

2008
State of the
Credit Counseling and
Financial Education
Sector Address

Delivered by
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Every year, when I sit down to prepare my remarks on this occasion, the first thing I do is find a quiet place to reflect. I try to find clear trends or patterns from the past 12 months. Often, I will look at the previous year's agenda; think about the speakers we heard from, and even re-read my own remarks. After going through this review, I typically think "what a difference a year makes." But, this year, I think I know what Yogi Berra meant when he observed: "Déjà vu all over again."

Last October, when we met in Portland, Oregon, the big concern was the emerging crisis in the housing market. It was clear that millions of Americans, especially those with sub-prime mortgage loans, were running into problems paying their mortgages. Foreclosures were rising to levels not seen in several decades. Because interest rates on more than two million mortgages were coming up for reset, we worried that the problem might spread throughout our entire economy.

In response, we mobilized. At the national level, with the help of the Housing Task Force, we established the Homeowner Crisis Resource Center, a new Web site dedicated exclusively to helping consumers who were having trouble keeping their loans current or who thought they might run into difficulty in the months ahead. At the local level – and you know this better than I – resources were developed and reallocated to deal with the growing influx of housing clients and every one of our 108 NFCC Member Agencies ramped up in various ways. This year, our total number of clients served is on pace to reach 2.7 million, an increase of 6.9 percent. The main reason is a surge in housing-related services, which climbed 110 percent between the first two quarters of 2007 and the first two quarters 2008. This is in addition to the 15 percent increase in both pre- filing and post-discharge bankruptcy services for the same period.

As we all know, the housing crisis DID spread beyond the sub-prime market. Before long, many Americans with good credit and prime rate loans were also in trouble. It turned out that the problems with credit extended beyond consumers to include some major lenders and investment banks, and the government-sponsored GSE's, Fannie Mae and Freddie Mac. So, this week in Baltimore, our agenda includes two outside speakers who will be talking about different aspects of housing. It is clear that housing-related services will take up an even greater amount of our resources in the next 12 months.

A year ago, housing was at the top of our short-term priority list. This year, housing remains foremost in our mind.

But, in my gut I didn't believe déjà vu was the whole story. So, I looked through another lens. Instead of looking back 12 months, I went back to March 2004, when I joined the NFCC. And, when I did that, I reached a different conclusion: "What a difference between my first address to this group and this one, my fifth."

When I consider all of the challenges we have faced, and the tremendous things we've accomplished together, I think it is fair to say that we have remade our sector, and that the NFCC has truly come of age.

Thanks to your efforts, the NFCC has changed public perceptions about nonprofit credit counseling. We also changed the way public policy makers think about us.

As it happens, in 2005, the Senate Permanent Subcommittee on Investigations released a devastating report on the state of nonprofit credit counseling. Because of the decades of quality work done by NFCC agencies, the report recognized that our standards were high, and it touted them as a model for the sector. But the headline writers and the news stories largely missed that distinction. Instead, news stories focused on the abuses and called for a clean-up of credit counseling. I can recall the frustration of so many of you over being lumped in with the bad actors.

I am pleased to say that in September 2008, the world looks at us very differently than it did four and a half years ago.

Today, nonprofit credit counseling is widely considered part of the solution when financial problems confront America.

- When the Congress wanted to reduce bankruptcy filings; it said there was an important role for credit counseling.
- When HUD decided to fund reverse mortgages; it said credit counseling was a pre-requisite.
- In December 2007, with mortgage defaults emerging as a problem; Congress earmarked money for credit counseling.
- This Summer, when it became clear that the mortgage crisis wasn't over, Congress again anted-up money.

- And, there is a growing possibility that regulators are going to give us a greater opportunity to serve by providing lenders with CRA credits for supporting financial education. That's not a done deal, but I know it is under active consideration.

These actions speak loudly; policymakers know that credit counseling makes a difference.

The attention and respect is flattering. But it also reflects a difficult economic environment and a national failure to commit to a national culture of financial responsibility -- the NFCC's vision.

In some ways, our work is an inverse barometer of America's economy. Over the years, when good times roll for America, we have seen excess capacity. When economic growth slows down, the list of clients grows. And, if you take a look at which services are growing most rapidly, you get a pretty good idea about the problems facing our economy.

During the first two quarters of this year, NFCC Member Agencies provided 210,000 housing sessions, compared to 100,000 a year earlier. This year, we are on pace to provide 1.26 million bankruptcy sessions, a projected 15 percent increase over 2007, and I think it is a near certainty that bankruptcies will likely rise further in 2009 perhaps even to levels before BAPCPA, the Bankruptcy Law of 2005.

All consumer debt is high, savings are down, unemployment is rising, and economic growth is slowing. Combine these four and you have a recipe for increased bankruptcies as more and more consumers find themselves over extended.

As people scramble to save their homes, and others file for bankruptcy, general financial counseling has accounted for a smaller part of our work. But that work remains vitally important. Given the slowdown in the economy and higher prices for critical goods, including food and energy, (with or without foreclosure looming) an increasing number of people turn to us for help with their debt problems. Unfortunately, given the high levels of unsecured debt outstanding, bankruptcy will be the only option available to many of these families -- unless the credit card industry provides relief through better concessions, so that a greater number of consumers can qualify for Debt Management Plans, or DMPs.

To date, I am proud to say that the NFCC has met every new challenge. We had the collective foresight to see that too many Americans and too many institutions were behaving in ways that were not financially sound. And, we got ourselves ready to help.

In fact, as I look back over the past four and a half years, it occurs to me that our efforts over time have been perfectly tuned for this very moment in time.

In 2004, we set out to rebuild respect for nonprofit credit counseling and undo the damage caused by the DMP mills and others who betrayed consumers' trust. We decided to take back the leadership of our sector and to make clear that the NFCC set the gold standard for nonprofit credit counseling and financial education.

Since then:

- We've successfully built and continue to grow the NFCC brand, and we've made clear to all who pay attention that there really *is* a genuine difference between NFCC agencies and the rest of the sector.
 - We've built capacity to meet the challenge of a new bankruptcy law.
 - We have expanded our housing services, particularly in the area of loss mitigation to help families at-risk of foreclosure.
 - We've diversified our services to reflect changes in the economy and we've diversified funding sources to provide greater long-term stability.
 - We've made the NFCC a national voice that policymakers seek out for advice and assistance.
- And,
- We've expanded our mission as a leading advocate and provider of financial literacy.

The power of our brand is evident from the growing list of groups that reach out to the NFCC.

- In April of this year, when the Federal Reserve Board invited financial leaders to discuss possible changes in credit card regulation, we were at the table.
- That same month, when Visa and the Federal Reserve Bank of Chicago hosted a public summit on financial literacy, we were at the speaker's podium.

- When the Today Show looked for credit counselors to provide financial advice during a four-hour, nationally televised program, they turned to the NFCC.
- When President Bush signed a letter commenting on financial literacy, he thanked the NFCC. And when Congress enacted a resolution on Financial Literacy, the NFCC was among the organizations cited.

Organizations and individuals across the spectrum want to associate with the NFCC. You should all be very proud of what you have accomplished.

Not only do policymakers want to work with us, but – as I noted earlier – they also turn to us to help with America’s financial problems. In a sign of real commitment to credit counseling, Congress has appropriated some \$330 million for housing-related counseling in two separate bills over the last 12 months. This isn’t lip service; it’s a real commitment backed by real money. In a testament to our work and our standards, the NFCC has received the maximum funds possible under the terms of the legislation to date and NFCC Members overall are today the primary providers of housing counseling services.

NFCC is also attracting a growing amount of grant funding from financial institutions and other organizations.

For example, this year, Bank of America, Countrywide, and the Well Fargo Foundation have come forward with a combined \$1.45 million in three separate grants to support our housing work. This is in addition to individual grants also provided directly to NFCC Members.

The NFCC is committed to helping resolve America’s housing crisis.

In addition to the surge in housing counseling, more than 135,000 consumers have visited our online Homeowner Crisis Resource Center and nearly 30,000 have taken our “Mortgage Reality Check” to date. We’ve also held out the hand of cooperation to various alliances, task forces and coalitions including: NeighborWorks America, the Hope Now Alliance, the Financial Services Roundtable, and the Homeownership Preservation Foundation. In doing so, and although controversial at times, the NFCC has been steadfast in insisting that quality standards be met, that as many counseling resources as possible be

made available to financially-devastated homeowners, and that nonprofit agencies stay true to their nonprofit missions.

The NFCC is building *enduring* partnerships with a variety of organizations to advance financial education.

- The NFCC has expanded our work with MSN Money, which co-sponsored our consumer survey this year and is providing national promotional support for our upcoming “Protect Your Identity Week” initiative. In addition, more than 200 counselors from 58 Member Agencies have participated in MSN Money’s “Ask a Credit Counselor” Message Board, hosted by the NFCC. To date more than four million consumers have visited our Message Board to seek guidance from NFCC-certified counselors.
- We also are expanding our relationships with the National Education Association, National Council of La Raza, and the Coast Guard, and we are working with GMAC on a program to help automobile owners hold on to their cars.

The NFCC is leading new initiatives – at the national and local level.

Let’s start with creditor concessions. As you all know from first hand experience, a pullback in creditor concessions in recent years has made it much harder to help our clients get out of debt. In cooperation with others in our sector and representatives from the Financial Services Roundtable, we have taken the lead in an effort to design new types of concessions and also to persuade more creditors to step up. We have talked with creditors and met with regulators to explore a number of options, and at the direction of an established NFCC Working Group, have begun a series of tests to gauge the real-world impact of some possible adjustments.

Because right now we are in a lose-lose situation. Many consumers are damaging their credit because they have no better option than walking away from their debt or filing for bankruptcy. Creditors, in turn, are taking bigger losses than necessary. Reversing this negative trend on concessions is one of our top priorities over the next year. And, I’ll come back to this shortly.

In the area of data security, we’ve established a Working Group to make sure that NFCC agencies are doing all they can to protect clients’ privacy and the security of financial information provided during

counseling sessions – a challenge that has grown more critical with the expansion of online counseling. We recently completed a baseline survey to determine our level of performance in this area and to make sure that every agency meets or exceeds expectations. This is one more area where we intend to take the lead.

And on to public education...a member-driven Working Group is launching a national initiative next month to educate consumers about identity theft and how to protect themselves. National Protect Your Identity Week will be held October 19-25 and NFCC Member Agencies will host more than a hundred events in communities across the country during this week. We are thrilled that NFCC national partner MSN Money is supporting us in this effort as our national media sponsor and that the Federal Trade Commission is working with us by offering speakers and providing informational materials. In addition, we have built a coalition of national organizations to support our outreach in this area that includes: the Coalition of Better Business Bureaus, the Consumer Federation of America, the National Crime Prevention Council, the NEA, Jump\$start, Consumer Action, and the National Council of La Raza, among others.

The NFCC is remaking our profession.

And this is critical as we both educate and protect consumers.

We've supported the IRS effort to tighten the rules for nonprofit status and to strengthen the nexus with financial education.

We've expanded and diversified our services.

Bankruptcy and housing counseling are now a big part of our portfolio. Ninety-eight of 108 agencies do housing counseling, and our agencies have more than 1,600 certified housing counselors. Combined, these two areas now account for about 75 percent of our work.

We've embraced the responsibility for reverse mortgage counseling to make sure that senior citizens make informed decisions before participating in this emerging category of loans. Over the past year, NFCC counselors have provided nearly 24,000 reverse mortgage counseling sessions.

And, our funding sources are more diverse, too, and fee-based work now accounts for almost half of our revenues – providing a more stable revenue base for agencies.

In the area of public policy and advocacy, before looking forward, it may be helpful to take a minute to look back.

In 2003 and 2004, the nonprofit credit counseling sector was under attack – and rightfully so. Ameridebt and other phony “nonprofit” companies had been allowed to become prominent in the sector and were, by and large, unchecked by the IRS, Congress or the NFCC. As a result, abuses to consumers and to the nonprofit sector were rampant.

What the NFCC did do – to the credit of the NFCC Board and the Membership – was to retain its high standards in the provision of consumer-focused services, which clearly distinguished NFCC Member Agencies from the others. Armed with these standards, representatives from the NFCC went before Congressional Committees to lay the groundwork necessary to launch the message of “Know the Difference.” What Pat Boisclair did before the House of Representatives, and what Jim Kroening did before the Senate, enabled the NFCC to intensify its efforts in Congress in 2004 and 2005, and to promote the recognition of the NFCC Difference. That led to the acknowledgement in the 2005 Report of the U.S. Senate Permanent Subcommittee on Investigations, that if the NFCC standards were applied throughout the sector, they would address the abuses that existed.

In other words, Congress had a problem, and recognized that the NFCC model was the solution.

This has become even more evident as time has gone by. When the Executive Office for U.S. Trustees had to establish a system to meet the pre-filing counseling requirements of the new Bankruptcy law, they turned to the NFCC model. When the IRS, at the urging of Congress, established guidelines for the nonprofit credit counseling sector, they largely incorporated the NFCC model into their Core Analysis Tool. When Congress sought to drive the phony nonprofits out of the sector with the adoption of Section 501(q) of the Internal Revenue Code, the NFCC model again served as a guide and the NFCC had substantial and significant input into the final provisions of the law.

All of this did not happen by accident or circumstance, but by considerable effort by you the Members, and by the NFCC on your behalf, at the direction of the Board of Trustees.

Recently, I have heard some criticism that over the past 12 months, the NFCC has dropped the “legislative ball” in that it did not dedicate significant time and resources to seeking federal legislation on the issues of concessions or the for-profit debt settlement companies. I will say more about each of those issues in a moment, but first, I want to take that criticism head on.

Those schooled in the ways of Washington know that very little in the way of new initiatives are effectively launched in a Presidential election year, and that is especially true when the party ratios are close in Congress, and the White House changing hands. Where the Board and the NFCC saw the greatest potential benefit for the largest number of NFCC Members in the public policy arena was around housing counseling. And that is where we concentrated our efforts and our resources.

The result was that the NFCC was awarded a grant of \$15 million – by far the largest single grant that the NFCC has ever received – with most of the funds going to NFCC Member Agencies to support housing counseling. Ongoing efforts throughout the year have resulted in additional grant funds in excess of \$25 million available to the NFCC. In fact, as we speak, staff back in Silver Spring is preparing the application for round two funding for the National Foreclosure Mitigation Counseling Program. This is obviously in addition to being one of the largest recipients of HUD funding. So, from a public policy perspective, our efforts this year have resulted in a potential flow of funds to the NFCC Members of nearly \$44 million – and I am not going to apologize for that.

That being said, let’s look forward and defend our gains against those who would take our sector in reverse.

We are seeing a troubling push in many states for the recognition of for-profit debt management businesses. Right here in Maryland, the for-profits were welcomed into the state under the guise of consumer choice; they argue that the only difference between them and us is that they pay taxes and we don’t.

But we know better. Along with debt settlement firms, these for-profit businesses focus on a quick fix that directs virtually every client to a DMP. They do not provide education. They do not worry if their clients learn anything about managing money. They do not care if their customers get themselves right back into debt.

As the U.S. Senate report noted a few years ago, “When profit motive is injected into a nonprofit industry, it should come as no surprise that harm to consumers will follow.”

Fortunately, regulators in Washington understand the difference. That is why the FTC has been hard at work to expose the masquerade, most recently with action to shut down so-called “Debt Meltdown Programs” that deceived consumers in Florida and New York about the services they provided. In many cases, the consumers were in worse shape at the end of the program than at the beginning.

As we all know, the IRS has been hard at work for several years to end abuses by for-profits that have wrongly masqueraded as legitimate nonprofit counseling agencies. In support of that effort, Congress moved to protect consumers with tough new regulations for nonprofit counselors. We welcomed that initiative to help drive out the bad actors.

But, for some reason, the differences are not well understood in every state. Ironically, by opening the doors to for-profit agencies, the states are releasing them from the consumer protections enacted by Congress. As a result, the for-profit companies – including many who have been identified as abusers – will be more lightly regulated than nonprofits. Consumers will have the least protection in an area where they need the most.

I am not going to mince words. We must expose these debt profiteers for what they are. To these businesses, people with debts are a profit center; the bigger the debt, the bigger the profit.

Over the next year, we will work harder than ever to differentiate ourselves and make sure that policymakers, consumers, and creditors alike know the difference.

And, in the area of financial literacy we must build on our growing body of work to lead the charge for transformational change.

Our consumer survey on financial literacy, which we released this Spring, confirmed what we already knew – too many Americans do not understand or practice fundamental rules of financial responsibility.

The survey showed that only 40 percent of Americans set up a budget and keep close track of their spending. Most Americans have never ordered their credit report, millions say they are regularly behind in paying their bills, most do not have a sufficient emergency fund set aside, and one-third report they have no retirement savings at all. Among the most worrisome finding is the high percentage of young Americans – more than 40 percent – who do not pay their bills on time. This suggests that financial habits are getting embedded earlier and may be getting worse instead of better.

The data confirms the lessons of recent experience – Americans borrow too much and save too little. Whether it's a bigger house, a snazzier car, or the latest electronic gadget, too many Americans seem unable to delay gratification until they have the money to pay for it. Not only have millions of Americans gone deep into debt to buy more home than they can afford, but too many also have treated their house like a piggy bank and added substantial home equity debt on top of their first mortgage.

Over the last two decades, the value of home equity loans has risen from \$1 billion to \$1 *trillion*. Seduced by advertising slogans like “Live Richly” and “Need Cash? Use Your Home,” Americans have given huge amounts of their home equity back to the bank. In the 1980s, Americans average equity in their home was about 70 percent. Today, for the first time since World War II, that figure has dropped to less than 50 percent. In the words of *The New York Times*, “the United States has become a nation of half-home owners.”

So, today, to help our economy get back on its feet and stay on its feet, I am issuing a challenge to every American to put financial responsibility at the top of their personal agenda. We need to identify policies to put America back on the right financial track – to give Americans the tools to understand their financial options and manage their money, to promote some old virtues like savings, and to teach Americans the new virtue of responsible credit.

I believe that NFCC's work in this area, including a white paper on financial literacy that we have already shared informally with government officials as well as other members of the nonprofit community has identified some strategies that we need to consider.

While many organizations have launched their own financial literacy programs, our country does not have a true national strategy. We do not have any baseline measures of national financial literacy or meaningful ways to track performance and outcomes. We do not know for certain what types of programs are most

successful in stimulating positive financial behavior. Nor do we have any mechanism for sharing experience and developing best practices among the various individual programs.

The NFCC as the gold standard is well-equipped to lead in financial literacy. But what's really needed is a broad national effort, so that America wins a Gold Medal for financial literacy. I am not suggesting another big federal bureaucracy, but I do believe that in some areas, national solutions are essential. In fact, the federal government has a good track record in just this type of educational effort. It successfully advanced awareness of auto safety issues and mandated the installation of a seat belt in every car. It has successfully educated Americans about the dangers of smoking. It has helped Americans gain a better understanding of healthy eating habits and encouraged us to drink responsibly. I think it can be equally successful in promoting financial education – if we can first take the critical step of acknowledging we have a problem.

It's a big challenge. But, with strong leadership, I know our country can get it done.

So let's get out our proverbial notebooks and outline our "Calls to Action" in the next year:

1) We will pursue real progress in creditor concessions.

To address consumers' need for an affordable, sustainable DMP now, we are asking ALL card issuers— by March 31, 2009— to adopt a universal, two-tiered DMP program offering either a maximum monthly fixed payment of 2 percent or a hardship payment of 1.75 percent of the balance.

As part of this proposed program:

- Consumers will be enrolled in one of the two tiers based on a full budget review by the counseling agency that demonstrates that available cash, net of a maximum \$200 monthly emergency cushion, is not adequate to meet the monthly contractual payments.
- Issuers will waive late and over limit fees, and program APR's will be set, to ensure that the enrolled balances will liquidate within the 60 month regulatory guideline.
- To promote long-term financial health, all consumers enrolled in a DMP will be required to establish, and maintain, an emergency fund, contributing a minimum of \$25 (and a maximum of the \$200 emergency cash) monthly.

There is obviously greater detail on how the universal two-tiered DMP program will work which will be reviewed at the NFCC Advisory Council on Wednesday morning. Suffice it to say that after considerable discussion, this is the right thing for all card issuers to do in this economic environment, and it has to happen now.

2) We will seek federal legislation to impose the same standards of consumer protection on the for-profit credit counseling companies that exist on the nonprofit agencies.

In state after state, we have heard the for-profit companies profess that they will abide by the same standards as the nonprofits. Let's take them at their word and apply the same consumer protections imposed on nonprofits under IRC 501(q) to the for-profit companies. Specifically, federal legislation is needed to ensure that a for-profit company:

- must provide credit counseling services tailored to meet the needs and circumstances of the client;
- may not make loans to its clients (other than loans with no fees or interest);
- may not negotiate loans on behalf of its clients;
- may not engage in credit repair activities, or charge a separate fee for credit repair activities outside of what is part of comprehensive credit counseling services;
- may not refuse to provide credit counseling services due to a consumer's inability to pay, or a consumer's ineligibility or unwillingness to enroll in a debt management plan;
- may only charge reasonable fees for services; and
- may not, unless allowed by state law, base fees on a percentage of a client's debt, DMP payments, or savings from enrolling in a DMP.

The "wild west" spectrum of debt settlement activities and companies must be tamed. We will seek federal legislation that will define the services that debt settlement companies may offer, and provide a strong level of consumer protection.

As Congress and the IRS have increased scrutiny of nonprofit agencies, we have seen a proliferation of new and morphed companies offering debt settlement services. It has become a multi-million dollar business that is largely unregulated and that has sought credibility by operating in the shadow of the regulatory structure of the nonprofit credit counseling sector. Make no mistake, nonprofit agencies exist to

provide education and counseling to consumers, while for-profit debt settlement companies exist solely to sell questionable products and services. Policymakers must not lose sight of the fact that the motivation of the for-profit companies is just that – profit.

Specifically, with regard to debt settlement companies, federal legislation is needed to:

- define the scope of services that may be provided;
- set caps on the range of fees that may be charged and ensure that the fees are commensurate to the services being provided;
- prohibit the collection of fees until actual services are provided;
- require full disclosures to consumers to inform them of fees being charged, the potential consequences of utilizing debt settlement; the potential impact of debt settlement services on credit history; and the tax consequences of debt settlement;
- provide the consumer with a minimum of a six-month rescission period to cancel the agreement and to fully recover set-up fees and payments made;
- subject advertising and practices to Unfair and Deceptive Acts and Practices laws; and
- impose significant financial and criminal penalties to deter violations.

Federal legislation should set the floor for regulation. States should be free and encouraged to adopt more stringent standards and consumer protections for for-profit counseling and debt settlement companies that provide services to consumers within their boundaries.

3) We will redouble our efforts to direct consumers to quality credit counseling and warn them of the consequences of debt settlement and for-profit companies.

The NFCC Difference is real, and the consumer choice between the quality nonprofit credit counseling solution and a for-profit debt settlement option has real consequences for consumers who are often in desperate need of assistance.

In an effort to protect consumers, the NFCC will reach out to the news media and directly to consumers to explain the difference. We will mount an aggressive campaign that will entail proactive media outreach, a comprehensive multi-channeled public service announcement initiative, online consumer education, and national partner outreach.

Our message will be quite simple: When consumers see the NFCC logo, they know that they are working with an agency where the “bottom line” is the consumer’s best interests and that they come first.

4) We must build on our growing body of work in the area of financial literacy to lead the charge for transformational change, community by community.

We will work with national partners and stakeholders to implement our strategy to make the path to a culture of financial responsibility a reality. This will include the creation of a national coordinating body to develop measures for tracking financial literacy and measuring program performance, the design of a national financial literacy index, the development of accreditation standards for programs and counselors, and the facilitation of information about community programs. I am NOT talking about a study commission. What we need is an implementation group that will quit talking and get to work catalyzing change, community by community.

5) In the midst of the ongoing housing crisis, we must continue to lead the charge to help homeowners in need of holistic housing counseling to hold on to their American Dream.

While our assistance to these hundreds of thousands of homeowners is front and center as they confront their crisis, it is important that we not lose sight of the fact that in many cases stopping a foreclosure from happening isn’t solving the problem. The NFCC must continue to advance holistic counseling, for to truly assist a consumer in attaining financial independence, our housing counseling assistance must go beyond “level 1.”

When we convene a year from now, my hope is that we will talk about the success of these Calls to Action.

Once again, thank you for all of your hard work and for making such an incredible difference.