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Ignorance is Not Bliss: Financial Illiteracy, the Mortgage Market Collapse, and the Global Economic Crisis

Jeffrey T. Dinwoodie

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IGNORANCE IS NOT BLISS: FINANCIAL ILLITERACY, THE MORTGAGE MARKET COLLAPSE, AND THE GLOBAL ECONOMIC CRISIS

JEFFREY T. DINWOODIE*

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* Jeffrey T. Dinwoodie is a staff attorney in the Securities and Exchange Commission's Division of Trading and Markets. The Securities and Exchange Commission, as a matter of policy, disclaims responsibility for any private publication or statement by any of its employees. The author does not have any official responsibilities at the Securities and Exchange Commission for issues relating to financial literacy or investor education. The views expressed herein are those of the author and do not necessarily reflect the views of the Commission or of the author's colleagues on the staff of the Commission.

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INTRODUCTION

Americans do not understand matters relating to money as well as they should. Countless surveys and studies portray an unfortunate reality: millions of Americans – both young and old – are financially illiterate.¹ They lack the knowledge and skill necessary to make informed decisions and live a financially secure life. Widespread financial illiteracy leads to significant problems and has important public policy implications. For example, many of the troubles that Americans have with managing debt, saving for retirement, and making sound investment decisions relate, in large part, to their lack of understanding of finance, economics, and taxes.² One of the starkest examples of the consequences of financial illiteracy is found in the genesis of the global financial crisis – the meltdown of the housing market.

Experts from across the political and ideological spectrum agree that the financial illiteracy of millions of homebuyers played a significant role in the housing market collapse.³ The millions of home foreclosures that

¹ See *supra* Part I.A.

² See generally TIAA-CREF INST., *Financial Literacy: Evidence and Implications for Financial Education*, TIAA-CREF INST. TRENDS & ISSUES, May 2009, at 5-6 [hereinafter TIAA-CREF] (outlining several of the ways in which financial literacy and economic behavior are correlated and discussing many relevant studies).

³ The President's Advisory Council, described *infra* Part III.A.1.d., a 16-member group representing a diversity of organizations, wrote, in its 2008 Annual Report to the President, "While there are many causes to the economic problems facing the country, it is undeniable that a lack of financial literacy is a contributing factor. Far too many Americans entered into home and other loan agreements that they did not understand and ultimately could not afford." U.S. DEP'T OF TREASURY, PRESIDENT'S ADVISORY COUNCIL ON FINANCIAL LITERACY, 2008 ANNUAL REPORT TO THE PRESIDENT VII (2008) [hereinafter 2008 REPORT TO THE PRESIDENT]. The Press Release announcing a partnership between the Treasury Department and the Department of Education to launch a national financial capability challenge stated, among other things, "The Administration also

swept across the country occurred, in part, because millions of homebuyers lacked the skills, knowledge, judgment, and experience to evaluate risk; make responsible buying and borrowing decisions; plan, save, and budget appropriately; and protect themselves against fraud, abuse, and conflicts of interest.

This article examines the poor state of financial literacy in America, analyzes how financial illiteracy played a significant role in the collapse of the housing market, and provides recommendations for what government policymakers and private financial literacy advocates can do to address the financial illiteracy problem.

Part I provides relevant background information. It reviews many of the statistics and studies that show just how little many Americans know and understand about money. It also describes the substandard level of financial education currently delivered in American schools, workplaces, and homes.

Part II discusses the connection between financial illiteracy, the collapse of the housing market, and the financial crisis. It begins by

believes that individual Americans need better financial education and access to critical resources in order to make smarter financial decisions. Personal responsibility and increased knowledge, skills and access are critical to minimizing the risky financial behavior that contributed to this past economic crisis." Press Release, U.S. Dep't of Treasury, Administration Officials Promote Enhanced Financial Capability Among America's Youth (Dec. 15, 2009), available at <http://www.treas.gov/press/releases/tg446.htm>. Treasury Secretary Timothy Geithner recently remarked,

The failures that led to this financial crisis were many. . . . [I]n communities across the country, Americans borrowed too much, in part because they did not understand how to save prudently, how to borrow responsibly and they did not understand fully that pension values and house prices, equity prices will not always rise.

Timothy Geithner, U.S. Sec'y of Treasury, Remarks on Financial Capability (Dec. 15, 2009) (transcript available online at <http://www.ustreas.gov/press/releases/tg455.htm>). See also Posting of Ray Pallecchia, Vice President of Corporate Communications, New York Stock Exchange to Hope Blog (June 9, 2009) (on file with author) (opining that financial illiteracy is perhaps the least discussed cause of the financial crisis). Blame for both the collapse of the housing market and the overall financial crisis has also been directed at a wide range of actors, entities, and factors, including real estate brokers, mortgage companies, credit ratings agencies, politicians, Wall Street, cultural greed, government policies, and regulators. See Todd J. Zywicki & Joseph D. Adamson, *The Law & Economics of Subprime Lending*, 80 U. COLO. L. REV. 1, 2 (noting that lenders, borrowers, government regulators, and Wall Street all share blame for the subprime crisis); John P. Hunt, *Credit Rating Agencies and the "Worldwide Credit Crisis": The Limits of Reputation, the Insufficiency of Reform, and a Proposal for Improvement*, 2009 COLUM. BUS. L. REV. 109, 120-21 (describing how credit ratings agencies have been blamed, in part, for the worldwide credit crisis); Ben Steverman & David Bogoslaw, *The Financial Crisis Blame Game*, BUS. WK., Oct. 18, 2008, available at http://www.businessweek.com/investor/content/oct2008/pi20081017_950382.htm (discussing how outrage over the financial crisis has been directed at a wide range of actors, including mortgage brokers, Wall Street CEOs, real estate investors, experts who failed to predict the crisis, and regulators).

reviewing the origins of the financial crisis, including the real estate market boom and bust. It then analyzes how American homebuyers' lack of understanding of personal finances, basic economics, risk, and a series of other money-related topics contributed to the millions of home foreclosures that caused the housing market to collapse. While financial illiteracy was not, of course, the sole cause of either the collapse of the housing market or the financial crisis, its role was significant, and it has received too little attention up to this point.

Part III looks towards the future. It outlines the ongoing efforts in both the government and the private sector to improve financial literacy. It then provides two recommendations. First, it suggests that President Obama champion the cause of financial literacy and turn it into a national priority. To date, President Obama has not addressed the issue in a meaningful way. Second, it recommends that Congress require the states to provide financial education in their school systems. The current method, whereby the states decide how much, if any, financial education they provide in their respective school systems, has been ineffective.

I. BACKGROUND

A. *The State of Financial Literacy in America*

The fact that many Americans do not have a solid understanding of money-related matters is generally well known. Dozens of studies show that Americans of all ages struggle on tests about the fundamentals of personal finance and economics.⁴ For example, in a survey testing the proficiency of high school students on the basics of investing, insurance, mortgages, and other financial subjects, the students, on average, only answered 48.3 percent of the questions correctly.⁵ Studies illustrate that college students and American adults have similar gaps in their knowledge of these matters. In a study of first year college students' understanding of

⁴ See *infra* Part I.A.

⁵ Press Release, JumpStart Coalition for Personal Finance, Financial Literacy Still Declining Among High School Seniors, JumpStart Coalition's 2008 Survey Shows (Apr. 9, 2008) [hereinafter JumpStart 2008 Survey], available at <http://www.jumpstart.org/04-09-2008-financial-literacy-declining-among-high-school-seniors.html>. Since 2006, the average number of correct answers has fallen from 52.4 to 48.3 percent. *Id.* High school students also appear to be weak in economics. On a survey of basic principles of economics and personal finance, such as scarcity, allocation of goods and services, role of competition, role of money, and specialization and trade, sixty percent of the students that were tested earned a failing grade. HARRIS INTERACTIVE, NAT'L COUNCIL ON ECON. EDUC., WHAT AMERICAN TEENS & ADULTS KNOW ABOUT ECONOMICS 6 (2005) [hereinafter HARRIS, WHAT AMERICANS KNOW].

saving, investing, and risk, the students answered, on average, only 34.8 percent of the questions correctly.⁶ Adults who took a recent survey of their knowledge about money, interest rates, and inflation, earned an average score that was equivalent to the grade of a C.⁷

Research shows that Americans of all ages also have an alarmingly low level of expertise in what may be considered basic, everyday practices relating to money and personal finance. For example, a recent survey found that only 51 percent of teenagers knew how to write a check; only 34 percent of teenagers could balance a checkbook; and 26 percent of teenagers knew how credit card fees work.⁸ Adults also struggle with basic practices. For example, one survey found that 35 percent of all parents use cash or cash equivalents as the number one savings vehicle for their children's college education.⁹

⁶ Edgar J. Manton et al., *What College Freshmen Admit to Not Knowing About Personal Finance*, 3 J.C. TEACHING & LEARNING 43, 43 (2006). On a Jump\$tart survey of college students' understanding of personal finance matters, the college students earned an average score of 62 percent. Jump\$tart 2008 Survey, *supra* note 5. College students seem to be generally aware of their ineptitude around financial and economic matters. A recent survey found that only one in five college students consider themselves "very well prepared" for managing their money in college. Press Release, Harris Interactive, One-Third of College Upperclassmen Admit Being Financially Unprepared as Freshmen (Oct. 23, 2006), available at <http://www.harrisinteractive.com/news/allnewsbydate.asp?newsid=1108>. The survey also found that 32 percent of college students consider themselves "not at all" or "not very well prepared" for managing their money in college. *Id.*

⁷ TIAA-CREF, *supra* note 2, at 2. On a different study that tested the knowledge of adults on credit, saving patterns, mortgages and financial management, people could only answer about two-thirds of the questions correctly. *Id.* (citing Marianne Hilgert & Jeanne Hogarth, *Financial Knowledge, Experience and Learning Preferences: Preliminary Results from a New Survey on Financial Literacy*, 48 CONSUMER INTEREST ANNUAL 1-7 (2002)). Many American adults seem to be aware of their lack of knowledge of personal finance matters. A recent study found that 41 percent of U.S. adults (approximately 92 million people) "gave themselves a grade of C, D, or F on their knowledge of personal finance." HARRIS INTERACTIVE, NAT'L FOUND. FOR CREDIT COUNSELING, THE 2009 CONSUMER FINANCIAL LITERACY SURVEY FINAL REPORT (2009), <http://www.nfcc.org/Newsroom/FinancialLiteracy/files/2009FinancialLiteracySurveyFINAL.pdf> [hereinafter HARRIS REPORT].

⁸ Charles Schwab, *Teens & Money 2007 Survey Findings*, <http://www.aboutschwab.com/teensurvey2007.pdf> (last visited Mar. 27, 2010). This survey also reported that only 24 percent of teenagers know whether a check-cashing service is a good thing or bad thing to use. *Id.*

⁹ Lynthia Romney & Amy Dean, "The State of College Savings" Survey of Parents Finds Financial Education Pays: Knowing How Much to Save Closes Financial Education Gap, COLL. SAV. FOUND. 2 (2008), available at http://www.collegesavingsfoundation.org/pdf/CSF_Survey.pdf.

B. Financial Education in America

The dismal scores on financial literacy exams and surveys are not surprising given the sparse and inconsistent financial education and training provided in American schools, homes, and places of work.¹⁰

1. Schools

Although some changes are occurring,¹¹ American elementary, middle, and high schools have not traditionally included personal finance, economics, or tax lessons and coursework within their standard curriculums.¹² Since American public education is run primarily at the state level, the financial education provided in schools varies on a state-by-state basis.¹³

¹⁰ In a survey asking where people learned the most about personal finance, 37 percent of adults reported that they learned the most about personal finance from their parents or at home, and 9 percent of adults learned the most in school. HARRIS REPORT, *supra* note 7, at 4. In a different survey that asked people to name the most important ways they learned about managing their money, 62 percent of the respondents answered, “through personal finance experiences,” 16 percent answered “from friends and family,” and 8 percent answered “from high school and college courses.” DANNA MOORE, SOC. & ECON. SCI. RES. CENTER TECHNICAL REP. NO. 03-39, WASH. STATE U., SURVEY OF FINANCIAL LITERACY IN WASHINGTON STATE: KNOWLEDGE, BEHAVIOR, ATTITUDES, AND EXPERIENCES 28 (2003). In another survey, “69 percent of teens said that what they know about managing money, they learned from their parents.” Press Release, Capital One, Capital One’s Annual Survey Finds Back-to-School Shopping Will Be Impacted By Economy [hereinafter Capital One Press Release], available at <http://phx.corporate-ir.net/phoenix.zhtml?c=70667&p=irol-newsArticle&ID=1177193&highlight> (last visited May 13, 2010).

¹¹ See Part III.A. for an overview of the government and private sector efforts to improve Americans’ knowledge of money matters.

¹² One survey found that 14 percent of teens have taken a personal finance class in school. Capital One Press Release, *supra* note 10.

¹³ Since education is not specifically mentioned in the Constitution, it is reserved to the states and the people under the Tenth Amendment. See RICHARD S. VACCA & WILLIAM C. BOSHER, JR., LAW AND EDUCATION 5-17, (7th ed. 2008) (explaining that the absence of Constitutional language about education and schools and the application of the Tenth Amendment has provided state governments with responsibility for “establishing and maintaining public school systems” in America). As a result, there is no single, national public school system and each of the fifty states (and the District of Columbia) run their own school systems. *Id.*; see also KERN ALEXANDER & M. DAVID ALEXANDER, AMERICAN PUBLIC SCHOOL LAW 66-77 (5th ed. 2001); E. GORDON GEE & PHILIP T.K. DANIEL, LAW AND PUBLIC EDUCATION (4th ed. 2008) (providing an overview of the role of the federal and state governments in education); 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 22 (explaining that since public school education is conducted on a state-by-state basis, there is an inconsistent approach to financial education which results in individuals entering the workforce with varying degrees of knowledge and expertise on financial matters).

According to the Jump\$tart Coalition for Personal Financial Literacy (“Jump\$tart”), only three states currently require at least one-semester of coursework devoted to personal finance.¹⁴ Jump\$tart reports that eighteen states require personal finance instruction to be incorporated into other subject matters, and the remaining states have no such requirement, although personal finance may be taught electively.¹⁵ According to the National Council on Economic Education (“NCEE”), forty states have content standards for personal finance, and twenty-eight of those forty states require those standards to be implemented.¹⁶ NCEE reports that nine states require a course in personal finance to be offered, and seven states require personal finance courses to be taken.¹⁷

The incorporation of economic education appears to be slightly more widespread. According to NCEE, economics is now included, to some extent, in the educational standards of all states.¹⁸ Seventeen states require students to take an economics course as a high school graduation requirement, and twenty-three states require the testing of student knowledge in economics.¹⁹

2. Home

Another place where some Americans learn about money-related topics is in the home. There are inconsistencies and challenges relating to this delivery method too.²⁰ While most parents recognize the importance

¹⁴ See Jump\$tart Coalition for Personal Financial Literacy, State Financial Education Requirements, <http://www.jumpstart.org/state-financial-education-requirements.html> (last visited Dec. 20, 2009) (showing that Utah, Missouri, and Tennessee are the only states that have this mandate).

¹⁵ See *id.*

¹⁶ NAT'L COUNCIL ON ECON. EDUC., ECONOMIC, PERSONAL FINANCE & ENTREPRENEURSHIP EDUCATION IN OUR NATION'S SCHOOLS IN 2007 3 (2007).

¹⁷ See *id.*

¹⁸ *Id.*

¹⁹ See *id.*; HARRIS, WHAT AMERICANS KNOW, *supra* note 5, at 6 (reporting that only half of American high school students say they were ever taught economics in school). See *infra* Part III.A.2. for a discussion of the changes states are making to increase the level of financial education offered in their school systems and Part III.B.2. for the author's recommendation that Congress require each state to provide financial education in their public schools from kindergarten through twelfth grade.

²⁰ Sixty-nine percent of teenagers in one survey reported that “what they know about managing money, they learned from their parents.” Capital One Press Release, *supra* note 10. Similarly, the majority of the young adults surveyed in another study reported that they learned the most about money management from their parents. See Charles Schwab, 2009 Young Adults & Money Survey Findings 5 (2009), http://www.aboutschwab.com/media/pdf/YoungAdults_and_MoneyFactSheet.pdf.

of teaching their children about money,²¹ many parents fail to actually do so. According to one study, only 34 percent of parents taught their teenagers how to balance a checkbook, and only 29 percent of parents taught their teenagers about how credit card fees and interest work.²² Many parents are unable,²³ uninterested, or unwilling to teach their children about the basics of money.²⁴

3. *Workplace*

Some Americans learn about money-related topics in the workplace. Employers, however, offer differing levels of financial education: some employers offer a significant amount of financial education to their employees, while others offer very little or none. According to one source, approximately half of U.S. employees receive some form of financial education in the workplace.²⁵ The level of financial education provided appears to be related to an employer's size and level of resources as approximately 80 percent of small and medium-sized independent businesses offer no financial education to their employees and have no plans to do so.²⁶ Of the financial education and training that employers do

²¹ Sixty-three percent of parents consider learning about budgeting to be more important for teens today than was the case when the parents themselves were young. Press Release, Charles Schwab, Schwab "Parents & Money" Survey Offers Prescription for Raising Financially Healthy Kids (Mar. 26, 2008), available at http://www.businesswire.com/portal/site/schwab/?ndmViewId=news_view&newsId=20080326005384&newsLang=en. However, only 49 percent of these parents have taught their children the basics of budgeting. *Id.* Similarly, 55 percent of parents consider learning about credit card management to be more important for today's teens than was the case when the parents themselves were young. *Id.* However, only 29 percent of these parents have taught their children the basics of credit card management. *Id.*

²² *Id.* But see Press Release, Visa, Most Parents Talk to Their Kids About Using Money Wisely, Visa Study Finds (Aug. 12, 2008), <http://corporate.visa.com/media-center/press-releases/press821.jsp> (finding that 85 percent of parents say they talk to their child regularly about money management).

²³ Many parents are unable to provide adequate financial education and instruction to their children because they themselves are financially illiterate. See 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 14 (noting how many parents themselves lack personal finance skills and thus are unable to teach them to their children).

²⁴ *Id.*

²⁵ Ruth Helman et al., *Will More of Us Be Working Forever? The 2006 Retirement Confidence Report*, 292 EBRI 1, 5 (2006).

²⁶ Lewis Mandell, Ph.D., *Financial Education in the Workplace: Motivations, Methods, and Barriers*, 2008 ASSET BUILDING PROG. NEW AM. FOUND. 5, available at http://www.newamerica.net/publications/policy/financial_education_workplace.

provide, a significant amount of it is focused on retirement planning and the benefits offered by the employers.²⁷

II. THE MORTGAGE CRISIS: A CASE STUDY OF THE EFFECTS OF FINANCIAL ILLITERACY

The widespread financial illiteracy described in Part I.A. has serious implications for society. One of the most recent and painful examples of the consequences of the population's financial illiteracy is found in the roots of the global financial crisis – the collapse of the housing market.²⁸ American homebuyers' lack of knowledge and understanding of personal finances, economics, risk, and money-related subjects in general was a major cause of the millions of home foreclosures and the collapse of the housing market.

A. *The Collapse of the Housing Market*

Between 1997 and 2005, a massive bubble developed in the global housing market.²⁹ During this period of low interest rates, home prices increased steadily as Americans bought homes in record numbers.³⁰ Lenders and financial institutions, in part encouraging the buying frenzy and in part reacting to it, loosened their lending standards³¹ and started offering loans to less creditworthy “subprime borrowers.”³² To make it

²⁷ 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 23; *see also* Mandell, *supra* note 26, at 2, 5, 12 (noting that most financial education received in the workplace relates to retirement benefits and planning and that relatively few employers offer financial education that is not closely related to the employer's benefit plans). An employer's level of resources is often a determining factor in the level and amount of financial education that it offers to its employees. Only 10.6 percent of small and medium sized independent businesses offered non-retirement-related financial education to their employees. *Id.* at 5.

²⁸ *See* ROBERT J. SHILLER, *THE SUBPRIME SOLUTION* 29 (2008) (“The housing bubble was a major cause, if not *the* cause, of the subprime crisis and of the broader economic crisis . . .”).

²⁹ *Id.* at 5 (noting that from 1997 through 2005, homeownership rates in the United States rose in all geographic regions, and for all age, racial, and income groups).

³⁰ *See generally* Sarah Max, *The Bubble Question: How Will Rising Interest Rates Affect Housing Prices?*, CNNMONEY.COM, July 27, 2004, http://money.cnn.com/2004/07/13/real_estate/buying_selling/risingrates/index.htm (noting that low interest rates make it cheaper to purchase homes and that home prices nearly doubled between 2001 and 2004 in areas of California and Florida); SHILLER, *supra* note 28, at 5 (discussing the dramatic increase in homeownership).

³¹ SHILLER, *supra* note 28, at 29 (observing that the perception that real estate prices would continue to increase influenced lenders and financial institutions to loosen their standards).

³² *See* EDWARD M. GRAMLICH, *SUBPRIME MORTGAGES: AMERICA'S LATEST BOOM AND BUST 2* (2007), for a discussion of the difference between the “subprime” borrowers who largely

possible for more people to buy homes, lenders developed several new alternative mortgage products,³³ many of which, such as adjustable rate mortgages (“ARMs”), contained sophisticated features and payment schedules.³⁴ The federal government also played a role in the development of the housing bubble. Government “affordable housing” policies and the politically popular goal of increasing homeownership rates contributed to reduced lending standards, loosened underwriting requirements, and ultimately, a distorted mortgage finance market.³⁵

In 2006, the housing bubble began to burst.³⁶ Interest rates rose³⁷ just as the low, introductory rates on many of the thousands of ARMs began to end.³⁸ To the surprise of many,³⁹ housing values leveled.⁴⁰ The

made up the new housing ownership boom during the 21st century and the “prime” borrowers who had mostly made up earlier home ownership booms. See Zywicki & Adamson, *supra* note 3, at 9-10 for a description of how lenders make up for the increased risk they take on when lending to subprime borrowers.

³³ See Allen J. Fishbein & Patrick Woodall, *Exotic or Toxic? An Examination of the Non-Traditional Mortgage Market for Consumers and Lenders*, 2006 CONSUMER FEDERATION OF AMERICA 1, 14 (providing a useful overview of some of the factors that led to the development of non-traditional mortgage products).

³⁴ Traditional mortgages generally contain a schedule of fixed payments over a 30-year period. ARMs, on the other hand, generally contain two or three years worth of low, introductory payments, after which the required payments adjust based on an interest rate index. See *id.* at 9 for an overview of ARMs.

³⁵ See generally STAFF OF H. COMM. ON OVERSIGHT AND GOV'T REFORM, 111TH CONG., THE ROLE OF GOVERNMENT AFFORDABLE HOUSING POLICY IN CREATING THE GLOBAL FINANCIAL CRISIS OF 2008 (Comm. Print 2009) (providing a history of the federal government's “affordable housing” initiatives, most notably, Fannie Mae and Freddie Mac, and analyzing the role these initiatives played in creating the housing bubble); Peter J. Wallison & Edward J. Pinto, *A Government-Mandated Housing Bubble*, FORBES, Feb. 16, 2009, available at http://www.forbes.com/2009/02/13/housing-bubble-subprime-opinions-contributors_0216_peter_wallison_edward_pinto.html (describing how the government distorted the mortgage finance system through the Community Reinvestment Act, congressional pressure, and the creation and existence of Fannie Mae and Freddie Mac); Carol D. Leonnig, *How HUD Mortgage Policy Fed The Crisis*, WASH. POST, June 10, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/06/09/AR2008060902626.html> (discussing how the U.S. Department of Housing and Urban Development, under both Presidents Bill Clinton and George W. Bush, helped fuel risky lending by requiring Fannie Mae and Freddie Mac to purchase more “affordable” loans made to lower income borrowers, thus helping to create the subprime lending market).

³⁶ Cf. Jennifer E. Bethel et al., *Legal and Economic Issues in Litigation Arising from the 2007-2008 Credit Crisis*, in THE HARVARD JOHN M. OLIN DISCUSSION PAPER SERIES 16-17 (discussing the crisis in the mortgage lending market).

³⁷ See GRAMLICH, *supra* note 32, at 7 (noting that rising short-term interest rates caused stress on the subprime market). See generally Gretchen Morgenson & Vikas Bajaj, *Rising Rates Squeeze Consumers and Companies*, N.Y. TIMES, June 15, 2007, available at <http://www.nytimes.com/2007/06/15/business/15bond.html> (describing the effects of rising interest rates on the mortgage market and the ability of homeowners to refinance).

³⁸ See Fishbein & Woodall, *supra* note 33, at 2 (noting that the majority of the non-traditional mortgages that originated during 2004 and 2005 would adjust in 2006 and 2007).

combination of rising interest rates and leveling housing values hindered the ability of many homebuyers to refinance their mortgages.⁴¹ Since they could not refinance, thousands of buyers could not make their mortgage payments, and as a result, started defaulting on their mortgages.⁴²

The housing market crumbled as the rising interest rates and early defaults created a disastrous feedback loop. Higher interest rates made it less desirable to buy homes.⁴³ As a result, buying demand slowed and housing values were reduced further.⁴⁴ With housing values dropping, refinancing became even more difficult, causing even more borrowers to default on their mortgages.⁴⁵ The additional foreclosures increased the supply of homes on the market and further reduced home values.⁴⁶

The collapse of the housing market had a devastating effect on the economy in several respects.⁴⁷ For example, homeowners across America

³⁹ See *infra* Part II.B.1.a for a discussion of the problems caused by the widespread assumption that housing values would continually rise.

⁴⁰ See GRAMLICH, *supra* note 32, at 7 (reporting that the rise in housing prices began to slow in 2006).

⁴¹ See Fishbein & Woodall, *supra* note 33, at 8 (warning that “[i]f real estate prices declined, payment option borrowers would not be able to use refinancing or resale as an escape hatch . . .”). Morgenson & Bajaj, *supra* note 37 (describing how interest rate increases make it more expensive to refinance mortgages); Tim Gray, *Navigating a Path Through a Turbulent Housing Market*, N.Y. TIMES, Sept. 16, 2007, available at <http://www.nytimes.com/2007/09/16/business/yourmoney/16mortgage.html> (describing the ways in which rising interest rates are harmful to mortgage borrowers); Bob Tedeschi, *It Seemed Like a Good Bet at the Time*, N.Y. TIMES, Sept. 24, 2006, available at <http://www.nytimes.com/2006/09/24/realestate/24cov.html> (noting that many borrowers that had purchased homes during the boom and many whom had used the new mortgage products relied on the belief that rates would not rise too steeply when the loans adjusted).

⁴² See Tedeschi, *supra* note 41 (noting that the rising interest rates “caught many homeowners in a ‘can’t pay, can’t sell, can’t refinance’ vise, in which their ARM payments [were] outpacing their incomes and their homes [had] not appreciated enough to help cover the cost of a refinanced mortgage or to allow them to sell and walk away.”).

⁴³ See Max, *supra* note 30 (noting that low interest rates were the driving force behind the real estate market’s unprecedented rise around the year 2004 and low interest rates allow buyers to afford higher home prices).

⁴⁴ See *id.*

⁴⁵ See Symposium, *Financial Literacy in Times of Turmoil and Retirement Insecurity*, 2009 THE BROOKINGS INST. 12 (reporting that in 2008, there were 2.3 million home foreclosures in America, an 81 percent increase from the number in 2007).

⁴⁶ The foreclosures reduced the values of other homes in several ways. See, e.g., MARK ZANDI, FINANCIAL SHOCK: A 360° LOOK AT THE SUBPRIME MORTGAGE IMPLOSION, AND HOW TO AVOID THE NEXT FINANCIAL CRISIS 173 (2009) (noting that rising foreclosures drove up inventories and, in turn, drove down prices and homeowners’ equity); ADAM MICHAELSON, THE FORECLOSURE OF AMERICA 294 (2009) (noting that the foreclosed homes that sat empty, attracted squatters, crime, and vandalism).

⁴⁷ See Barney Frank, *The Case for a Housing Rescue*, WASH. POST, Mar. 9, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/07/AR2008030702896.html> (explaining the

experienced significant losses in the equity they had built up in their homes when housing values plummeted;⁴⁸ demand for the homebuilding and construction industries slowed since there were so many homes on the market;⁴⁹ and local and state governments suffered budget problems as tax revenues were reduced.⁵⁰ The capital markets were affected too. During the housing boom, many financial institutions and investors had invested heavily in mortgage backed securities (“MBSs”)⁵¹ – securities based on mortgage payment streams. When homeowners stopped making mortgage payments, MBS values plummeted and caused tremendous losses in portfolios throughout the world.⁵²

These events sent shockwaves throughout the global economy: credit markets froze, confidence in the system evaporated, and the Financial Crisis of 2008 was born.⁵³

far reaching consequences of home foreclosures: “First, the people who own homes in those neighborhoods that have a high rate of foreclosures will see their property values decline, and a spread of blight will diminish the quality of their lives. Second, communities where foreclosures cluster are hit with a double whammy – a need for more public safety and other services to deal with the foreclosed properties as well as a drop in the tax revenue that occupied homes contribute. Third, the economy as a whole weakens as the problems spread even more widely.”)

⁴⁸ See ZANDI *supra* note 46, at 217-18 (discussing the significant home equity losses incurred as a result of the decrease in value of real estate).

⁴⁹ See MICHAELSON, *supra* note 46, at 154 (noting how the large supply of homes on the market caused homebuilders to stop building). The slowdown of the homebuilding industry had a significant impact on the entire economy, including a noticeable impact on America’s real GDP. See ZANDI, *supra* note 46, at 216 (explaining how “[r]esidential construction had added nearly a half percentage point to real GDP steadily during boom [and] it subtracted a full percentage point from yearly growth during the [housing market] crash”). The slowdown in the homebuilding industry caused other damage throughout the economy, including, for example, a reduced need for home construction-related supplies and items such as steel, cement, lumber, tools, and plumbing fixtures. *Id.*

⁵⁰ ZANDI, *supra* note 46, at 216 (explaining that the housing market collapse reduced tax revenues in at least two respects: (1) market value drops led to lowered property assessment values and (2) the emptied homes did not pay taxes).

⁵¹ See generally *Mortgage-Backed Securities*, N.Y. TIMES, <http://topics.nytimes.com/top/reference/timestopics/subjects/m/mortgage-backed-securities/index.html> (last visited Jan. 20, 2010) (describing how MBSs were traditionally considered to be extremely safe assets since mortgage default rates were low and mortgages were typically guaranteed by Fannie Mae and other third parties); RICHARD A. POSNER, *A FAILURE OF CAPITALISM: THE CRISIS OF '08 AND THE DESCENT INTO DEPRESSION* 49-50 (2009) (discussing how the value of MBSs depend on the mortgage revenue derived from the residential mortgages that “back” the securities).

⁵² *Credit Crisis – The Essentials*, N.Y. TIMES, http://topics.nytimes.com/top/reference/timestopics/subjects/c/credit_crisis/index.html (last visited Jan. 20, 2010) (describing how many financial institutions realized that their portfolios “were tainted with what came to be called toxic mortgages.”).

⁵³ President Obama summarized the connection between the home foreclosures, the

B. *The Role of Financial Illiteracy*

Financial illiteracy played a significant role in causing the wave of foreclosures that swept across the country. During the housing boom and bust, millions of people lacked the skills, knowledge, judgment, and experience to make responsible buying and borrowing decisions, evaluate risk, understand contract terms, plan and budget appropriately, and protect themselves against fraud, abuse, and conflicts of interest.

1. *Ignorance of Basic Economic and Personal Finance Principles*

a. *Belief of Continually Rising Home Values*

Thousands of borrowers made their buying decisions, in part, on the widely held belief that housing values would perpetually rise.⁵⁴ This misconception influenced the buying decisions of millions of borrowers in several different ways:⁵⁵

- Borrowers believed that since home values were certain to continually rise, they were guaranteed to be able to refinance their mortgages.⁵⁶ As a result, borrowers stretched and agreed

mortgage crisis, and the global financial crisis deftly in a recent speech, when he remarked,

We could not separate what was happening in the corridors of our financial institutions from what was happening on the factory floors and around the kitchen tables. Home foreclosures linked those who took out home loans and those who repackaged those loans as securities. A lack of access to affordable credit threatened the health of large firms and small businesses, as well as all those whose jobs depended on them. And a weakened financial system weakened the broader economy, which in turn further weakened the financial system.

Barack H. Obama, President of the U.S., Remarks by the President on Fin. Rescue and Reform (Sept. 14, 2009) [hereinafter Obama, September Speech] (transcript available at http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-Financial-Rescue-and-Reform-at-Federal-Hall/). Further details of the global financial crisis are beyond the scope of this article. See *Timeline of a Crisis*, WALL ST. J., Mar. 17, 2008, <http://online.wsj.com/article/SB120576387418941803.html>, for a listing of some of the key dates and events that occurred between June 2007 and March 2008 as the collapse of the housing market sparked the global financial crisis.

⁵⁴ Timothy Geithner, U.S. Sec'y of Treasury, Remarks on Fin. Capability (Dec. 15, 2009) (transcript available online at <http://www.ustreas.gov/press/releases/tg455.htm>) ("Americans borrowed too much, in part because they did not understand . . . that . . . house prices . . . will not always rise.").

⁵⁵ See ZANDI, *supra* note 46, at 61-62 (describing the widely held belief that home prices would stay high permanently).

⁵⁶ *Id.*

to mortgage terms that were beyond what they could reasonably afford.⁵⁷ Similarly, many borrowers entered into ARMs knowing that they would not be able to afford the higher payments that would be due when the low, introductory rates ended.⁵⁸ Many of these borrowers thought that their home values were guaranteed to rise, and they assumed that they would be able to refinance their ARMs.⁵⁹

- Many borrowers purchased second and third homes, based on the belief that the homes would be sound investments since home values were supposedly continually rising.⁶⁰
- Thousands of people bought homes with the intention of reselling them shortly thereafter to take advantage of the supposedly guaranteed rise in values.⁶¹ Many of these “flippers” were unable to sell the homes when prices leveled and buying demand slowed.⁶²

The common belief that housing values would continually rise would likely have been less prevalent if more people had a better understanding of economics. People with a basic knowledge of economics are generally familiar with the concepts of market cycles and bubbles and are more likely to be skeptical of claims that the price of anything is guaranteed to rise in perpetuity.⁶³

⁵⁷ See *id.*; SHILLER, *supra* note 28, at 123 (noting that many people who took out adjustable rate subprime mortgages did not know that there was a possibility that they would not be able to refinance their mortgages).

⁵⁸ See MICHAELSON, *supra* note 46, at 153, 323 (describing the common belief among borrowers that they would be able to refinance their ARMs when the introductory rates ended since housing prices were assumed to continue to rise and reporting that many borrowers believed that they would always be able to “Refi” [refinance] if they were unable to make their mortgage payments).

⁵⁹ *Id.* at 323.

⁶⁰ See ZANDI, *supra* note 46, at 62 (noting that the widespread belief that prices would remain permanently high influenced some buyers into buying second homes).

⁶¹ *Id.* at 59–62 (discussing how many flippers were influenced, in part, by the belief that prices would remain high); see also Tedeschi, *supra* note 41 (describing one anonymous owner who financed a home with an ARM and admitted that “[t]he loan was an afterthought, since he expected to sell the house almost immediately for a profit.”).

⁶² See ZANDI, *supra* note 46, at 62.

⁶³ Cf. MICHAELSON, *supra* note 46, at 330 (calling on society to teach all children the danger of value bubbles and how to recognize them).

b. *The Importance of Understanding Contracts*

Many borrowers were not aware of or did not appreciate the importance of knowing and understanding the terms of their mortgages.⁶⁴ As will be discussed, some borrowers tried to understand their mortgages, but were unable to do so.⁶⁵ Many borrowers, however, were unaware of the importance of knowing and understanding the terms of their mortgages, and thus did not read or attempt to understand the contracts to which they agreed.⁶⁶

c. *Lack of Economic Intuition*

Millions of Americans lacked the fundamental economic instincts and intuition to question whether they could realistically afford the homes that they purchased that had previously been outside of their range of affordability.⁶⁷ A basic knowledge of the fundamentals of economics and personal finance would have made buyers more skeptical of whether they could realistically afford many of the homes that were purchased during the housing boom.⁶⁸ Many borrowers failed to obey old adages such as

⁶⁴ See *id.* at 133-38, 252-55 (describing "Lisa," a homeowner who was surprised when she received a second monthly loan bill and acknowledged that she should have read the loan paperwork more carefully and Susan Evans, a homeowner who was surprised by the fact that she actually signed up for two loans on her new mortgage); GRAMLICH, *supra* note 32, at 94 (opining that increased financial literacy would enable people to understand the long-term implications of financial contracts); Zywicki & Adamson, *supra* note 3, at 71 (noting that many homebuyers do not even attempt to read through the documents accompanying their mortgage, and if they did try to read through them, many would still not be able to make sense of them); Alan M. White & Cathy Lesser Mansfield, *Literacy and Contract*, 13 STAN. L. & POL'Y. REV. 233, 233 (2002) (noting that many consumers do not actually read contracts or disclosures).

⁶⁵ See *infra* Part II.B.2.

⁶⁶ See *supra* note 64.

⁶⁷ See GRAMLICH, *supra* note 32, at 93-94 (commenting that financial literacy would help people realize that apparent free money is really not free and noting that mortgage borrowers would not make as many unwise decisions if they better understood how mortgages work, how financial markets work, and how economics in general works).

⁶⁸ See *id.* Admittedly, financial illiteracy was not the only cause of the avalanche of home foreclosures. Other factors, such as greed and imprudent borrowing on the part of homebuyers and fraud and deception on the part of brokers and lenders also played significant roles. See generally Frank, *supra* note 47 (explaining that the foreclosures occurred not only as a result of some people's imprudent borrowing decisions, but also because some borrowers "were misled, were deceived or were in other ways the victims of unfair lending practices."). There are numerous reports of the fraud and abuse perpetuated against buyers. See Alan M. White, *The Case for Banning Subprime Mortgages*, 77 U. CIN. L. REV. 617, 634 (explaining how the subprime mortgage sector has been plagued by fraud and predatory lending).

“there is no such thing as free money,” and “some things are too good to be true.”⁶⁹ It appears that borrowers overlooked other red flags as well, such as some of the statements made to them by mortgage brokers, many of which would have likely raised questions in the minds of more financially literate people.⁷⁰

2. *Lack of Understanding of Mortgages*

Many borrowers did not understand the terms and mechanics of their mortgages.⁷¹ While studies have shown that Americans have difficulty understanding a significant number of all contracts, mortgages present particular problems.⁷² Mortgages are complicated agreements, laden with sophisticated financial terms and concepts. The slew of new mortgage products developed during the housing boom (e.g., ARMs,⁷³ interest-only mortgage loans,⁷⁴ and payment options)⁷⁵ contained particularly complex financial terms and characteristics. For example, in order to take into account the individual, borrower-specific circumstances of subprime borrowers,⁷⁶ lenders commonly created mortgages that contained unique and borrower-specific terms and features.⁷⁷

As a result of the sophisticated nature of mortgages and the prevalence of highly customized mortgages during this period, many borrowers did

⁶⁹ See *supra* note 67 and accompanying text.

⁷⁰ See discussion *infra* Part II.B.3.b.

⁷¹ ZANDI, *supra* note 46, at 97, 237 (“[E]ven an economist adept at manipulating spreadsheets would have trouble calculating future payments on an interest-only or ‘option’ ARM loan.”).

⁷² See White & Mansfield, *supra* note 64, at 239–41 (discussing how many Americans do not have the requisite literacy to comprehend the complexity of most contracts and disclosures, including mortgages).

⁷³ See Fishbein & Woodall, *supra* note 33, at 9–12 for an explanation of the mechanics of ARMs.

⁷⁴ Interest-only mortgages allow borrowers to defer payment of principal and therefore pay only the monthly interest on their mortgages for a set period of time, after which the borrowers must pay down their mortgage at a faster rate. *Id.* at 4–6 (describing the various non-traditional mortgage products, including interest-only mortgages).

⁷⁵ “Payment option” ARMs allow borrowers to choose their monthly payment structure. *Id.* at 6–9.

⁷⁶ See Zywicki & Adamson, *supra* note 3, at 71–72 (discussing how subprime borrowers commonly present unique, borrower-specific risks that generate the need for the creation of more complex mortgages).

⁷⁷ Indeed, ARMs were particularly difficult for borrowers who were unfamiliar with financial terms and concepts to understand. See *id.* (noting that while prime mortgages generally contain standard terms that allow borrowers to compare key terms, subprime mortgages are more complex, highly-tailored, and commonly contain borrower-specific terms, making it hard for subprime borrowers to compare and understand terms). See also ZANDI, *supra* note 46, at 236 (noting that “almost half of lower-income homebuyers . . . couldn’t describe the basic features of their mortgage, such as how their interest rate was determined or whether it was capped.”).

not understand their obligations under their mortgages.⁷⁸ For instance, many borrowers did not fully comprehend the basic structure of ARMs – that the payment rates rise after the two or three years of low, introductory rates end.⁷⁹ Of the borrowers that recognized that ARMs contained adjusting rates, many borrowers had no idea when or how the rates would change.⁸⁰ As a result, thousands of ARM borrowers suffered so-called “payment shocks,” where they were surprised and unprepared for how high the payments became when the rates adjusted.⁸¹

Many borrowers were also either unaware of or did not understand a number of other issues relating to their mortgages.⁸² For example, many

⁷⁸ See HARRIS REPORT, *supra* note 7, at 3 (noting that 28 percent of borrowers reported that their mortgage turned out different than they expected). See Fishbein & Woodall, *supra* note 33, at 2 (noting that first time homebuyers, unsophisticated financial consumers, and consumers traditionally underserved by the mortgage markets are less likely to understand their ability to negotiate mortgage terms, the complexity of the mortgage vehicles, and the long-term monthly payment variation between products).

⁷⁹ See ZANDI, *supra* note 46, at 54 (describing how many ARM borrowers did not understand that their mortgage payments would rise dramatically after the initial rates ended and noting that there is evidence that some borrowers did not understand that the payments due on their loans would rise, and others did not fully understand how much the loans were supposed to rise and when); HARRIS REPORT, *supra* note 7, at 8 (noting that approximately 8 percent of adults report that the new dollar amount of their reset mortgages turned out to be different than what they initially expected).

⁸⁰ See HARRIS REPORT, *supra* note 7, at 8 (noting that approximately 10 percent of adults reported that the length of their introductory interest rates turned out to be different than what they initially expected and that approximately 13 percent of adults reported that the interest rate of their mortgages turned out to be different than what they initially expected); Fishbein & Woodall, *supra* note 33, at 10 (noting that more than three-fifths of young adults, African Americans, Latinos, those with incomes below \$25,000, and people without a high school diploma did not know how to properly estimate how their ARM payments would adjust if interest rates changed). This article also found that the people who tried to estimate how much their monthly payments would change underestimated the effect by 40 to 50 percent. *Id.* Another study found that one third of consumers could not estimate the effect on their mortgage payments of an interest increase and the remaining participants, as a group, underestimated the payment impact by approximately 30 percent. Press Release, Consumer Fed’n of Am., Lower-Income and Minority Consumers More Likely to Prefer and Underestimate the Risks of Adjustable Rate Mortgages (July 26, 2004), available at http://www.consumerfed.org/pdfs/072604_ARM_Survey_Release.pdf.

⁸¹ See Fishbein & Woodall, *supra* note 33, at 5-6, 9-11 (noting that borrowers who entered into interest-only mortgages often experienced payment shocks when the interest-only period of the mortgage ended as the increase in the monthly payment was so high that the borrower was unable to afford the higher payments and predicting that a significant number of ARM borrowers that had based their borrowing decisions on the low initial monthly payments of ARMs would likely experience payment shocks when the mortgage adjusted). There were other consequences of borrowers not understanding their mortgages’ payment schemes that are worth noting. For example, many borrowers who did not understand financial principles, terms and mortgage mechanics were tempted and induced to agree to mortgages because of the low introductory, “teaser” rates. See GRAMLICH, *supra* note 32, at 17.

⁸² Cf. HARRIS REPORT, *supra* note 7, at 3 (noting that 28 percent of borrowers reported that their mortgage turned out different than they expected).

borrowers did not know that their mortgages contained long-term prepayment penalties.⁸³ Similarly, many borrowers did not understand the private mortgage insurance that they were required to obtain.⁸⁴

Financial illiteracy also caused problems for those borrowers who took out home equity loans.⁸⁵ Similar to borrowers' lack of knowledge and understanding of mortgages, many home equity loan borrowers did not fully appreciate the mechanics, obligations, and risks associated with home equity loans. For instance, many borrowers did not understand that when they took out a home equity loan, the home equity loan would add money onto the amount originally owed on the purchase.⁸⁶

3. Other Disadvantages

a. Shop and Compare

Borrowers who did not understand the basics of the home buying process or lacked knowledge of mortgages or financial terms and concepts were hindered in their ability to shop for the best or most appropriate mortgages.⁸⁷ It was particularly challenging for financially illiterate borrowers to shop for subprime mortgages since subprime mortgages commonly contained individual, mortgage-specific terms and features.⁸⁸

⁸³ See GRAMLICH, *supra* note 32, at 87 (noting that long-term prepayment penalties commonly make it difficult for borrowers to get out of their subprime loans).

⁸⁴ See HARRIS REPORT, *supra* note 7, at 8 (noting that approximately 9 percent of borrowers reported that the private mortgage insurance that they had to pay in addition to their monthly mortgage payments turned out to be different than what they initially expected).

⁸⁵ Home equity loans are loans wherein a homeowner borrows money, using the home's equity as collateral. FED. RESERVE BD., WHAT YOU SHOULD KNOW ABOUT HOME EQUITY LINES OF CREDIT 3, available at http://www.federalreserve.gov/pubs/equity/equity_english.htm (last visited Mar. 24, 2010); see also MICHAELSON, *supra* note 46, at 151-56 (describing the increase in popularity of home equity loans); ZANDI, *supra* note 46, at 59 (noting that millions of homeowners withdrew close to \$1 trillion a year in equity from their houses during the peak of the housing boom).

⁸⁶ Cf. MICHAELSON, *supra* note 46, at 151-52. Others have argued that many borrowers who took out home equity loans made informed, economic decisions. See, e.g., POSNER, *supra* note 51, at 101-02 (contending that many borrowers understood and accepted the risks associated with the likelihood and the consequences of default when they took out a home equity loan).

⁸⁷ Fishbein & Woodall, *supra* note 33, at 3 (noting that there is not a lot of understanding on the part of borrowers on how to compare or even understand the differences between the various non-traditional mortgage products that were developed); see also GRAMLICH, *supra* note 32, at 19 (explaining that the setting of mortgage rates is regulated by a borrower's ability to shop around and compare mortgage rates, and that borrowers are at an extreme disadvantage if they do not understand mortgage terms, recognize that they need to shop around, know where to shop, or know what to ask).

⁸⁸ See Zywicki & Adamson, *supra* note 3, at 71-72 (noting that while prime mortgages generally

The mortgage-specific terms and features made it challenging for borrowers to conduct one-for-one comparisons of subprime mortgages from different lenders since lenders rarely offered mortgages with the same exact terms as other lenders.⁸⁹

b. *Ask Questions and Detect Fraud and Abuse*

Financially illiterate borrowers were also less likely to ask probing and clarifying questions to mortgage lenders and brokers.⁹⁰ These borrowers were less likely to know the importance of asking about the terms of their mortgages and getting clarification on areas of confusion. In addition, financially illiterate borrowers were less able to spot issues where clarification was needed, and less able to formulate questions since they did not have a good understanding of the home buying process, mortgages, and financial terms and concepts.⁹¹

The ability to ask challenging and probing questions also helps borrowers protect themselves.⁹² Financially illiterate borrowers are more susceptible to predatory lending, fraud, and abuse.⁹³ Virtually all experts agree that there would be less predatory lending if borrowers were more financially literate.⁹⁴

contain standard terms that allow borrowers to compare key terms, subprime mortgages are more complex, highly-tailored, and commonly contain borrower-specific terms, making it hard for subprime borrowers to compare and understand terms).

⁸⁹ See *id.* at 71. The Internet worked both for and against borrowers. It allowed borrowers to more easily compare terms of different mortgages. ZANDI, *supra* note 46, at 105. It also provided borrowers with the ability to see how the size of their down payment, their credit score, and other factors increased the mortgages available to them. *Id.* However, in some cases, all of this information may have enabled ignorant buyers to hurt themselves even more by shopping around for loans, which they did not fully understand. *Id.*

⁹⁰ See GRAMLICH, *supra* note 32, at 19 (observing that mortgage rates are set, at least in part, in accordance with the borrower's ability to ask questions to lenders and brokers).

⁹¹ The ability to ask questions helps borrowers select the most appropriate mortgages.

⁹² See Luis A. Aguilar, Comm'r of SEC, Remarks at the NYSE Euronext Roundtable on Financial Literacy in Minority Communities (Apr. 27, 2009), (transcript available at <http://www.sec.gov/news/speech/2009/spch042709laa.htm> (noting that "[t]he financial crisis has served to highlight one of the costs of financial illiteracy: susceptibility to investment scams.")).

⁹³ See *id.*; Zywicki & Adamson, *supra* note 3, at 73 (noting that there is a large information asymmetry between borrowers and lenders in the mortgage context which makes borrowers susceptible to fraud); GRAMLICH, *supra* note 32, at 8, 33 (noting that predatory lenders "often take [] advantage of low-income, less-literate, less financially savvy, and more vulnerable borrowers" and explaining that predatory lenders take advantage of the "information asymmetry" that exists wherein the lenders commonly have more knowledge about the products and their costs and benefits than the borrowers).

⁹⁴ GRAMLICH, *supra* note 32, at 12, 93 (contending that lenders would not be able to take as

c. *Recognize Conflicts of Interest*

Financially illiterate borrowers were less likely to recognize and appreciate the different, and oftentimes competing, interests of the parties in the home buying process.⁹⁵ For example, many borrowers wrongly assumed that a mortgage broker would see to it that they, the borrower, were matched with the best or most appropriate mortgage.⁹⁶ Many borrowers were unaware that, in reality, mortgage brokers are incentivized to get borrowers to agree to mortgages, regardless of suitability.⁹⁷ Similarly, many borrowers commonly had to rely on other peoples' advice since they did not have a good understanding of the home buying process, mortgages, and financial terms and concepts. Many borrowers had to depend on brokers and lenders to explain the terms of the available mortgages. This presented problems since brokers make more money if they match borrowers to more expensive loans.⁹⁸

much advantage of borrowers if borrowers better understood how mortgages work, how financial markets work, and how economics in general works); *see also* RICHARD BITNER, *CONFESSIONS OF A SUBPRIME LENDER: AN INSIDER'S TALE OF GREED, FRAUD, AND IGNORANCE* 174 (2008) (noting that borrower knowledge deters abusive behavior).

⁹⁵ *See* SHILLER, *supra* note 28, at 123-24 (noting that often, lower income people cannot afford the financial advice that higher income people can afford, and as a result, they are left with only biased sources of information and advice from real estate agents (who represent the seller of the house) and mortgage brokers (who collect fees from lenders)).

⁹⁶ ZANDI, *supra* note 46, at 236 (reporting that many Americans believed that it was "the broker's responsibility to look after their financial interests."); *see also* Zywicki & Adamson, *supra* note 3, at 60 (noting that many borrowers relied on mortgage originators to explain the terms because they did not understand the terms of their mortgages, and this is concerning since brokers have incentives to sell higher priced loans to consumers and traditional bank lenders have incentives to induce borrowers to borrow at the highest possible rate); Gray, *supra* note 41 (noting that mortgage brokers are not required to find best deals for homebuyers unless it is specifically contracted); GRAMLICH, *supra* note 32, at 93-94 (advocating for the need for more financial literacy and noting that borrowers need to be able to recognize that "lenders do not always have borrowers' best interest in mind").

⁹⁷ *See supra* note 96.

⁹⁸ *See* Zywicki & Adamson, *supra* note 3, at 73 (noting that there is a large information asymmetry between borrowers and lenders in the mortgage context which makes borrowers susceptible to fraud); GRAMLICH, *supra* note 32, at 8, 33 (noting that predatory lenders "often take[] advantage of low-income, less-literate, less financially savvy, and more vulnerable borrowers" and explaining that predatory lenders take advantage of the "information asymmetry" that exists wherein the lenders commonly have more knowledge about the products and their costs and benefits than the borrowers).

d. *Anticipate and Plan for Other Costs*

Financially illiterate borrowers were also less likely to anticipate and effectively plan for many of the costs associated with homeownership. As noted earlier, many borrowers did not anticipate and plan for rate changes in their mortgages.⁹⁹ Similarly, many borrowers failed to anticipate many of the standard, foreseeable costs of owning a home, such as property taxes and homeowner's insurance.¹⁰⁰ Many borrowers also failed to plan and save accordingly for unexpected life changes that could affect their ability to pay their mortgages.¹⁰¹

III. THE FUTURE

The American population's lack of financial literacy has received some attention.¹⁰² People have noticed how ineffective the patchwork system of school, home, and workplace financial education has been in preparing Americans to live financially secure lives.¹⁰³ There are laudable efforts on the part of federal, state, and local governments and private individuals and organizations to both raise awareness about the importance of financial literacy and increase the level of financial literacy in the country.¹⁰⁴

⁹⁹ See *supra* notes 79-81 and accompanying text.

¹⁰⁰ See GRAMLICH, *supra* note 32, at 87 (listing some of the costs that many borrowers fail to anticipate).

¹⁰¹ Cf. MICHAELSON, *supra* note 46, at 25-32 (describing Debbie, a homeowner who refinanced when her ARM adjusted to a higher rate, took out a home equity loan, and then later had to declare bankruptcy and move out of the house when interest rates climbed and her husband was injured and could no longer work). Other times, borrowers did not plan for higher monthly payments, even when they were aware that the payments were coming. *Id.* at 153 (noting that one of the ways in which "ARMs can wreak havoc" is when people do not plan for rate changes).

¹⁰² Cf. Ben Steverman, *Financial Literacy: The Time is Now*, BUS. WK., Nov. 9, 2008, available at http://www.businessweek.com/investor/content/jul2009/pi20090722_420432.htm [hereinafter Steverman, *Financial Literacy*] (observing that financial literacy advocates have seized on the economic crisis as an opportunity to confront the issue of financial illiteracy).

¹⁰³ See *id.*

¹⁰⁴ See *infra* Part III.A.

A. *Improvement*

1. *Federal Government*

There are significant ongoing efforts in Congress, executive departments, administrative agencies, and by special government commissions and advisory councils to improve the nation's level of financial literacy.¹⁰⁵

a. *Legislation*

In recent years, Congress has enacted several pieces of legislation to promote and increase the country's level of financial literacy. The following are examples of some of these laws:

- The Financial Literacy and Education Improvement Act ("FLEIA") established the Financial Literacy and Education Commission.¹⁰⁶ FLEIA specified that the Financial Literacy and Education Commission would serve to "improve the financial literacy and education of persons in the United States through [the] development of a national strategy to promote financial literacy and education."¹⁰⁷
- The Excellence in Education Act of 2001 provided the Department of Education with the power to award funding to a national nonprofit educational organization whose primary mission is to improve the quality of student understanding of personal finance and economics.¹⁰⁸
- The Higher Education Opportunity Act contains provisions relating to the financial literacy of student borrowers. It requires guaranty agencies to develop and make financial literacy educational programs and materials available for student borrowers and their families.¹⁰⁹

¹⁰⁵ See *infra* Part III.A.1.

¹⁰⁶ 20 U.S.C. §§ 9701-08 (2003). The Financial Literacy and Education Improvement Act was Title V of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159, Title V, 117 Stat. 2003.

¹⁰⁷ 20 U.S.C. § 9702(b). See discussion *infra* Part III.A.1.c. (discussing the Financial Literacy and Education Commission).

¹⁰⁸ No Child Left Behind Act of 2001, Pub. L. No. 107-110, § 1001, 115 Stat. 1425.

¹⁰⁹ Higher Education Opportunity Act, Pub. L. No. 110-315, § 435 (2008).

In addition, members of Congress have proposed other pieces of legislation relating to financial literacy:

- The Consumer Financial Protection Agency Act of 2009 (“Frank’s Bill”)¹¹⁰ would establish the Consumer Financial Protection Agency (“CFPA”) as an independent executive agency with regulatory authority over certain consumer financial products and services.¹¹¹ The bill specifies that the CFPA would coordinate with the agencies in the Financial Literacy and Education Commission to assist them in their financial literacy efforts.¹¹²
- The Restoring American Financial Stability Act of 2009 (“Dodd’s Bill”) also contains provisions designed to address problems of financial illiteracy.¹¹³ Like Frank’s Bill, Dodd’s Bill would establish the CFPA¹¹⁴ and direct the CFPA to aid the agencies in the Financial Literacy and Education Commission to assist them in their financial literacy work.¹¹⁵ Dodd’s Bill would also establish an Office of Financial Literacy within the CFPA.¹¹⁶ In addition, Dodd’s Bill also calls for a study of the level of financial literacy of mutual fund investors and the identification of a strategy to increase their financial literacy.¹¹⁷
- The Financial and Economic Literacy Improvement Act of 2009 would authorize the federal government to give \$250 million annually to states to fund financial literacy efforts.¹¹⁸ The bill splits the funding, \$125 million would go to K-12 education,¹¹⁹ and \$125 million would go to adult financial literacy programs at 2- and 4-year colleges.¹²⁰ The bill also

¹¹⁰ Consumer Financial Protection Agency Act of 2009, H.R. 3126, 111th Cong.

¹¹¹ *Id.* § 111.

¹¹² *See id.* § 116.

¹¹³ STAFF OF S. BANK. COMM. 111TH CONG., RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2009 (Comm. Print 2009) (discussion draft is available online at http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=943242e1-ca66-411c-89e2-8954eb3fc085 (last visited Jan. 5, 2010)).

¹¹⁴ Restoring American Financial Stability Act of 2009, H.R. 4173, 111th Cong. § 1011.

¹¹⁵ *See id.* § 1016.

¹¹⁶ *Id.* § 1073.

¹¹⁷ *Id.* § 916.

¹¹⁸ Financial and Economic Literacy Improvement Act of 2009, H.R. 1645, 111th Cong. § 5538.

¹¹⁹ *Id.* § 2.

¹²⁰ *Id.* § 3.

includes provisions relating to the creation of a clearinghouse of resources, tools, and best practices for financial and economic literacy education.¹²¹

- The Young Adults Financial Literacy Act would authorize the Secretary of the Treasury to make grants to and enter contracts with institutions to establish centers to support the research, development, planning, implementation, and evaluation of programs in financial education for young adults and families.¹²²
- The National Financial Literacy Act of 2009 would amend the Community Reinvestment Act to allow banking institutions to receive credit for offering community-based financial literacy programs.¹²³ The bill also allows certain employers that provide financial education to their employees to receive preference when submitting bids or proposals for federal contracts or federal assistance.¹²⁴ In addition, the bill amends the tax code to give tax credits to small businesses that provide financial education to their employees.¹²⁵
- The Financial Literacy Improvement Act of 2008 sought to amend the Elementary and Secondary Education Act of 1965¹²⁶ to direct the Secretary of Education to award grants to states or certain partnerships for financial education programs.¹²⁷ It also sought to amend the Higher Education Act of 1965 to direct the Secretary of Education to award grants to assist institutions in providing financial literacy education to postsecondary students.¹²⁸
- Several attempts have been made to pass the America Saving for Personal Investment, Retirement, and Education Act.¹²⁹ The 2007 bill, which would have established a lifetime savings account for all children born in the United States after a

¹²¹ *Id.* § 2 (amending Part D of Title V of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7241 *et seq.* to include § 5539).

¹²² Young Adults Financial Literacy Act, H.R. 3147, 111th Cong. § 3 (2009).

¹²³ National Financial Literacy Act of 2009, H.R. 767, 111th Cong. § 2.

¹²⁴ *Id.* § 4.

¹²⁵ *Id.* § 3.

¹²⁶ Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7241 *et seq.*

¹²⁷ Financial Literacy Improvement Act of 2008, S. 2671, 110th Cong. § 2.

¹²⁸ *Id.* § 3.

¹²⁹ America Saving for Personal Investment, Retirement, and Education Act of 2007, H.R. 3740, 110th Cong.

specified date, included provisions relating to the development of programs to promote financial literacy among persons who contribute to and benefit from the children's savings accounts.¹³⁰

b. *The Treasury Department*

The Treasury Department plays a central role in the federal government's financial literacy efforts. The Treasury Department's Office of Financial Education ("OFE") spearheads the Department's work in this area.¹³¹ OFE's mission is to "ensure that Americans have access to financial education programs that help them obtain practical knowledge and skills to make informed financial choices throughout their lives."¹³² According to its website, OFE aims to fulfill its mission by: (1) "performing public outreach to increase awareness"; (2) "setting standards to help raise the effectiveness of financial education programs"; (3) "giving technical assistance to financial education providers"; (4) brokering partnerships between those who provide and need financial education; and (5) coordinating and leading the Financial Literacy and Education Commission.¹³³ OFE has led several valuable initiatives. For example, it developed the National Financial Capability Challenge, an exam on personal finance issues to be administered to high school students.¹³⁴

¹³⁰ *Id.* § 13.

¹³¹ U.S. Dep't of Treasury, Office of Domestic Fin., Office of Fin. Educ., <http://www.treas.gov/offices/domestic-finance/financial-institution/fin-education/overview.shtml> (last visited Dec. 20, 2009).

¹³² *Id.*

¹³³ *Id.* OFE also coordinates with the President's Advisory Council on Financial Literacy. See generally U.S. Dep't of Treasury, Office of Domestic Fin., President's Advisory Council on Fin. Literacy, <http://www.treas.gov/offices/domestic-finance/financial-institution/fin-education/council/> (last visited Mar. 24, 2010); 2008 REPORT TO THE PRESIDENT, *supra* note 3.

¹³⁴ U.S. Dep't of Treasury, Office of Domestic Fin., National Financial Capability Challenge, <http://www.treasury.gov/offices/domestic-finance/financial-institution/fin-education/council/nfkc.shtml> (last visited Mar. 24, 2010) [hereinafter Financial Capability Challenge]; see also Eliza Krigman, *Duncan, Geithner Team Up On Financial Literacy*, NAT'L J. ONLINE, Dec. 23, 2009, http://www.nationaljournal.com/njonline/no_20091223_1166.php (noting that the National Financial Capability Challenge "is actually a revamped version of a program administered during George W. Bush's last year in office"). The OFE also provides general information relating to financial education. For example, the Office provides a list of eight elements of a successful financial education program. U.S. Dep't of Treasury, Office of Domestic Fin., Office of Fin. Educ., Eight Elements of a Financial Education Program, http://www.ustreas.gov/offices/domestic-finance/financial-institution/fin-education/successful_program.shtml (last visited Mar. 24, 2010).

c. *Financial Literacy and Education Commission*

The Financial Literacy and Education Commission (the “Commission”) was created by Congress to improve “the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.”¹³⁵ The Commission is comprised of representatives from twenty federal departments and agencies.¹³⁶ The Commission’s principal duties are to encourage government and private sector efforts to develop a national strategy to promote financial literacy and education among all Americans and coordinate the financial education efforts of the federal government.¹³⁷ In 2006, the Commission drafted the National Strategy for Financial Literacy, a 139-page report that identified critical financial literacy issues, discussed the primary challenges relating to addressing the issues, and provided specific “calls to action” to address the issues.¹³⁸ The Financial Literacy and Education Commission also created *mymoney.gov*, a website that consolidates and coordinates the presentation of the financial education materials provided by federal government agencies.¹³⁹

d. *Presidential Advisory Council on Financial Literacy*

The Presidential Advisory Council on Financial Literacy (“Council”), a group comprised of nineteen private citizens, has also played a key role in the federal government’s financial literacy efforts.¹⁴⁰ The mission of the

¹³⁵ 20 U.S.C. § 9702(b) (2003).

¹³⁶ See *id.* § 9702(c); FIN. LITERACY & EDUC. COMM., TAKING OWNERSHIP OF THE FUTURE: THE NATIONAL STRATEGY FOR FINANCIAL LITERACY (2006), v-vi, available at 205.168.45.52/sites/default/files/downloads/ownership.pdf [hereinafter NATIONAL STRATEGY FOR FINANCIAL LITERACY] (providing a brief overview of the history of the creation of the Financial Literacy and Education Commission).

¹³⁷ 20 U.S.C. § 9702(b).

¹³⁸ See generally NATIONAL STRATEGY FOR FINANCIAL LITERACY, *supra* note 136.

¹³⁹ See MyMoney.gov, <http://mymoney.gov/aboutus.shtml> (last visited Jan. 2, 2010).

¹⁴⁰ The Presidential Advisory Council on Financial Literacy was established when President George W. Bush signed an Executive Order 13,455 on January 22, 2008. 2008 REPORT TO THE PRESIDENT, *supra* note 3, at VII; see also Exec. Order No. 13,455, 73 Fed. Reg. 4,445 (Jan. 24, 2008). The Executive Order creating the Council established, for the first time, that it is “the policy of the Federal Government to encourage financial literacy among the American people.” *Id.* at § 1. The Council is comprised of people who are heavily involved in the delivery of financial education to Americans, including John Hope Bryant, the Founder, Chairman, and Chief Executive Officer of Operation HOPE, and Laura Levine, the Executive Director of the Jump\$tart Coalition for Personal Financial Literacy. A list of the current members of the Council can be found online at <http://www.ustreas.gov/offices/domestic-finance/financial-institution/fin-education/council/>.

Council is to “improve financial literacy among all Americans.”¹⁴¹ In its 2008 Report to the President, the Council outlined some of its key accomplishments, such as launching the National Financial Literacy Challenge; endorsing “Money Math: Lessons for Life;” creating the Workplace Honor Roll program, a program to “honor employers that have innovative and effective programs to provide financial education to employees”; and creating the Post Secondary Honor Roll Program, a program to honor those employers, colleges, and universities that are making strides in financial education.¹⁴² Also in its report, the Council, among other things, provided recommendations to expand and improve financial education from kindergarten through college,¹⁴³ voiced support for the role of employers as providers and conduits of financial education,¹⁴⁴ and identified the need to increase access to financial services for unbanked and underserved Americans.¹⁴⁵

e. *Agencies*

Numerous federal agencies also make significant contributions to improving the country’s level of financial literacy. In addition to participating in the Financial Literacy and Education Commission,¹⁴⁶ several agencies, such as the Securities and Exchange Commission (“SEC”)¹⁴⁷ and the Federal Trade Commission (“FTC”)¹⁴⁸ maintain individual offices dedicated to educating the public about financial-related matters.¹⁴⁹ The SEC’s Office of Investor Education and Advocacy (“OIEA”) provides services and tools to help Americans become better educated investors.¹⁵⁰ OIEA, for example, issues special “Investor Alerts” that provide investors with information on topics and issues of particular concern.¹⁵¹ The SEC also recently launched a new financial literacy

¹⁴¹ 2008 REPORT TO THE PRESIDENT, *supra* note 3, at VII.

¹⁴² *Id.* at 2.

¹⁴³ *Id.* at 14.

¹⁴⁴ *See id.* at 25.

¹⁴⁵ *Id.* at 29-32.

¹⁴⁶ *See* NATIONAL STRATEGY FOR FINANCIAL LITERACY, *supra* note 136, at v (listing the agencies represented on the Financial Literacy and Education Commission).

¹⁴⁷ SEC, Investor Education and Advocacy, <http://www.sec.gov/investor.shtml> (last visited Jan. 2, 2010) [hereinafter *Investor Education and Advocacy*].

¹⁴⁸ FTC, Bureau of Consumer Protection, Division of Consumer & Business Education, <http://www.ftc.gov/bcp/bcpocbe.shtm> (last visited Jan. 2, 2010).

¹⁴⁹ These agencies’ offices’ efforts tend to focus on matters relating to each agency’s particular mission.

¹⁵⁰ Investor Education and Advocacy, *supra* note 147.

¹⁵¹ *See, e.g.*, SEC, OIEA, Investor Alert for Stanford Investors, <http://www.sec.gov/investor/pubs/>

website, called Project C.H.A.N.G.E.¹⁵² Project C.H.A.N.G.E. is a joint partnership between the SEC, the Financial Industry Regulatory Authority (“FINRA”) and Jump\$tart, and it is intended to promote financial literacy by “Creating Habits and Awareness for the Next Generation’s Economy.”¹⁵³

f. *Department of Education*

The Department of Education (“DE”) also plays a role in the federal government’s financial literacy efforts. DE’s financial literacy work focuses primarily on educating Americans about paying for schooling. For example, DE maintains a portal to financial literacy websites through its Student Aid website.¹⁵⁴

Outside of this realm, DE also administers the Excellence in Economic Education program, which “promotes economic and financial literacy . . . through the award[ing] of one grant to a national education nonprofit that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.”¹⁵⁵ Education Secretary Arne Duncan also recently announced that DE will be partnering with the Treasury Department to manage the National Financial Capability Challenge.¹⁵⁶

stanford-alert.htm (last visited Jan. 2, 2010) (warning the public about scams relating to the recovery of investor funds arising from the *SEC v. Stanford* case). OIEA also provides special research tools for investors and provides special information for groups such as military personnel and families. SEC, OIEA, For Military Personnel and Their Families, <http://www.sec.gov/investor/military.shtml> (last visited Jan. 2, 2010).

¹⁵² See SEC, Project C.H.A.N.G.E., <http://projectchange.sec.gov/> (last visited Jan. 2, 2010).

¹⁵³ In conjunction with other securities regulators, officials from the SEC recently visited schools throughout the country to promote the importance of financial literacy. Press Release, SEC, Securities Regulators to Talk Financial Literacy with Students (Nov. 13, 2009), available at <http://www.sec.gov/news/press/2009/2009-245.htm>.

¹⁵⁴ See U.S. Dep’t of Educ., Federal Student Aid, Student Aid on the Web, <http://studentaid.ed.gov/PORTALSWebApp/students/english/financialliteracy.jsp> (last visited Jan. 2, 2010).

¹⁵⁵ U.S. Dep’t of Educ., Excellence in Economic Education, <http://www.ed.gov/programs/economiceducation/index.html> (last visited Jan. 2, 2010).

¹⁵⁶ Press Release, U.S. Dep’t of Treasury, Administration Officials Promote Enhanced Financial Capability Among America’s Youth (Dec. 15, 2009), available at <http://www.treas.gov/press/releases/tg446.htm>; see also Financial Capability Challenge, *supra* note 134 and accompanying text for more information about the National Financial Capability Challenge. Secretary Arne Duncan also recently discussed the importance of financial literacy in an interview. Interview by Hari Sreenivasan with Arne Duncan, Sec’y, Dep’t of Educ., PBS NewsHour Online (Dec. 15, 2009), available at <http://www.edgovblogs.org/duncan/2009/12/pbs-newshour-online-interview-with-secretary-arne-duncan/> (discussing the problems associated with financial illiteracy and the need for more informed consumers).

2. State Government

As previously noted, the states, not the federal government, are primarily responsible for the public school systems in America, and thus, they stand in a critical position to improve the nation's financial literacy.¹⁵⁷ Many states are working to incorporate more financial education into their school systems. Utah, for example, has a half credit Financial Literacy Education graduation requirement.¹⁵⁸ Several state legislatures are working to add personal finance and economic lessons and related graduation requirements to their state school systems. For example, New Jersey recently passed a law that requires financial literacy and economics courses to be integrated into high school graduation requirements.¹⁵⁹ The Virginia Board of Education, acting pursuant to a directive from the Virginia state legislature, recently adopted economic and personal finance education standards.¹⁶⁰ States are also making other efforts to improve the level of financial education in their schools. Maryland, for example, recently launched an initiative to provide training to some of its teachers in financial literacy instruction.¹⁶¹

Several states are making other notable efforts to enhance financial literacy in alternative ways. For example, some states have recently launched financial literacy task forces: Maryland recently convened a Financial Literacy Advisory Council and Financial Literacy Design Team

¹⁵⁷ See *supra* note 13 and accompanying text.

¹⁵⁸ Utah State Office of Educ., Curriculum and Instruction, Graduation Information, available at <http://www.schools.utah.gov/curr/main/GradInfo.htm> (last visited Jan. 2, 2010). Utah's half credit General Financial Literacy graduation requirement contains four standards of learning covering decision making and goals; income and careers; principles of money management; and savings, investing, and retirement planning. Finance in the Classroom, Utah's Required Financial Literacy Course, available at <http://financeintheclassroom.org/teacher/course.php> (last visited Jan. 30, 2010).

¹⁵⁹ Press Release, State of N.J. Dep't of Educ., State Board of Education Adopts Revised High School Graduation Requirements and Revised Curriculum Standards in Six Content Areas (June 17, 2009), available at <http://www.state.nj.us/education/news/2009/0617sboe.htm> (describing the recently adopted changes to the state's high school graduation requirements, which include, among other things, a half of year of economics and financial literacy coursework).

¹⁶⁰ VA. CODE § 22.1-200.03 (2005); see Va. Dep't of Educ., Economics Education and Financial Literacy, Economics Education and Financial Literacy Objectives, <http://www.doe.virginia.gov/VDOE/Instruction/CTE/FinancialLiteracy.html> (last visited Nov. 9, 2009) (providing an overview of Virginia's economics education and financial literacy state laws and Board of Education requirements).

¹⁶¹ Press Release, Md. Dep't of Educ., Maryland Take a Lead in Financial Literacy Education (Aug. 4, 2009) (on file with author) (describing a workshop that provides Maryland teachers with training in providing financial literacy instruction).

for the purpose of developing state standards on financial literacy,¹⁶² and Maine recently established a Council on Financial Literacy “[t]o encourage and support projects and programs . . . that seek to inform and educate [its] residents” on financial literacy topics.¹⁶³

State agencies and treasuries have also been working to increase financial literacy. For example, the Illinois State Treasurer’s website provides a wide range of useful information on money-related matters, including a section titled, “Spotlight: Foreclosure,”¹⁶⁴ informational pages on credit cards¹⁶⁵ and finance,¹⁶⁶ and other innovative features such as the “Debt Reduction Challenge.”¹⁶⁷ Other states, like California, which recently named the month of April as “California Financial Literacy Month,” are raising awareness of the importance of financial literacy.¹⁶⁸

3. *Private*

Many in the private sector are also working to improve the country’s level of financial literacy. Several private foundations and organizations, such as Jump\$tart,¹⁶⁹ the American Bankers Association,¹⁷⁰ Operation

¹⁶² *Id.* (noting that in response to a state task force’s recommendations, the Maryland State Department of Education convened a Financial Literacy Advisory Council and Financial Literacy Design Team to begin the development of state standards on financial literacy).

¹⁶³ ME. OFFICE OF TREASURY, REPORT TO THE 124TH MAINE LEGISLATURE, 2008 GRANT AWARDS FOR PROGRAMS SUPPORTING THE FINANCIAL EDUCATION OF MAINE RESIDENTS 3 (2009) (describing the creation of the Council on Financial Literacy and its principle functions).

¹⁶⁴ Alexi Giannoulis, Ill. State Treasurer, <http://www.treasurer.il.gov/programs/financial-education/financial-education.aspx> (last visited Jan. 2, 2010); *see also* Alexi Giannoulis, Ill. State Treasurer, Financial Education, Understand Homeownership, <http://www.treasurer.il.gov/programs/financial-education/understand-homeownership.aspx> (last visited Jan. 2, 2010).

¹⁶⁵ Alexi Giannoulis, Ill. State Treasurer, Financial Education, Credit Cards, <http://www.treasurer.il.gov/programs/credit-cards/credit-cards.aspx> (last visited Jan. 2, 2010).

¹⁶⁶ Alexi Giannoulis, Ill. State Treasurer, Financial Education, Finance 101, <http://www.treasurer.il.gov/programs/financial-education/finance-101.aspx> (last visited Jan. 2, 2010).

¹⁶⁷ Alexi Giannoulis, Ill. State Treasurer, Financial Education, Debt Reduction, <http://www.treasurer.il.gov/programs/financial-education/debt-reduction.aspx> (last visited Jan. 2, 2010).

¹⁶⁸ Proclamation from Arnold Schwarzenegger, Governor of Cal., Apr. 2009, as “California Financial Literacy Month” (Apr. 1, 2009) (on file with author). Similarly, the United States Senate designated April 2007 as “Financial Literacy Month.” S. Res. 126, 110th Cong. (2007).

¹⁶⁹ *See* Jump\$tart Coalition for Personal Financial Literacy, <http://www.jumpstart.org/> (last visited Jan. 2, 2010). *See also infra* notes 174-75 and accompanying text.

¹⁷⁰ *See* American Bankers Association, ABA Education Foundation, http://www.aba.com/ABAEF/cnc_aboutef.htm (last visited Jan. 2, 2010) (noting that “[t]he ABA Education Foundation’s mission is to help bankers make their communities better through financial education” and that through this foundation, “nearly 100,000 bankers [have taught] personal finance skills to about 4 million children and young adults.”).

Hope,¹⁷¹ the National Endowment for Financial Education,¹⁷² and the Council for Economic Education,¹⁷³ are striving to raise awareness about the importance of financial literacy and are working to educate Americans about money-related matters.

One of the most well known of these entities is Jump\$tart, an organization that uses a network of state affiliates to execute its mission nationally.¹⁷⁴ For example, the Idaho Financial Literacy Coalition, one of Jump\$tart's state affiliates, sponsors educational programs, provides resources and education to teachers and youth leaders, and raises awareness about financial literacy throughout Idaho.¹⁷⁵ Jump\$tart also collaborates with other organizations on financial literacy initiatives. As noted in Part III.A.1.e., in November 2009, Jump\$tart teamed with the SEC and FINRA to launch Project C.H.A.N.G.E.¹⁷⁶

Several well-known companies are also involved in financial literacy work. Visa, for one, offers financial literacy programs that are designed to teach people "how to spend, save and budget responsibly."¹⁷⁷ Visa has also partnered with the National Football League to promote financial literacy in American high schools through "Financial Football, a personal finance video game."¹⁷⁸ Charles Schwab is another well-known company that is

¹⁷¹ See Operation Hope, Banking on Our Future, <http://www.operationhope.org/smdev/clst4.php?id=172> (last visited Jan. 2, 2010) (explaining that Operation Hope's Banking on Our Future program is designed to deliver a global system for financial education for youth at no costs to school districts with a focus on urban, under-served communities).

¹⁷² See National Endowment for Financial Education, <http://www.nefe.org/AboutUs/tabid/56/Default.aspx> (last visited Jan. 2, 2010) ("[t]he National Endowment for Financial Education . . . is the only private, nonprofit, national foundation wholly dedicated to improving the financial well-being of Americans.").

¹⁷³ See Council for Economic Education, About Us, <http://www.councilforeconed.org/about/> (last visited Jan. 2, 2010) (explaining that the Council for Economic Education advocates for "greater school-based economic and personal finance education at the K-12 level" and seeks to educate young people with economic and financial skills).

¹⁷⁴ See Jump\$tart Coalition for Personal Financial Literacy, Jump\$tart State Coalitions, <http://www.jumpstart.org/state-coalitions.html> (last visited Mar. 24, 2010).

¹⁷⁵ See Idaho Financial Literacy Coalition, About Us, http://www.idahoflc.org/about_us.htm (last visited Jan. 2, 2010) (explaining that the Idaho Financial Literacy Coalition was formed "to provide training on personal finance topics to public and private school teachers in consumer economics, family & consumer sciences, business, social studies, math, and professional technical education.").

¹⁷⁶ See *supra* note 153 and accompanying text.

¹⁷⁷ See generally Visa, Financial Literacy, Fact Sheet http://www.practicalmoneyskills.com/downloads/pdfs/Financial_literacy_backgrounder_081809.pdf (last visited Mar. 24, 2010) (providing information about Visa's support of "financial literacy and development of financial literacy programs that teach individuals how to spend, save and budget responsibly.").

¹⁷⁸ *Id.* (noting that "[s]ince 2006, Visa has reached agreements with 23 state governments to distribute

making efforts to educate people about money-related topics. Charles Schwab provides a range of financial education resources through its website, “Schwab MoneyWise.”¹⁷⁹ The website’s “Life Events” section provides information and tips about key financial life events such as changing jobs, buying a home, and getting married.¹⁸⁰ The website also features a “Talking to Kids” section that provides articles and tips for parents about talking to their children about budgeting, saving, and spending.¹⁸¹ Numerous employers have developed innovative financial education and training programs for their employees.¹⁸² Ernst & Young, for example, offers a wide range of financial education and counseling programs to its employees, including interactive financial education workshops, access to toll-free financial planners, computer and internet-based retirement planning and investment advice, and individual financial counseling services.¹⁸³

Financial Football at no cost to every high school in those states”).

¹⁷⁹ See Charles Schwab, Welcome to Schwab MoneyWise, <http://www.schwabmoneywise.com/home/index.php> (last visited Jan. 2, 2010).

¹⁸⁰ Charles Schwab, Welcome to Schwab MoneyWise, Life Events, <http://www.schwabmoneywise.com/events> (last visited Jan. 2, 2010).

¹⁸¹ Charles Schwab, Welcome to Schwab MoneyWise, Talking to Kids, <http://www.schwabmoneywise.com/kids/index.php> (last visited Jan. 2, 2010).

¹⁸² See, e.g., Mandell, *supra* note 26, at 9 (describing how U.S. Engineering, a medium sized mechanical construction firm, has contracted with American Century Financial to provide financial workshops and counseling to its employees); Press Release, McDonald’s USA & Visa, McDonald’s USA and Visa Inc. Launch America’s Largest Employer-Based Financial Literacy Initiative (Dec. 4, 2008) (on file with author) (describing the “McDonald’s Practical Money Skills” program that McDonald’s is beginning to offer to more than 500,000 restaurant-level employees throughout the majority of its restaurants). Federal law requires the Office of Personnel Management to develop and implement a retirement financial literacy and education strategy for federal employees to meet federal retirement training obligations. Thrift Savings Plan Open Elections Act of 2004, Pub. L. No. 108-469, § 2(c), 118 Stat. 3891, 3892. See generally U.S. Office of Pers. Mgmt., Retirement Financial Literacy and Education Strategy, <http://www.opm.gov/retire/pre/botdgt/training/finlit.asp> (last visited Jan. 3, 2010) (describing the obligations on the federal government to provide its employees with financial education and providing an overview of the education tools and training that are available to federal employees).

¹⁸³ See generally Ernst & Young, *A Stronger Workforce Through Employee Financial Education and Counseling* 2-3 (2008), available at <http://ey-employeefinancialservices.com/YY2095%20stronger%20workforce%20trifold%200908.pdf> (describing the components of Ernst & Young’s Employee Financial Education and Counseling program).

B. Recommendations

While efforts to increase the level of financial literacy across the country are having some success, there remain opportunities for improvement. This part provides two recommendations to help improve the state of financial literacy in America.

1. Financial Literacy as a National Priority

President Obama should champion the cause of financial literacy and declare it to be a national priority.

As previously discussed, the federal government has made important strides to both raise awareness of the importance of financial literacy and actually enhance Americans' knowledge and understanding of money-related matters.¹⁸⁴ However, financial literacy remains an afterthought in terms of national priorities. President Obama has not championed the cause.¹⁸⁵ His efforts around financial literacy, up to this point, have been insubstantial:

- President Obama has launched major education initiatives, such as the "Race to the Top" and "Educate to Innovate"¹⁸⁶ campaigns, but he has failed to launch any major financial education or literacy initiatives.
- President Obama has failed to mention the topic of financial literacy in the majority of his speeches on relevant issues. For example, when President Obama signed the Credit Card Accountability, Responsibility, and Disclosure ("CARD") Act

¹⁸⁴ See *supra* Part III.A.

¹⁸⁵ See Lynn Sweet, *White House Financial Literacy Council Finally Meeting*, CHI. SUN TIMES, Nov. 3, 2009, available at http://blogs.suntimes.com/sweet/2009/11/white_house_financial_literacy.html (noting that the President's Advisory Council on Financial Literacy finally held its first meeting under the Obama Administration on November 3, 2009); Steverman, *Financial Literacy*, *supra* note 102 (opining that the "Obama Administration hasn't addressed the topic of financial literacy in a significant way").

¹⁸⁶ The Race to the Top is a campaign launched by the Obama Administration to encourage school systems, teachers, and students to strive for success. Posting of Sec'y Arne Duncan to The White House Blog, <http://www.whitehouse.gov/blog/Race-to-the-Top> (Jul. 24, 2009, 09:28 EST). The Education to Innovate campaign is aimed to improve the participation and performance of students in science, technology, engineering, and mathematics. Press Release, The White House, President Obama Launches "Educate to Innovate" Campaign for Excellence in Science, Technology, Engineering & Math (Stem) Education (Nov. 23, 2009), available at <http://www.whitehouse.gov/the-press-office/president-obama-launches-educate-innovate-campaign-excellence-science-technology-en>.

of 2009,¹⁸⁷ there was no mention of financial or debt literacy in the White House Fact Sheet¹⁸⁸ or in the speech that he gave when he signed the bill into law.¹⁸⁹ Since the problems associated with credit cards and debt literacy are so closely related to the issue of financial literacy, the bill signing presented an opportune time for President Obama to mention the importance of financial literacy.¹⁹⁰ Other times, when discussing relevant topics, he has made only oblique references to financial literacy. For example, in his lengthy September 14, 2009 speech on the financial crisis, in which he discussed many of the events and factors that caused the crisis, President Obama only briefly alluded to problems of financial illiteracy when he mentioned that people “signed contracts they didn’t always understand offered by lenders who didn’t fully tell the truth.”¹⁹¹

- The White House website makes practically no mention of financial literacy.¹⁹² The website does not discuss financial

¹⁸⁷ Credit CARD Act of 2009, Pub. L. No. 111-24, 123 Stat. 1734.

¹⁸⁸ See Press Release, The White House, Fact Sheet: Reforms to Protect American Credit Card Holders (May 22, 2009), available at http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reforms-to-Protect-American-Credit-Card-Holders/.

¹⁸⁹ See Barack H. Obama, President of the U.S., Remarks by the President at Signing of the Credit Card Accountability, Responsibility and Disclosure Act (May 22, 2009) (transcript available at http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-at-signing-of-the-Credit-Card-Accountability-Responsibility-and-Disclosure-Act/).

¹⁹⁰ See generally Annamaria Lusardi, *The Importance of Financial Literacy*, 2009 NBER REPORTER 1, 2, available at http://www.dartmouth.edu/~alusardi/Papers/NBER_Reporter.pdf (describing findings that “only a minority of individuals in the United States possess basic financial knowledge relating to debt” and specifically noting that “only a third of respondents in a representative sample of the U.S. population [knew that] they [could] not eliminate credit card debt by paying a minimum amount equivalent to the interest payments.”).

¹⁹¹ Obama, September Speech, *supra* note 53. Similarly, in an October 9, 2009 speech on consumer financial protection, President Obama made only a minor reference to the importance of financial literacy when he remarked,

But my concern are the millions of Americans who behaved responsibly and yet still found themselves in jeopardy because of the predatory practices of some in the financial industry. These are folks who signed contracts they didn’t always understand offered by lenders who didn’t always tell the truth. They were lured in by promises of low payments, and never made aware of the fine print and hidden fees.

Barack H. Obama, President of the U.S., Remarks by the President on Consumer Financial Protection (Oct. 9, 2009) [hereinafter Obama, October Speech] (transcript available at http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-Consumer-Financial-Protection/). Again, in that speech, like in his September 14, 2009 speech, he did not place significant emphasis on problems of financial illiteracy or make a call to improve it.

¹⁹² See The White House, <http://www.whitehouse.gov/> (last visited Jan. 10, 2010). The lack of

literacy or financial or economic education in its “Education” section.¹⁹³ In the “Economy” section, the only reference relevant to financial literacy or financial or economic education is a brief mention of the launching of MakingHomeAffordable.gov, a website where borrowers can learn about mortgages and homeownership.¹⁹⁴

- President Obama has shown some support for the cause of financial literacy within the context of his calls for financial regulatory reform. President Obama’s reform proposals involve plans to create a Consumer Financial Protection Agency (“CFPA”).¹⁹⁵ For example, the Obama Administration’s, *Financial Regulatory Reform: A New Foundation* white paper (“White Paper”) called for the CFPA to play a leading role in financial literacy efforts.¹⁹⁶

By championing the cause of financial literacy, President Obama would provide much needed attention and publicity to both the need to improve the country’s level of financial literacy and to the dangers and problems associated with a lack thereof. There are several easily executable ways in which President Obama could draw attention to the issue of financial literacy:

coverage on the White House website is particularly illustrative of President Obama’s lack of focus on the issue of financial literacy. The White House website is one of the primary tools that President Obama has used to communicate and emphasize important agenda and policy objectives. One example that demonstrates the importance of the White House website in delivering the Obama Administration’s messages is the posting of cabinet members’ written blog entries on the website about the year’s challenges and accomplishments. Posting of Jesse Lee to White House Blog, *Where We’ve Been, Where We Are, Where We’re Headed*, <http://www.whitehouse.gov/blog/2010/01/11/where-weve-been-where-we-are-where-were-headed> (Jan. 11, 2010, 11:02 EDT).

¹⁹³ See The White House, Education, <http://www.whitehouse.gov/issues/education> (last visited Jan. 10, 2010).

¹⁹⁴ See The White House, Economy, <http://www.whitehouse.gov/issues/economy> (last visited Jan. 10, 2010).

¹⁹⁵ See Obama, October Speech, *supra* note 191 (mentioning that he requested that Congress create a new Consumer Financial Protection Agency).

¹⁹⁶ See U.S. DEPT OF TREASURY, FINANCIAL REGULATORY REFORM: A NEW FOUNDATION, at 62, http://www.financialstability.gov/docs/regs/FinalReport_web.pdf (suggesting that “[t]he CFPA should play a leading role . . . to educate consumers about financial matters” and “review and streamline existing financial literacy and education initiatives government-wide.”).

- President Obama could hold a press conference or host an event at the White House discussing the importance of financial literacy and declare it to be a national priority.
- President Obama could begin mentioning financial literacy and the problems associated with a lack thereof in his speeches and public statements on relevant matters, such as education, the economic crisis, regulatory reform, and consumer and investor protection.
- President Obama could use the White House website to draw attention to the issue, as he has done with other important topics, such as health care and the post-earthquake relief effort information about Haiti.¹⁹⁷
- President Obama could launch a national financial literacy campaign. Past presidents have launched national campaigns to draw attention to issues of national concern. For example, to raise awareness about the importance of exercise, President George H.W. Bush hired Arnold Schwarzenegger to help promote the National Presidential Fitness Campaign.¹⁹⁸ Similarly, President Obama and his wife, Michelle, recently launched “Let’s Move,” a national campaign in which they have teamed with former NFL star Tiki Barber to combat childhood obesity.¹⁹⁹

¹⁹⁷ The White House website has prominently displayed information pertaining to health care reform during the first year of the Obama presidency. *See, e.g.*, The White House, Health Care, <http://www.whitehouse.gov/issues/health-care> (last visited Mar. 27, 2010). After the devastating earthquake in Haiti, links and pictures relating to Haiti were posted prominently on the White House website’s front page. *See, e.g.*, The White House, Haiti Earthquake Relief, http://www.whitehouse.gov/haitiearthquake_embed (last visited Feb. 15, 2010).

¹⁹⁸ *See generally* The President’s Council on Physical Fitness and Sports, History, <http://fitness.gov/about/history/index.html> (last visited Mar. 27, 2010) (noting that during the George H.W. Bush Administration, Great American Workouts were held on the White House lawn and Arnold Schwarzenegger chaired the President’s Council and visited all fifty states to advocate for daily, quality physical education). *Cf.* MICHAELSON, *supra* note 46, at 329 (recommending that the government launch a national financial education effort similar to the nutrition campaign held during the 1970s and noting that fictional characters such as “Mr. Mortgage” or the evil “Mr. Debt,” albeit silly, may be effective in teaching children about money and debt).

¹⁹⁹ Press Release, White House, First Lady Michelle Obama Launches Let’s Move: America’s Move to Raise a Healthier Generation of Kids (Feb. 9, 2010); *see also* Robin Givhan, *First Lady Michelle Obama: ‘Let’s Move’ and Work on Childhood Obesity Problem*, WASH. POST, Feb. 10, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/09/AR2010020900791.html> (describing how First Lady Michelle Obama is spearheading a campaign to fight childhood obesity that works with medical, business and government leaders, grassroots activists, and celebrities).

- President Obama could direct his cabinet members to continue their efforts to advance financial literacy,²⁰⁰ and ask them to increase the emphasis on financial literacy in their speeches and public statements.

2. *Financial Education Mandate*

Congress should require the states to provide kindergarten through twelfth grade financial education in their respective school systems.

The current system whereby states decide individually to what extent, if any, their public school systems offer financial education has been ineffective in preparing Americans to live financially secure lives. While states are beginning to incorporate financial education offerings and requirements into their schools, there are concerns about whether the state-by-state adoption will occur completely and in a timely manner.²⁰¹

²⁰⁰ Recently, Department of Treasury Secretary Timothy Geithner and Department of Education Secretary Arne Duncan announced a joint effort by their two departments to promote strengthened financial capability among America's youth. See Krigman, *supra* note 134 (reporting a new partnership between the Departments of Treasury and Education to promote financial education); Press Release, U.S. Dep't of Treasury, Administration Officials Promote Enhanced Financial Capability Among America's Youth (Dec. 15, 2009), available at <http://www.ustreas.gov/press/releases/tg446.htm> (describing a new partnership between the Departments of Treasury and Education to promote financial education).

Senior Obama Advisor Valerie Jarrett discussed the need to improve financial literacy in July 2009 when she gave the closing address at Operation HOPE's Global Financial Literacy Summit. Posting of Michael Blake to The White House Blog, Improving Financial Literacy for Our Economic Recovery, <http://www.whitehouse.gov/blog/Improving-Financial-Literacy-for-Our-Economic-Recovery> (Jul. 2, 2009, 06:01 EDT) (summarizing Valerie Jarrett's remarks about the importance of financial literacy).

²⁰¹ 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 14 (expressing concern over the "slow pace of state-by-state adoption of mandatory financial education"). The notion that the federal government should require the states to provide financial education in their school systems is not new. Numerous experts have called for it for years. For example, in its 2008 Report to the President, the President's Advisory Council on Financial Literacy recommended, among other things, that Congress or state legislatures mandate financial education in all schools for students from kindergarten through the twelfth grade. *Id.* at 14-16. The President's Advisory Council also recommended that the national mandate set standards and "guidelines for states and other educational jurisdictions to establish their own specific requirements." *Id.* at 15; see also ZANDI, *supra* note 46, at 237 (opining that personal finance courses should be required in American high schools); MICHAELSON, *supra* note 46, at 330 (calling for society to teach children the "danger of value bubbles" and "how to recognize them"); U.S. DEP'T OF TREASURY, OFFICE OF FIN. EDUC., WHITE PAPER: INTEGRATING FINANCIAL EDUCATION INTO SCHOOL CURRICULA, B-5 (2002) [hereinafter TREASURY, WHITE PAPER] (quoting then-Treasury Secretary O'Neill's remarks on the importance of the incorporation of financial education in American schools); Kimberly Palmer, *5 Ways Obama Can Improve Financial Literacy*, U.S. & WORLD REP., Jan. 13, 2009, available at

A requirement that financial education be provided at all levels in all American schools is a critical step to address the nation's widespread financial illiteracy. Research shows that school-based education on money-related matters is effective in improving peoples' financial decision-making and behavior.²⁰² For example, White Paper noted that people who have received financial education participate more frequently in, and make larger contributions to, their employer 401(k) plans.²⁰³ White Paper also reported that those people who received financial education have a much higher savings rate than those who had not received financial education.²⁰⁴ In addition, research has shown that it is very important to teach people about money when they are young in order to provide them with the building blocks to make effective financial decisions throughout their lives.²⁰⁵

The American public school system offers key advantages over the two other common places where financial education is delivered – the home and the workplace.²⁰⁶ First, on a practical level, the federal

finance/articles/2009/01/13/5-ways-obama-can-improve-financial-literacy.html (recommending that “[s]chools should be required to teach financial education from kindergarten through the 12th grade”).

²⁰² See, e.g., Dr. Sharon M. Danes, Evaluation of the NEFE High School Financial Planning Program (2003–2004) (unpublished project report, University of Minnesota), available at <http://hsfpp.nefe.org/loadFile.cfm?contentid=273> (discussing “[a]n 18-month evaluation of the NEFE High School Financial Planning Program, a curriculum provided by the National Endowment for Financial Education,” that found that students showed statistically significant increases in all financial knowledge, behavior, and confidence questions after studying the curriculum); TIAA-CREF, *supra* note 2, at 5 (listing several studies that have show the correlation between financial literacy and exposure to financial education programs). *But see* Lauren E. Willis, *Against Financial-Literacy Education*, 94 IOWA L. REV. 197, 204–07 (raising questions about the efficacy of the studies that claim support for financial literacy).

²⁰³ TREASURY, WHITE PAPER, *supra* note 201, at 3 (listing examples of studies that show how financial education is effective).

²⁰⁴ *Id.* Also relevant, although not conclusive evidence of the efficacy of financial education programs, is the fact that “individuals [that] graduat[e] from high schools in states that mandate personal finance courses have higher savings rates and net worths as a percentage of earnings than those who graduate from schools in other states.” *Id.* at 4. See generally Maarten van Rooij et al., *Financial Literacy and Stock Market Participation 4* (Nat'l Bureau of Econ. Research, Working Paper No. 13565, 2007) (providing a list of studies that demonstrate financial illiteracy's implications on household behavior).

²⁰⁵ See TREASURY, WHITE PAPER, *supra* note 201, at 4 (explaining the benefits of introducing young students to financial education basics); 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 19 (discussing some of the benefits of providing financial education to children starting at a young age).

²⁰⁶ TREASURY, WHITE PAPER, *supra* note 201, at 4 (opining that “[n]o better venue exists to reach a large segment of the youth population than through the school system”). It is worth noting that there are several challenges associated with this recommendation. For example, funding for this recommendation would be an obvious challenge. Second, there are questions about the implementation of this recommendation, including teachers' levels of financial literacy to enable them to teach the subjects, the provision of adequate training for teachers, and the issue of whether these subjects could be fit into an already

government has a much greater ability to effect change in school systems than in homes and in the workplace. In addition, school systems offer the benefit of already being designed and structured for the delivery of education. As discussed in Part I.B., there are problems and challenges associated with the delivery of financial education in the home²⁰⁷ and in the workplace.²⁰⁸ As is the case with other proposed solutions for complex problems, the “devils are in the details,” and there may be challenges in such a federal mandate. However, the current system, where it is left up to the states to provide how much – or little – financial education they prefer, defies common sense, and history has shown it to be ineffective.²⁰⁹

CONCLUSION

One of the silver linings of the financial crisis may be its role in shining light on the devastating and far-reaching consequences of financially illiteracy.²¹⁰ Financial illiteracy played a key role in causing the worldwide financial crisis, and it contributes to a number of other important societal problems. While the efforts by people in the government and in the private sector to increase the level of financial literacy have been laudable, continued work is needed on this important issue.

busy school day without reducing emphasis on other important subjects. Politically speaking, there may be difficulties in gaining support for such a mandate because many of its major benefits would be received in the long, and not the short, term. See generally 2008 REPORT TO THE PRESIDENT, *supra* note 3, at 15 (providing recommendations for the implementation of a national financial education mandate, including research around the most effective ways of teaching students the basics of finance, the provision of curriculums and training for personal finance teachers).

²⁰⁷ See *supra* notes 20-24 and accompanying text.

²⁰⁸ See *supra* notes 25-27 and accompanying text.

²⁰⁹ See *supra* Part I.

²¹⁰ See Steverman, Financial Literacy, *supra* note 102 (noting that financial literacy advocates are using the economic crisis as an opportunity to raise awareness about the importance of financial literacy).

