

GAO

Fact Sheet for the Honorable
Kent Conrad, U.S. Senate

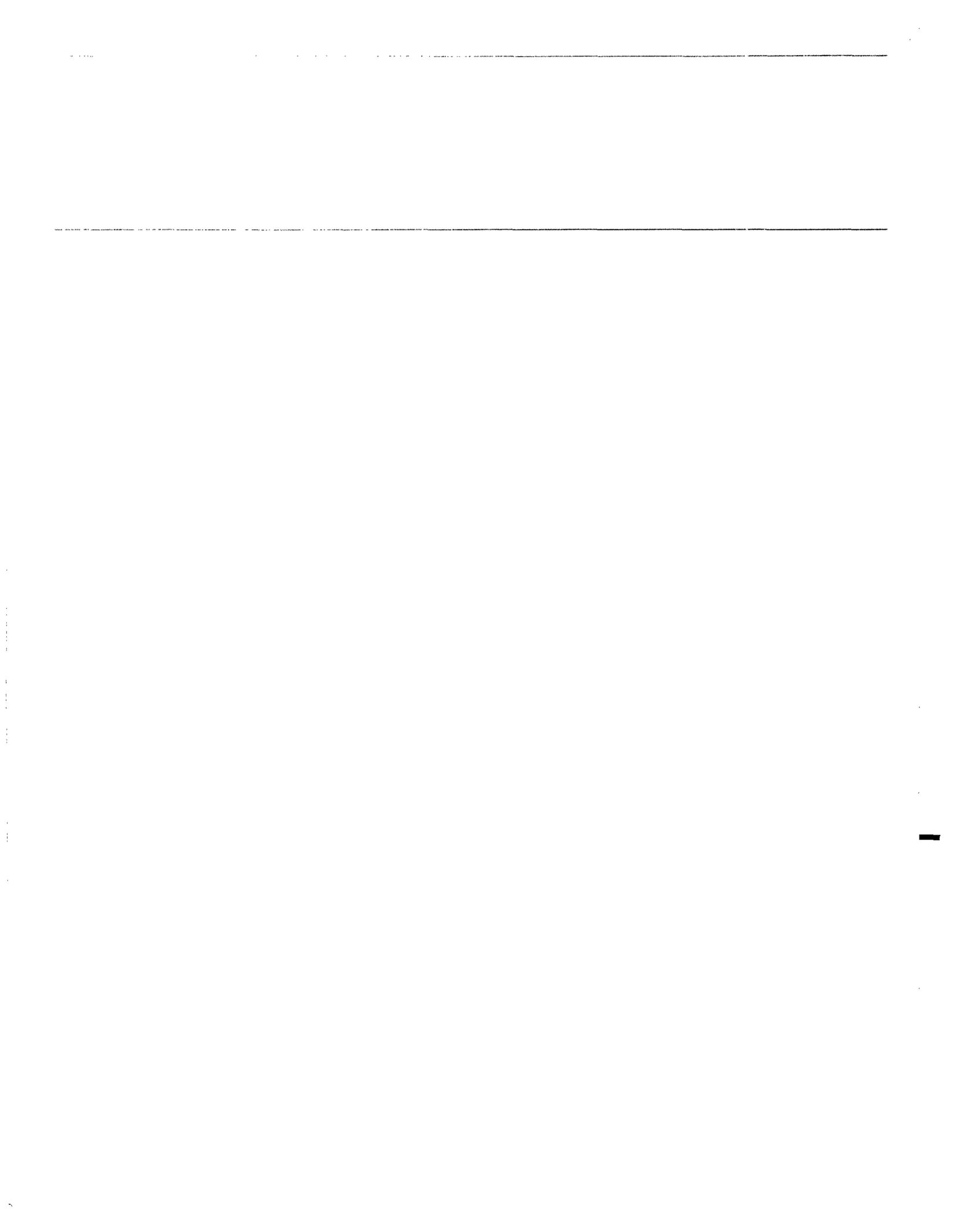
January 1993

RESOLUTION TRUST CORPORATION

Number and Types of Legal Matters



148333





General Government Division

B-251890

January 8, 1993

The Honorable Kent Conrad
United States Senate

Dear Senator Conrad:

This fact sheet responds to your request for information on the number, types, and nature of pending matters in litigation involving the Resolution Trust Corporation (RTC). In February 1992, we provided preliminary information to your office based on the best available information at the time. The more complete information in this fact sheet, which was not available in March 1992, was obtained from RTC's legal information system (RLIS). RLIS is an information storage and retrieval system that is designed to track legal matters and process legal bills.

BACKGROUND

RTC defines a legal matter as any situation occurring during the conservatorship, resolution, or receivership process that requires legal services. As such, legal matters may or may not involve litigation. Additionally, legal matters are generally either offensive or defensive in nature. Offensive matters are initiated by RTC or filed by failed thrifts that RTC inherited. On the other hand, defensive matters are initiated by another party against RTC or a failed thrift RTC inherited.

More specifically, legal matters are identified as litigation, bankruptcy, professional liability, appeals, and nonlitigation. Definitions of these classes are as follows:

- Litigation. Includes judicial matters, such as civil fraud, foreclosures, tax actions, breach or enforcement of contracts, and collections on promissory notes in which individuals have defaulted on their promises to pay an amount of money within a specific time period. Also included are:
 - Bankruptcy. Includes cases involving chapters 7, 9, 11, 12 or 13 of bankruptcy codes that cover an individual or organization that is unable to meet its financial obligations.

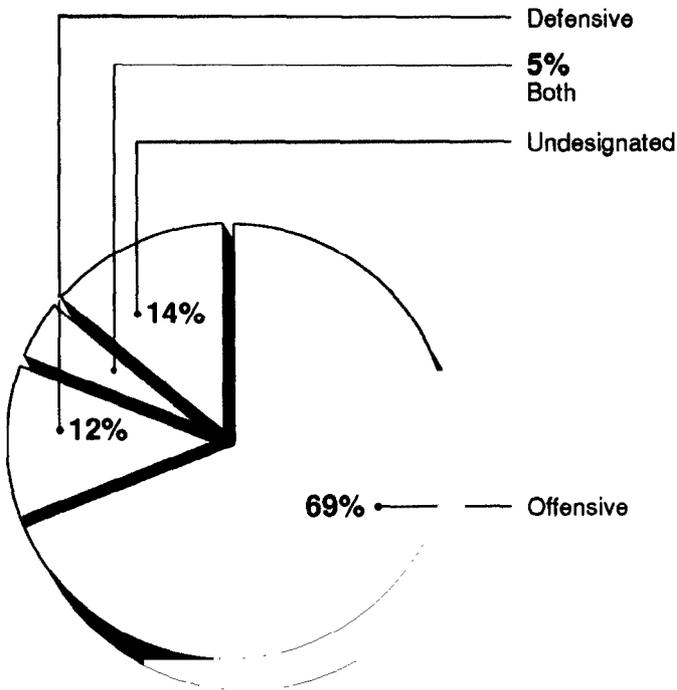
- Professional liability. Includes cases involving claims against accountants, lawyers, appraisers, securities brokers, and directors and officers of failed savings and loans.
- Appeals. Includes cases filed in Appellate Court to review decisions of lower courts on such matters as bankruptcy, environmental matters, and foreclosures.
- Nonlitigation. Includes nonjudicial matters involving RTC's affordable housing program, sales of real or personal property, foreclosures, congressional inquiries requiring legal services, and RTC corporate matters.

RESULTS IN BRIEF

From October 1991 to November 1992, RTC had approximately 77,523 legal matters, ranging from routine real estate foreclosures to complex professional liability claims. Of this total, 84 percent remained open while 16 percent were closed as of November 1992. Since October 1991, new legal matters have been added at an average rate of about 3,138 per month.

Figure 1 shows the distribution of all open legal matters by nature (i.e., offensive or defensive).

Figure 1: Distribution of Open RTC Legal Matters by Nature



Note 1: Open legal matters totaled 65,389.

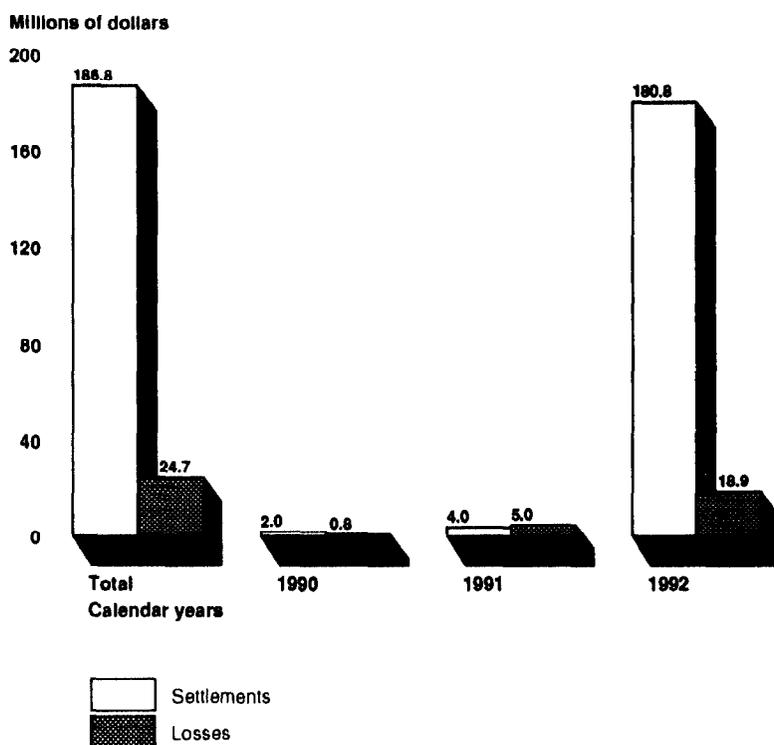
Note 2: "Both" includes individual legal matters that are offensive and defensive.

Source: RTC data.

More specifically, as of November 30, 1992, 58 percent of RTC's open legal matters involved litigation cases while 42 percent were nonlitigation cases.

Since its inception, RTC has collected approximately \$186.8 million from litigation settlements and paid about \$24.7 million in litigation losses, including both judgments and settlements. RTC's cash recoveries and payments from litigation settlements increased in each of the past 3 years (see fig. 2).

Figure 2: RTC Litigation Settlements and Losses Since Inception



Note: Figures for 1992 are as of November 30, 1992.

Source: RTC data.

OBJECTIVE, SCOPE, AND METHODOLOGY

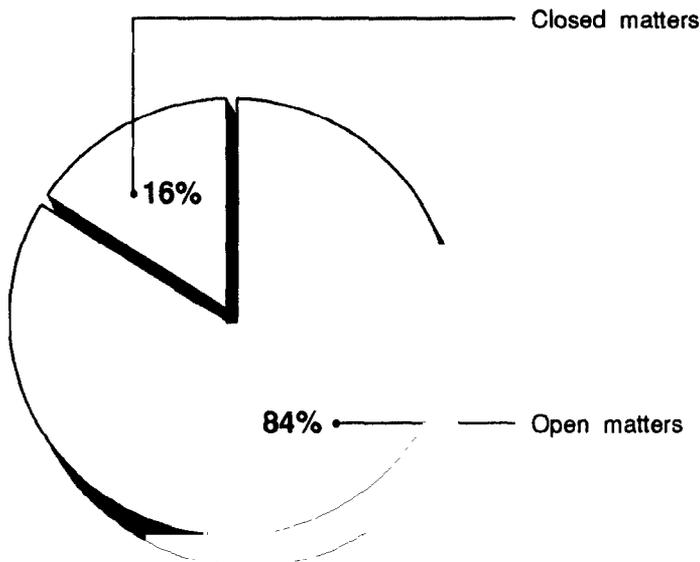
Our objective was to determine the number and types of litigation matters confronting RTC and identify whether these matters were initiated by RTC or by another party against RTC. To meet our objectives, we collected and analyzed data on the number of legal matters by matter class and nature (i.e., offensive or defensive) from RLIS. We also interviewed RTC officials to obtain information on the reasons for differences in the numbers of matters. We did not independently verify the data received from RTC.

We did our work from July 1992 through November 1992 at RTC headquarters in Washington, D.C., in accordance with generally accepted government auditing standards. Appropriate RTC officials reviewed a draft of this fact sheet, and they generally agreed with the facts presented. Their comments have been incorporated where appropriate.

RTC INVOLVED IN SIZABLE LEGAL WORKLOAD

From October 1991 to November 1992, RTC's workload involved a total of approximately 77,523 legal matters. Approximately 65,389, or 84 percent, were open, and 12,134 were closed as of November 30, 1992 (see fig. 3).

Figure 3: Percentage of Legal Matters as of November 30, 1992

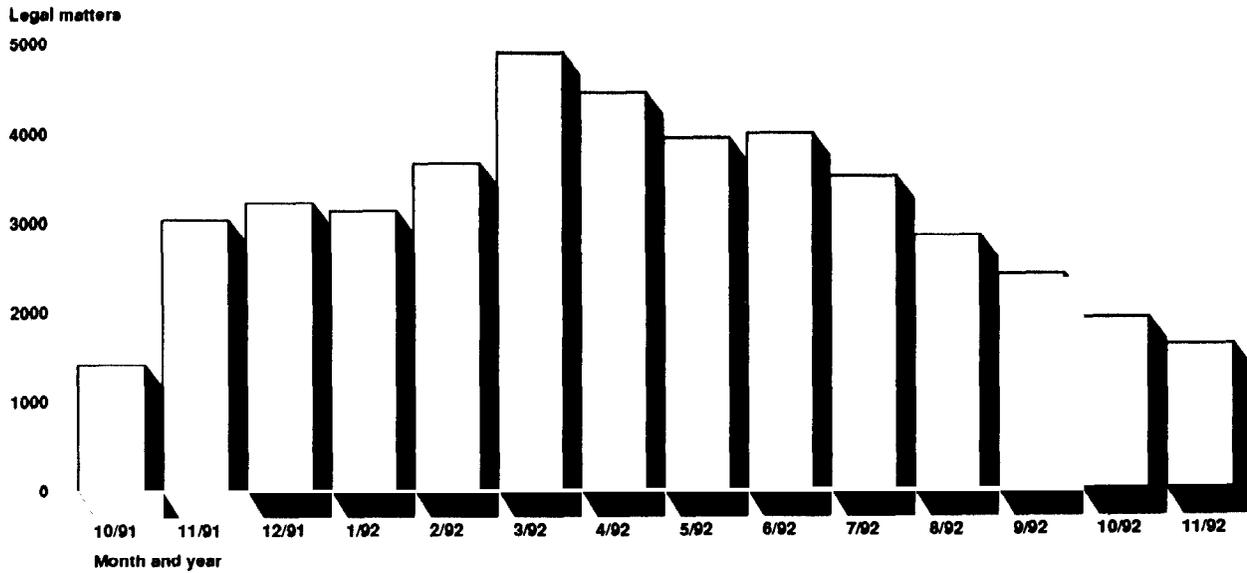


Note: Legal matters totaled approximately 77,523.

Source: RTC data.

Since October 1991, RTC has averaged about 3,138 new legal matters per month. Overall, the number of new legal matters increased from a low of 1,403 in October 1991 to a high of 4,877 in March 1992 as illustrated in figure 4. RTC Legal Division officials attribute the rise in legal matters primarily to the increase in the number of failed institutions under RTC's responsibility. RTC had taken control of a total of 640 institutions by the end of March 1992, which was the month with the highest number of new legal matters, and a total of 730 institutions by the end of November 1992.

Figure 4: Number of Legal Matters Added per Month Since October 1991



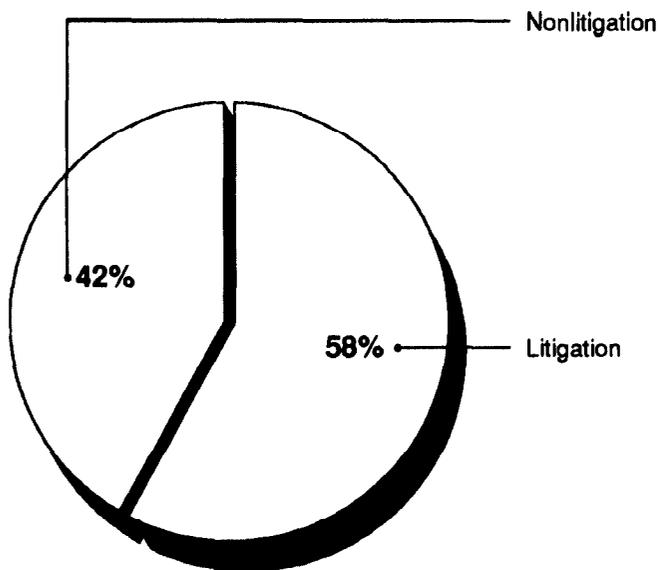
Note: According to RTC Legal Division officials, the numbers for October and November 1992 are estimated.

Source: RTC data.

Legal Workload Includes a Variety of Legal Matters

As illustrated in figure 5, litigation matters totaled 37,949, or 58 percent, and nonlitigation represented 27,440, or 42 percent, of total open legal matters.

Figure 5: Distribution of Open Legal Matters

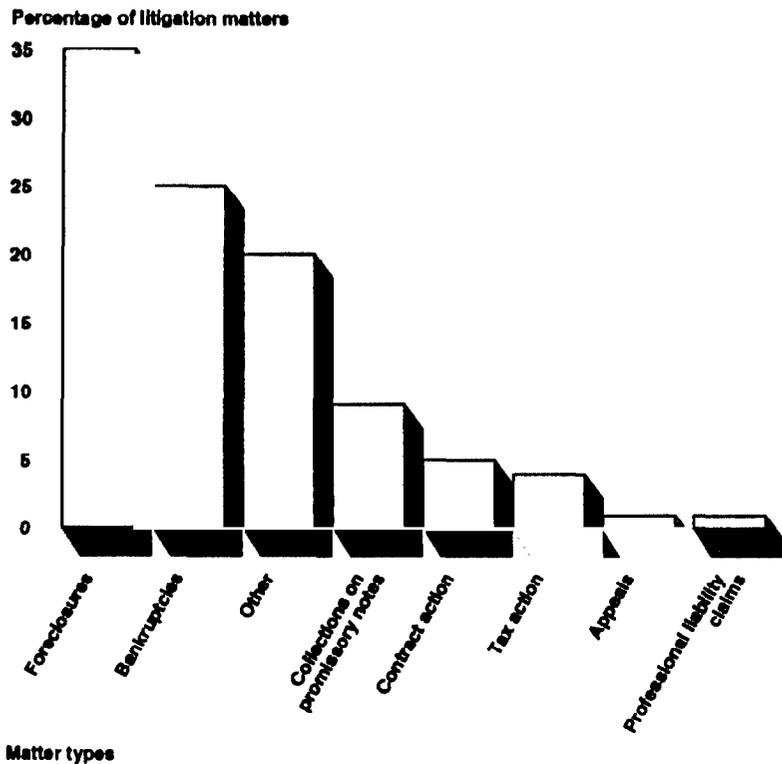


Note: Open legal matters totaled 65,389.

Source: RTC data.

Legal Division officials said that the majority of litigation matters were inherited from insolvent financial institutions. Although litigation matters are RTC's largest volume of work, the majority of these matters are routine in nature, such as foreclosures, bankruptcies, and collections on promissory notes. As illustrated in figure 6, foreclosures accounted for 35 percent and bankruptcies for 25 percent of the total matters in litigation.

Figure 6: Distribution Of Litigation Matters



Note 1: Open litigation matters totaled 37,949.

Note 2: Other includes matters, such as title action, environmental, and civil fraud.

Source: RTC data.

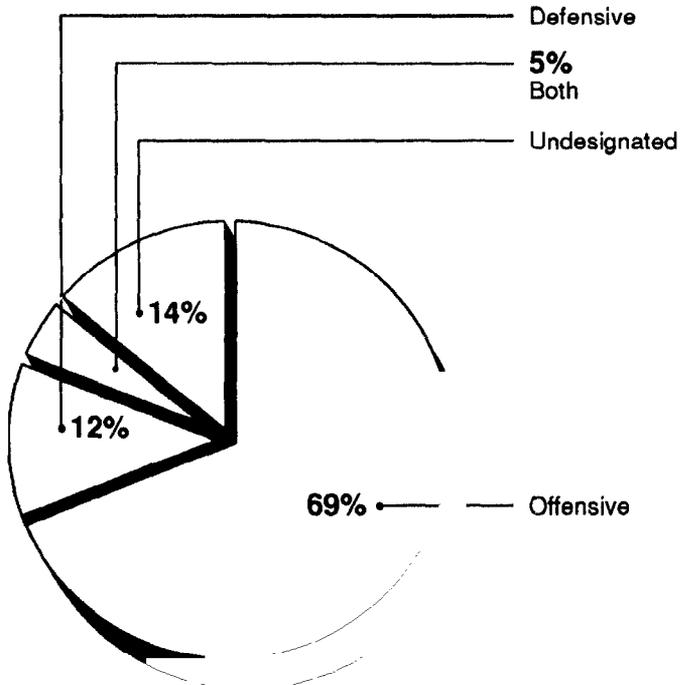
Legal Division officials believe that while the overall number of legal matters may continue to decline on a monthly basis, they expect an increase in defensive litigation. For example, as contracts with asset managers begin to expire, contracting disputes are expected to increase.

Offensive Matters Are Greater Than Defensive Matters

RTC's offensive legal matters are significantly greater in number than its defensive legal matters. For example, as figure 7 shows, 69 percent of the 65,389 open legal matters are offensive. According to Legal Division officials, the majority of the offensive matters were inherited from failed thrifts. These

include such matters as real estate foreclosures and collections on promissory notes.

Figure 7: Distribution of Open RTC Legal Matters by Nature



Note 1: Open legal matters totaled 65,389.

Note 2: "Both" includes individual legal matters that are offensive and defensive.

Source: RTC data.

In contrast, RTC was on the defensive in about 12 percent of its open legal matters (see fig. 7). The majority of this 12 percent includes situations in which a party had initiated a claim against RTC or a failed thrift RTC inherited involving matters such as real or personal property taxes, bankruptcies, and contract actions.

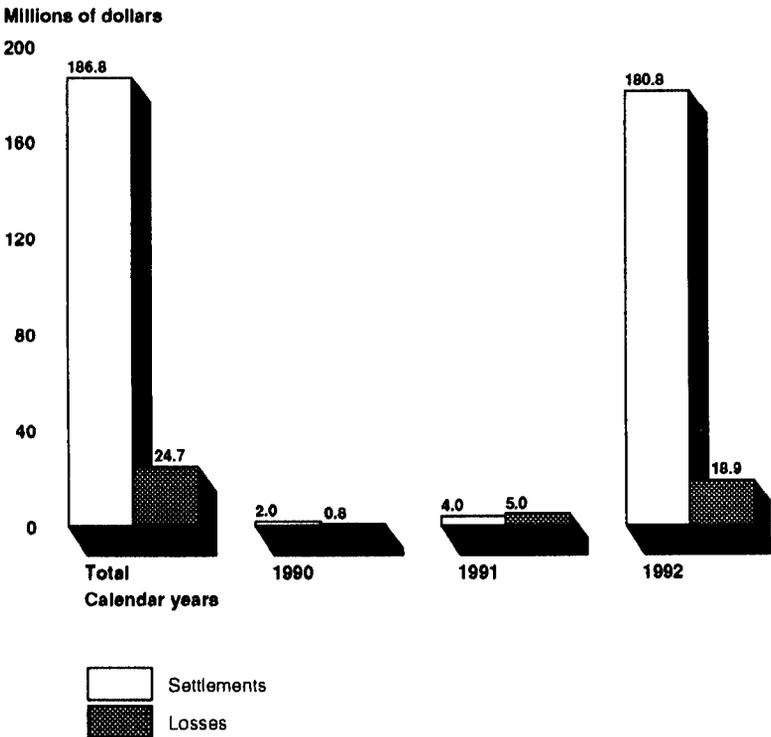
Figure 7 also shows that 5 percent of open litigation matters were identified as both offensive and defensive. In these situations, according to RTC, a matter was initiated by it or a failed thrift, and a counterclaim was subsequently filed against RTC. Finally, the Legal Division was not able to designate the

remaining 14 percent as either offensive, defensive, or both because the information was not available.

RECOVERIES AND PAYMENTS IN LITIGATION SETTLEMENTS ARE INCREASING

Since its inception in 1989, RTC has collected about \$186.8 million from litigation settlements and paid about \$24.7 million in litigation losses. RTC's cash recoveries and payments in litigation settlements have increased each year since RTC was established. From January 1992 through November 30, 1992, the most recent data available, RTC collected \$180.8 million from litigation settlements. This amount was a substantial increase over total cash recoveries in 1991 and 1990. In 1991, RTC collected \$4 million and \$2 million in 1990. Increases also occurred in payments by RTC for litigation losses. For example, RTC paid \$18.9 million in litigation losses from January 1992 through November 30, 1992, compared with \$5 million in 1991 and \$810,000 in 1990. Figure 8 shows a comparison of recoveries and payments from litigation settlements from 1990 to 1992.

Figure 8: RTC Litigation Settlements and Losses Since Inception



Note: Figures for 1992 are as of November 30, 1992.

Source: RTC data.

B-251890

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We are sending copies of this report to appropriate congressional committees, RTC's President and Chief Executive Officer, and the Chairman of the Thrift Depositor Protection Oversight Board. Copies will also be made available to others upon request.

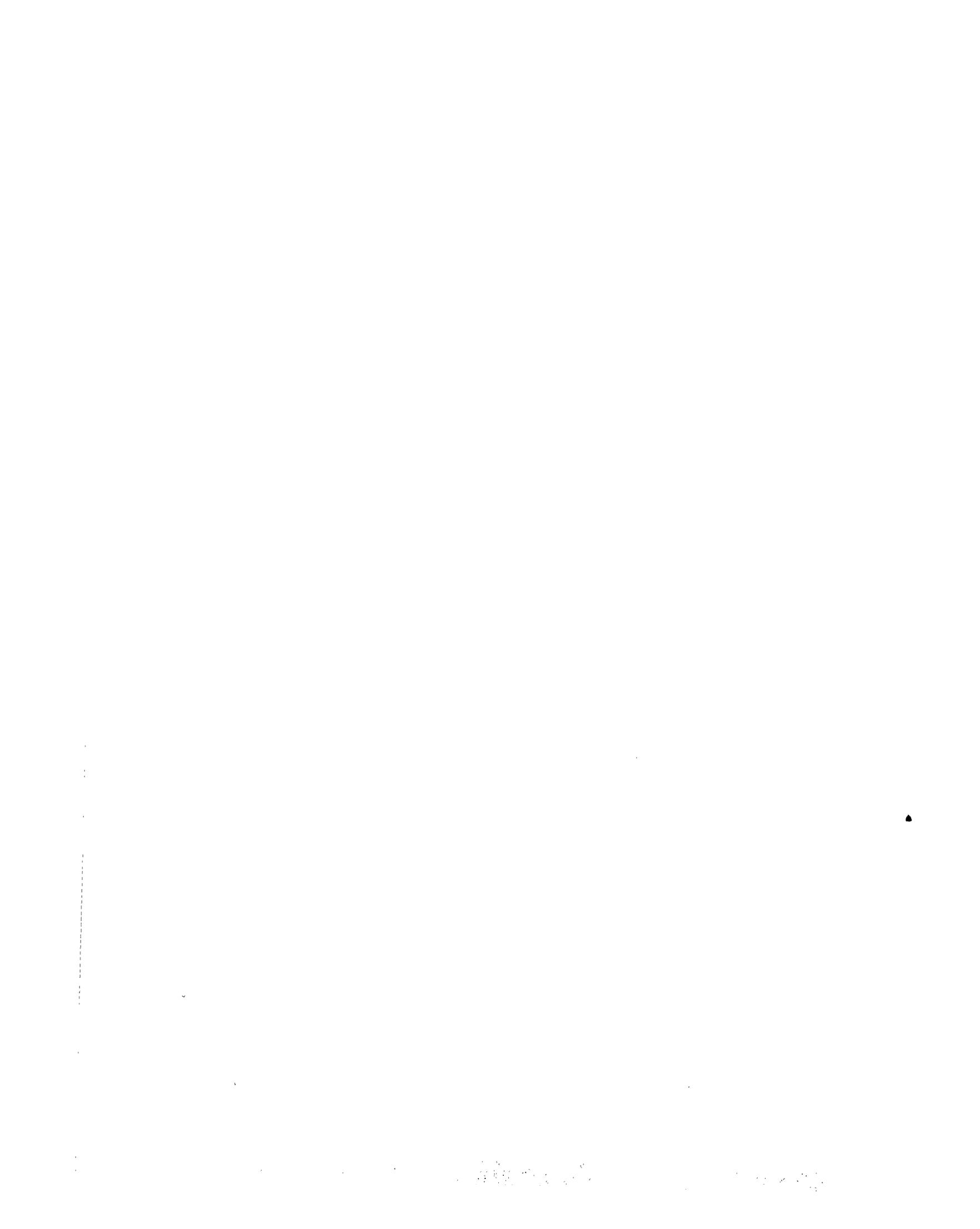
This fact sheet was prepared under the direction of J. Christopher Mihm, Assistant Director; Tammy R. Conquest was the Evaluator-in-Charge. If you have any questions concerning this fact sheet, please contact me at (202) 736-0479.

Sincerely yours,



Gaston L. Gianni, Jr.
Associate Director
Federal Management Issues

(247056)



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