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TROUBLED ASSET RELIEF PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

MARCH 19, 2009

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TROUBLED ASSET RELIEF PROGRAM

THURSDAY, MARCH 19, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:10 a.m. in 1100 Longworth House Office Building, Hon. John Lewis (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
March 12, 2009
OV–2

CONTACT: (202) 225–5522

Lewis Announces a Hearing on the Troubled Asset Relief Program: Oversight of Federal Borrowing and the Use of Federal Monies

House Ways and Means Oversight Subcommittee Chairman John Lewis (D–GA) today announced that the Subcommittee on Oversight will hold a hearing on the Troubled Asset Relief Program (TARP) and oversight of Federal borrowing and the use of Federal monies. **The hearing will take place on Thursday, March 19, 2009, at 10:00 a.m. in the main Committee hearing room, 1100 Longworth House Office Building.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. The Special Inspector General for TARP, the Honorable Neil Barofsky, and the Acting Comptroller General of the United States, Mr. Gene Dodaro, have been invited to testify. Any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

BACKGROUND:

Public Law 110–343, the "Emergency Economic Stabilization Act of 2008" (the Act), was enacted to provide authorities and facilities that the Secretary of Treasury (Secretary) can use to restore liquidity and stability to the financial system of the United States. The Act authorizes the Secretary to establish TARP to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution. The Act provides that the Secretary shall establish a program to guarantee certain troubled assets. The Act authorizes the Secretary to purchase and hold up to $700 billion in troubled assets at a time. Further, the Act increased the statutory limit on the public debt to $11.3 trillion (which is now $12.1 trillion).

The Act included numerous provisions with respect to TARP oversight. The Act established the Office of the Special Inspector General for the TARP (SIGTARP) to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets under the program. The Act created the Congressional Oversight Panel. The Act mandated that the Comptroller General of the United States conduct ongoing oversight of the activities and performance of TARP. Further, the Secretary is required under the Act to provide reports to the appropriate committees of the Congress, including the Committee on Ways and Means, detailing monthly activities and each $50 billion in commitments to purchase troubled assets.

The first oversight reports to the Congress by SIGTARP and the Comptroller General both noted that Treasury has utilized TARP funds differently than had been envisioned at inception of the Act. TARP's primary focus was expected to be the purchase of troubled assets, such as mortgages and mortgage-backed securities. However, within two weeks of enactment, then-Secretary Henry M. Paulson changed the strategy and decided to make capital investments of approximately $290 billion directly in financial institutions and other eligible recipients. This changed strategy resulted in an extraordinary use of public monies.

In announcing the hearing, Chairman Lewis said, **"In the face of this economic crisis, we must restore public confidence in the use of Federal funds. As a starting point, taxpayers need to be certain that TARP funds are being spent for their intended purposes. The questions are simple. How much has been spent, and what have the recipients done with the money? We need answers."**

FOCUS OF THE HEARING:

The focus of the hearing is to review TARP, its operations, and oversight. Specifically, the Subcommittee will focus on the role of Federal borrowing, the impact on the national debt, and the protection of public monies. The Subcommittee also will consider the role of Federal tax compliance under this program.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select *"Committee Hearings"*. Select the hearing for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record*." Once you have followed the online instructions, complete all informational forms and click "submit" on the final page. **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Thursday, April 2, 2009.** Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at http://waysandmeans.house.gov.

Chairman LEWIS. Good morning. The hearing is now called to order. This is a hearing of the Subcommittee on Oversight of the Committee on Ways and Means.

Before we begin, I would like to express my condolences to our Ranking Member, Dr. Boustany, on the passing of his father.

I would like to thank Mr. Reichert and his colleagues for agreeing to hold this hearing with us this morning.

I would like for us to take a brief moment to remember Dr. Boustany and his father.

[Pause.]

Chairman LEWIS. Thank you. To date, the Troubled Asset Relief Program has given more than $300 billion to private companies, and there are plans to give billions more.

Taxpayers have no sense that there is any control over this money. They have no idea what, if anything, they will get in return. This entire program is based on trust, trust in the givers and trust in the takers. At this point, there is no trust.

To get money from Treasury, banks and others must sign a contract that states they have no material unpaid Federal taxes. Treasury did not ask these banks and companies to turn over their tax receipts.

Treasury relied on the signed statements when it agreed to invest billions of taxpayer dollars. When you or I go out to the bank to take out a mortgage to buy a house, we are asked for our tax returns. They are not going to just take our word for it, and we are not asking for millions of dollars.

The Subcommittee looked at the top 23 TARP recipients. We found that 13 of them owed more than $220 million in unpaid Federal taxes. Two companies owe over $100 million each.

How can this be? If we looked at all 470 recipients, how much would they owe?

Are they signing contracts knowing that they owe taxes but thinking they will not get caught? Did then Secretary Paulson turn a blind eye?

Either way, this is shameful. It is a disgrace. The American people are fed up, and they are fired up, and they are not going to take it any more. As Members of Congress, we should not take it any more either.

We want to get to the bottom of what is going on here. The taxpayers deserve nothing less than the truth. The oversight work that our witnesses are doing is so important.

I look forward to hearing from our witnesses on their oversight efforts and more importantly, what Treasury needs to do to restore the public trust in TARP.

Thank you, Members, all of the Members, for being here today.

Without objection, I would like to enter the report from the IRS to the Subcommittee into the record.

[The information referred to follows:]

UNPAID FEDERAL TAX LIABILITIES OF CERTAIN TARP RECIPIENTS

Top 20 Banks, American International Group (AIG), and Auto Companies

March 16, 2009

Unpaid Federal Income Tax

(A) Recipient	(B) 2006 Unpaid Federal Income Tax	(C) 2007 Unpaid Federal Income Tax	(D) 2008 Unpaid Federal Income Tax	(E) 2009 Unpaid Federal Income Tax	(F) 2006 Unpaid Federal Income Tax	(G) Fees in 2006 Unpaid Federal Income Tax	(H) Total Unpaid Federal Income Tax	(I) Position unpaid
Recipient A	$0	$0	$[illegible]	$[illegible]	$0	$0	$[illegible]	[redacted]
Recipient B	$0	$0	$0	$0	$0	$[illegible]	$[illegible]	[redacted]
Recipient C	$0	$[illegible]	$0	$0	$0	$0	$[illegible]	[redacted]
Recipient D	$[illegible]	$[illegible]	$0	$0	$0	$[illegible]	$[illegible]	[redacted]
Recipient E	$0	$[illegible]	$[illegible]	$0	$0	$0	$[illegible]	[redacted]
Recipient F	$[illegible]	$0	$0	$0	$0	$0	$[illegible]	[redacted]
Recipient G	$0	$0	$0	$0	$[illegible]	$0	$[illegible]	[redacted]
Recipient H	$0	$0	$0	$0	$0	$[illegible]	$[illegible]	[redacted]
Recipient I	$0	$[illegible]	$0	$0	$0	$0	$[illegible]	[redacted]
Recipient J	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient K	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient L	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient M	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient N	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient O	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient P	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient Q	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient R	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient S	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient T	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient U	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient V	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient W	$0	$0	$0	$0	$0	$0	$0	[redacted]
Total	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$[illegible]

* Source: IRS (Publicly-disclosable)

Unpaid Federal Employment Taxes

(A) Recipient	(B) 2004 Unpaid Federal Employment Taxes	(C) 2005 Unpaid Federal Employment Taxes	(D) 2006 Unpaid Federal Employment Taxes	(E) 2007 Unpaid Federal Employment Taxes	(F) 2008 Unpaid Federal Employment Taxes	(G) Prior to 2004 Unpaid Federal Employment Taxes	(H) Total Unpaid Federal Employment Taxes	(I) Penalties unpaid
Recipient A	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient B	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient C	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient D	[illegible]	$0	[illegible]	$0	$0	[illegible]	[illegible]	[redacted]
Recipient E	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient F	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient G	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient H	[illegible]	$0	[illegible]	$0	$0	[illegible]	[illegible]	[redacted]
Recipient I	[illegible]	$0	$0	$0	$0	$0	[illegible]	[redacted]
Recipient J	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient K	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient L	[illegible]	$0	$0	$0	$0	$0	[illegible]	[redacted]
Recipient M	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient N	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient O	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient P	[illegible]	$0	[illegible]	$0	$0	[illegible]	[illegible]	[redacted]
Recipient Q	$0	[illegible]	[illegible]	$0	$0	$0	[illegible]	[redacted]
Recipient R	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient S	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient T	[illegible]	$0	$0	$0	$0	$0	[illegible]	[redacted]
Recipient U	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient V	$0	$0	$0	$0	$0	$0	$0	[redacted]
Recipient W	$0	$0	$0	$0	$0	$0	$0	[redacted]
Total	[illegible]	[illegible]	[illegible]	$0	$0	[illegible]	[illegible]	$0

[illegible] Source: IRS (Publicly disclosable)

Number of Recipients Under Audit:

2008	2007	2006	2005	2004
<= 3	5	7	10	11

Audit Issues:

Transfer Pricing
Foreign Tax Credit
Research Credit
LILO
SILO

* *Source: IRS (Publicly disclosable)*

Chairman LEWIS. I am pleased to recognize Congressman Reichert for his opening statement.

Mr. REICHERT. Thank you, Mr. Chairman. Also, thank you so much and I appreciate your recognizing, taking a moment of silence for the Boustany family in their loss. His father passed away this week, as you know. Our thoughts and prayers are with him and all of his family members.

The Troubled Asset Relief Program or TARP was intended to open up credit for families and businesses but it was also supposed to restore confidence in the market.

Yet every week brings new questions and new concerns about how these tax dollars are spent, from the millions of AIG bonuses and spa retreats to the billions that simply went missing.

Worse, TARP continues to change and multiply before our very eyes, from buying toxic assets to buying stakes in banks. There is no clear plan and no consistent application of the program.

Those involved have no idea if, how, or when TARP will change or change again.

One particularly troubling change is the apparent transfer of authority from Treasury to the Federal Reserve, without any new Congressional oversight. The complete lack of transparency in TARP has produced a credibility crisis that undermines the very confidence it was meant to restore.

Without transparency, investors have little reason to participate in a program that changes faster than the Dow.

Without transparency, we are left with outrageous abuses, like bailout bonuses for companies surviving on the backs of taxpayers alone.

To restore confidence, two things must be made very clear. One, exactly how TARP money is being spent, and two, what specific metric or metrics are used by Treasury that will measure the effectiveness of this program.

Taxpayers have every right to be angry, as the Chairman said, that the results of the $700 billion bailout are as blank as the check that authorized it.

We have an obligation to them to find answers, to collect facts and data, and to hold accountable the policies and people that led to the abuses, like those at AIG.

We can all agree that TARP money has been misspent. Our options are to stay mad at wrongdoers or to identify how the wrongdoing occurred and find solutions so that it never happens again.

We must also remember that the lack of transparency and accountability in TARP happened in the first place because Congress acted out of raw emotion before looking at all the facts. We acted too fast. That is one of the many reasons why I opposed that bill.

We must be careful not to let our collective outrage prevail over good judgment and common sense. After all, we all know the mistakes that can happen when Government panics and rushes to act rather than working to get the action right.

This is not the time to again shoot first and ask questions later.

I hope that we can all work together, Democrats and Republicans, to get to the bottom of this, to get to the real answers, and to stop the abuses. The American taxpayer deserves no less.

Mr. Chairman, I yield back the balance of my time.

Chairman LEWIS. Thank you very much for your statement.

Now, we will hear from our witnesses. I ask that you limit your testimony to 5 minutes. Without objection, your entire statement will be included in the record.

It is now my pleasure to introduce the Special Inspector General for his testimony. Welcome.

STATEMENT OF NEIL BAROFSKY, SPECIAL INSPECTOR GENERAL, OFFICE OF THE SPECIAL INSPECTOR GENERAL, TROUBLED ASSET RELIEF PROGRAM

Mr. BAROFSKY. Thank you. Mr. Chairman, Ranking Member, Members of the Subcommittee, I am honored to appear before you today as the Special Inspector General for the Troubled Asset Relief Program or as we call it, SIGTARP.

Originally described as a plan to buy $700 billion in toxic assets, the TARP has changed significantly. Treasury has announced nine different programs through which TARP will cover $2.9 trillion, and this does not include the $750 billion the administration has put aside in its budget and noted that it may seek later this year.

To accomplish the TARP's mission to oversee this vast amount of money for the American taxpayer, I focused on three different areas: transparency, oversight and enforcement.

Transparency has been an area of focus for my office since day one. In late December, I recommended that Treasury put all TARP agreements up on its website. In late January, Treasury agreed, and earlier this morning, they finally posted the top 20 TARP agreements on its website.

I have also used my audit division to advance transparency where necessary. For example, after Treasury made clear to me that they would not require the banks to report on how they are using TARP money, I sent letter requests to each TARP recipient asking them to report on how they have used the money that they received, how they plan on using unspent money, and how they plan to comply with the executive compensation requirements.

I am pleased to report that as of today, we have had 100 percent compliance with our survey requests.

As to coordinated oversight, it has been and will continue to be my privilege and pleasure to share oversight responsibility with my co-panelist, Gene Dodaro. He and his team at GAO and us have been working together for more than 3 months now to ensure maximum coverage and to reduce any unnecessary duplication of effort.

I have also founded and chair the TARP IG Council, which includes as its members GAO, as well as the other Inspector Generals or agencies who are also touched by the TARP and responsible for its oversight.

In conducting oversight, one focus of SIGTARP has been to attempt to have a positive impact on TARPs before the money goes out the door, by making recommendations to limit fraud and to increase oversight.

Because I did not take office until mid-December, I was not able to offer advice with respect to early TARP agreements, such as the AIG agreement. However, we have been active in providing recommendations concerning the programs and the contracts ever since.

We are also focused on enforcement. Of the four primary oversight bodies referenced in the Stabilization Act, SIGTARP stands alone as the TARP oversight body charged with criminal law enforcement authority, as the cop on the beat.

This is one of our most important functions and we are meeting this unprecedented challenge head on.

We are leveraging our resources with other agencies, exploring taskforce and similar regional relationships throughout the country.

For example, last week, we formed a multi-agency law enforcement taskforce focused on the $1 trillion TALF Program. We believe that this taskforce has already served as a powerful deterrent, and when we detect fraud, rest assured we will investigate the matter and bring any fraudster to justice.

Additionally, we have begun our outreach to potential whistleblowers and those who may have tips about ongoing fraud in TARPs. The SIGTARP hotline is operational to be accessed through our website, www.sigtarp.gov, or through our telephone hotline, 877–SIG-2009.

The hotline has already yielded results and we have recently opened a criminal investigation based on a whistleblower complaint.

Finally, we have been active in our response to the recent bonus payments to AIG. Both in my role as Special Inspector General and as an individual taxpayer, I too am frustrated with these very substantial bonuses which appear to have been made to those responsible for AIG's meltdown.

First, we are launching an audit that is part of a larger review of executive compensation practices, and will include a thorough review of the process to which Treasury decided to authorize and approve such payments, including who knew what, how, when and why, both at the time Treasury entered into its agreement with AIG last November, which included specific reference to contemplated retention payments, all the way up and through the events of this week.

Second, we are working closely with the New York State Attorney General's investigation into these payments.

Third, we are initiating our own investigation, and finally, we are coordinating with the Department of Justice in its examination of options that may be available to recover taxpayer money.

Mr. Chairman, Ranking Member, Members of the Subcommittee, I thank you and commend you for your efforts to help oversee the trillions of dollars that are being expended under TARP, and I look forward to answering any questions that you may have.

[The prepared statement of Neil Barofsky follows:]

Statement of The Honorable Neil Barofsky, Special Inspector General, Office of the Special Inspector General, Troubled Asset Relief Program

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STATEMENT OF NEIL BAROFSKY

SPECIAL INSPECTOR GENERAL
TROUBLED ASSET RELIEF PROGRAM

BEFORE THE
UNITED STATES HOUSE OF REPRESENATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT

March 19, 2009

Chairman Lewis, Ranking Member Boustany, and Members of the Subcommittee, I am honored to appear before you today.

The Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") was created under the Emergency Economic Stabilization Act of 2008 ("EESA") to conduct, supervise, and coordinate audits and investigations of the purchase, management, guaranty, and sale of assets under the TARP. More than $300 billion has already been expended, and Secretary Geithner has now outlined his plans for how Treasury will spend the balance of the $700 billion approved by Congress under EESA.

In addition to the programs previously announced, Treasury has announced several new programs that will be implemented in the coming weeks, including efforts to deal with rampant foreclosures, to provide additional capital to struggling banks, to facilitate lending to small businesses, and to address the toxic assets that remain on many financial institutions' books. As announced, the total amount of money potentially at risk in these programs, including those aspects of the programs that are funded in part by the Federal Reserve and FDIC, is in excess of $2.9 trillion. Moreover, this does not include the $750 billion that the Administration put aside in the budget that it has noted it may seek later this year.

To accomplish SIGTARP's mission to oversee this vast amount of money for the American taxpayer, I have focused on three areas: transparency, coordinated oversight and robust criminal and civil law enforcement.

Transparency has been an area of focus for SIGTARP from day one. In late December, within the first two weeks of taking Office, I formally recommended that Treasury post all TARP agreements, whether with recipients of TARP funds or with its vendors, on the Treasury website. That recommendation has been adopted, and Treasury is in the process of posting all agreements to its website. Similarly, I pushed for, and obtained, oversight language in the Citigroup and Bank of America agreements that require those banks to account for and report on their use of the TARP funds.

SIGTARP is also using its audit function to bring increased transparency to the TARP. For example, we sent letter requests to each of the TARP recipients that received TARP funds as of

the end of January asking them to report on how they have used TARP funds and how they plan to use the funds that they have received but not yet spent. As of the drafting of this testimony, on March 18, 2009, all but one bank has provided SIGTARP with a response to our survey, as requested. We expect to start providing initial information concerning the types of responses we have received in the next 30 days. Of course, more complete analysis of the responses will require additional time to complete and likely will require follow-up contact with some recipients before we complete our work. In that same survey, we also asked TARP fund recipients to provide details on their plans to comply with applicable executive compensation restrictions and how they are complying with those requirements. Overall, we believe that this survey data and associated follow-up work will shed light on an area about which very little information has previously been available: what the banks have done with the TARP money.

This is a fundamental issue. If the American taxpayer is to be expected to fund this extraordinary effort to stabilize the financial system, it is not unreasonable that the public be entitled to know how those funds have been used by the recipients. On this issue, SIGTARP has recommended that all future TARP agreements contain provisions mandating that TARP recipients account for what is done with the TARP funds. Treasury has *not* adopted this recommendation across the board, and there have been complaints that SIGTARP's oversight efforts might dissuade participation in TARP programs. We do not view this as a criticism: if a bank or financial institution does not want to participate in a TARP program because it is afraid to inform the American public what it is doing with taxpayer dollars, then they should not be participating.

We have initiated two other audits that will also bring increased transparency to the TARP. First, we are looking into the impact of outside influences on the TARP application process, and we will report back to Congress on our finding as to what impact, if any, that lobbyists or other outside influences have had. Additionally, if necessary, we will make recommendations on dealing with such outside influences going forward. Second, we have begun an audit into the process under which Bank of America received $45 billion in capital investment and is to receive a guarantee relating to approximately $100 billion of toxic assets in four separate TARP transactions under three different TARP programs.

As to coordinated oversight, it has been and will continue to be a privilege and a pleasure to work closely with my co-panelist, Gene Dodaro, Acting Comptroller General at GAO. Over the past three plus months, GAO and SIGTARP have worked effectively to coordinate monitoring efforts to provide maximum oversight coverage while avoiding unnecessary or duplicative burdens on those charged with managing TARP. I have also founded and chair the TARP-IG Council, which has, as its members, GAO and the Inspectors General of the other agencies involved in aspects of the administration of TARP programs: the Inspectors General of the FDIC, SEC, FHFA, Federal Reserve, HUD, Tax Administration, Treasury, and our newest member, SBA. Through this and other efforts we are actively coordinating our efforts and sharing ideas for comprehensive audits and investigations.

In conducting oversight, one focus of SIGTARP has been to attempt to have a positive impact on TARP programs to increase oversight effectiveness and fraud protections as the programs are developed – in other words, *before* the money goes out the door. Because I did not take office until mid-December, I was not able to offer advice with respect to the early TARP transactions, including the design of the Capital Purchase Program and the agreement with AIG. However, we have been active in providing recommendations concerning the programs and contracts that followed. Pursuant to our recommendations, the Auto Industry, Targeted Invested Program and Asset Guarantee Program agreements all contain explicit acknowledgement of SIGTARP's oversight authority to oversee the contracts. Moreover, at my Office's recommendation, for many of the significant conditions imposed by the agreements, the recipients are required to establish internal controls to ensure that they comply with those conditions; and to report on their compliance, certifying, under criminal penalty, that their report is accurate. Collectively, these agreements – representing approximately $465 billion of TARP investments and guarantees – are a significant step forward from an oversight perspective as compared to earlier agreements and programs.

We have also made a series of recommendations pertaining to the first part of the $200 billion Term Asset-Backed Securities Loan Facility ("TALF") program. Similar to the recommendations made for the TALF, SIGTARP has provided Treasury with several

suggestions as to how to structure the loan modification program to guard against vulnerabilities to fraud.

The scope and variety of the announced TARP programs, now involving nine different programs and nearly $2.9 trillion, leads to our third area of focus, civil and criminal law enforcement. Of the four primary oversight bodies referenced in EESA, SIGTARP stands as the sole TARP oversight body charged with criminal law enforcement authority: as the cop on the beat. This is one of our most important functions, and we are meeting this unprecedented challenge head on.

We are exploring task force and similar regional relationships throughout the country to deter criminal activity before it occurs, and to investigate and prosecute any and all who attempt to profit criminally from this National crisis. On that front, I am pleased to announce that we have established a multi-agency task force focused on the TALF program, a New York Federal Reserve/Treasury program that has been announced as eventually becoming a trillion dollar program. The TALF Task Force will work collectively to identify fraud vulnerabilities in the TALF program and proactively and aggressively investigate any indications of wrongdoing associated with the program. We believe that this Task Force has already served as a powerful deterrent, and when we detect fraud, rest assured we will promptly investigate the matter and refer it to the relevant and appropriate state or federal prosecutor for quick and effective prosecution. We believe that the TALF Task Force will serve as a model for other multi-agency approaches to TARP programs, and we are already planning a coordinated response to potential fraud in other parts of the TARP, including the recently announced mortgage modification initiative.

I am also very pleased to announce that SIGTARP has developed a partnership with the talented law enforcement analysts working with the New York High Intensity Financial Crime Area (NY HIFCA) program. SIGTARP investigators will work hand-in-hand with HIFCA analysts to identify indicators of fraud associated with TARP prospectively through comprehensive data research and analysis, and HIFCA analysts will provide analytical support with respect to SIGTARP's ongoing investigations.

Additionally, we have begun our outreach to potential whistleblowers and those who may have tips about ongoing waste, fraud and abuse in TARP programs. The SIGTARP Hotline is operational and can be accessed through the SIGTARP website at www.SIGTARP.gov, and by telephone at 1 (877) SIG-2009. The Hotline has already yielded results, and we have opened an investigation based on a whistleblower complaint. Plans are being formulated to develop a fraud awareness program with the objective of informing potential whistleblowers of the many ways available to them to provide key information to SIGTARP on fraud, waste and abuse involving TARP operations and funds, and explaining how they will be protected. Training programs are being developed to instruct law enforcement at a variety of agencies to assist in the oversight of the TARP, particularly with respect to the recently announced programs. Indeed, one of the primary functions of the TALF Task Force will be to sensitize law enforcement and prosecutorial offices to the potential for fraud, and to provide an easy referral source should they encounter any indicators of fraud.

We stand on the precipice of the largest infusion of Government funds over the shortest period of time in our Nation's history. History teaches us that an outlay of so much money in such a short period of time will inevitably attract those seeking to profit criminally. If, by percentage terms, some of the estimates of fraud in recent government programs apply to the TARP programs, we are looking at the potential exposure of hundreds of billions of dollars in taxpayer money lost to fraud. The TARP program is too important, and taxpayer funds are too dear, to allow that to happen.

The proactive cooperation and coordination that is at the heart of our investigative strategy is resource intensive. While I believe that SIGTARP is effectively establishing a framework that will permit us to meet our oversight obligations with respect to the nearly $3 trillion at risk in the TARP programs, we face serious challenges. Most significantly, we have had significant difficulties in meeting our hiring needs. We face many of the same problems faced by Treasury itself as it hires TARP managers, as outlined by GAO's recent report to Congress, including the limitations on pay, the difficulties of hiring into a demanding federal agency, and our conflict of interest rules, which, of course, limit our ability to hire employees who have represented or worked for the entities that we investigate and oversee or have a financial interest in them. We

also face additional challenges given our need to identify highly trained and experienced government investigators and auditors and to convince them to join what is, by definition, a temporary agency.

With the passage of the recent stimulus bill, which provides more than $300 million in new funding to other law enforcement agencies and Inspectors General to provide oversight for programs funded by the bill, we are also facing stiff competition for a limited pool of experienced investigators and auditors as many audit organizations are ramping up to deal with new audit requirements included in the recently enacted stimulus legislation. Furthermore, the TARP program has changed significantly since EESA was passed last October. Originally intended to purchase and manage $700 billion of toxic assets, that task is now contemplated to represent just a portion of one of the nine announced programs totaling almost $3 trillion – in sum, the total number of programs and dollars to be overseen now dwarf the original scope and amounts contemplated when Congress created my office. To help us deal with these challenges, I ask for swift approval S. 383/H.R 1341, a bill that unanimously passed the Senate on February 4, 2009, and which addresses some of these hiring hurdles and would provide significant assistance in helping us to meet these challenges.

Finally, I would like to make a couple of comments about the controversy surrounding the bonus payments that AIG has recently made to its executives. First, both in my role as the Special Inspector General, and as an individual taxpayer concerned with stabilizing the financial system in a manner that does not reward those who caused the crisis in the first instance, I too am frustrated with these very substantial bonuses given at a time when AIG would have by now been in bankruptcy proceedings but for huge, repeated infusions of government money.

In this regard, we are working closely with the New York State Attorney General's investigation in this area, and are coordinating with the Department of Justice and its examination of the options available to recover tax payer money. We also plan to launch an audit examining Federal monitoring and enforcement of executive compensation restrictions imposed as a condition of Federal financial assistance to organizations such as AIG. As part of this audit, we will be looking closely to ensure bonuses to AIG employees are not inconsistent with AIG's legal or contractual obligations, and if there are any inconsistencies, we will act aggressively to

recover the taxpayer's money. Preliminary information we have seen indicates that the TARP contract between AIG and Treasury that was entered into back in November specifically contemplated the payment of bonuses and retention payments to AIG employees, including AIG's Senior Partners. SIGTARP will be reviewing the process at Treasury with respect to Treasury's decision to authorize and approve such payments, both at the time it entered into the contract with AIG and since that time.

Chairman Lewis, Ranking Member Boustany, and Members of the Subcommittee, I commend you for your efforts to ensure that the trillions of dollars being expended under TARP-related programs receive close oversight scrutiny. This concludes my statement and I would be happy to answer any questions you may have.

SIGTARP Hotline

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline.

By Online Form: www.SIGTARP.gov

By Phone: Call toll free: (877) SIG-2009

By Fax: (202) 622-4559

By Mail:

Hotline
Office of the Special Inspector General
For The Troubled Asset Relief Program
1500 Pennsylvania Ave., NW, Suite 1064
Washington, D.C. 20220

Chairman LEWIS. Thank you very much, Mr. Inspector General.

It is now my pleasure to introduce the Acting Comptroller for his testimony.

Welcome.

STATEMENT OF GENE L. DODARO, ACTING COMPTROLLER GENERAL OF THE UNITED STATES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. DODARO. Thank you very much, Mr. Chairman. Good morning to you, Ranking Member Reichert, and Members of the Subcommittee.

I am very pleased to be here today to assist in your deliberations and oversight over the Troubled Asset Relief Program.

When the program was first created in the Economic Stabilization Act back on October 3, GAO was charged with providing oversight over Treasury's implementation and reporting every 60 days to the Congress, and we are also charged with providing an annual financial audit of the Troubled Asset Relief Program that is being managed by the Office of Financial Stability in the Treasury Department.

Faithful to the mandates in the legislation, we issued our first 60 day report on December 2, and our second 60 day report toward the end of January.

In both of those reports, we made a series of recommendations that were very important to increasing the accountability and transparency of this very important program.

Those recommendations fell into three categories. First, monitoring and tracking the use of the money and making sure Treasury had an oversight process in place to monitor compliance with the legislative provisions. These were among our top recommendations.

At that time in December, Treasury did not have plans to obtain any information back from the organizations receiving money under the Capital Purchase Program.

Our recommendation was they needed to do so, and as a result of that, they initially started collecting monthly survey information on the aggregate lending activity of the top 20 institutions receiving the TARP money.

In January, we said that is not enough. We believe you ought to have data collected on a monthly basis for any institution receiving Troubled Asset Relief Programs, and they are beginning to now recently move in that direction.

We are pleased with that but they still need to stand up fully their oversight monitoring program to ensure compliance with the Act's provisions.

The second category of our recommendations dealt with a communications strategy. This is a program that has been plagued with communication problems from day one, in making the shift between purchasing the troubled assets to the capital injections in the program.

In December, we recommended that their communication strategy be improved, both with the Congress and other stakeholders, and in January, we added to that recommendation by stating that we believe they need to have a clearly articulated vision of the en-

tire TARP, and it needs to be coherent and understandable so that people have confidence that they understand how the different parts are working together.

They have made some headway in that area with the announcement in the last month of the financial stability plan and the homeowner affordability plan, but there is a lot of details that need to be worked out yet.

I think the stress test concept was a good one, but it remains to be seen what the results of that will be and what actions Treasury will take through their capital acquisition program to provide assistance in the future. The plan needs to be worked out.

The last category of recommendations were how the program is being managed. They needed to have additional people on board, to be hired, to be trained, to make sure they had the right complement of people to do the program, to make sure they had enough people to oversee the contracts that were being let, to make sure there were no conflicts of interest in the programs, and they had the proper internal controls in place to adequately manage the program.

We had a series of recommendations in that regard. Those recommendations have not yet all been fully implemented.

We are staying on top of Treasury's efforts to move forward in those areas, and we believe it is very important for them to fully implement our recommendations to ensure that they strengthen accountability and transparency for this program going forward.

Last, Mr. Chairman, in closing, I was asked also to provide some information about the amount of lending that has been required, broadly speaking.

From the end of fiscal 2007 to February 2009, the amount of payments in terms of debt held by the public has increased $1.4 trillion.

One of the big challenges going forward is based upon our review of Treasury's records, and this year, they are going to have to roll over about $2.5 trillion in debt as well. That will be a challenge.

We have an ongoing monitoring activity looking at Treasury's process, and we will be happy to keep the Committee apprised of our efforts.

Thank you very much again for being here and we look forward to assisting this Committee in its oversight.

[The prepared statement of Gene L. Dodaro follows:]

Statement of Gene Dodaro, Acting Comptroller General of the United States, U.S. Government Accountability Office

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Oversight, Committee on Ways and Means, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EST
Thursday, March 19, 2009

TROUBLED ASSET RELIEF PROGRAM

Status of Efforts to Address Transparency and Accountability Issues

Statement of Gene L. Dodaro
Acting Comptroller General of the United States

GAO
Accountability * Integrity * Reliability

GAO-09-484T

Mr. Chairman, Ranking Member Boustany, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Troubled Asset Relief Program (TARP), under which the Department of the Treasury (Treasury) has the authority to purchase and insure up to $700 billion in troubled assets held by financial institutions through its Office of Financial Stability (OFS).[1] As you know, Treasury was granted this authority in response to the financial crisis that has threatened the stability of the U.S. banking system and the solvency of numerous financial institutions. The Emergency Economic Stabilization Act (the act) that authorized TARP on October 3, 2008, requires GAO to report at least every 60 days on findings resulting from our oversight of the actions taken under the program.[2] We are also responsible for auditing OFS's annual financial statements and for producing special reports on any issues that emerge from our oversight. To carry out these oversight responsibilities, we have assembled interdisciplinary teams with a wide range of technical skills, including financial market and public policy analysts, accountants, lawyers, and economists who represent combined resources from across GAO. In addition, we are building on our in-house technical expertise with targeted new hires and experts. The act also created additional oversight entities—the Congressional Oversight Panel (COP) and the Special Inspector General for TARP (SIGTARP)—that also have reporting responsibilities. We are coordinating our work with COP and SIGTARP and are meeting with officials from both entities to share information and coordinate our oversight efforts. These meetings help to ensure that we are collaborating as appropriate and not duplicating efforts.

[1]GAO, Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues, GAO-09-296 (Washington D.C.: Jan. 30, 2009) and Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency, GAO-09-161 (Washington, D.C.: Dec. 2, 2008).

[2]Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, 122 Stat. 3765 (2008). The act requires the U.S. Comptroller General to report at least every 60 days, as appropriate, on findings resulting from oversight of TARP's performance in meeting the act's purposes; the financial condition and internal controls of TARP, its representatives, and agents; the characteristics of asset purchases and the disposition of acquired assets, including any related commitments entered into; TARP's efficiency in using the funds appropriated for its operations; its compliance with applicable laws and regulations; and its efforts to prevent, identify, and minimize conflicts of interest among those involved in its operations.

My statement today is based primarily on our January 30, 2009 report, the second under the act's mandate, which covers the actions taken as part of TARP through January 23, 2009, and follows up on the nine recommendations we made in our December 2, 2008 report.[1] This statement also provides additional information on some recent program developments, including Treasury's new financial stability plan and, as you requested, provides some insights on our ongoing work on the implications of actions related to the financial crisis on federal debt management. Our oversight work under the act is ongoing, and our next report is due to be issued by March 31, 2009, as required.

Specifically, this statement focuses on (1) the nature and purpose of activities that have been initiated under TARP; (2) the status of OFS's hiring efforts, use of contractors, and development of a system of internal control; (3) implications of TARP and other events on federal debt management, and (4) preliminary indicators of TARP's performance. To do this work, we reviewed documents related to TARP, including contracts, agreements, guidance, and rules. We also met with OFS, contractors, federal agencies, and officials from all eight of the first large institutions to receive disbursements. We plan to continue to monitor the issues highlighted in our prior reports, as well as future and ongoing capital purchases, other more recent transactions undertaken as part of TARP (for example, guarantees on assets of Citigroup and Bank of America), and the status of other aspects of TARP.

We conducted this performance audit between December 2008 and March 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

Treasury has announced a number of new programs to try to stabilize financial markets, but most of its activities during this period have continued to fall under its Capital Purchase Program (CPP). As of March 5, 2009, Treasury had disbursed approximately $300 billion in TARP funds, about $197 billion of it for CPP. Treasury has recently announced the

[1]Information is current as of January 23, 2009, unless otherwise noted in the statement.

Financial Stability Plan, which outlines a set of measures to address the financial crisis and restore confidence in the U.S. financial and housing markets, and the Making Home Affordable program to mitigate foreclosures and preserve homeownership. Treasury also has taken important steps since our first report to implement all nine of our recommendations. However, due in part to the short time that has elapsed since our first report, we continued to identify a number of areas that warrant Treasury's ongoing attention. We recommended in our latest report that Treasury continue to take action to further improve the program's transparency and accountability and more clearly articulate and communicate a strategic vision for TARP. Specifically, we recommended that Treasury:

- expand the scope of the monthly CPP surveys for the 20 largest banks to include collecting at least some information from all institutions participating in the program;
- ensure that future CPP agreements include a mechanism that will better enable Treasury to track the use of the capital infusions and seek to obtain similar information from existing CPP participants;
- establish a process to ensure compliance with all CPP requirements, including those associated with limitations on dividends and stock repurchase restrictions;
- communicate a clearly articulated vision for TARP and how all individual programs are intended to work in concert to achieve that vision, which incorporates actions to preserve homeownership; and once this vision is clearly articulated, document the skills and competencies needed within the department to carry it out;
- continue to expeditiously hire personnel needed to carry out and oversee TARP;
- expedite efforts to ensure that sufficient personnel are assigned and properly trained to oversee the performance of all contractors, especially for contracts priced on a time-and-materials basis, and move toward fixed-price arrangements whenever possible as program requirements are better defined over time;
- develop a comprehensive system of internal controls over TARP, including policies, procedures, and guidance for program activities that are robust enough to ensure that the program's objectives and requirements are met;

- develop and implement a well-defined and disciplined risk-assessment process, which is essential to monitoring program status and identifying any risks of potential inadequate funding of announced programs; and

- review and renegotiate existing conflict-of-interest mitigation plans, as necessary, to enhance specificity and conformity with the new interim conflict-of-interest regulation and take continued steps to manage and monitor conflicts of interest and enforce mitigation plans.

Consistent with our recommendations, the recently announced Financial Stability Plan outlined some steps Treasury is taking to improve the transparency and accountability of new programs going forward. But Treasury still faces several challenges. First, our December 2008 report emphasized the lack of monitoring and reporting for CPP investments and recommended stronger measures for ensuring that participating institutions use the funds to meet the program's purpose and comply with CPP requirements on, for example, executive compensation and dividend payments. In response to our recommendation, Treasury completed its initial survey of the 20 largest institutions to monitor lending and other activities and announced plans to analyze quarterly monitoring data (call reports) for all reporting institutions.[1] In addition, Treasury is developing a more limited monthly survey of lending by smaller institutions participating in the program. These efforts are important steps toward strengthening CPP's transparency and accountability, and we will continue to examine Treasury's effort to fully implement these monitoring efforts. Second, Treasury has continued to develop a system to ensure compliance with CPP requirements, including executive compensation, dividend payments, and repurchase of stocks, but it has not yet finalized its plans for detecting noncompliance and taking enforcement actions. Third, we noted that Treasury had made limited progress in articulating and communicating an overall strategic vision for TARP and continued to respond to institution-and industry-specific needs. This lack of clarity has complicated Treasury's ability to effectively communicate to Congress, the financial markets, and the public. As Treasury provides more details on its new Financial Stability Plan, its strategic approach to addressing the financial crisis may become clearer.

[1]Call reports are quarterly reports that collect basic financial data of commercial banks in the form of a balance sheet and income statement (formally known as Report of Condition and Income).

Treasury had taken steps to help ensure a smooth transition to the new administration by keeping positions filled and using an expedited hiring process. However, it continues to face difficulty providing competitive salaries to attract skilled employees. Also, given the program's evolving nature and the changes under the new administration, Treasury needs to identify OFS's long-term organizational needs. Additionally, consistent with our recommendation about contracting oversight, Treasury has enhanced such oversight by tracking costs, schedules, and performance and addressing the training requirements of personnel who oversee the contracts. As we previously recommended, Treasury needs to continue to identify and mitigate conflicts of interest in contracting. Similarly, OFS has adopted a framework for developing and implementing its system of internal control for TARP activities that is consistent with our recommendation. However, as of our January report, OFS had yet to implement a disciplined risk-assessment process.

Given that TARP activities have only recently been implemented and that time lags occur in the reporting of available data, it is too soon to see measurable results in many areas. Even with more time and better data, it will remain difficult to separate the impact of TARP activities from the effects of other economic forces. Credit market indicators we have identified demonstrate that between our December and January reports, the cost of credit declined in interbank, mortgage, and corporate debt markets. Conversely, while perceptions of risk (as measured by premiums over Treasury bonds) have declined in interbank markets, they appeared to have changed little in the corporate bond and mortgage markets. However, attributing any of these changes directly to TARP continues to be problematic because of the range of actions that have been and are being taken to address the current crisis. While our indicators may be suggestive of TARP's ongoing impact, no single indicator or set of indicators can provide a definitive determination of the program's impact.

Finally, these financial stability efforts, as well as the economic slowdown and the government's policy response to the slowdown, all add to the borrowing needs of the government. Treasury's outstanding debt has increased significantly, and the share of it that is short-term has grown. The drop in interest rates—especially for shorter-term debt—has lowered Treasury's cost of borrowing, but having such a large share of debt maturing in the short term presents challenges to Treasury. Market experts believe Treasury would benefit from lengthening its maturity profile. To support Congress' oversight of the use of TARP funds we have work underway looking at how Treasury has financed borrowing

associated with the recent financial crisis and at additional ideas for debt management that might make sense going forward.

Treasury Has Continued to Focus On CPP, but a Variety of Other Programs Have Been Created or Are Being Planned

Treasury has continued to focus on CPP, but a variety of other programs have been created or are in progress, as shown in table 1. As of March 5, 2009, Treasury had disbursed almost 80 percent of the $250 billion it had allocated for CPP to purchase almost $197 billion in preferred shares of 467 qualified financial institutions (table 1).[1] Treasury also has begun to receive dividend payments relating to capital purchases under CPP and other programs. According to Treasury, as of February 17, 2009, it had received about $2.4 billion.

Table 1: Status of TARP Funds as of March 5, 2009 (dollars in billions)

Program	Disbursed
Capital Purchase Program	$ 196.8
Systemically Significant Failing Institutions	40.0
Targeted Investment Program	40.0
Automotive Industry Financing Program	23.7
Citigroup Asset Guarantee	0.0
Bank of America Asset Guarantee	0.0
Making Home Affordable Program	0.0
Term Asset-backed Securities Loan Facility	0.0
Consumer & Business Lending Initiative	0.0
Totals	**$ 300.5**

Source: Treasury OFS, unaudited.

Initially, Treasury approved $125 billion in capital purchases for nine of the largest public financial institutions that federal banking regulators and

[1]Through December 31, 2008, TARP capital purchases and loans totaled $247 billion. Congressional Budget Office (CBO) estimated the subsidy cost for these transactions at $64 billion, or 26 percent, using valuation procedures similar to those specified in the Federal Credit Reform Act and adjusted for market risk as specified in the Emergency Economic Stabilization Act. See Congressional Budget Office, The Troubled Asset Relief Program: Report on Transactions Through December 31, 2008 (Jan. 2009). COP estimated the subsidy cost at $78 billion, or 31 percent, using multiple valuation methods and an evaluation of similar private transactions. See Congressional Oversight Panel, February Oversight Report: Valuing Treasury's Acquisitions (Feb. 6, 2009). In connection with our audit of TARP's financial statements, we will be evaluating and testing the credit subsidy model that TARP uses to value capital purchases and loans for financial reporting purposes.

Treasury considered to be systemically significant to the operation of the financial system.[6] At the time, these nine institutions held about 55 percent of U.S. banking assets. Subsequent purchases were made in qualified institutions of various sizes (in terms of total assets) and types. As we noted in our January report, most of the institutions that received CPP capital were publicly held institutions, although a limited number of privately held institutions and community development financial institutions (CDFI) also received funds.[7]

Treasury has taken a number of important steps toward better reporting on and monitoring of CPP. These steps are in keeping with our prior recommendations that Treasury bolster its ability to determine whether institutions are using CPP proceeds in ways that are consistent with the act's purposes and establish mechanisms to monitor compliance with program requirements. However, Treasury needs to take further steps in this area. Treasury has done an initial survey of the largest institutions to monitor their lending and other activities and announced plans to analyze quarterly monitoring data (call reports) for all reporting institutions. In addition, Treasury is developing a more limited monthly survey of lending by smaller institutions participating in the program. These efforts are important steps toward ensuring that all participating institutions are held accountable for their use of the funds and are consistent with our past recommendation that Treasury seek similar information from existing CPP participants.. We will continue to monitor Treasury's oversight efforts as well as the consistency of the approval process in future work.

Treasury has also continued to take steps to increase its planned oversight of compliance with terms of the CPP agreements including limitations on executive compensation, dividends, and stock repurchases. Among these steps, Treasury has named an Interim Chief Compliance Officer. However, Treasury has not finalized its plans for detecting noncompliance with CPP requirements or for taking enforcement actions. Without a more

[6]While Treasury approved $125 billion to the nine largest institutions, it initially disbursed funds to eight. The $10 billion to Merrill Lynch was not disbursed until January 9, 2009, after its merger with Bank of America was completed.

[7]CDFIs are specialized financial institution working in market niches that are underserved by traditional financial institutions. CDFIs provide a range of financial products and services such as mortgage financing for low-income and first-time homebuyers and not-for-profit developers; flexible underwriting and risk capital for needed community facilities; and technical assistance, commercial loans and investments to small start-up or expanding businesses in low-income areas.

structured mechanism in place to ensure compliance with all CPP requirements, and as more institutions continue to participate in the program, ensuring compliance with these aspects of the program will become increasingly important and challenging. In its recently announced Financial Stability Plan, Treasury called for banks receiving future government funds to be held responsible for appropriate use of those funds through (1) stronger restrictions on dividend payment and executive compensation, and (2) enhanced reporting to the public, including reporting on lending activity. In addition, Treasury is in the process of drafting new regulations to implement the executive compensation requirements in the American Recovery and Reinvestment Act of 2009 (the Recovery Act).[5] We will also continue to monitor the system that Treasury develops to ensure compliance with the agreements and the implementation of additional oversight and accountability efforts under its new plan.

Treasury has also continued to make some progress in improving the transparency of TARP and a few weeks ago announced its plans for the remaining TARP funds. In our December 2008 report, we first raised questions about the effectiveness of Treasury's communication strategy for TARP with Congress, the financial markets, and the public. These questions were further heightened in the COP's January report, which raised similar questions about Treasury's strategy for TARP. In response to our recommendation about its communication strategy, Treasury noted numerous publicly available reports, testimonies, and speeches. However, even after reviewing these items collectively, we found that Treasury's strategic vision for TARP remained unclear. For example, Treasury initially outlined a strategy to purchase whole loans and mortgage-backed securities from financial institutions, but changed direction to make capital investments in qualifying financial institutions as the global community opted to move in this direction. However, once Treasury determined that capital infusions were preferable to purchasing whole mortgages and mortgage-backed securities, it did not clearly articulate how the various programs—such as CPP, the Systemically Significant Failing Institutions (SSFI) program, and the Targeted Investment Program (TIP)—would work collectively to help stabilize financial markets. For instance, Treasury has used similar approaches—capital infusions—to stabilize healthy institutions under CPP as well as SSFI and TIP, albeit with more stringent requirements. Moreover, with the exception of

[5]Pub. L. No. 111-5, div. B, title VII, § 7001 (Feb. 17, 2009) (amending section 111 of EESA).

institutions selected for TIP being viewed as able to raise private capital, both SSFI and TIP share similar selection criteria. Further, the same institution may be eligible for multiple programs. At least two institutions (Citigroup and Bank of America) currently participate in more than one program, adding to the confusion about Treasury's strategy and vision for implementing TARP. Other actions also have raised additional questions about Treasury's strategy. For example, Treasury announced the first institution under TIP weeks before the program was established. Similarly, the Asset Guarantee Program was established after Treasury announced that it would guarantee assets under such a program, but many of the details of the program have yet to be worked out.

Since our January report, Treasury has taken three key actions related to our recommendation about the need for a clearly articulated vision for the program. On February 10, Treasury announced the Financial Stability Plan, which outlined a set of measures to address the financial crisis and restore confidence in U.S. financial and housing markets. The plan appears to be an approach designed to resolve the credit crisis by restarting the flow of credit to consumers and businesses, strengthening financial institutions, and providing aid to homeowners and small businesses. On February 25, Treasury announced the standardized terms and conditions for eligible financial institutions participating in the Capital Assistance Program (CAP). Under CAP, an eligible institution that is found by its federal banking regulator to need additional capital to continue lending and absorb losses in a severe economic downturn will be eligible to participate in CAP.[7] Such institutions will be eligible to receive a capital investment from Treasury, with regulatory approval, in the form of preferred securities that are convertible into common equity to help absorb losses and serve as a bridge to receiving private capital. A key element of Treasury's Financial Stability Plan, CAP is designed to ensure that, in severe economic conditions, the largest U.S. bank holding companies have sufficient capital to support lending to creditworthy homeowners and businesses. As part of this effort, the federal banking regulators—the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Office of Thrift Supervision—announced that they will begin conducting a one-time forward-looking capital assessment (or stress

[7]According to Treasury and the federal banking regulators, eligibility will be consistent with the criteria and deliberative process established for identifying qualified financial institutions in the existing Capital Purchase Program.

test) of the balance sheets of the 19 largest bank holding companies with assets exceeding $100 billion. These institutions are required to participate in the coordinated supervisory capital assessment and may obtain additional capital from CAP if necessary.[10] Regulators noted that the capital assessment process for all eligible institutions is expected to be completed by April 30, 2009.

On March 4, 2009, Treasury unveiled its Making Home Affordable program, which is based in part on the use of TARP funds. Among other things, the plan is designed to do the following:

- It will use $75 billion ($50 billion from TARP funds) to modify the loans of up to 3-4 million homeowners to avoid potential foreclosure. The goal of modifying the mortgages of these homeowners is to reduce the amount owed per month to sustainable levels (a mortgage debt-to-income ratio of 31 percent). Treasury will share the cost of restructuring the mortgages with the other stakeholders (e.g., financial institutions holding whole loans or investors if loans have been securitized). Treasury announced a series of financial incentives for the loan servicers, mortgage holders/investors, and borrowers that are intended to "pay for success," encourage borrowers to continue paying on time under the modified loan, and encourage servicers and mortgage holders/investors to modify at-risk loans before the borrower falls behind on a payment.

- It includes an initiative to help up to 4-5 million homeowners to refinance loans owned or guaranteed by Freddie Mac and Fannie Mae at current market rates. According to Treasury, these homeowners would not otherwise be able to refinance their loans at the conforming loan rates because the declining value of their homes has left them with little or no equity. Refinancing at current mortgage rates could help homeowners save thousands of dollars on their annual mortgage payments.

- It increases Treasury's funding commitment to Fannie Mae and Freddie Mac to ensure the strength and security of the mortgage market and to help maintain mortgage affordability. The $200 billion funding

[10]Eligible institutions with less than $100 billion in risk-weighted assets are also eligible to participate in CAP. Risk-weighted assets are the total of all assets held by the bank that are weighted for credit risk according to a formula established in regulation by the Federal Reserve.

commitment is based on authority granted to Treasury under the Housing and Economic Recovery Act of 2008.[11]

We will continue to monitor the development and implementation of Treasury's plan, including how its actions address the challenges we have previously identified.[12]

Treasury also established the Auto Industry Financing Program (AIFP) in December 2008 to prevent a disruption of the domestic automotive industry that would pose systemic risk to the nation's economy. Under this program, Treasury has lent $13.4 billion to GM and $4 billion to Chrysler to allow the automakers to continue operating while working out details of their plans to become solvent, such as achieving concessions with stakeholders. The loans were designed to allow the automakers to operate through the first quarter of 2009 with recognition that after that point GM and Chrysler would need additional funds or have to take other steps, such as an orderly bankruptcy.[13] As required by the terms of their loan agreements, GM and Chrysler submitted restructuring plans to Treasury in February that describe the actions the automakers will take to become financially solvent. Because of the continued sluggish economy and lower than expected revenues, GM and Chrysler are requesting an additional $16.6 billion and $5 billion in federal financial assistance, respectively. Treasury is currently assessing the automakers' restructuring plans and determining what the government's role will be in future assistance. By March 31, 2009, GM and Chrysler must report to the Secretary of the Treasury on their progress in implementing these restructuring plans. The Secretary will then determine whether the companies have made sufficient progress in implementing the restructuring plans; if they have not, the loans are automatically accelerated and become due 30 days later. As part of our oversight responsibilities for TARP, we are monitoring Treasury's

[11]Pub. L. No. 110-289, 122 Stat. 2654 (2008).

[12]See GAO, Troubled Asset Relief Program, Status of Efforts to Address Defaults and Foreclosures on Home Mortgages, GAO-09-231T (Washington, D.C.: Dec. 4, 2008) for a discussion of challenges facing loan modification programs.

[13]Under AIFP, Treasury also lent $884 million to GM to enable it to participate in GMAC's—a financing company owned in part by GM—new rights offering related to its reorganization as a bank holding company—and bought $5 billion in preferred stock investment plus warrants from GMAC. In addition, Treasury agreed to lend $1.5 billion to a special purpose entity created by Chrysler Financial Services Americas LLC (Chrysler Financial) to finance the extension of new consumer automotive loans, of which $0.4 billion been disbursed to Chrysler Financial.

implementation of AIFP, including the auto manufacturers' use of federal funds and development of the required restructuring plans.

Efforts to Establish OFS Are Ongoing

Treasury has made progress in establishing its management infrastructure for TARP, including in hiring, overseeing contracts, and establishing internal controls. However, hiring for OFS is still ongoing. Treasury is working to improve its oversight of contractors, and its development of a system of internal control is still evolving.

- In the hiring area—one that we highlighted in our first report—Treasury took steps to help maintain continuity of leadership within OFS during and after the transition to the new administration. Specifically, Treasury ensured that interim chief positions would be filled to ensure a smooth transition and used direct-hire authority and various other appointments to bring a number of career staff on board quickly. OFS has increased its overall staff since our December 2008 report from 48 to 90 employees as of January 26, which includes an increase of permanent staff from 5 to 38. Treasury officials recently told us that the number of permanent staff had increased to 60. While progress has been made since our last report, the number of temporary and contract staff who will be needed to serve long-term organizational needs remains unknown. Because TARP has added many new programs since it was first established in October and program activities are changing under the new administration, we recognize that Treasury may find it difficult to determine OFS's long-term organizational needs at this time. However, such considerations will be vital to retaining institutional knowledge in the organization.

- Treasury's use of existing contract flexibilities has enabled it to enter into agreements and award contracts quickly in support of TARP. However, Treasury's use of time-and-materials contracts, although authorized when flexibility is needed, can increase the risk that government dollars will be wasted unless adequate mechanisms are in place to oversee contractor performance. In this regard, Treasury has improved its oversight of contractors, including those using time-and- materials pricing. In addition, while Treasury has taken the important step of recently issuing an interim regulation outlining the process for reviewing and addressing conflicts of interest among new contractors and financial agents, it is still reviewing existing contracts or agreements to ensure conformity with the new regulation. We believe this step is a necessary component of a comprehensive and complete system to ensure that all conflicts are fully identified and appropriately addressed.

- OFS has adopted a framework for developing and implementing its system of internal control for TARP activities. OFS plans to use this framework to develop specific policies, drive communications on expectations, and measure compliance with internal control standards and policies. However, it has yet to develop comprehensive written policies and procedures governing TARP activities or implement a disciplined risk-assessment process.

In each of these areas, we made additional recommendations. Specifically, we recommended that Treasury continue to expeditiously hire personnel needed to carry out and oversee TARP. For contracting oversight, we recommended that Treasury expedite efforts to ensure that sufficient personnel are assigned and properly trained to oversee the performance of all contractors, especially for contracts priced on a time-and-materials basis, and move toward fixed-price arrangements whenever possible as program requirements are better defined over time. We also recommended that Treasury review and renegotiate existing conflict-of-interest mitigation plans, as necessary, to enhance specificity and conformity with the new interim conflicts of interest regulation and that it take continued steps to manage and monitor conflicts of interest and enforce mitigation plans. Finally, we recommended that Treasury, in addition to developing a comprehensive system of internal controls, develop and implement a well-defined and disciplined risk-assessment process, because such a process is essential to monitoring the status of TARP programs and identifying any risks that announced programs will not be adequately funded. We will continue to monitor OFS's hiring and contracting practices and implementation of the internal control framework, which is vital to TARP's effectiveness.

Measuring the Impact of TARP on the Credit Markets and the Economy Continues to Be Challenging

It is still too early in TARP's implementation to see measurable results in many areas given that program actions have only recently occurred and there are time lags in the reporting of data. Even with more time and better data, it will remain difficult to separate the impact of TARP activities from the effects of other economic forces. Some indicators suggest that the cost of credit has declined in interbank, mortgage, and corporate debt markets since the December report. However, while perceptions of risk (as measured by premiums over Treasury securities) have declined in interbank markets, they have changed very little in corporate bond and mortgage markets. Finally, as noted in December, these indicators may be suggestive of TARP's ongoing impact, but no single indicator or set of indicators can provide a definitive determination

of its effects because of the range of actions that have been and are being taken to address the current crisis. These include coordinated efforts by U.S. regulators—namely, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Federal Housing Finance Agency—as well as actions by financial institutions to mitigate foreclosures. For example, a large drop in mortgage rates occurred shortly after the Federal Reserve announced it would purchase up to $500 billion in mortgage-backed securities, highlighting the fact that policies outside of TARP may have important effects on credit markets. We will continue to refine and monitor the indicators. Additionally, we plan to use the Treasury survey data in our efforts to evaluate changes in lending activity resulting from CPP. We recognize that the data has certain limitations primarily that it is self-reported and difficult to benchmark because it is unique. Nonetheless, we think it will prove valuable in future analyses.

Federal Debt Management Challenges

You also asked that I discuss the impact of TARP and related activities on the national debt and borrowing. Congress has assigned to the Treasury Department the responsibility to borrow the funds necessary to finance the gap between cash in and cash out subject to a statutory limit. Since the onset of the current recession in December 2007, the gap between revenues and outlays has grown. Because the Treasury must borrow the funds disbursed, TARP and other actions taken to stabilize the financial markets increase the need to borrow so adding to the federal debt. Also, federal borrowing needs typically increase during an economic downturn—largely because tax revenues decline while expenditures increase for programs to assist those affected by the downturn. In addition, the American Recovery and Reinvestment Act enacted on February 17, 2009 contains both decreases in revenues and increases in spending. Further, all of this takes place in the context of the longer-term fiscal outlook, which will present Treasury with continued financing challenges even after the return of financial stability and economic growth.

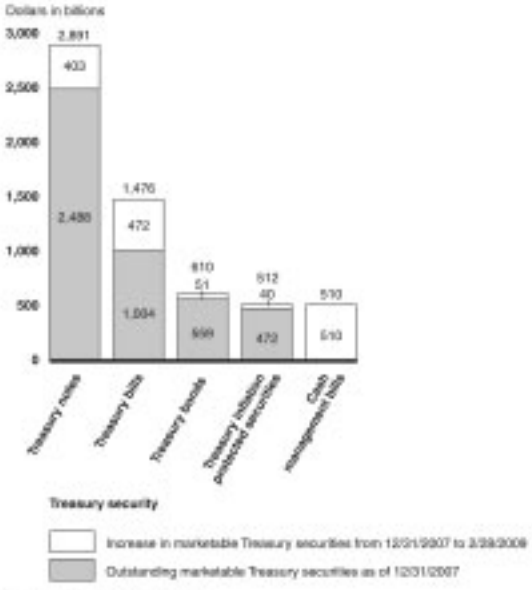
Treasury's primary debt management goal is to finance the government's borrowing needs at the lowest cost over time. Issuing debt through regularly scheduled auctions lowers borrowing costs because investors and dealers value liquidity and certainty of supply. Treasury issues marketable securities that range in maturity from one month to 30 years

and sells them at auction on a pre-announced schedule.[11] The mix of securities that Treasury has outstanding changes regularly as new debt is issued. The mix of securities is important because it can have a significant influence on the federal government's interest payments. Longer-term securities typically carry higher interest rates—or cost to the government—primarily due to concerns about future inflation. However, these longer-term securities offer the government the certainty of knowing what the Treasury's payments will be over a longer period.

At the end of February 2009, Treasury's outstanding marketable securities stood at just under $6 trillion—an increase of $1.476 trillion since December 31, 2007. As shown in figure 1, a large portion of this debt increase was in the form of short-term cash management bills (CM bills). Between October 1, 2008 and February 28, 2009 Treasury issued $1.035 trillion in CM bills, of which $510 billion were outstanding at the end of February.

[11] Cash management bills are not auctioned on a regular schedule, rather they are announced, auctioned, and have maturity dates based on the Treasury's immediate cash needs.

Figure 1: Changes in Outstanding Marketable Treasury Securities from Dec. 31, 2007 to Feb. 28, 2009 (Total Outstanding as of February 28, 2009 = $5,989 billion)



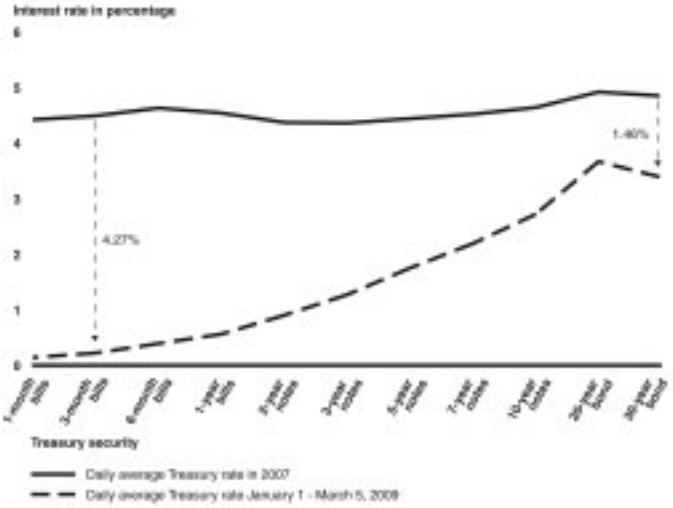
Source: GAO analysis of Treasury data.

Note (1): Does not include $14 billion in marketable securities outstanding for the Federal Financing Bank.

Note (2): Treasury bills have maturities of 1 year or less. Notes have maturities of a year or more to 10 years and bonds have maturities of greater than 10 years. Currently Treasury issues Treasury Inflation Protected Securities with maturities ranging from 5 to 20 years.

Interest rates have decreased dramatically since the start of the financial crisis, particularly for short-term debt. Figure 2 below illustrates the size of that drop.

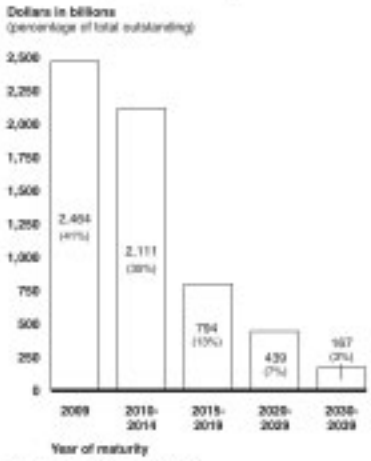
Figure 2: Interest Rates on Treasury Securities



Source: GAO analysis of Federal Reserve data.

The impact of this drop can be seen in lower borrowing costs—indeed, the budget shows net interest declining in fiscal year 2009. Although these relatively low interest rates have reduced Treasury's borrowing costs, the increasing amount of short-term debt that needs to be rolled over does present challenges. As shown in figure 3, approximately $2.5 trillion—or 41 percent of total outstanding marketable securities will mature in 2009—and will have to be refinanced. As Treasury borrows to meet its current needs, Treasury must also plan for rolling over large amounts of debt in the short term.

Figure 3: Marketable Securities by Year of Maturity, as of February 28, 2009 (Total Outstanding - $5, 989 billion)



Source: GAO analysis of Treasury data.

Note: Does not include $14 billion in marketable securities outstanding for the Federal Financing Bank.

Treasury has said that it "recognizes the need to monitor short-term issuance versus longer dated issuance." Market experts generally believe that Treasury needs to increase the average maturity of its debt portfolio in part to lock in relatively low long-term rates and to ensure adequate borrowing capacity in the coming years. To support Congress' oversight of the use of TARP funds we have work underway looking at how Treasury has financed borrowing associated with the recent financial crisis and at additional ideas for debt management that might make sense going forward.

Total borrowing will increase by trillions of dollars this year, not solely due to TARP and other activities aimed at stabilizing the financial system. Debt also grows in response to the economic slowdown as revenues fall and spending for some programs grows. Further, both the tax and spending provisions of the Recovery Act will also increase debt. All of this contributes to the borrowing challenge faced by the Treasury. As this Committee well knows, debt is also held in governmental accounts—such

as the Social Security Trust Fund. This debt is included in the total debt subject to limit.[11] The debt limit was increased by the Emergency Economic Stabilization Act of 2008 and the Recovery Act, but with only $1.2 trillion remaining under the limit, it will have to be raised again.

The combination of slower growth and greater debt lead to increases in publicly-held debt as a share of our economy—The President's budget projects debt reaching 65 percent of gross domestic product in 2010 and remaining at that level for the rest of the decade. Today Congress, the executive branch and the American people are understandably focused on restoring financial stability and economic growth. At some point, however, the nation's leaders will need to apply the same level of intensity to the serious long-term fiscal challenges facing the federal government.

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to discuss this critically important issue and would be happy to answer any questions that you may have. Thank you.

Contact

For further information on this testimony, please contact Thomas J. McCool on (202) 512-2642 or mccoolt@gao.gov.

[11] Debt held by the public—and the interest paid on it—represents a burden on current taxpayers; debt held in government accounts represents a claim on future resources. Together they equal total debt.

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Chairman LEWIS. Thank you very much, Mr. Comptroller.

At this time, I will open the hearing for questions. I ask that each Member follow the 5 minute rule. If the witnesses will respond with short answers, all Members should have an opportunity to ask questions.

Mr. Inspector General, tell the Members of the Committee, are you familiar with the extended contracts that are used to give money under this program and the term of those contracts?

Mr. BAROFSKY. I am generally aware of those contracts and terms.

Chairman LEWIS. Do you care to elaborate on the contents of those contracts?

Mr. BAROFSKY. Sure. The contracts contain various provisions, a lot of legal standard representations and warranties, and as you mentioned in your opening statement, provisions regarding tax compliance.

Chairman LEWIS. That is what I want to get to, Mr. Inspector General. Do the contracts state that the recipients are not aware of any material unpaid taxes?

If the contracts contain this clause, why are there recipients with outstanding Federal taxes? What can be done to collect unpaid taxes?

Mr. BAROFSKY. I think, Mr. Chairman, yes, the agreements state that in Section 2.20 of the Standard Capital Purchase Program. The agreement does have that provision. As you correctly noted, they represent and warrant that at the time they sign this contract, there are no material outstanding tax obligations.

I think it falls primarily on the Office of Financial Stability's Compliance Department to be monitoring their compliance with these provisions of this agreement.

I am aware today, thanks to the Subcommittee, that there are several recipients who do appear to have large unpaid tax amounts, and I certainly plan on discussing this with OFS Compliance to remedy this situation. It is obviously a very serious one.

Chairman LEWIS. Mr. Comptroller, what are the options for recovering unpaid taxes?

Mr. DODARO. IRS has various tools available to it, such as liens on property, levies on bank accounts or other assets that might be available. They can also levy penalties on the organizations, and also charge the individuals that are accountable at the bank individually with some of these penalties.

The IRS has ample tools available to it to enforce compliance under current law.

Chairman LEWIS. Are either of you prepared to make recommendations to the IRS and Treasury as to what they should do? Who can the Government collect from when a company has unpaid payroll taxes?

Mr. DODARO. They can collect from the company itself and the officers or the responsible officials in the company. That is pretty much standard practice at the IRS.

We have noted over time that their enforcement efforts, particularly for unpaid payroll taxes, are not very timely. It will take many weeks for them to move toward a decision and then to levy

the penalties and then to proceed toward collection, and their collection record is not that terrific in a number of these areas.

We do an annual financial audit of the IRS, so we look at this every year when we do that. We have made some recommendations to them to increase their activities to move forward in these areas and to collect more funds.

I would be happy to provide our recommendations that we have made to the IRS for the record, Mr. Chairman.

I would also be happy to—for GAO to get access to taxpayer data requires the consent of this Committee or the Joint Committee on Taxation or Senate Finance Committee, and if we received that approval from the Committee to get the data, we could go behind the information and take a closer look at what you are revealing today.

Chairman LEWIS. How do we recover unpaid taxes from Federal contractors?

Mr. DODARO. There are a number of ways. If the dispersing system for the contractors can be run through a system over at the Treasury Department and they can screen against whether that contractor has any unpaid Federal taxes, and the payment stream to the contractors can be offset to recoup the amount of money that is available there.

Also, back on your other question, one other tool IRS has, they can also offset refunds that are made to individuals on the corporations that might be charged with particular problems as well.

We made recommendations that more dispersing systems in the Federal Government be coordinated with this Treasury program to provide additional safeguards in that process, so there is more ability to collect the money.

Chairman LEWIS. Thank you very much, the two of you. I yield to Mr. Reichert for his questions.

Mr. REICHERT Thank you, Mr. Chairman. Thank you both for being here. I do not envy your jobs at this time. I am happy to have you here and the American people certainly are looking forward to your answers, and glad that you are watching out for their tax dollars.

I just want to congratulate you both first of all for talking about transparency and oversight and enforcement, monitoring, tracking, all of those things that you both mentioned in your opening statements.

I kind of want to go over some of the things that you have already mentioned, just to highlight them.

The people are real concerned. They have heard a lot of figures tossed around, $700 billion is the authorized amount, but the total taxpayer exposure, as you mentioned in your opening statements, is quite a bit more.

Just how much really are the taxpayers on the hook for? Either one of you can answer that question.

Mr. BAROFSKY. I think with the TARP related programs as they have been described and announced by the Secretary, when you add up all the commitments, when leveraged with money from the Federal Reserve, the TARP related programs are approximately $2.9 trillion.

Mr. REICHERT Just so the American people understand, we are not talking about $700 billion. We are talking about almost $3 trillion.

Mr. DODARO. There are a couple of different aspects, and I think what Mr. Barofsky is saying is absolutely accurate in the aggregate, but some of the different programs have different characteristics.

The Capital Purchase Program, for example, companies are required to pay dividends back. So, far, there has been about $2.4 billion, and I think with the recent information I received, about $2.8 billion in dividend payments that have been paid back on the preferred stock.

There is some ability to recoup some of this money, but you are exactly right, the potential risk long term on some of these other programs is very significant.

Mr. REICHERT. We are spending a lot of taxpayer dollars. We are talking about $3 trillion potentially on the hook here for the taxpayers.

How can Treasury establish meaningful metrics to determine whether or not TARP is really providing any sort of access to credit, improving access to credit? Are you able to answer that question?

Mr. DODARO. Yes. That is one of our first recommendations, to collect information from the institutions receiving assistance about their lending activities, to be able to determine whether or not they are actually increasing their lending activities or mortgage mitigation efforts, to help homeowners that needed to readjust their mortgages.

Mr. REICHERT. What did you find out?

Mr. DODARO. We found out first of all that Treasury had not planned to do that, and as a result of our recommendation, they started collecting that information, and the top 20 banks that reported, the aggregate lending activity for their first report through the end of the year had decreased a bit in November and had gone back up in the aggregate in December, but not back up to the October date.

This money was distributed through a period of time, so they need to continue to collect that data. We are in the process of analyzing the most recent information, and we will be providing assistance.

We also have developed in our reports a series of indicators to determine in the aggregate whether lending is going up, like for example, the inner-bank lending rates.

Mr. REICHERT The troubling part in this is that we knew we were spending a lot of taxpayer dollars and there was no plan in the beginning.

Mr. DODARO. That concerned us, and that is why we made our recommendations in our very first report, Congressman.

Mr. REICHERT. Next topic here, I am an original cosponsor of a bill that a number of Members have supported that would force Treasury to reveal certain records of its dealings with AIG.

Some of the questions that we want answered, of course, as you probably have already heard, did the Treasury Secretary, Mr. Geithner, know or should he have known, about these bonuses

prior to offering AIG an additional $30 billion earlier this month. Did he know or should he have known?

Mr. BAROFSKY. The audit that I announced in my opening statement will have the answer to that question, whether or not he knew. Not just him, of course, but throughout the Treasury Department, who knew what, when, how and why, and we will answer that question in our audit.

Mr. REICHERT. When is that due?

Mr. BAROFSKY. We are just getting it off the ground right now. I cannot give you a precise answer.

Mr. REICHERT. Neither of you can answer that question today?

Mr. DODARO. No.

Mr. BAROFSKY. I cannot answer that question.

Mr. REICHERT. Thank you, Mr. Chairman. My time is up, I yield back.

Chairman LEWIS. Thank you, sir. Now, I will turn to Mr. Becerra for questions.

Mr. BECERRA. Thank you, Mr. Chairman. Thank you for holding this hearing, which I suspect is the first of several hearings to conduct the oversight responsibility that this Committee has over these issues involving the TARP funding.

I want to thank the two gentlemen that are before us for their overall work they have done for the people of this country in trying to help us provide the information and oversight that is important for us to conduct our business.

First question, you have mentioned, gentlemen, that you have had conversations with obviously the folks at Treasury, probably the Fed, and some of the recipients of the TARP money directly as well.

Are you receiving all of the support and cooperation that you need to conduct your oversight responsibilities and enforcement responsibilities from the Department of Treasury and its personnel?

Mr. BAROFSKY. So, far we have.

Mr. DODARO. We have been given a great deal of cooperation from the Treasury Department. One thing I do want to mention since you mentioned the Federal Reserve, GAO is statutorily prohibited from reviewing certain activities of the Federal Reserve, and discount window operations, open market Committee transactions.

I am becoming very concerned as TARP money is being used to leverage Federal Reserve activities that we will have—currently, that we will have a problem in reviewing that in the future.

I think that the Congress should consider removing those restrictions for the GAO to provide additional oversight. I wanted to make that point clear this morning. Thank you.

Mr. BECERRA. Thank you, Mr. Dodaro. I hope, Mr. Chairman, we are able to continue conversation with Mr. Dodaro and his staff to find out if there is some ways we can help make sure that the transparency and accountability that you are charged to help us obtain is something we end up securing. Thank you for that information.

On the issue of unpaid income taxes by some of these TARP recipients, my understanding is there are more than one TARP re-

cipient that has unpaid income taxes totaling over $100 million to the Federal Treasury; is that correct?

Mr. BAROFSKY. Based on the information provided to us by the Subcommittee, it does indicate that.

Mr. BECERRA. There are ways for Treasury to collect this money from those TARP recipients, specifically the contracts these recipients signed with the Government in order to obtain taxpayer funded TARP dollars; is that correct?

Mr. BAROFSKY. That is correct.

Mr. DODARO. That is correct.

Mr. BECERRA. Does the Treasury have the tools in place today to be able to secure those uncollected income taxes from these TARP recipients?

Mr. DODARO. IRS has the tools available to do it. This goes to the recommendation we had made about Treasury really monitoring compliance with this Act, and they really have not had their program up and running yet.

Mr. BECERRA. Are you aware if IRS is taking steps to collect those uncollected income taxes from those recipients of billions of dollars of TARP/taxpayer money?

Mr. DODARO. I do not know that today but we can find out.

Mr. BECERRA. Would you please find out? I suspect we will try to find out as well. If you can report back to us if IRS is taking steps to collect money that is owed by banks and financial institutions that have received billions of dollars from the taxpayers.

It just seems anomalous that given that they signed a contract that said they will be up to date on their taxes that they owe, to get this taxpayer bail out money, they would pay their taxes.

I hope that you will help us quickly determine what is being done to make sure that these companies are up to date the way we expect every other working American to be up to date in his or her taxes.

Mr. BAROFSKY. Yes, sir. To be clear, if an executive knowingly signed this agreement knowing that a representation in that was false, that would also potentially be a crime.

We are going to look very heavily into this issue as part of our responsibility for enforcement to see if any such crime was committed.

Mr. BECERRA. Please let us know if we can be helpful to you as you conduct that examination.

Mr. DODARO. The one thing we will need, Congressman, is approval from this Committee to get access to the taxpayer information.

Mr. BECERRA. To the degree that we can help, I am certain, Mr. Chairman, we will do everything we can at the Congressional level to try to help you have that information at your disposal.

A question regarding Treasury's authority over TARP. Can Treasury limit executive compensation based on these TARP agreements that were signed by these financial institutions that requested taxpayer bail out money?

Mr. BAROFSKY. Yes, it can do so through regulation.

Mr. BECERRA. Can it require recipients of TARP money to get Treasury approval before paying out bonuses?

Mr. BAROFSKY. It does have the ability to do so.

Mr. BECERRA. Can the Treasury limit recipients of taxpayer money, TARP money, from using TARP moneys in particular ways?

Mr. BAROFSKY. It can and has put some restrictions already in its agreements.

Mr. BECERRA. Yes, we can place restrictions on how recipients use TARP money?

Mr. BAROFSKY. Yes.

Mr. BECERRA. Thank you, Mr. Chairman. Maybe if we have a second round of questions, I will have an opportunity to continue, but thank you very much. I yield back.

Chairman LEWIS. Thank you. Mr. Roskam is recognized for questions.

Mr. ROSKAM. Thank you, Mr. Chairman.

I just want to take a step back and go back to the Fall when this whole adventure began, and essentially, I think there was not a serious person in Congress that did not realize that the credit markets were ceasing up and there was near unanimity that Congress needed to act.

The question is how does Congress act, and there was a drum beat that started, and it became more and more intense over the course of several days to the point that it almost had a panic feel to it around here.

As a result, there was a proposal that was put forth by the administration at the time, and the communication was essentially sign this, vote for this, do not ask too many questions, and if you are asking questions, you are either naive, uninformed or you are an obstructionist. That was the subtext.

The Monday that the first TARP vote failed, I personally heard an open outcry on the Floor of the House of Representatives where a Member shouted out the market has dropped 600 points, as if that was the driving factor in Congress making its determination.

You know how the adventure went on. On Friday, it comes back and it is passed into law.

It seems to me ironic that here we are, this Congress, we gave away tremendous authority in the TARP legislation, did not do the due diligence in my view at the time, and now, we are in a position where yes, this is changing and it is very, very difficult.

I have analogized this. I think it was the financial equivalent of the Gulf of Tonkin resolution, where Congress basically gets rolled and gives away tremendous authority.

It started out badly and it got worse because the administration came out of the huddle, so to speak, and they were going to do their call, and looked at the line of scrimmage in a football analogy and said you know what, we came out and we were going to do toxic assets, no, no, new play, capital injections.

It has been one adventure after another. I think getting to your testimony, there is a lack of predictability on how this is playing out. What is the metric? How are decisions being made?

I think that while you are hearing from wound up Members of Congress, who are rightfully wound up about this, our opportunity was to cast this well when the bill was originally passed, and now reluctantly, we are dealing with a situation—my predecessor was Henry Hyde, and Henry Hyde had a great expression.

He said there is one thing worse than gridlock, the worse thing than gridlock is the greased shoot of Government. That is exactly what we are dealing with right now.

Mr. Barofsky, you mentioned something that I found interesting, and that is the recommendations that you are making as it relates to this whole program, are those recommendations—are you memorializing those?

In other words, are those recommendations in writing that we can get the benefit of in future oversight hearings and future conversations, or they just sort of not memorialized and just sort of conversational recommendations?

Could you speak to that?

Mr. BAROFSKY. We memorialized our recommendations. They are included in—the first round of recommendations were gathered and included in our first report to Congress on February 6. Since then, we have made a series of recommendations. We do those in writing. We will be including those in our next report, which I believe will be delivered to Congress on April 20.

Mr. ROSKAM. You mentioned the on line aspect of the disclosure of the TARP agreements. Would those online disclosures, as they are currently exercised by Treasury, have revealed the AIG problem?

Mr. BAROFSKY. It would have revealed that in any AIG agreement with Treasury, retention payments were explicitly contemplated. It did not list the contracts. It did not list the amounts.

In the executive compensation provisions, there is an explicit reference to retention payments and calculating the total amount of payment a senior executive could receive.

That issue was in fact in those agreements.

Mr. ROSKAM. Is it fair to say that if they had been online, that issue would have been red flagged and certainly drawn attention in advance of the problem?

Mr. BAROFSKY. Potentially. I am not sure of the exact date that the AIG agreement did go up on the Internet. Our recommendation was sort of adopted in waves after it was made in late December. It is now being fully complied with. I am not sure of the exact date the AIG agreement went up.

Mr. ROSKAM. I understand. Thank you. I yield back.

Chairman LEWIS. Thank you. Now, I will turn to Mr. Kind for his questions.

Mr. KIND. Thank you, Mr. Chairman. Thank you for holding this very, very important and timely hearing. I want to thank our witnesses for your testimony and your access to us as we have ongoing questions about the oversight and implementation of TARP.

Let me just quickly ask you both whether or not you feel that your respective agencies have the resources, the tools, the personnel that you need to effectively conduct oversight with the implementation of TARP.

Mr. Barofsky?

Mr. BAROFSKY. We are building. We do not have the necessary resources yet. Pending right now in the House is H.R. 1341, which would give us some expanded hiring authority, which will help us.

Right now, we are about 30 strong. We are building to about 120 to 125. We have had some serious challenges. We have had the

same challenges that TARP has, as Mr. Dodaro has indicated in his report.

I am hopeful with the passage of this vitally important bill for us that we will be on the road to getting the necessary resources.

Mr. KIND. Thank you. Mr. Dodaro?

Mr. DODARO. I believe we have the necessary expertise in GAO since we are a preexisting organization. We have collectively pooled the resources and we are augmenting those resources with some hires.

I have two concerns. My biggest concern is what I mentioned before about our limitations at the Federal Reserve. I think unless that is dealt with, we are not going to be able to provide the type of oversight that the Congress would expect, and I believe deserves, during these extraordinary times. That needs to be dealt with.

There is also a potential safeguard that could be put in place to give us access to the books and records of any recipient of TARP money. We currently do not have that.

There has been a bill introduced in the Senate, which I can provide to this Committee, by Senators Baucus and Grassley, to do that.

Right now, it is not a problem, but given the unpredictability of how this process is going to unfold, I think it would be a good safeguard.

Mr. KIND. I appreciate your concern about the Fed oversight. We have had conversation previously about that. It gets a little tricky, and I think we are going to have to engage you in further exploration of what type of statutory authority you need.

Obviously, the Fed has always been set up as an independent entity, so it is not subjected to the political whims of Congress or any other outside influence.

If there is a way we can massage that authority that you need, I think we need to. It is an unprecedented intervention by the Fed with the capitalization that has taken place there. I think more oversight is certainly necessary.

Mr. DODARO. Congressman, I am very respectful of the need for the Fed's independence. I believe whatever legislation is passed could be carefully crafted and even temporary in nature. I am not trying to seek any permanent authority here.

Mr. KIND. Let me ask you both about the coordinated oversight functions. Just from my quick calculations here, we have the IG Office and the GAO obviously involved in oversight. We have the Financial Stability Oversight Board that was created with the passage of TARP. We have Treasury involvement, Fed involvement with oversight. Our involvement in oversight. Might as well throw in the national media's involvement in oversight.

Do you feel there is sufficient coordination so that we do not have overlap and redundancy and duplication occurring with oversight?

Mr. BAROFSKY. I do. I think that is one of our most important roles, making sure that is the case. TARP is such a vast terrain and it is growing and changing every day.

If Gene and I and our organizations were not to work closely, as well with the Congressional oversight panel, I have my own council of the various Inspector Generals that includes representatives

from GAO, if we were not coordinating, one, we would not have a shot at covering this whole terrain.

Second, we would be wasting our time by duplication of resources. We have worked really hard——

Mr. KIND. Let me ask you both this, the first line of defense is responsible behavior of the banks that are receiving these funds right now. Unfortunately, the track record has not been very good so far, especially with the AIG story this week and the anger it has engendered.

Do the banks themselves have internal control systems being established in the appropriate use of the TARP funds from what you have been able to see?

Mr. BAROFSKY. One of our recommendations that we made to Treasury was that Treasury require in its agreement the establishment of internal controls, at least with respect to those conditions that are imposed upon them.

They have adopted that with respect to some of their agreements such as Citigroup and Bank of America, as well as the auto industries, and we hope they continue to impose those internal controls. We think they are vital.

Mr. DODARO. I think a real important point here for the Congress, too, is as these next set of programs are authorized, there is a real opportunity here to build in some better controls up front than were originally built into the program.

I would encourage the Congress to have oversight hearings with the Treasury Department to really focus on what their plans are.

Mr. KIND. I see my time is expiring, but I would like to follow up with you two gentlemen in regard to what type of additional oversight we need to provide through statute, what type of questions we need as a body to be asking Treasury in regard to their oversight function as well.

There is still a lot of work to be done. I thank you two and your agencies for the job that you are performing on behalf of the American taxpayer. Thank you.

Mr. DODARO. Thank you.

Mr. BAROFSKY. Thank you.

Chairman LEWIS. Thank you very much. Now, I will turn to Mr. Linder for his questions.

Mr. LINDER. Thank you, Mr. Chairman.

Mr. Barofsky, of the companies that are owing taxes to the Government who signed those contracts, are any of those companies delinquent today?

Mr. BAROFSKY. I do not know the names of the companies. The information that was provided to me today has the companies identified by number or letter. I cannot answer your question.

Mr. LINDER. You cannot also answer whether those companies signed contracts before or after January?

Mr. BAROFSKY. Because I do not know the identity, I am sorry, Congressman, but I hope to work with the Subcommittee and find out and be able to answer that question.

Mr. LINDER. Mr. Dodaro, are the limitations on the Fed statutory?

Mr. DODARO. Yes, they are, Congressman. It is in the Bank Auditing Act. It is one of the few instances where GAO is statutorily prohibited.

Mr. LINDER. Do either of your organizations have any anticipatory examination powers? Could you have gone into the TARP when it was just being anticipated and looked at it and made recommendations?

Mr. BAROFSKY. I am sorry. We did not exist when the TARP was being formed. I was sworn in on December 15. I would not have been able to do that.

Mr. LINDER. Could you do it with respect to TALF?

Mr. BAROFSKY. With TALF, what we have been attempting to do is make a series of recommendations and continue to make recommendations on the formation of that program.

We are very concerned about the fraud vulnerabilities in the TALF. We made recommendations in our February report. We continue to engage in a dialog with the Federal Reserve as well as Treasury. We are trying to do our best to make the necessary recommendations to protect taxpayer money.

We have also formed a TALF taskforce to try to send a powerful deterrent message to those who would abuse the program, and I think that deterrent effect is beginning to have some traction.

Mr. LINDER. Does that mean people are going to refuse to participate in it?

Mr. BAROFSKY. I hope that anyone who is planning on stealing from the program refuses to participate. I hope we deter them.

Mr. LINDER. Do you know more details about TALF than we do?

Mr. BAROFSKY. I know a lot of details about TALF.

Mr. LINDER. Can you share them with us? I have no idea what they are finally going to do.

Mr. BAROFSKY. It is an extremely complicated program and it changes. That has been one of our great concerns.

Just last week, a lot of the conditions that gave us some greater comfort about the fraud prevention in the program were changed. It continues to change.

In our report, we detail some information on the TALF as it existed at that time. The Federal Reserve does have information, questions and answers on its website.

It is complicated. We are going to in our next report give a comprehensive description of the program, like we did in our last report, and in easy to understand terms.

Mr. LINDER. Do you have any idea what their timeframe is?

Mr. BAROFSKY. The first disbursements on TALF are supposed to occur next week.

Mr. LINDER. Do you know how much they are looking at?

Mr. BAROFSKY. I do not think the numbers have been disclosed. The total TALF program as it currently exists is a potential $200 billion worth of lending. I am not sure what they expect. I do not think they know until the applications come in what the amounts will be.

Mr. LINDER. What do you know about the Fed's insinuation in commercial paper markets?

Mr. BAROFSKY. That is not really part of the TARP related program, so I really would not feel qualified.

Mr. LINDER. Do you know, Mr. Dodaro?

Mr. DODARO. No.

Mr. LINDER. Could you look into that?

Mr. DODARO. That is one of the areas we would not be able to look into because of this limitation, Congressman.

Mr. LINDER. In the last couple of days, you may have noticed a lot of interest in the bonuses that AIG paid out. That language was put into the bill, stimulation package, was it not? When did you first know the language was there?

Mr. BAROFSKY. I first saw the language—I think the bill passed on a Friday and I think I saw it later that day.

Mr. LINDER. The language was in the bill then?

Mr. BAROFSKY. When I saw the bill, it was after it had been passed and it had language that exempted——

Mr. LINDER. Prior to February 11?

Mr. BAROFSKY. Yes.

Mr. LINDER. Which is about a month ago.

Mr. BAROFSKY. Yes.

Mr. LINDER. Did you raise that issue then? Did you raise any issues about the bonuses, retention bonuses going to AIG?

Mr. BAROFSKY. I became aware of these particular set of bonuses after they had already been paid. That is when Treasury notified me of them.

Mr. LINDER. Thank you both. Mr. Chairman, I yield back.

Chairman LEWIS. Thank you very much. Mr. Pascrell is recognized for questions.

Mr. PASCRELL. Mr. Chairman, let me start with my conclusion. The Treasury does not want financial institutions to fail. None of us do. Those institutions will fail if the Treasury puts everything on the table, so let us not put everything on the table.

There are some things the public and the Congress need not know. If they know, the public will further lose confidence. That is my conclusion.

I understand that this administration is trying to dig itself out of the deep hole that it found itself in. I understand that very clearly in early October of 2008, Congress passed and President Bush signed the Emergency Economic Stabilization Act of 2008, creating the Troubled Asset Relief Program.

At that time, the TARP's primary focus was expected to be the purchase of troubled assets, such as mortgages and mortgage backed securities.

However, we know what happened two weeks after the enactment, someone changed their minds, not the Congress.

The past Administration and specifically former Secretary Paulson implemented TARP in ways that have been radically different than what was widely envisioned when Congress passed the Emergency Economic Stabilization Act.

I consider this a fraud perpetuated by the last Administration when it promised one course of action and delivered another, but I am deeply disappointed that the Treasury Secretary right now, Mr. Geithner, has not taken a more aggressive approach to remedy

the mismanagement of these TARP funds by the last Administration.

I am stunned by the current Treasury, and I am offended by their obstinacy and the fact that they are not here today when they were requested to be here three times.

Three different Treasury offices, the Office of Financial Stability, the Office of Tax Policy, the Office of Public Debt and Borrowing, were contacted about testifying at the hearing, all three refused.

The Treasury, regardless of the administration, must be accountable for their actions or their mismanagement, and the mismanagement of the TARP funds specifically.

Mr. Dodaro, it has been nearly six months since AIG received its first Government bail out. By the way, the interim final rule still includes limits on executive compensation. That is still there, as I understand it.

Mr. DODARO. Until they revise it to make it consistent with the new legislation.

Mr. PASCRELL. Thank you. They have given a total of $170 billion, one thousand times the cost of these executive bonuses, yet no progress has been made in consolidating AIG and no progress has been made in selling off its assets.

My question is this—I wish the Treasury was present because they are the folks I should be asking the question to, so you will have to substitute for them, as you have been doing, but you have done a fantastic job, both of you.

Specifically, what the plan is for consolidating AIG, and can any of you here today give some insight into the matter? Then I have a follow up question.

Mr. Dodaro?

Mr. DODARO. If I might, Congressman Pascrell, I have the person that is doing this work for us here, Ms. Orice Williams, and she could give you——

Mr. PASCRELL. With your permission, Mr. Chairman.

Chairman LEWIS. Yes. Thank you for being here.

Ms. WILLIAMS. No problem. In terms of AIG, the Fed initially provided assistance to AIG. Treasury through TARP provided assistance through the systemically significant failing institution program. That money was paid directly to the Fed to pay down the original credit revolving facility.

The Fed has been responsible for the day to day oversight of AIG and its plan to unwind the institution.

I testified yesterday that in terms of where they are in the process, it is still very much ongoing, they have been unable to sell major assets out of the organization, so they have not had great success in unwinding the organization to this point.

They have been able to terminate their securities lending facility that had created a lot of problems for AIG, and they also have been able to move off a significant amount of their most complicated CDS portfolio.

Mr. PASCRELL. If I may, Mr. Chairman, in the last 6 months, with our infusion of a lot of capital, if there has been no progress in addressing the larger problems at AIG, do you still believe AIG should receive more TARP money in the future?

Ms. WILLIAMS. This goes to kind of the Fed's goal in assisting AIG, and that had to do with preventing systemic risk to the system, from either a credit downgrade of AIG or a rapid bankruptcy of the organization.

The two areas that were creating the largest problems for AIG were addressed, and that is the securities lending program and dealing with their CDS portfolio, and these were moved into two vehicles created by the Fed, Maiden Lane II and Maiden Lane III, to purchase the securities that AIG had invested in.

Mr. PASCRELL. Thank you very much. Thank you. I yield back.

Chairman LEWIS. Thank you. Mr. Davis of Kentucky is recognized for his questions.

Mr. DAVIS OF KENTUCKY. Thank you, Mr. Chairman.

I would like to go off on something that Mr. Pascrell had mentioned, really a follow up to the joint discussion that we had in the library earlier in the week.

One point that I think is important to clarify on the way the record came out, it was not just Members of the past Administration who were party to framing this problem.

I sat in the hearings in the Financial Services Committee and actually watched the Majority Chairman, the Democratic Chairman of the House Financial Services Committee and then the Chairman of the Senate Banking Committee agree and in fact ignore the warnings of many Members on both sides of the aisle who were attempting to prescribe the use of these funds, because the very thing that has happened is really no surprise.

I find it a little disingenuous that the Secretary in fact is reacting to this based on the fact that he was Governor of the New York Fed that was intimately involved in setting up the contractual relationships of how this went.

I want to come back to a bigger picture, I think, this was the thrust of my question before. Not so much a party issue, and I truly believe at the root of problems like this, it is not a Democrat or Republican issue, but we have a flawed process issue in how the agencies are functioning.

First of all, we have this unprecedented transfer of unaccountable power to the executive to place taxpayer money into the private sector.

I may over simplify this and where we go with it, but I guess the concern I have is we have had this change take place, is there a bigger Constitutional question here?

Do you believe that we need to have the ability to dive in and see what was done with those assets specifically?

Where I would go into a parallel before I follow along with a couple of subparts to the question, if I owned 80 percent of a corporation, I know for a fact that I could see every aspect of the books of that corporation if I so desired by simply calling an emergency board meeting and determining I would be given that access.

Why cannot we not do that here and see this? I suspect there will be more culpability in the details when we get down there, if you were to have access, and especially the Chairman and Ranking Member.

Mr. BAROFSKY. Certainly, the Fed and Treasury do have that degree of access.

Mr. DAVIS OF KENTUCKY. They are obviously not sharing this information.

Mr. DODARO. Right. The only thing we have been given from the Federal Reserve is information that is available to the public. Unless the law is changed removing our restrictions, we are not going to be able to do what you are suggesting. I do think it needs to be done.

Mr. DAVIS OF KENTUCKY. Following on that, do you believe the way that the original law was structured out of the Congress was flawed?

Mr. DODARO. I guess my view would be given the original explanation of what it was to be used for, I am just speaking from GAO's standpoint, in terms of what our authority would have been, I think we would have been fine if they would have purchased the toxic assets.

Since they shifted the plans, first, to the capital purchase program, that created a little bit of a dilemma for us, but when they started using TARP money to leverage Federal Reserve activities, that created a bigger problem.

As the program has evolved, we have not been able to adapt, because of these restrictions, the type of accountability and transparency that the Congress expects of us.

Mr. DAVIS OF KENTUCKY. I think this goes back to the cautions that many of us were raising in the run up to the legislation last year, the way the title was originally put into the housing bail out bill that would have been oriented in that direction was a simple blank statement that the Secretary was basically being given unlimited authority.

The only real question last Fall was raising the debt ceiling rather than actually the mechanisms of how it would be done.

Seeing that Secretary Geithner seems to be carrying on the same responsibilities that Paulson had asked for in the previous Administration, I would really question the competence of how this is being carried out.

You agree that we have to have some type of an audit mechanism to see that and hopefully we will work from this Committee to bring that forward.

Just as an aside, the President made a comment this past week that Secretary Geithner was making all the right moves. Do you agree with that statement, just from a forensics audit standpoint? You do not have the information that is available. We have numbers instead of names for people.

This would be an outrage in the private sector as the owners of a business and certainly we as taxpayers own it now.

How do you feel about that?

Mr. DODARO. Basically, I would say it relates to the recommendations that GAO has made about how to improve the program, that they are making progress but they are not there yet.

From the standpoint of fully implementing our recommendations, I would say they need to take additional steps in order to do that.

Mr. BAROFSKY. I would say the exact same with our recommendations.

Mr. DAVIS OF KENTUCKY. Thank you. We will try to work closely with you and follow on from the discussion earlier in the

week and with the Chairman of the Committee to address that blank spot.

Thank you very much. I yield back.

Chairman LEWIS. Thank you very much. Mr. Etheridge is now recognized.

Mr. ETHERIDGE. Thank you, Mr. Chairman. Let me thank you for holding this hearing.

We have a lot of hearings going on the Hill right now. All of them are important in this area because the American people are concerned, and it did not just start with the bonuses paid for AIG, as all of us know.

This started last year when they had serious concerns about the economy and then the funds moving in that area. I think it has sort of culminated and erupted with what has happened over the last several days.

I think all of us are concerned, so let me ask you a couple of questions. I appreciate your service. I appreciate the job you are doing, both of you, and GAO has a rich history.

As we look at these and as we deal with the focal points of where we are, I think we have to acknowledge that, too many people talk around it, people are just furious, and certainly in my district in North Carolina where people are about to lose their homes, we have farmers who are in jeopardy of losing their farms, and then they see their tax money rolling to Wall Street. I think that is what is bubbling over the top.

The very people that got us in this problem are the very folks that they feel we are rewarding. As we move to fix the problem, my question is as we deal with that, in your testimony, you mention the following "Plans to launch an audit examining Federal monitoring and enforcement of executive compensation restrictions imposed as a condition of Federal financial assistance."

Can you tell me and those of us in this panel about this audit, what it will entail, and what can be done in the future to prevent these kinds of excesses?

I think that is what the American people want to do. The American people want things fixed, but they want them to be done right, and they are just tired of gaps being put in place that people slip through.

Mr. BAROFSKY. I think there are several aspects of this audit. First and foremost, it is to make sure or to report on what the status of Treasury's responsibility is in its compliance, to set up the right procedures, to ensure that the recipients of TARP funds are complying with the executive compensation requirements.

This is something that GAO has identified, I think, in its very first report. We are picking up on that to have a comprehensive audit of what is going on.

Second, it is looking very specifically at the AIG process, the process for this particular example of executive compensation, how it came to be that these payments were made, when Treasury knew about it, who at Treasury knew about it, what legal analysis was done, to provide that type of transparency.

Ultimately, that type of transparency in reporting on what the efforts have been and making recommendations on how to fix it are how, I think, we are best able to address these problems.

Mr. ETHERIDGE. You covered this a little bit earlier, and I think it is important enough to be touched on again. We keep talking about transparency. We talk about time lines.

If you would, repeat again when do we expect to have the transparency up so the American people can see it on line. Number two, when the audit will be completed, and I assume that will be on line.

Mr. BAROFSKY. Yes.

Mr. ETHERIDGE. These are the kinds of things that people hear. They expect to see it. All of a sudden, they see more hearings, nothing is happening, and they are absolutely frustrated and confused.

Can you cover that one more time?

Mr. BAROFSKY. Sure. On our overall audit on use of funds, we have just received our last response yesterday, late yesterday. We are now in the process of gathering that information. I think that within the next 30 days, we are going to release some preliminary information.

We are shooting for——

Mr. ETHERIDGE. You are saying by April 15?

Mr. BAROFSKY. Yes, summary of responses, some anecdotal descriptions of the responses. We are looking for late Spring to have the first wave of the report.

Mr. ETHERIDGE. When is late Spring?

Mr. BAROFSKY. May/June is the timeframe.

One of the problems we have, Congressman, is we are starting up. We have actually hired a contractor to help us with this.

Mr. ETHERIDGE. You cannot fault me for trying to tie you down to a date.

Mr. BAROFSKY. Right. We want to get it out as soon as possible, and that is why we actually hired a contractor and are not doing it entirely in-house, to speed this up, which will be an intermediate report.

Ultimately, if H.R. 1341 does pass, that requires us by September 1 to get a comprehensive report on how TARP funds have been spent, so we will certainly have a final, final, final by that date, but we plan to release the information and provide transparency in stages, making sure that we have a complete yellow book standard audit report when we provide our final product to the Congress and the American people.

Mr. ETHERIDGE. I think that will be great and important. Thank you. Thank you, Mr. Chairman. I yield back.

Chairman LEWIS. I just want to announce to the Members, we are going to have a series of votes coming up, and we are going to try to rush to get everyone in.

Mr. Higgins is now recognized for questions.

Mr. HIGGINS. Thank you, Mr. Chairman.

I just want to stay on this issue of executive compensation and the problem with AIG. Unfortunately, this Troubled Asset Relief Program will always be synonymous with the mess that has been created with respect to AIG.

AIG should not be paying out bonuses. They should be paying restitution. They should be fined.

This is a gross breach of their responsibility. AIG was essentially running an unregulated hedge fund within the context of an AAA insurance company. AIG was selling a product that did not exist, issuing phony insurance policies against the default of bundled subprime mortgages, insurance that did not have any capital behind it. It was like a hedge fund without the hedge.

When you get into this whole issue of bonuses, call them performance bonuses or retention bonuses, the bottom line is a bonus is a form of compensation for rewarding good work.

I do not think anybody agrees that AIG was doing good work. In fact, I think they were corrupt in what it is they were doing, which is undermine the confidence of the American people relative to the financial markets and the overall economy.

Let us call them retention bonuses as AIG has called them. The problem is they paid this out to 54 people who are no longer with AIG.

When this whole thing started, people were suggesting that these financial institutions were too big to fail because they were highly integrated, they were associated with banks and governments, and those institutions, those secondary institutions would fail if we allowed these big companies to fail.

They are failing. We were rolled, as somebody else said, by approving the Troubled Asset Relief Program, which is no longer a troubled asset relief program, and we continue to call it a troubled asset relief program.

The Chairman earlier talked about trust and the fact that no trust exists, and once you lose trust, it is very difficult to get it back.

The Congressional response and the administrative response to a massive financial problem has morphed into another massive financial problem.

I am concerned that whatever audits are done are not going to give us the kind of conclusions that are necessary to fix this thing in time.

You are both talking about staffing up, starting up, getting your personnel numbers and expertise in order, in order to properly monitor these programs, and the program continues with the dispersement of funds, and it seems as though there is very, very little oversight.

I am not suggesting that anybody is doing this deliberately. I cannot see how it could be much worse than what it is today.

The American people are very, very angry. Members of Congress are very, very angry for good reason. I think the frustration is fueled by a lack of clear, concise answers to a problem that is contributing to the continual contraction of this economy.

Just your thoughts on that.

Mr. BAROFSKY. Let me give you an example of how much worse it could be. The original TALF program, which is now projected to be $1 trillion of Government money, the original fraud protections when we were briefed on the program was they were going to rely on two things.

They were going to rely on AAA rating by credit agencies and the due diligence of investors. That, of course, was the exact same pro-

tections that got us into the entire mortgage meltdown, mortgage backed securities meltdown.

We came out strong. We came out with strong recommendations, and the fraud prevention in that program is better. They have not adopted all of our recommendations. It is not perfect, but third party attestations and launching of our taskforce is going to reduce the amount of fraud.

It is not going to reduce it to zero, but that is an example of where we provided oversight, we provided recommendations, so that it may not be as bad as it may have been.

Mr. HIGGINS. Credit rating agencies were bought off. Credit rating agencies were not doing objective analysis of the creditworthiness of these instruments. They were extracting huge fees for giving phony high credit rating agencies which bamboozled the American people and investors and clients.

Mr. BAROFSKY. That is why we came out with a strong recommendation that would not be sufficient.

Mr. DODARO. I would just make three quick points. One, if it was not for our recommendations, you would not have any information available on how the lending practices have changed for the institutions receiving the money.

Number two, we are staffed up but we are hampered by access to certain information, which I pointed out.

Number three, we have issued a report and designated it as a high risk area and the need to modernize the financial regulatory system to close some of these gaps.

Basically, the regulators struggled and were unable to mitigate the systemic risk of some of these large financial conglomerates. Unless Congress revamps that whole financial regulatory system going forward, that is really as important in my opinion as fixing some of these intermediate activities.

Mr. HIGGINS. Thank you, Mr. Chairman. I yield back.

Chairman LEWIS. Thank you very much. Mr. Comptroller, if you are going to be able to do your job as an official of GAO, you need the capacity, you need the ability to get all of the information.

I think this Committee should get serious and careful consideration to making a recommendation to the Full Committee that we change the law. It does not make sense.

Mr. DODARO. It makes sense and in a carefully crafted manner, I would be happy to have our counsel work with your counsel to see if we can develop some legislation that respects the independence and some of the issues of the Federal Reserve, but gives us the authority we need to provide Congress with proper oversight.

Chairman LEWIS. We should do just that.

Mr. BAROFSKY. For what it is worth, as GAO being such an important oversight partner for us, giving them this type of access would only enhance the overall oversight of this program.

Chairman LEWIS. Thank you. We are prepared and ready to work with you. On that note, we will recognize Mr. Davis of Alabama for his questions.

Mr. DAVIS OF ALABAMA. Thank you, Mr. Chairman.

Let me react, if I can, Mr. Dodaro and Mr. Barofsky, to several things that struck me about your testimony in this hearing today.

I remember an exchange between you and one of the Republican Members about the various privacy provisions, I suppose, that prevent us from identifying these 13 companies that owe massive amounts of money to the Federal Government, in terms of their taxes, but signed the contracts saying they had no tax liability.

I was thinking about the fact that in my hometown of Montgomery, Alabama, if you write a large number of bad checks, they stick your picture on a big billboard and they put it on the most well traveled interstate in town, and whatever privacy you thought you had kind of goes out the window.

I am wondering how many people listening to this hearing or sitting here wondering why there seems to be one set of rules for them and their families and there seems to be another set of rules for these enormously large companies that employ all these so-called geniuses who were so smart that they figured out how to ruin a company in a way that almost ruined an economy.

As I was listening to the testimony, for example, I heard you talk about the requirement that they had to make a signed statement that they did not owe any tax liability, and I thought about Sarbanes-Oxley, which requires chief financial officers to sign a statement attesting that when they sign a financial statement, that signature is an attestation that all the contents are accurate, and people get prosecuted and go to jail if they knowingly sign a false Sarbanes-Oxley statement.

I was a prosecutor for a little while at the Federal level, and I prosecuted people who got loans from the SBA and represented to the Federal Government that they did not owe any outstanding taxes, and it turned out they did, and they went to jail.

There are prosecutors all over the country who are going to have to bring cases like that.

I am wondering what those prosecutors will say to juries when they are sitting here wondering why are we being asked to find this person criminally liable when I am turning on my t.v. in the middle of the day and hearing about large companies getting taxpayer dollars making false representations and we cannot even name them, much less make them pay the money back, much less prosecute them.

Finally, I am thinking about people in my state who have invested in an affordable college plan get a letter from the State Treasurer a few weeks ago that tells them the plan is about to run out of money, their hard earned investments may go for naught, may have to tell their kids to lay off a semester to go to college, and then they pick up the newspaper and hear this week about again these geniuses who worked for AIG who were so smart that they figured out how to wreck an economy and not just a company, but yet it is so important to retain them and keep them doing what they are doing, and we have to pay them millions and millions of dollars.

I just wonder, we are eroding confidence in the way our legal system works. We are eroding confidence in the way taxpayer dollars are managed and spent and the cost of that, it is going to make it harder than ever for us to do the things that must be done to get this economy moving forward.

This is a massive breach of accountability and public trust. It goes way across party lines. It is damaging and imperiling everything we think about in public trust and about Government.

Now, I would like a brief response from you all.

Mr. BAROFSKY. To be very clear, I have not invoked or set forth any type of privacy claims with respect to this information. I just received this list today indicated by number.

I look forward to finding out who those financial institutions are.

Mr. DAVIS OF ALABAMA. So, they will get their day on the billboard, hopefully.

Mr. BAROFSKY. Absolutely. With regard to Sarbanes-Oxley, I was a Federal prosecutor for 8 years before I took this job. One of the things I have done is bring in Sarbanes-Oxley's certifications into the TARP. It is part of my standard recommendation for every condition that is imposed, that a senior executive officer has to certify under 1001 with criminal penalty that their company is in compliance with each of the TARP conditions.

On my survey that I sent out to each of the financial institutions requiring them to report on how they used the funds, it included 1001 Sarbanes-Oxley type——

Mr. DAVIS OF ALABAMA. Do you agree that some of these people need to be prosecuted for lying to the Federal Government about their tax liability?

Mr. BAROFSKY. One of my core responsibilities is to investigate anyone who lies, makes a material lie to the TARP to get money, and that would include this. If it is a material lie, absolutely, they need to be prosecuted.

Chairman LEWIS. Thank you very much. Now, I recognize Mr. Larson for his questions.

Mr. LARSON. Thank you very much, Mr. Chairman. I thank our witnesses as well. especially for your testimony today but also your ongoing work.

I am interested in that in the testimony you were talking about that you go back to September in terms of taking a look at how this whole thing came to be with respect to TARP.

Are either of you familiar with the Becora Commission?

Mr. DODARO. No.

Mr. BAROFSKY. No, sir.

Mr. LARSON. Becora in 1929 was called upon by the Banking Committee to come forward and take a look at how this whole thing came to be. It seems to me we have had three major economic bubbles and then bursts. I realize that is not your specific oversight responsibility.

I am interested in both of you who are getting to take a look at this about the need for us to do a systemic long term look, not unlike Becora did, who probably was a then modern day inspector general.

With respect to inspector generals, you have independent oversight; correct? You are not the employee of the Treasury Department, you have independent responsibility?

Mr. BAROFSKY. I am within the Treasury Department but I have complete independence.

Mr. LARSON. Do you think that inspector generals should have independent responsibility? Should they be appointed by the Presi-

dent, approved by the Senate, and have complete independent oversight?

Mr. BAROFSKY. It is the only thing I know, since I am new to the inspector general community, and I certainly fell in all of those categories.

Mr. LARSON. Should the CFTC and the SEC have independent oversight?

Mr. BAROFSKY. It certainly seems to work on the TARP.

Mr. LARSON. I would conclude from that you would say they should. It surprises me to know that they do not.

It surprises me to know that where there is independent inspector generals, there are 435 investigations and audits, and where there are not independent, meaning they are not nominated by the President and ratified by the Senate, there are 11 independent audits and investigations that go on.

Does it seem to you, Mr. Dodaro, that we should have a long term look back, in fact, something like the Becora Commission, to take a look systematically at what is happening, not just since September, but what has happened in a lot of legislation over a long period of time has transpired, not just the last 8 years or the last 16 years, but perhaps the last 20 or 28 years.

I think there is a real need for that. I would be interested in your response, either of you.

Mr. DODARO. I not only agree with you, I initiated such an effort at the GAO. We issued a report in January where we traced the evolution of the financial regulatory structure over the last 150 years.

We talked about the last major market developments in the last 20/25 years that have out paced the ability of the regulatory system to manage it, and we outlined a list of characteristics, nine characteristics, that we think Congress can use in crafting and evaluating legislative proposals to modernize the system.

The system we have now is outdated. It is fragmented and ill suited to meet our needs going forward. We have designated it a high risk area.

I do not admit we have done all the research comprehensively, and it could be added to, but I felt very strongly about that, and that is why I initiated it.

Mr. LARSON. Of those nine characteristics, what would be the top three things that the Congress should be doing immediately that would assist in this area?

Mr. DODARO. Number one is there is no systemic regulators, no one regulator charged with monitoring systemic risk across the system. That is a big problem. It needs to be fixed. There are a lot of gaps in institutions that are not covered or products that are not covered. They need to closed.

The taxpayers need to be protected. The system has to be revamped in a way that not only gives additional protections to investors and the public, but also gives some of the regulators more independence as well.

Those are the key things. I would be happy to provide a report to you.

Mr. LARSON. I would be glad to receive that and sit down with your staff and work with you on that.

You mentioned, I think, to a question with regard to Ron Kind, do you have the appropriate moneys. You said you were in the process of still building up and gearing up, but it seems to me that especially given these times, and as was pointed out by Mr. Davis, the special need to restore confidence in the American public, if you could tell us to the extent that you need more money or additional tools, et cetera, or elaborate on that, we would be interested to know as well.

Mr. BAROFSKY. Absolutely. The Stabilization Act carved out $50 million for my office. We will come back to Congress when we see that we need additional funds. Right now, that is more than covering our expenses, but we certainly will let you know.

Mr. LARSON. I thank Chairman Lewis. I would love to pursue talking with you about inspector generals and the kind of authority and independent nature of the authority they should have given your vast experience.

Mr. DODARO. We have also studied that issue across the Federal Government. I would be happy to provide some of our reports and talk to you about that as well.

Mr. LARSON. Thank you very much.

Chairman LEWIS. Thank you. Mr. Meek is recognized for his questions.

Mr. MEEK. Thank you so very much, Mr. Chairman. I am glad the Inspector General and the Comptroller are here.

Inspector General, I know that it was several weeks after we passed TARP when you were appointed; am I correct?

Mr. BAROFSKY. A couple of months, actually.

Mr. MEEK. I remember because it was right before a Senate hearing asking about TARP that you were appointed almost a day before the hearing.

I want to make sure that the members are fully aware of that and the American people are aware of that because Mr. Chairman and Ranking Member, we were in a very precarious situation when it came down to passing this TARP legislation.

It is almost like putting the dollars out there and not having the overseer or the police officer out there to enforce our original intent to be able to bring the price of money down.

I just want to point the Committee to what happened on January 22, 2008. The Federal Reserve cut rates by 3.5 percent, the largest cut in 25 years. On March 7, the Federal Reserve makes $200 billion in funds available to banks and other institutions.

This is without Congressional intervention.

Then we turn around and find that Freddie and Fannie have problems or go into problems and enter into an agreement with the Federal Government on September 7.

I skipped over a lot, Mr. Chairman. We kept moving down, kept moving down. As I look at this chart here, and this is a CBO report showing the price of money and how it was spiking, and how small businesses were closing because they could not meet payroll.

I am saying all that to say that I think in a time such as this, we do know that we could not afford for our financial institutions to fall, at that time, because it would have been a bigger problem than what we are facing now.

Now we know we had to act under pressure. We do know that there are some issues that are unaddressed that should be addressed immediately.

Just a couple of days ago, the President shared with the American people—this is on March 18, yesterday—time is flying here—he is saying he is asking for the same authority that FDIC has over banks to be able to consolidate some sort of oversight of TARP.

This is something that he said yesterday. I think it is important, he identifies AIG as an insurance company but has a hedge fund over it. I think it is important that we look at how the administration can move.

You mentioned earlier, I believe, and if I am misquoting you, Inspector General, let me know, you mentioned a bill, 1341?

Mr. BAROFSKY. I believe that is H.R. 1341.

Mr. MEEK. That is to give you additional authority or staff or oversight to be able to follow up on many of these leads that you are getting over the hotline and that your staff is uncovering?

Mr. BAROFSKY. There are a number of different provisions. The ones I was referring to would give me some greater hiring flexibility. There are also portions of the bill that clarify my overall authority as well.

Mr. MEEK. Can this be achieved through an Executive Order or some sort of flexibility that the President and Treasury has now? I know you are kind of the overseer.

Can that be accomplished through administrative actions since the administration has a great deal of flexibility that the Congress has given it to carry out this program?

Mr. BAROFSKY. I think some of the hiring flexibility, they could. Some of it, they could not. I think the expansion of authority, although I think it is more of a clarification of our authority, is something that Congress would need to do since we are ultimately a creation of Congress.

Mr. MEEK. For what the administration can do, I would love to talk to the appropriate staff person—we are going to have to run out here for votes very shortly—of being able to follow up.

I want to write a letter to the Administration. I am hoping we can do it as a Committee, saying these are the things that you need right now, yesterday, so we can be able to follow up on it.

I think the American people know that we had to respond, which we did, under President Bush, and now under President Barack Obama.

I think it is important that we do not allow the same situation to continue because no one is paying attention day by day of the details.

I think when we look at this whole AIG situation, the details—I do not think $30 billion would have gone out the door. I do not think Mr. Geithner would have been able to sit where you are sitting right now just a week ago if we had any idea of what was going on as it relates to this bonus situation.

We know we are a country of laws and also contracts, and we realize that. When you have the American people around here, their hours are being reduced, they are losing their jobs, and businesses are closing, meanwhile, back in New York or where have

you, you have individuals that are pulling down $1 million and we are saying we need them.

We are all outraged. Where do we stop the bleeding? I think we have to stop it by doing things that we can do through the executive power and also this Committee pushing legislation as though it was imperative, which it is, to get it done ASAP.

I commend you both. I am glad you all are doing what you are doing. You are shedding light on this. You are looking at the details, as we try to govern.

Mr. Chairman, all of us are public servants. We all signed up to serve the people of the United States of America. I do not think anyone set out to be able to waste taxpayer dollars, but we must make sure that the Comptroller and the Inspector General have time to catch up on what we did in a very fast way to make sure that we shore up the financial institutions so that small businesses do not have to close and we will not see the job loss that we would have seen if we did not respond to the crisis.

Thank you, Mr. Chairman. I look forward to working with the Subcommittee.

Chairman LEWIS. Mr. Pomeroy is recognized for questions.

Mr. POMEROY. Mr. Chairman, I know we have to vote so I will be very quick. Actually, you can submit answers in writing to me later.

I am concerned that the closer you look at the AIG situation, the uglier it gets, especially the prospect that there has been very little effort made by people in the Financial Products Division to get the best deals possible as they unwind the many commitments of that division.

Obviously, under the circumstances, I believe it would only be a responsible business proposition to demand a haircut in settling of the many obligations that were entered into by the company.

Indeed, today's Washington Post reported that instead there has been subtle pressure from the government to settle liberally because the receiving firms probably need the money.

This is not good stewardship of taxpayer dollars.

Is this a matter you are looking at?

Mr. DODARO. Basically, since the Federal Reserve is managing this area, this is one reason I cite that we have statutory prohibitions in looking at this issue.

Mr. POMEROY. It is important information for us to consider, Mr. Chairman. I thank you and I yield back my time.

Chairman LEWIS. Thank you. Let me take the opportunity on behalf of the Ranking Member and all of the members to thank you two for being here, thank you for your testimony.

I am sure we will be calling on you again as we move down this road, and it is a very long road.

Thank you so much. You have been very helpful.

Mr. DODARO. Thank you very much, Mr. Chairman.

Mr. BAROFSKY. Thank you, Mr. Chairman.

Chairman LEWIS. The hearing is adjourned. Thank you.

[Whereupon, at 11:46 a.m., the hearing was adjourned.]

[Submission for the Record follows:]

Statement of Elizabeth Warren, Congressional Oversight Panel

Thank you, Chairman Lewis, Ranking Member Boustany and members of the Oversight Subcommittee, for allowing the Congressional Oversight Panel to submit written testimony for your hearing on the Troubled Asset Relief Program: Oversight of Federal Borrowing and the Use of Federal Monies.

I regret that I am unable to testify in person, however, the Oversight Panel is holding a hearing at the same time. Certainly, we share a desire to bring accountability and transparency to the TARP program, and I am pleased to assist your efforts in any way that I can.

The Oversight Panel was created as part of the TARP in last year's Emergency Economic Stabilization Act. The job of the Panel is to "review the current state of the financial markets and the financial regulatory system" and report to Congress every 30 days. The Panel has submitted reports to Congress on December 10, January 9, February 6, and March 6, and it is preparing its fifth TARP oversight report for submission in early April. The Panel also submitted a special report on regulatory reform to Congress, as required by the legislation, at the end of January.

The Oversight Panel is one of three organizations to which the TARP legislation gives oversight responsibilities. In my capacity as Panel chair, I have been pleased to work alongside my colleagues Gene Dodaro, the Acting Comptroller General of the United States, and Neil Barofsky, the Special Inspector General for the Troubled Assets Relief Program. Together we are charged with ensuring that the tax dollars of the American people are used prudently and effectively to ameliorate and ultimately reverse the deepening financial crisis in which our country—and much of the world—now finds itself.

The Special Inspector General for the TARP has a broad responsibility, and matching authority, to audit and investigate any part of the Program. GAO is given an even more detailed set of instructions for "ongoing oversight of the activities and performance of the TARP," as well as responsibility for an annual audit of the TARP's financial statements. Between the Oversight Panel's obligation to report to Congress every 30 days, the GAO's obligation to report every 60 days, and the obligation of the Special Inspector General to report every 90 days, Congress will receive an average of two TARP oversight reports every month.

The three oversight organizations are working to complement, not duplicate, one another. We hold regular meetings with the office of the Special Inspector General and with GAO senior staff responsible for TARP oversight. We share information and discuss possible lines of inquiry. We have also discussed sharing, where possible, preliminary work product. If GAO or the SIGTARP identify questions for the Oversight Panel, they will pass them to us and give us access to data that we can synthesize to inform our work; similarly, when our analysis or information indicates a significant instance of non-compliance with the terms or spirit of the TARP legislation, we will inform GAO, the SIGTARP, or both. We all want to make the whole of our work greater than the sum of its parts.

The Oversight Panel is the smallest of the three organizations. We see our contribution as fact-based analysis designed to raise issues about the operation and direction of the TARP and about the broader effort to restore stability to the financial system. In the Emergency Economic Stabilization Act, Congress specifically asked that the Oversight Panel conduct oversight on: the use of Treasury authority under the TARP; the Program's effect on the financial markets, financial institutions, and market transparency; the effectiveness of foreclosure mitigation efforts; and the TARP's effectiveness in minimizing long-term costs and maximizing long-term benefits for the nation's taxpayers. Our ultimate question is whether the TARP is operating to benefit the American family and the American economy. If we believe the answer is no, we will ask "why not," and try to suggest alternatives.

Several facets of our work are related to your question of the use of federal monies. The Panel's February 6 report asked whether the public was receiving a "fair deal" when Treasury used TARP funds to make capital infusions into financial institutions last year. We worked with recognized independent experts to develop multiple valuation models to determine whether the securities Treasury received had a fair market value equal to the dollar amount of the infusions. With minimal variation, the models all demonstrated that Treasury made its infusions at a substantial discount. Treasury received securities that were worth substantially less than the amounts it had paid in return, given the financial institutions involved. In all, the Panel's report found that Treasury had overpaid by an estimated $78 billion. For each $100 Treasury invested in these financial institutions, it received on average stock and warrants worth only about $66. We believe this is an important issue.

Our report does not draw a conclusion about whether such discounts may—or may not—have been appropriate as a matter of policy. The Panel continues to examine

the matter, and Congress may decide to keep it in mind as well. Thus far, Treasury has not given the public an explanation, so that the appropriateness of the overpayment remains, at best, unresolved.

The most important lesson we draw from our analysis is that without a clearer explanation from Treasury about its overall plan for each capital infusion, and without more transparency and accountability for how that plan was carried out, it is not possible to exercise meaningful oversight over Treasury's actions. Congress has given Treasury substantial discretion, as befits this fast-moving crisis. But that discretion carries with it an equivalent obligation to explain, in real time, why the discretion is exercised as it is. Congress and the American people need to understand Treasury's conception of the problems in the financial system and its comprehensive strategy to address those problems. Our collective financial security is on the line, and we all have a stake in the outcome.

The Oversight Panel has also focused on mortgage foreclosure mitigation, with particular regard to impediments to mitigation efforts. The March report offers a checklist of items to evaluate the likely effectiveness of any proposal to halt the cascade of mortgage foreclosures.

- Will the plan result in modifications that create affordable monthly payments?
- Does the plan deal with negative equity?
- Does the plan address junior mortgages?
- Does the plan overcome obstacles in existing pooling and servicing agreements that may prevent modifications?
- Does the plan counteract mortgage servicer incentives not to engage in modifications?
- Does the plan provide adequate outreach to homeowners?
- Can the plan be scaled up quickly to deal with millions of mortgages?
- Will the plan have widespread participation by lenders and servicers?

President Obama's announcement of the Administration's Homeowner Affordability and Stability Plan last month addressed many of these issues. The Plan focuses on payment affordability through an expanded refinancing program involving Fannie Mae and Freddie Mac and a modification program targeting a wide range of borrowers at risk. The Plan also includes financial incentives to encourage both lenders and borrowers to strive for sustainable outcomes. It also encourages servicers to modify mortgages for at risk homeowners before they are delinquent. There are additional incentives available to extinguish junior mortgages. The Administration estimates that the Plan's expanded refinancing opportunities could assist four to five million responsible homeowners, some of whom otherwise would likely have ended up in foreclosure.

While these projections are encouraging, the Panel noted areas of concern that are not addressed in the plan. In particular, the Plan does not include a safe harbor for servicers operating under pooling and servicing agreements to address the potential litigation risk that may be an impediment to voluntary modifications. It is also important that the Plan more fully address the contributory role of second mortgages in the foreclosure process, both as it affects affordability and as it increases the amount of negative equity. And while the modification aspects of the Plan will be mandatory for banks receiving TARP funds going forward, it is unclear how the federal regulators will enforce these new standards industry-wide to reach the needed level of participation.

The Plan also supports permitting bankruptcy judges to restructure underwater mortgages in certain situations. Such statutory changes would expand the impact of the Plan. Without the bankruptcy piece, however, the Plan does not deal with mortgages that substantially exceed the value of the home. Such a failure could sharply limit the relief it provides in parts of the country that have experienced the greatest price declines.

It is also critical for the federal government to collect and analyze loan performance and loss mitigation data. Without adequate data, measuring the success or failure of mitigation efforts is, at best, a hit-or-miss proposition. Data are the clearest way to demonstrate whether TARP funds used for foreclosure mitigation efforts are achieving their intended purpose.

The TARP legislation is now more than five months old, and Treasury has spent or committed more than $350 billion under its terms. Both the Oversight Panel and GAO have called on Treasury to articulate a clear strategy for its use of TARP funds; the absence of such a vision hampers effective oversight. In fact, the absence of a clearly articulated strategy was one of the very first points raised by the Oversight Panel. In our first report the Panel outlined a series of ten basic questions, starting with the question, "What is Treasury's strategy?" Unfortunately, Congress

and the American public still do not have a clear answer to that question. The ongoing uncertainty has hindered recovery efforts.

I have sent two letters to Treasury Secretary Geithner asking for clarification on this point, among others. I am disappointed to report that the Oversight Panel has not received a substantive response. Although the initiatives announced over recent weeks describe a commitment to transparency and accountability, the general frameworks do not provide an adequate foundation to oversee Treasury's activities or to measure the success of the TARP or the Stability Plan. As part of its April report, the Oversight Panel will further analyze the evolving strategy of Treasury, including the lessons that can be learned from previous financial crises, both foreign and domestic.

What have we learned thus far? Even in a crisis such as we are experiencing, transparency, accountability and a strategy with clearly delineated goals are necessary to maintain public confidence and the confidence of the capital markets. Sophisticated metrics to measure the success and failure of program initiatives are also essential. Assuring that the TARP reflects these elements underlies all of our oversight efforts.

Thank you again for the opportunity to explain the work of the Congressional Oversight Panel.