STATEMENT OF CHAIRMAN ROB PORTMAN
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING: REVIEW OF THE ACA HEALTH INSURANCE CO-OP PROGRAM
MARCH 10, 2016

This hearing will come to order. [gavel]

Thank you all for being here. I want to begin by noting that our Ranking Member, Senator McCaskill, cannot be with us today. As many of you know, she is at home in Missouri attending to an important health issue. All of us in the Senate are thinking of her, know she will be back with us soon, and we wish her the best. I suggested to Claire that we should postpone this hearing until she gets back, but she said the Senate's business should go on. She will be submitting questions for the record. And on behalf of the Subcommittee, I want to thank Sen. McCaskill's staff for their hard work preparing for this hearing.

We are here today to discuss the Administration's unfortunate adventure in the health insurance start-up business. The Affordable Care Act created something called the Consumer Operated and Oriented Plan (or "CO-OP") Program as a gesture to those who favored a public option. Under that program, the Department of Health and Human Services awarded $2.4 billion of taxpayer money to 23 non-profit health insurance CO-OPs. As of today, twelve of them have failed. Those twelve collectively received $1.2 billion in taxpayer money that is almost certainly lost. And their collapse caused 740,000 people in 14 states to lose their health insurance provider and have to scramble to find new coverage in little to no time.

Over the last 9 months, our Subcommittee investigated those failures. We wanted to know whether HHS, when it played the role of angel investor, made good or bad decisions with taxpayer money.

The answer is *bad* decisions. In a Majority Staff Report released today, we detail our findings that HHS was aware of serious problems concerning the failed CO-OPs' enrollment strategies, pricing, financial forecasts, and management before the Department ever approved the initial loans. Once the CO-OPs got going in 2014, things went south in a hurry—both in terms of financial losses and enrollment figures that wildly deviated from the CO-OPs' projections. The failed CO-OPs ultimately racked up $376 million in losses in 2014, and more than a billion dollars in losses in 2015. But despite getting regular reports that the CO-OPs were hemorrhaging cash, HHS took no corrective action for over a year.

Worse, the Department approved ***additional*** loan awards to three of the now-failed CO-OPs in 2014, despite clear warning signs that those CO-OPs did not have reliable plans for turning things around.

The Majority Staff Report explains these findings in further detail. And without objection, that report and its appendix are ordered to be made part of the record. But let me give you some highlights.

When HHS approved startup loans for the failed CO-OPs in 2012, it asked a reputable firm, Deloitte Consulting, to evaluate the CO-OPs' proposed loan applications and business plans. We reviewed Deloitte's analysis as part of our investigation. Here's what we found:

Although Deloitte gave the CO-OPs a "passing" score based on a grading scale set by HHS, the firm warned HHS of specific concerns with the failed CO-OPs that foreshadowed the problems to come.

- Many of the failed CO-OPs could not identify their senior leadership team.
- Seven of the 12 had serious deficiencies in their enrollment strategy—which later turned out to be a chief reason for CO-OP failure.

- Many of them submitted budgets that were incomplete, unreasonable, not cost-effective, or that didn't align with the CO-OPs' own financial projections.

- Those financial projections were not so hot, either. Deloitte warned that several CO-OPs relied on unreasonable projections about their own growth. As just one example, Deloitte noted that CoOportunity—the CO-OP for Iowa and Nebraska— had a target profit "much lower than the industry benchmark" of 4.8%. That was an understatement: CoOportunity's stated target profit margin was *zero percent*.

Nevertheless, HHS approved *all* the loan applications to the failed CO-OPs, to the tune of $1.2 billion.

After they entered the marketplace in 2014, the CO-OPs' financial health deteriorated rapidly. And HHS knew it. The Department regularly received key financial information from the CO-OPs, including monthly reports and audited quarterly financial statements. Those reports showed that, starting almost immediately, the failed CO-OPs experienced severe financial losses that exceeded even the worst-case scenarios outlined in their loan applications to HHS. Cumulatively, by the end of 2014, the failed CO-OPs exceeded their projected worst-case-scenario losses by at least $263.7 million—which is four times above the projection.

The CO-OPs' enrollment numbers were no less problematic. According to the 2014 monthly reports submitted to HHS, five of the failed CO-OPs dramatically underperformed enrollment projections, while five others overshot their projections by wide margins. Both errors can cause serious financial losses. Low enrollment means insufficient income to cover expenses. Excessively high enrollment is an even greater threat to solvency because it multiplies *losses* rather than profits when premiums are underpriced—as many of the CO-OPs' premiums were.

But despite having that information at its fingertips, HHS did not step in. The Department's loan agreements with the CO-OPs entitled it to invoke a number of accountability tools for borrowers who were missing the mark, but here HHS took a pass. Inexplicably, for over a year, the agency took *no* corrective action, nor did it put any CO-OP on enhanced oversight. Five of the 12 failed CO-OPs were *never* subject to corrective action by HHS, and HHS waited until September 2015 to put five others on corrective action or enhanced oversight. Two months later, all twelve CO-OPs had failed.

HHS also had the power to stop disbursing funds if a CO-OP's financial viability was in doubt. It never did, to the bitter end. Instead, over the course of 2014–2015, HHS disbursed $848 million in federal loan dollars to the failed CO-OPs, even as those entities lost more than $1.4 billion. That's about $1.65 in losses for every $1 HHS gave them.

More unbelievable, near the end of 2014, HHS approved *additional* solvency loans for three of the failed CO-OPs that were in danger of being shut down by state regulators for having insufficient capital—despite clear warning signs that those CO-OPs could not turn things around. Here again HHS asked Deloitte to complete an external review of the CO-OPs' application for additional solvency loans and their plans to improve their finances going forward. But according to Deloitte, HHS truncated its review of those applications. Deloitte did *not* evaluate, for example, "the likelihood that each CO-OP would achieve sustainable operations based on the revised business plan"—which I would have thought was the whole point. But even the limited analysis that HHS allowed Deloitte to conduct pointed to clear warning signs that CoOportunity, the New York CO-OP, and the Kentucky CO-OP did not have a sound plan to regain their footing.

Nevertheless, those three CO-OPs alone received $355 million in additional solvency loans. All have failed. The Kentucky CO-OP collapsed after suffering losses of $50.4 million in 2014 and another $114.8 million in 2015. At the time of CoOportunity's closure, that company's operating losses exceeded $163 million. And most staggering of all, after HHS gave the New York CO-OP $90 million to prolong its financial life rather than allow it to scale down, that CO-OP went on to lose another $544 million in 2015.[1]

The financial aftermath of all this is dire. The Subcommittee obtained the failed CO-OPs' most recent financial statements, and those statements show that *none* of the failed CO-OPs have repaid a single dollar, principal or interest, of the $1.2 billion in federal loans they received. It is unlikely they will pay any significant fraction back. The latest statements show that the failed CO-OPs' *non-loan* liabilities exceed $1.13 billion—which is 93% greater than their reported assets, including money they expect to receive. On top of that, they owe $1.2 billion to federal government. We should not hold our breath on repayment.

The American taxpayer is not the only creditor that stands to suffer large losses due to the failure of the CO-OP program. The latest balance sheets we obtained show the failed CO-OPs have more than $700 million in unpaid medical claims to doctors and hospitals. In some states, those losses will be absorbed by other insurance companies—which means, by the policyholders of other insurance companies who have to pay increased premiums. In other states, doctors, hospitals and individual patients stand to suffer large out-of-pocket losses due to the CO-OP failures—as our report details.

These failed CO-OPs were a costly experiment gone wrong, and real people got hurt—including the more than 700,000 Americans who lost their health plans. Today I plan to ask HHS whether they accept any responsibility for the taxpayer waste, disruption to consumers, and losses to doctors and hospitals that the CO-OPs' failures have wrought.

[1] Health Republic of New York, Statement of Financial Performance (Dec. 31, 2015) (unaudited).