having us here and being able to participate in the hearing. I would be pleased to answer whatever questions that anyone might have.

[The prepared statement of Mr. Christopher follows:]

Field Hearing
Senate Committee on Aging
Indiana State Fairgrounds
August 8, 2002
Indiana State Teachers' Retirement Fund
William E. Christopher, Executive Director

Committee Members, Ladies and Gentlemen:

I am Bill Christopher, Executive Director of the Indiana State Teachers' Retirement Fund and I am an educator and administrator. I have served in this position for about four years. I have been a member of the fund for over 42 years. The Executive Director of the Teachers' Retirement Fund is the Chief Executive Officer of the Fund.

Sen. Bayh, I thank you for inviting the Indiana Teachers' Retirement Fund to testify on behalf of our membership. Your leadership for our State and Nation are much appreciated and respected. I feel especially fortunate in having worked with you in the past. I appreciate your guidance and help in my past work and look forward to working together on behalf of Indiana's citizens, especially its teachers.

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The Indiana State Teachers' Retirement Fund has over 114,000 members. Most are citizens of Indiana or live in the United States. A small number of members are currently living in foreign countries. Almost thirty four thousand are retired receiving monthly pension payments. About one hundred retired members left teaching before 1950. One retired in 1939. Seventy-five thousand six hundred fifty are active teachers or administrators. Of the active members, about 10,000 are over the age of 60 and have been in education over 35 years. Thirty are past the age of 75. Essentially, we have a working relationship with Indiana teachers that can span over a period of 75 years.

The Teachers' Retirement Fund manages about $6 billion in assets on behalf of our membership. We continually rank in the upper quartile in our investments when compared with other pension funds. At the end of the last calendar year, we were the only fund of our group of 65 plans that had a positive year end earnings rate. We are a body corporate and politic with an independent board of trustees.

Many of our retired members are actively engaged serving as leaders and important members of their local communities. They often continue their participation in the education of young people and in other community service organizations.

Of the 34,000 retired members, we have forty-four who are over 100 years of age. Thirty-seven survivors of former teachers who are receiving pensions are also over the century mark. Four of our retired members are past 106 years old.

Indiana is unique of the teacher retirement funds of this country. Our uniqueness comes from the fact that teachers in Indiana have the opportunity to make investment choices with money contributed to their annuity savings account. This makes our retirement system a blend of the traditional defined benefit plan that most states support and a defined contribution plan. This has worked well for teachers. They have the stability of the more traditional pension and the opportunity for participation in a growing economy with the annuity savings portion of their retirement program.

Teachers can direct the investment of their annuity savings portion of the retirement plan. Teachers have a choice of five investment options including a Guaranteed Fund (currently paying 7%), an S & P 500 account, Small Cap investments, an International fund and a Domestic Bond fund. Indiana teachers are vitally interested in their annuity savings account and the investment of those accounts.

Most recently, teachers have expressed their concern about the highly reported loses from Enron, WorldCom and others. This fund lost about $37million. That is less than .1 percent of our total holdings in those large failures. We are troubled with the reasons underlying these losses. Senator Bayh, we appreciate the your leadership and the action of Congress, for the review and completion of legislation concerning accounting and other regulatory rules and regulations. When we communicate with our members, we continually remind them that although any short-term loss to TRF is not good; we are however in long term investments.

Losses and gains are part of the normal cycle of investments. Actuaries account for our investments over a 40-year period. The argument can be made that we invest on an infinite time line. This is especially true when we have people beginning their investment in our Fund as teachers at 21 years old, currently retiring on average at 58 years of age and some living past age 106.

The message to our members is that we are unhappy with any loss in the equities markets, but because of our long-term investments and the relative small percentage of the loss, we will recover. We have an extensive asset allocation plan that contemplates losses and gains.

The Wall Street Journal on August 1, 2002 had an editorial by Glassman and Hassett that noted, "For the 20 years ending December 31, 2001, large-cap stocks returned an annual average of 15.2%." If for only this one fact and the understanding that we must meet our fiduciary responsibilities to our members; we must continue to invest in a market that has appropriate regulation. We hope to invest in companies that are run by people with integrity and a sense of civic responsibility.

Sen. Bayh, your leadership in developing the new legislation that addresses accounting fraud is appropriate and needed. Especially welcome is the establishment of the federal oversight board for the accounting industry. By restricting the non-audit services, that accounting firms may provide to clients the statute strengthens the concept of an independent audit.

Having Chief Executive Officers and Chief Financial Officers certify the accuracy of financial statements and disclosures and tied to financial consequences in the case of fraud is appropriate and surely will be a deterrent to future wrongdoing. Insider trading restrictions during black out periods is on target and appropriate considering the experience of members of some private pension funds.

Prohibiting stock analyst conflicts of interest is certainly positive considering the recent disclosures of such conflicts. Major changes in severity and length of penalties strengthen the concept of accountability and offers renewed faith in the financial markets. By supporting the SEC with greater funding and authority the Congress has given, the regulation needed to bring back a greater faith in our economy. The bottom line, however, is defined by having people with integrity and a sense of basic honesty heading companies and systems invested in by pension funds and individuals.

Teachers in Indiana have usually given a major portion of their lives to serving their communities through education. When they retire, they should have the support of a well-organized, well-funded retirement system. At retirement, the service of retired teachers usually continues until they are physically unable to participate in the daily life of the community. Indiana investments in a healthy teacher retirement system continue to grow in many ways and ultimately contribute to the welfare of the state and community.

Senator Bayh, thank you for having the Indiana Teachers' Retirement Fund participate in this field hearing. I would be pleased to answer questions.

Senator BAYH. Thank you very much, Dr. Christopher.

I neglected to mention, but I am glad that we had the opportunity to work together for several years when I was privileged to be the Governor of our State. Bill, I am very grateful to you for you continuing your public service and watching out for retirement savings of our teachers. I think they are in very capable hands. Thank you.

Now I misspoke when I mentioned earlier, what we are going to do here is, I am going to have some questions for Keith and Bill, and then we are going to have the second panel come up, and then we are going to call for your questions so we can ask questions of both panels simultaneously, so a couple of questions from me for each one of you, and then we will bring the second panel up, I will ask a couple questions of them, and then we are going to have the audience questions for all of us.

Keith, let me start by asking you something: There may be other people in the audience here today who have had your experience with the losses that you have suffered. I know there are others at home. What advice would you have for people here today? What, if anything, can they do to get through a situation like this or avoid it, and how much will it be of benefit to folks like you in the future to know that those financial statements are more accurate when you see them about companies that you invest in?

Mr. TAYLOR. Senator, I wish I had some good advice. But the bottom line is, you know, even doing your homework and studying and looking at past performance, if there is somebody out there who is flat-out lying to you with the intention of cheating you, chances are, if you are a little individual investor, that guy is going to get the job done.

One of my particular stocks that really hurt me personally, because I had so much faith in it and it was such a good company for so long, I just saw the handwriting on the wall, but I just could not believe what was happening was going to happen. But it did.

The thing that can prevent this from coming about again is just what you have done, Senator: You put something in there that I feel is really going to get their attention. That is going behind bars. Because I do not care how much money you have got on the outside, if you are looking at jail time, I think these guys are going to give some serious thought before they hoodwink, swindle, lie, cheat, and steal from people like me.

Senator BAYH. I think you are right, Keith. That is why we put stiff jail time in there.

You know, if you hold up a five-and-dime and you take a couple hundred dollars, you end up going to jail, but in the past if you have stolen millions and millions of dollars, very often you have not. That is just not right. So I hope it will get their attention. I think you will see that some of these individuals are going to be living in public housing for quite some time. But it is not going to be a country club.

You mentioned something else that caught my attention. Now, you have got a pension from Ford; right?

Mr. TAYLOR. Yes, sir.

Senator BAYH. You have worked hard, and so you have been able to put a little bit of money away, and that has been taking a beating in the stock market. I assume you are also qualified for Social Security.

Mr. TAYLOR. Yes, sir.

Senator BAYH. Now, a lot of our seniors do not have a pension, and they have been able to save a little but not a lot, and so they rely really for a preponderance of their retirement income on Social Security. What kind of shape do you suppose they would be in if they had invested that money in the stock market, the last few years? I notice that you did not seem to think that was a good idea.

Mr. TAYLOR. Senator Bayh, I love Social Security; I always did. My parents were very, very fortunate to have it when they retired. Thank God I have got it, my wife and I, when we retired. It scares me, when reading the paper about people of high level want to diverse Social Security and let the individual invest their own money. Even people I worked with for the last 10, 15 years, because the stock market has been on a roll, everybody has this, "Gosh, if I could invest my Social Security money, look at what I would have!" You read in the paper where the advocates of changing Social Security as it is say, "Look what you could have if you only invested it and if you only had the right stocks!" Yes, right there is the key word, though: When you invest in Social Security, you are investing in the U.S. Government. I have faith and confidence the U.S. Government is always going to be there; Social Security is always going to be here; you are always going to have a pension come available from Social Security.

But if you are out there betting on the stock market, you just might as well go down to the racetrack and bet too. You may or you may not have anything when you get to that retirement age. I am thankful that Social Security was brought about, and thankful for having it like it is.

I think, if we ever let people take part of their Social Security and invest it individually, what is going to happen when these people, lose all of their pension, they lose all of their investments—what are we going to do? We are going to have to put them on welfare.

Senator BAYH. You are afraid that we would take the "security" out of Social Security if we changed it.

Mr. TAYLOR. That is right.

Senator BAYH. Well, thank you.

I assume that, like a lot of seniors, if they do not have a pension or much savings, that if their Social Security went down the drain, you would be in pretty tough straits; right?

Mr. TAYLOR. That is right.

Senator BAYH. Well, thank you very much, Keith. I do very much appreciate your being here, your sharing your experience with us, and your kind words about me.

Mr. TAYLOR. Senator, I certainly thank you.

I tell the ladies that helped me that, you know, I am 70 years old; first time I have ever given a public speech. So——

Senator BAYH. I think you did pretty well! Do you not think so? [Applause.]

Seventy years young, Keith.

Bill, a couple questions for you, Bill, and we will get the second panel up here.

I do not know how many of you were paying attention when Bill was speaking, but of the 65 retirement funds that are in the same category as the Indiana Teachers Retirement Fund, our Teachers Retirement Fund is the only one that had a positive return over the last year. The only one. They consistently rank in the top quartile of all of the pension funds against which they are compared.

My question to you, Bill, is, with all the turbulence in the markets—and I think one of our next panelists is going to point out the S&P 500 is down 40 percent or thereabouts over the last couple of years—how did you do this over the last year? Why were you the only one that had a positive return? What can some of our seniors who are here today learn about managing their own retirement savings based upon your performance?

Dr. CHRISTOPHER. Well, first of all, as you recall, since you were Governor at the time, it was not until 1996 and thereafter that we were able to invest in the equities markets. We had large investments in bond funds and in the fixed-income funds. Today we still have large investments in fixed-income funds. This is because it takes a long period of time to transfer everything over into an asset allocation plan that would include a lot of equities.

Senator BAYH. So one of the lessons we have learned is what they call dollar-cost averaging——

Dr. CHRISTOPHER. That is right.

Senator BAYH [continuing]. Where you do not put all your money into one investment at one point in time; you put it in over a longer period of time and you kind of take the—some of the ups and downs out the system?

Dr. CHRISTOPHER. Absolutely. My dad said, “You do not put all your eggs in one basket,” and that is certainly true in equity. You do not put it all in one basket; you need to have a very good asset allocation plan.

In fact they tell us that about 92 percent of any earnings that you can make on your investments would have to be because you do have an asset allocation that offsets the ups and the downs.

Senator BAYH. So that is the second lesson. The first is with regard to timing: You put it in over a longer period time, to take some of the ups and downs out. The second is asset allocation?

Dr. CHRISTOPHER. That is right.

Senator BAYH. So that even if you are putting it in over a longer period of time, you do not just put it all into stocks or one different kind of—not one kind of investment vehicle——

Dr. CHRISTOPHER. That is right.

Senator BAYH [continuing]. You spread it around, and that helps diversify.

So dollar-cost averaging, diversification——

Dr. CHRISTOPHER. That is——

Senator BAYH. Anything else you might share with the folks here today? Besides great management, the great leadership——

Dr. CHRISTOPHER. No, I agree——

No, actually I think it is in paying attention. You have got to really pay attention. It is not a job for the weak at heart; you have to pay attention on a day-to-day basis, what is going on, and make sure your assets are continuing——

Senator BAYH. So, an informed investor, having people here look at the sheet from AARP and elsewhere to learn about how to evaluate their investments in companies, that really——

You know, we can pass the best laws in the world, and we are trying, we are going to throw people in jail when they break the law, but as you point out, at the end of the day there is no substitute for honesty in the management of some of these companies. Bill, as you are pointing out, really our best defense is an informed consumer. As Keith pointed out, the most informed consumer, if they give you bogus numbers it is kind of hard to manage your investments, but as best you can you have got to try and stay on top of it.

Dr. CHRISTOPHER. Yes. I think that is—that also goes back and points out to everyone the importance of the legislation which was just passed, where we do have independent audits, where we are demanding that, where you have offered the leadership to make sure that we do have independent auditors, that we are—there are jail terms for not doing things in an appropriate and responsible manner, and I think that is really important.

Senator BAYH. Bill, one final question for you, and we will get our next panel up here.

Keith mentioned something, and I am sure it is frustrating to many people in the audience today and elsewhere across our State and country. You know, Keith felt a little powerless, he said, where the CEOs picked the board members and they kind of, you know, treat the CEO well in exchange for that, and he kind of just said, "Well, we cannot nominate members of the board and that kind of thing."

But one thing I have noticed that is going on, Keith, although it is hard for a single investor to have much impact, we are getting a lot more what they call "institutional shareholder activism." So your pension fund at Ford or the Indiana Teachers Retirement Fund are getting more active in scrutinizing management and saying, "Look, we are just not going to invest in certain kind of—in companies if you do not have certain kinds of rules and if you do not live by them."

So, Bill, I would like to ask you, are you at the Teachers Retirement Fund thinking about having standards that you will insist that companies abide by in terms of accounting standards and, you know, CEO and board relationships and things like that before we will invest our money in them?

Dr. CHRISTOPHER. We have——

Senator BAYH. Because, Keith, while your voice may not be heard, Ford Pension's voice will be heard, or Mr. Christopher's voice might be heard because he represents billions of dollars.

Dr. CHRISTOPHER. One of the really interesting things is that in the last few weeks we sent letters to all of our investment managers—we have about 32 companies that invest on our behalf—and we asked them to really look carefully at the stocks they buy and look at the leadership that is there and to look at what is going on in the corporate governance of those funds, to make sure that we are not being hoodwinked, as we suggested here earlier. I think that is the way we can put pressure on. If any is, we can vote the stock and vote the proxy, and we continue to do that and work together on it. I think we all have to work to get together to make it better.

Senator BAYH. You can vote the stock, and you can also vote with your feet by withdrawing the money.

Dr. CHRISTOPHER. Absolutely.

Senator BAYH. Might get their attention, too.

Dr. CHRISTOPHER. Right.

Senator BAYH. Well, gentlemen, thank you.

Let us express our appreciation to Bill and Keith. They are going to stay around, see if they can answer any questions from the audience.

Thank you.

Senator BAYH. If we could have Chuck and Elisse come up. Elisse, thank you. Chuck, thank you.

All right, let us get to the next panel. We are very fortunate to have Chuck and Elisse with us. Just a couple of words about both of them, and then we are going to get right to their statements.

Mr. Leven, is that how I pronounce it, Chuck? Leven?

Mr. LEVEN. Right.

Senator BAYH [continuing]. Was elected by the board of directors of the AARP to serve as Vice-President, Secretary-Treasurer. He also serves as chairman of the board's audit and finance committee.

Prior to his retirement in 1994, Mr. Leven served in a variety of positions in retail management, including senior vice-president of operations for Saks Fifth Avenue and Abraham's and Strauss.

Mr. Leven will discuss the importance of the recently enacted Corporate and Auditing Accountability Act, as well as what seniors have to do to protect their own financial interests.

Let us please welcome Chuck Leven.

STATEMENT OF CHUCK LEVEN, MEMBER, AARP BOARD OF DIRECTORS

Mr. LEVEN. Thank you very much. Good afternoon, Senator Bayh. My name is Chuck Leven. I am a member of AARP's board of directors.

On Seniors Day at the Indiana State Fair, it is good to see so many AARP members in the audience. [Applause.]

Go, team!

I appreciate this opportunity to offer AARP's assessment of the importance of the recently enacted Accounting Reform and Corporate Responsibility Act to the retirement security of older Americans.

We believe this new law has the potential to become one of the most important anticorruption reforms since the U.S. Securities & Exchange Commission was created during the Great Depression. While accounting is not the subject of many movies, it did provide the legal evidence on which Al Capone was sent to Federal prison during that era. As the saying goes, “The devil is in the details.”

Since then the stock market has developed in ways that make an increasing number the Americans feel they would be treated fairly. The trust encouraged more and more middle-income individuals and families to invest their savings in personal investments and through their pension funds. Investors who are 65 or older own approximately 17 percent of all mutual funds. Income from investments has become increasingly important to older Americans.

According to the Census Bureau, more than 28 million Americans over age 65 rely to some extent on investment income to meet their living expenses. Three quarters of older persons depend on investment income to meet 25 percent or more of their total income.

What Americans are demanding again today is stock markets that will provide them with equal access to the best information that is available so they or their money managers can fairly consider their investment choices and risks. Like the economy, we all know the stock markets can go down as well as up. So it has been the last couple of years.

One well-known measure of our stock market, the S&P 500 stock index, has gone down approximately 40 percent since the year 2000. The cumulative effect of the market's decline is to the real and widely felt loss to personal income and savings. That loss has been estimated to be well over $5 trillion.

In addition, mounting reports of accounting irregularities, corporate mismanagement, and bankruptcies have led to a loss of trust in corporate America, and a deepening mistrust of the stock markets. There has been a growing sense that only corporate and market-based insiders know how companies are really doing.

This crisis of investor confidence developed in spite of the fact that most Federal and state securities statutes and regulations have as their primary goal the promotion of fair and full disclosure of corporate and stock market information.

A consensus has emerged that our system of stock market regulation has been weakened by widespread conflict of interests, outdated regulatory checks and safeguards, and insufficient resources. There is also concern that company shareholders have been poorly protected because of inadequate oversight of corporate management.

The Enron Corporation's bankruptcy, which was filed in December 2001, sounded the alarm and spawned many investigations by the SEC and the U.S. Department of Justice and by the Congress. These investigations indicated to us that the stronger legislative medicine proposed by Senator Sarbanes of Maryland and eventually enacted with your help, Senator Bayh, was necessary to renew public trust in our stock markets.

For older Americans, whose retirement incomes are dependent on investments in our markets, the reforms put into effect as part of the Accounting Reform and Corporate Responsibility Act will bring critically important reassurance. The new act does strengthen criminal and civil penalties for fraudulent misbehavior by top corporate officials.

But perhaps more importantly in the longer term, the act establishes a new set of legally enforceable regulatory guidelines to make the accounting profession, corporate boards of directors, outside attorneys, stock analysts, rating agencies, and the SEC, more responsible for recognizing and preventing the wave of scandals we have recently seen.

But in the end reputable people will have to be selected to make the new system work. Above all, we must have qualified professional, dedicated to enforcement of this new law. Accurate corporate and market information is important, not just to individual investors and pension fund participants. Whether or not we have invested money in the stock market ourselves, we want those who do to put it into businesses that will make the best use of it to create jobs, to make and do the things that we need at the lowest possible prices, and for healthy businesses and their employees to pay their fair share of taxes, to support important programs that we all benefit from, like Social Security and Medicare. We can perhaps appreciate more today how important these programs are.

But it is also clear that ordinary investors will have to do more to protect their own financial interests. As a second act, Senator Bayh, I have attached to my written statement a copy of AARP's Investing Basics of the Stock Market. I believe copies of this document are available as handouts for today's audience.

One final comment: We believe that Congress has unfinished business. Particularly important to AARP is pending legislation to upgrade Federal pension law to better protect workers' retirement savings, particularly from the devastation of losses in employers' stock holdings. Of the 21 largest corporate bankruptcies filed since 1980, New Generation Research, Inc. reports that nine of those bankruptcies occurred within the last 19 months. Among these filings are the two largest corporate bankruptcies in American history: Enron and Worldcom, both of which declared themselves insolvent within the last 9 months. Thousands of retirees and thousands more whose retirement depended on the pension plans provided by these corporations have been victimized, with tragic personal consequences. More still needs to be done.

The Senate is scheduled to take up pension reform this fall. We believe the law should be amended to provide greater choice in pension investment, to ensure that employees are not loaded up with employers' stock preference. In addition, we should ensure that pensioners get quality investment advice, given by professionals who do not have a conflict of interest in the advice they have given.

Last, we should make sure that pensioners have an effective means to recover money lost due to fraud or wrongdoing.

Senator Bayh, you are an active and important member of several different Senate committees that have acted on these problems. We appreciate your efforts to help enact the Corporate Responsibility Act, and look forward to working with you on the unfinished parts of the reform agenda, particularly pension reform.

With these observations I will close. I will be happy to answer any questions.

[The prepared statement of Mr. Leven follows:]

MEMBER, AARP BOARD OF DIRECTORS

FOR THE INDIANA FIELD HEARING ON:

"RETIREMENT SECURITY AND THE PASSAGE OF THE ACCOUNTING REFORM AND CORPORATE RESPONSIBILITY ACT OF 2002"

BEFORE THE

U. S. SENATE SPECIAL COMMITTEE ON AGING

AUGUST 8, 2002
SENIOR BUILDING OF THE INDIANA STATE FAIR
INDIANAPOLIS, INDIANA

FOR FURTHER INFORMATION, CONTACT:
ROY E. GREEN
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Good afternoon Senator Bayh. My name is Charles ("Chuck") Leven. I am a member of AARP's Board Directors. On Seniors Day at the State Fair, it is good to see so many of AARP's members in the audience.

I appreciate this opportunity to offer AARP's views on the importance of the recently enacted

"Accounting Reform and Corporate Responsibility Act" on the retirement security of older Americans. We believe this new law has the potential to become one of most important anti-corruption reforms since the U.S. Securities and Exchange Commission was created during the Great Depression. While accounting is not the subject of many movies, it did provide the legal evidence on which Al Capone was sent to federal prison during that era. As the saying goes: "The devil can be found in the details."

Since then, the stock markets have developed in ways that made increasing numbers of Americans feel that they would be treated fairly. This trust encouraged more and more middle income individuals and families to invest their savings through personal investments and through their pension funds. And, according to the Investment Company Institute, Americans have been investing:

- Approximately one-half of American households own stock directly or through mutual funds;
- Nearly 40 million American households with incomes under $55,000 own mutual funds; and
- Approximately 17 percent of mutual funds are owned by investors who are 65 and older.

And income from investments has become increasingly important to older Americans. According to the Census Bureau, more than 28 million Americans over age 65 rely to some extent on investment income to meet their living expenses. Three-quarters of older persons depend on investment income to meet 25 percent or more of their total income.

We believe what ordinary American investors seek is not perfect information about each and every company listed on one of our stock exchanges, nor do they expect a guarantee of profit. We all know there are risks to be taken in business. But rather, what Americans are demanding is stock markets that will provide them with equal access to the best information that is available – so they, or their money managers, can fairly consider their investment choices and risks.

Like the economy, we all know the stock markets can go down as well as up. And so it has been in the last couple of years. One well-known measure of our stock market, the S&P 500 stock index, has gone down approximately 40 percent since the year 2000.

The cumulative effect of the markets' decline has been a real and widely felt loss of personal income and savings. That loss has been estimated to be well over $5 trillion dollars. In addition, mounting reports of accounting irregularities, corporate mismanagement and bankruptcies have led to a loss of trust in corporate America - and a deepening mistrust of the stock markets. There has been a growing sense that only corporate and marketplace insiders know how companies are really doing.

Making a bad market worse was the discovery that our system for assuring that our stock markets are open and fair was suffering from serious neglect. This crisis of investor confidence developed in spite of the fact that most federal and state securities statutes and regulations have as their primary goal the promotion of fair and full disclosure of corporate and stock market information.

A consensus has emerged that our system of stock market regulation has been weakened by wide-spread conflicts-of-interest, outdated regulatory checks and safeguards and insufficient resources. There is also concern that company shareholders have been poorly protected because of inadequate oversight of corporate management.

The ENRON Corporation's bankruptcy filing in December of 2001, sounded the alarm, and spawned many investigations by the SEC, the U.S. Department of Justice and by the Congress. These investigations indicated to us that the stronger legislative medicine proposed by Senator Sarbanes of Maryland – and eventually enacted with your help, Senator Bayh - was necessary to renew public trust in our stock markets. For older Americans whose retirement incomes are dependent on investments in our markets, the reforms put into effect as part of the "Accounting Reform and Corporate Responsibility Act" will bring critically important reassurance.

What the new Accounting Act boils down to is a decision by Congress to make clear who is responsible for seeing to it that the best information is made available to everyone who wants it. The new Act does strengthen criminal and civil penalties for fraudulent misbehavior by top corporate officials. But perhaps more importantly for the longer term, the Act establishes a new set of legally-enforceable regulatory guidelines to make the accounting profession, corporate board of directors, outside attorneys, stock analysts, rating agencies, and the SEC more responsible for recognizing and preventing the wave of scandals we have recently seen. But in the end, reputable people will have to be selected to make the new system work – above all they must be qualified professionals dedicated to enforcement of this new law.

Accurate corporate and market information is important not just to individual investors and pension fund participants. Whether or not we have invested money in the stock market ourselves, we want those who do, to put it into businesses that will make the best use of it to create jobs, to make and do the things that we need at the lowest possible prices, and for healthy businesses and their employees to pay their fair share of taxes to support important programs that we all benefit from -- like Social Security and Medicare. We can perhaps appreciate more today how important these programs are.

But it is also clear that ordinary investors will have to do more to protect their own financial interests. AARP research reveals that the growth in the percentage of Americans participating in – and dependent on - the stock market appears not to be well supported by a corresponding knowledge about basic investment features, charges and risks.

As a step in that direction, Senator Bayh, I have attached to my written statement a copy of AARP's " Investing Basics for the Stock Market". This helpful tip sheet can be downloaded from on our website: **www.aarp.org/confacts/money/investingbasics.html**.

I believe copies of this document have also been made available as handouts for those in our audience today.

One final comment: We believe that Congress has unfinished business. For example, and particularly important to AARP, is pending legislation to upgrade federal pension law to better protect workers' retirement savings, particularly from the devastation of losses in employer stock holdings. Of the 21 largest corporate bankruptcies filed since 1980, New Generation Research, Inc., reports that 9 of those bankruptcies occurred within the last 19 months (January 2001 through July of this year). Among these filings are the two largest corporate bankruptcies in American history, ENRON and WorldCom – both of which declared themselves insolvent within the last 9 months. Thousands of retirees – and thousands more whose retirement depended on the pension plans provided by these corporations - have been victimized with tragic personal consequences. More still needs to be done.

The Senate is scheduled to take up pension reform this fall. We believe the law should be amended to provide greater choice in pension investments and ensure that employees do not load up on employer stock in the plans. In addition, we should ensure that pensioners get quality independent investment advice; given by professionals who do not have a conflict-of-interest in the advice they are giving. And lastly, we should make sure that pensioners have an effective means to recover money lost due to fraud or wrong doing.

Senator Bayh, you were an active and important member of several different Senate committees that have acted on these problems. We appreciate your efforts to help enact the Corporate Responsibility Act, and we look forward to working with you on the unfinished parts of the corporate reform agenda – particularly pension reform.

With these observations I will close. I would be happy to answer any questions you may have.

Senator BAYH. Chuck, thank you very, very much.

I want to again thank AARP for the leadership role that you have played both in the accounting and corporate responsibility arena, and I am glad you mentioned the pension issue. That is going to be one of the top priorities when we return in September, and I am hopeful that we will be able to enact those meaningful reforms that you mentioned and have the President sign it into law yet this year. It would be a tragedy to have any other companies go under before we have had an opportunity here to protect those employees and retirees.

Thank you.

Elisse Walter is with us. She is the Executive Vice-President for regulatory policy and programs of the NASD. She oversees operating, legal, and policy activities at the NASD.

The NASD's core mission is to regulate the securities industry in order to protect investors and to insure market integrity. I think, Elisse, you are going to discuss with us investment-protection issues, and the ways in which the NASD serves to help investors.

So we thank you for your time.

By the way, both Elisse and Chuck are from New York State; we are grateful to have them with us. I have encouraged both of them to spend lots of money while they are here in Indiana. We appreciate you both.

Folks, let us give Elisse a warm welcome.

Thank you for joining us, Elisse.

STATEMENT OF ELISSE WALTER, EXECUTIVE VICE PRESIDENT, REGULATORY POLICY AND PROGRAMS, NASD

Ms. WALTER. Thank you, Senator Bayh. Thank you for the mission of spending money; I am very good at that.

On behalf of NASD I would like to thank you for the opportunity to be with you today at the State Fair and testify on investor and investment issues.

I was vividly reminded, in listening to Mr. Taylor earlier, that today's investor lives not on Wall Street but on Main Street. There are more than 84 million Americans and countless others in other countries who now participate in the securities markets, either directly or through mutual funds and pension plans. It is obvious that for a lot of them—in fact, for a lot of us—if we look at our 401(k) account balances, our mutual fund account balances, and our retirement plan balances these days, the result is really quite disheartening.

As a result, I think today, perhaps more than ever in the recent past, there is a huge demand for information about investing and investments. As Senator Bayh said in other words earlier, sound information is simply your best tool to protect yourself.

To meet this need, NASD is really uniquely situated to bring individual investors fair information. I cannot tell you where to put your money, but I can explain to you how—or at least some of the ways in which you can learn more before you invest.

Under the leadership of Congress, NASD has been working to protect investors and to make the markets more transparent and fair in these times, which certainly have challenged investors' confidence. For example, we recently adopted tough new rules which force research analysts to be more independent, and to make their recommendations more useful for all investors.

Senator Bayh, I would like to add my congratulations to those you have already heard today at your efforts in passing the new accounting reform bill. It is simply critical that investors be able to rely on the financial information that they are provided, and I certainly believe that the new system of regulation that the bill has enacted will have a very significant impact on investing in this country.

In particular I would like to highlight the new accounting oversight board, which is going to bring a system of private-sector regulation like that that NASD provides in the securities industry to the accounting profession.

NASD as an organization first came into being more that 60 years ago as part of the response to the Great Depression and the market crash of 1929. The Federal Government gave this private-sector body the authority to be a regulator for the securities industry, with the mission of protecting investors. Now, more than 60 years later, we have over 2000 employees and an annual budget of about $400 million. Those people and that money is devoted to the protection of investors. Because we are a private-sector regulator, like the new accounting board, that extra layer of protection does not cost the taxpayers a dime.

Under Federal law, every securities firm that does business with the public must be a member of the NASD. We regulate about 5500 brokerage firms, 90 thousand branch offices, and almost seven hundred thousand stockbrokers. Our mission includes writing rules for the firms and their employees, checking up to see if they are following the rules, and taking strong action against them if they do not. Our standards are not merely best practices or simply examples of what good behavior should be; instead, they are enforceable rules. We vigilantly monitor our firms and their staffs, and if they break our rules they experience enforcement with teeth.

One example, this year alone, acting jointly with Securities & Exchange Commission we brought a case and imposed sanctions of $100 million against a major investment banking firm for giving its favored customers special access to profitable stock deals when companies go public. Of course for a price.

NASD is doing everything that it can to ensure that our country's financial markets remain strong. Healthy securities markets attract investors, generate capital, create jobs, and spur economic growth. But they can only fulfill that promise if they are fair. On average, we bring more than one thousand new disciplinary actions every year, and we sanction our firms and their staffs with actions ranging from censures to fines to suspensions from being in the business, to permanent expulsion from the securities industry. Again, there is an analog here to certain provisions in the new accounting reform bill.

We add to our enforcement efforts by referring cases to the SEC, to the state authorities, and to criminal authorities. This is critical, catching people who violate the law and sanctioning them. It is critical both to individuals, and it is also critical to the markets and the investing community as a whole, including most of the people in the securities industry, who are law-abiding and play by the rules.

These people undermine investors' confidence. We can help by going after fraud and conflicts of interest. But at the end of the day regulators can never eliminate risk in the markets or do the homework that we as investors all need to do for ourselves. What we can do, though, is to help investors do their homework. I would like to highlight today two of the important programs we have that do just that, our investor education program and our public disclosure program.

Through our website and publications, we provide a range of information, tools, and resources. One of them is included in the folder you have today, that investors can use to educate themselves about all that the securities industry offers to them. We are expanding the breadth and depth of those offerings, and reaching out to new audiences, including retirees.

We have also created a Targeted Investor Protection, or what we call a TIP group, which is made up of experts from all our different departments, and their mission is to stop problem trends early, so that we can provide timely investor alerts to all of you, to help you steer clear of the problems rather than being caught short by them after you have already become involved. We have issued alerts on topics such as mutual funds and variable annuities, among others.

A critical first step is involved in our public disclosure program, and that is the question of, with whom do you invest? When you pick a stockbroker you should find you should find who that person is. We have a system that will enable you to find out about that person, what he or she has done, and what their disciplinary history is, and you can access that public disclosure program through our website at WWW.NASD.COM or through a toll-free telephone number.

Investors can also contact their state securities department to obtain information about brokers and to lodge complaints. In Indiana Brad Skolnik, who is here with us today, is the Securities Commissioner, who works hard to protect Hoosier investors. We work closely at the NASD with the States, including Brad, on the full range of issues relating to licensing and enforcement.

Our goal is not only to be the preeminent source of information for investors but also, first and foremost, to protect them. Despite our best efforts, at times people get hurt.

So what recourse do investors have? The first line of recourse is really for an investor to go back to the investment firm with whom he or she invests and submit a complaint to them, because the problem may be able to be taken care of at the firm itself. If investors are not satisfied with that, or if they choose instead to come to us first, they can lodge complaints with us, or with their state regulators, or with the Securities & Exchange Commission.

For us, investigating investor complaints is a large part of our job. There are thousands that we look at every year. You can submit a complaint to us either electronically or by letter through one of our district offices. With us today as well is Carla Romano, who heads our Chicago district office, and whose territory includes the great State of Indiana.

If none of those avenues work, investors should also know that NASD runs the largest and most effective securities dispute resolution forum in the country. We handle 90 percent of securities mediations and arbitrations. You can get more information about that as well on our website and in our publications.

To close, the entire financial industry depends on investor confidence. Our job, our complete and full mission, is to try to bring integrity to the markets and to protect investors. We have all been reminded all too recently that lasting confidence has to be based on that solid, good information and sound regulation.

Senator Bayh, I would urge your constituents to look to NASD for answers, information, and help.

Thank you. I would be happy to answer any questions.

[The prepared statement of Ms. Walter follows:]

NASD

Testimony

of

Elisse B. Walter

Executive Vice President
Regulatory Policy and Programs

Before the
Senate Committee on Aging

Hearing on Retirement Security

Indiana State Fair
Indianapolis, Indiana

August 8, 2002

Good afternoon. My name is Elisse Walter. I am the Executive Vice President for Regulatory Policy and Programs at NASD. On behalf of NASD, I would like to thank Senator Bayh for this opportunity to testify at the State Fair today about retirement security and investment issues.

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Walking through the livestock barns, the exhibition halls, and the midway here at this wonderful state fair reminds me that today's investor lives on Main Street, not Wall Street. More than 84 million Americans and countless others around the world now participate in securities markets – either directly, or through mutual funds and pension plans. And, it's obvious that, for a lot of people, looking at their 401(k) accounts, mutual funds and retirement plan balances these -days -is disheartening. Today, demand for ~~investment~~ information about investing and investments is huge. Simply put, sound information is your best tool to protect yourself.

To meet this need, NASD i~~provider of financial y services,~~s uniquely situated to bring individual investors fair information. While I can't tell you where to put your money, I *can* explain some of the steps that you can take to learn more before you invest.

Under the leadership of Congress, NASD has been working to protect investors and make the markets more transparent and fair in these times, which have challenged investors' confidence~~of corporate misfeasance~~. We recently adopted tough new rules forcing research analysts to be more independent and making ~~for~~ their recommendations ~~to be~~ more useful for ALL investors.

Senator Bayh, you are to be congratulated on your efforts at crafting and passing the accounting reform bill. As you know, ~~the new system of regulation for the accounting industry will help~~ iinvestors must be able to rely, with confidence, on the financial ~~have faith in the~~ numbers of our corporate issuers; the significance of the new system of regulation for the accounting profession cannot be overestimated. ~~behind the annual reports they rely on for investing.~~ And, t~~The~~is new oversight board~~for the accounting industry~~ will bring a model of effective regulation, like NASD, to the accounting profession.

~~looks a lit like the system of regulation that NASD provides for the securities industry.~~

~~First, I'd like to tell you a little bit about what NASD is.~~ NASD first came into being more than 60 years ago, as part of the response to the market crash of 1929 and the Great Depression. The federal government empowered NASD to be the private sector regulator for the securities industry – with the mission of protecting investors. Today, we have more than 2,000 employees and an annual budget of about $400 million dollars. And because we are a private-sector regulator, the extra layer of investor protection that we provide doesn't cost the taxpayers a dime.

Under federal law, every securities firm doing business with the public must be a NASD member. We regulate about 5,500 brokerage firms, 90,000 branch offices, and almost 700,000 stockbrokers.

NASD's mission includes writing rules that govern securities firms and their employees; checking up to see that they follow those rules; and punishing them if they don't.

Our standards are *not* mere "best practices" or simply examples of what good firms should do. Instead, they are enforceable rules. We vigilantly monitor our members and their staff. And if they break our rules they experience enforcement *with teeth.*

In one major 2002 settlement alone, NASD, acting jointly with the SEC, imposed sanctions of $100 million against a major investment bank for ~~extracting illegal paybacks from favored customers to whom it allocated "hot" initial public offerings (IPOs).~~ giving its favored customers special access to profitable stock deals when companies go public, for a price.

NASD is doing everything possible to ensure that our country's financial markets remain strong. Healthy securities markets attract investors, generate capital that companies need to grow, create jobs, and spur economic growth. But they can only fulfill their vast promise when the markets are fair.

On average, NASD brings more than 1,000 new disciplinary actions every year, with sanctions ranging from censures, to fines and suspensions, to permanent expulsion from the industry. We augment our enforcement by referring cases to criminal authorities, the states and the SEC.

Catching and sanctioning those who violate the law is critical because they harm both individual investors and the markets and industry as a whole – including the overwhelming majority in the securities industry who play by the rules. And they undermine investors' confidence in the integrity of our markets. NASD can help by going after fraud and policing conflicts of interest.

But at the end of the day, regulators can never eliminate the risk or do the homework investors have to do for themselves. We *can*, however, help investors do their homework – especially through two of our important programs: Investor Education and the NASD Public Disclosure System.

Through our Web Site and publications, we provide a wide range of information, tools and resources that investors can use to protect and educate themselves about all that the securities industry offers. Today, NASD is expanding both the breadth and depth of its offerings for investors. For example, we are reaching out to new audiences including retirees. ~~with offerings for students, women, and retirees; and making new publications available in Spanish.~~

We also have created a ~~the~~ Targeted Investor Protection (TIP) Group. Made up of experts from all major NASD departments, TIP's mission is to spot problem trends early and provide timely Investor Alerts that can help people steer clear of investment scams and problems – instead of just dealing with their sad aftermath. To date, NASD has issued ~~such~~ alerts on things such as ~~Promissory Notes~~Mutual Fund Share ~~Classe~~Classess and Variable Annuities. ~~y Exchanges; Stretch IRAs; Investing After the Markets Re-Opened; Anthrax and Terrorism Related Investment Scams; and Subordination Agreements.~~

A critical first step of doing business with a stockbroker is knowing who that person is. NASD's Public Disclosure Program gives investors easy access to information about brokerage firms and individual stockbrokers. We encourage investors to use it to learn about the conduct of those with whom they invest. Investors can request a report of this information through our website (www.nasd.com) or a toll free number (800-289-9999).

Investors can also contact their state securities department to obtain information about brokers and to lodge complaints. In Indiana, Brad Skolnik is the securities commissioner who works hard to protect Hoosier investors. NASD works closely with the states on the full range of issues ranging from licensing to enforcement.

NASD's goal is not only to be the preeminent source of information for individual investors, but first and foremost to protect them. Despite our best efforts, of course, some problems will occur. So what recourse do investors have if they've been misled or otherwise treated unfairly?

After notifying the brokerage firm's compliance department to discuss a broker's improper conduct, investors can also lodge complaints with NASD. Investigating these complaints is a big part of our job. You can submit a complaint through our

Senator BAYH. Thank you very much, Elisse. We appreciate your being here and your comments.

In addition to her insightful comments, Elisse is also a mind-reader: I was just handed a piece of paper, informing me that Brad Skolnik is with us. I wanted to acknowledge Indiana's Securities Commissioner, one of the top enforcement officials in the State of Indiana to root out securities fraud. So, Brad, it is good of you to come. Thank you. Thank you for being with us.

Just a couple quick questions, Chuck, for you and Elisse, and then we will take questions from members of the audience for either this panel or members of the first panel.

First, Chuck, Keith mentioned, on the first panel, the privatization of Social Security. I do not want to ask for AARP's official position, but do you have an opinion about what position investors would be in, as you know, many of our seniors do not have pensions; many of them have not been able to put away sufficient retirement funds. What kind of condition would they be in if they had been invested in the market here the last few years?

Mr. LEVEN. Well, let us go back to, first of all, Social Security.

Roughly 60 percent of the people who collect Social Security depend upon it almost entirely for their income.

So if you took that away, you would then have a huge increase in poverty-level people in the senior citizen group.

Senator BAYH. So, taking Keith as an example, he lost two thirds of his investment savings. So, as 60 percent of our retirees, all they can rely on is Social Security; if they lost two thirds of their Social Security, they would be down to only a third.

Mr. LEVEN. Complete disaster.

I will tell you AARP's position, since you were kind enough not to ask me. That is very simply this: We believe that Social Security is an insurance program. It is not meant to be an investment program. It is simple. An insurance program is one of the legs of a triangle. It must be retained pretty much as it is. Now, if the Congress in its wisdom wants to go beyond that and allow additional monies for private investment, that is all right.

Senator BAYH. Supplemental, but not——

Mr. LEVEN. Supplemental; right. [Applause.]

But Social Security must be kept intact. That is our strong position, and we will continue to stand with that.

Senator BAYH. Thank you, Chuck.

My second question for you would be, included in the handout that we provided to everyone is Investing Basics for the Stock Market. Could you share with us a few of the things that are on there for those who have not had a chance to look at it?

Mr. LEVEN. I think that some of the most important things you ought to know is: No. 1, develop your own financial plan. What do you really need when you are going to retire? How much money are you going to need to live on? How much cash should you have?

We recommend typically 6 months' worth of your expenses should not be in anything but a cash or some asset that could be quickly converted if needed.

Senator BAYH. What percentage is that, again?

Mr. LEVEN. I would say 6 months' worth of your living expenses.

Senator BAYH. Six months' worth.

Mr. LEVEN. Yes, to make it—if you can do that. Not everyone can, unfortunately.

We think that you should have a mix. Diversification is the key word: Diversify, diversify, diversify.

Fixed assets, fixed-income assets, and then of course equities.

I will tell you that, as with the teachers union, AARP has its own personal investment program. It has been largely in fixed-income, but we have now converted to some degree, because you have to change as the circumstances change. So you do need some financial advice, and you need it from independent advisors that you can get. That is very important. Not from an advisor who is paid by the company that the stock is suggested; that would obviously be not the thing to do.

I think the other thing you have to remember is that you make sure that you know what funds are insured by the FDIC and what are not. If you buy a mutual fund through a bank, it is not insured. The only thing that is insured is your cash investments, basically. I think that is important to know.

The other things you should know, in here we have a whole group of agencies you can contact—no charge to do this—and they will give you advice. There is plenty of advice out there. The thing you have to do is educate yourself. That is the responsibility of the individual.

Senator BAYH. Thank you.

A lot of great information in here from the AARP, and I would commend it to everyone here when you have a few minutes at home, tonight or over the weekend. It really is good advice.

So, Chuck, we appreciate your making that available to us. Elisse, a couple of questions for you.

You have mentioned that very often the first way to resolve a conflict is by contacting the investment company with whom you have a complaint, and if that does not work, then they can contact the NASD.

Just very briefly, could you—for someone I knew, if they have a complaint with an investment firm, could you walk us through, how would they go about filing such a complaint with them, or how would they go about contacting the NASD if they did not get satisfaction from their investment company?

Ms. WALTER. Certainly.

The people that you want to talk to at the brokerage firm generally are the compliance department, because their job within the brokerage firm is to take care of exactly these kinds of issues. They are essentially an internal watchdog, so that if you are not getting satisfaction from the person who is in charge of dealing with your money from your individual broker, you should ask to be transferred to the compliance department, and ask for the address of the compliance department, which is generally located in the headquarters of the firm.

Of course, when you have difficulty getting that information, that may be a sign that you are not going to get really good satisfaction.

As I said, to contact the NASD you can go to any of our district offices. Carla Romano's district office—and if Carla will raise her hand—is the one that is closest to you. The address of all those district offices I believe is in the publication that you have in your yellow folder. Those addresses are, of course, also on our website. Our website we keep trying to expand as much as possible to provide more and more and more useful information, not just to professionals in the investment community but to investors as well.

I would say, just ask you for one other favor, is that if you visit our website and there are things that you think that would be helpful to you that are not there, we would like to hear that. Because expanding our investor education efforts is something the NASD really wants to do and be more aggressive at doing.

Senator BAYH. Thank you, Elisse.

My final question for you, and then we will get to the audience's questions—something that Chuck mentioned, and I think NASD has taken some action on it already—and that is to promote analyst and advisor independence, where you get these conflicts of interest where somebody who is advising one of our seniors about how to invest their money may have, you know, financial interest in offering a particular kind of advice. Can you share with us the steps you have taken in trying to promote analyst independence?

Ms. WALTER. We have adopted a set of rules, and we have a little bit more work to do under the new legislation, but those rules really try to accomplish essentially three different things:

First, they try to improve disclosure about the conflicts that analysts have, because one has to face the fact that, if an analyst is working for a brokerage firm, that is not the same thing as having an analyst work for you.

So people need to understand the position people occupy, they need to understand certain things about stock ownership. So there are a lot of conditions in these rules about disclosure.

There are also certain provisions in the rules that prohibit conduct where it was thought that the conflict really was so severe that it really just should not be allowed.

Finally there are provisions, for example some charts that track stock price and reading some of the signs, to educate people about what research reports are all about.

I think one of the most important aspects of the rule is to try to break some of the conflicts by trying to control the people who are able to give input into the compensation that research analysts get. Because if research analyst compensation is governed by people who are out there selling new stocks, then those analysts are obviously going to be more likely to support those stocks. So there are provisions in the rules that try to break that tie.

Senator BAYH. Thank you, Elisse.

Let us now get to the audience questions.

I am going to ask David——

David Beebe is with us. He is the Deputy Director for the Bureau of Aging and In-Home Services. He is going to be the moderator of the question session here. Keith and Bill I think are also still available.

So let us collect the questions from anyone in the audience who has them, and we will answer to the best of our ability.

David, how are you? Thank you for helping out today. I appreciate it.

Also, before we get to our first question, I would like to ask everyone on my—I have really the benefit of having a lot of wonderful help from members of my own staff, who work for all of us. They do a great job. Catherine has been kind enough to sit behind us, close to here. Catherine, come on out of there. Sohini, raise your hand. Everybody who has helped us to put this together please raise your hand, because I would like to thank all the hard-working staff people here today for their help.

Thank you very much.

David, What is the first question? Who is it for?

Mr. BEEBE. It is a general question:

Will penalties for fraud and related financial misrepresentations as designated in the bill signed by the President last week be retroactive for all the perfect debacles in the last year?

Senator BAYH. Well, that is a good question.

I think it is actually against the Constitution of the United States to have retroactive penalties. I think that the penalties that are in place are effective as of the time of the crime. But if there are ongoing violations or new violations that are uncovered, then the stiffer penalties would apply to them.

I think that is the correct answer, is it not, Catherine?

So it is actually against the Constitution to go back and increase the—to make something illegal that was legal at the time, or to increase a penalty on something, greater than it was at the time of the act. But going forward, the penalties will clearly get higher.

I suspect that we may not have seen the end of some of these kind of disclosures, and so going forward we will definitely have stiffer penalties in terms of financial fines, and as Keith was pointing out, in terms of actual jail time.

Mr. BEEBE. This next question is related to that one:

What will the bill passed by Congress on corporate responsibility really do to punish CEOs?

Senator BAYH. Well, the financial penalties are higher; the jail time potentially is higher. There are going to be a whole host of things that—this business of using your company as a piggybank, taking out large loans, that kind of thing is going to be, in most cases, the vast majority of cases, prohibited. As I mentioned, if there is a situation where they cashed out at the top and then restate their financial results later, the profits from that kind of activity will have to be disgorged, returned to the company.

So there are a whole host of ways in which the CEOs are required to personally attest to the accuracy of the financial statements. Then there are stiff penalties for knowing violation of those kinds of requirements.

So there are a whole host of things that apply to CEOs, the CFOs, restrictions on the boards of directors for great independence there, and things of that nature.

I suspect that there—this is some pretty aggressive action, but I suspect it is not the final action that is going to be taken. We need to see how the SEC responds; we need to see how the courts interpret the law, and then continue to come back and press, and press, and press to plug other loopholes if they be proven to exist. But those are some of the things, in addition to others, that are included in the law that apply directly to CEOs.

Is there anything else? Chuck, would you or Elisse like to add to——

Mr. LEVEN. I think what you said is absolutely right: This is not an absolute cure. There are going to be other things that come up; you are going to have to keep an alert eye. But most importantly, the men and women who are put on this supervisory board are going to have to be determined and convinced that it is the right thing to do and enforce the regulations; otherwise it is going to be meaningless.

Senator BAYH. Chuck raises a good point. This does not apply specifically to the CEOs, but up until now the accounting profession, the auditors who actually were supposed to be the independent watchdogs to go in to look over the company's books to make sure that they were accurate, the accounting profession basically regulated itself. Now the body that is going to oversee the independent watchdogs, the accounting profession, will be independent. It is going to be funded separate from the accounting industry. Those who serve on it cannot be actively employed in the accounting industry. So there is going to be much greater independence and objectivity on the part of the independent outside auditors than has previously been the case.

There is also going to be substantial additional resources for the SEC, the enforcement activities of the SEC. There are so many financial filings today, I am under the impression, at least, that the SEC simply does not have the wherewithal to review a lot of them on a timely basis, and so we are going to able to have much more timely review and enforcement actions on the part of the SEC. So that is something that will be very helpful here as well.

Mr. BEEBE. This next question is kind of a combination of several that people asked:

How do you get help for seniors who, by the time they pay their bills, have nothing left for food and medicine they need? Several people are interested in what you are doing to help seniors obtain those medications.

Senator BAYH. First of all I want to correct something that I said that is hopefully the most serious error I will make today: Mr. Beebe's name is Doug, not David.

So just for the record and our reporter, here, Doug, we are grateful to you for all of your help.

Elisse, do you want to say what are some of the things that someone that feels they have been defrauded can do to help put things back together and they have really lost their life savings?

Ms. WALTER. Well, one of the systems that works if you are dealing with the securities industry is the arbitration and mediation system, which is a cheaper, faster way to try to get your money back. We try, when we can, if there are specific individuals that are involved in cases that we bring, we target the funds to be returned to the people from whom they were taken. Of course all of those things take time. In other aspects the court system has to be used rather than arbitration or mediation. But there are a variety of dispute-resolution mechanisms that you can turn to, at least with respect to the securities industry.

Senator BAYH. Doug, we operate mostly through deterrence and using the law enforcement mechanism. You know, clearly we would like to get some of this money back for investors through the companies. There will be shareholder lawsuits in most of these cases, I am sure, as well, that perhaps can regain some of the money for the individuals.

If the question was, though, was Congress going to appropriate actual tax dollars to compensate people, that has not been contemplated yet. There are some things to try and insure the integrity of pension funds, but in terms of actually taking tax dollars for repaying investors for the money that has been lost, that really has not been done in the past, and has not been done to date. So perhaps in the future there are some things that could be considered, but if that was the gist of the question, that has been not been done.

Mr. BEEBE. There was a side question about help with obtaining prescription medications in general, unrelated to the fraud question.

Senator BAYH. OK. Well, why I do not get into that—Why do not we deal with the subject at hand here, and I will be happy to talk about the price of——

Well, let me give you 2 minutes on that.

There is a big debate in Congress about the price of pharmaceuticals for all Americans, but for seniors in particular. There are a number of Medicare drug benefit bills that are being debated, that have been voted on, that have not been passed yet. It is my hope that we can at least cover people who have suffered catastrophic drug bills or people with low incomes, and also get some further discounts for those who have not suffered catastrophic losses or are on low income, so that we will bring the price of pharmaceutical prescriptions down.

In the Senate we did pass a bill that will expedite the process of bringing generic drugs to the market, which is one way to get prices down. But right now the House has one version, the Senate has another version, the President has other ideas. I am hopeful that by the end of this year we will be able to get this passed and bring the price of these pharmaceuticals down for all Americans, but for seniors in particular. There are some of us who think that this should be a part of Medicare. I believe that position has been endorsed by the AARP. I do not want to speak for Chuck and his organization.

We are off into the pharmaceutical or benefit debate here, Chuck. I believe AARP has endorsed, or at least your preference is to have the benefit provided as a part of Medicare. We have voted on that in the Senate. We actually had 52 votes in favor of that. Unfortunately, in the Senate it takes 60 votes to get something passed.

As a fallback, we then tried to at least cover people who had catastrophic losses, or who were in lower-income groups. That also did not get 60 votes.

But I think, my direct answer to your question is, although it has not been accomplished yet, I think we are going to be voting this again in September, and I would hope, and personally will support very strongly, trying to get something done to bring these prices down yet this year. I am hopeful in that regard, but it is tough because there are so many different ways to go about it, it is hard to get people to come together on that issue.

Chuck, anything you'd like to add, about a drug benefit through Medicare?

Mr. LEVEN. We believe that drug—prescription drugs should be a defined benefit within Medicare. We do not think it should be income-based, because Medicare is not an income-based program; it is not a welfare program, and we think that that is the way it should continue.

Consequently, that is the position that we most advocate, and will continue to advocate, hopefully with great enthusiasm, in the coming months.

Senator BAYH. I support the program that is endorsed by the AARP to provide a universal drug benefit just as a part of Medicare and the reason I do is that, when Medicare was first enacted back in 19——

It is very interesting: Do you know who got the first Medicare card?

Lyndon Johnson went to Independence, MO. Harry and Bess Truman received the first two Medicare cards.

Back then, pharmaceutical costs were a very small part of health bills. But today, of course, they are a very major part of health bills. So it makes sense, as Chuck was saying, to include a drug benefit as a part of Medicare: You are on Medicare, you receive it, everybody on Medicare receives it.

Unfortunately, there are some who are just adamantly opposed to that, for a number of reasons that I will not bother to get into right now. But that is my position, it is AARP's position, and I hope that we will ultimately be successful in having that prevail.

Doug is giving me this. I am going to stay around for a while. Those of you who would like to talk to me, I will be right down front here.

I would like to thank our panelists once again; I would like to thank all of you in the audience for your patience; everyone at the Indiana State Fair—when I say "Doug", you.

Ladies and gentlemen, I look forward to bringing this hearing back again next year to the Indiana State Fair, and I want to thank all of you for the honor of representing you in the U.S. Senate.

The hearing is now officially adjourned.

[Whereupon, at 3:32 p.m., the committee was adjourned.]

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