Congressional Oversight Panel

June 9, 2009

Accounting for the Troubled Asset Relief Program

Excerpted from the Congressional Oversight Panel's June 2009 report, "Stress Testing and Shoring Up Bank Capital."

Submitted under Section 125(b)(1) of Title 1 of the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343

TARP Accounting

In its April oversight report, the Panel assembled a summary of the resources the federal government has committed to economic stabilization. The following provides: (1) an updated accounting of the TARP, including a tally of dividend income and repayments the program has received as of June 3, 2009; and (2) an update of the full federal resource commitment as of June 3, 2009.

1. The TARP

a. Costs: Expenditures and Commitments

Through an array of programs used to purchase preferred shares in financial institutions, offer loans to small businesses and auto companies, and leverage Federal Reserve Board loans for facilities designed to restart secondary securitization markets, Treasury has committed to spend $645.8 billion, leaving $54.2 billion available for new programs or other needs.[231] Of the $645.8 billion that Treasury has committed to spend, $434.7 billion has already been allocated and counted against the statutory $700 billion limit.[232] This includes purchases of preferred stock, warrants and/or debt obligations under the CPP, TIP, SSFI Program, and AIFP initiatives, a $20 billion loan to TALF LLC, the special purpose vehicle used to guarantee Federal Reserve Board TALF loans, and the $5 billion Citigroup asset guarantee already exchanged for a guarantee fee composed of additional preferred stock and warrants.[233] Additionally, Treasury has allocated $15.2 billion to the Home Affordable Modification Program, out of a projected total program level of $50 billion, but has not yet distributed any of these funds. Treasury will release its next tranche report when transactions under TARP reach $450 billion.

b. Income: Dividends and Repayments

Secretary Geithner's testimony to the Senate Banking Committee on May 20 included Treasury's estimate of TARP funds remaining for allocation as of May 18. Treasury provided two figures, $98.7 billion and $123.7 billion,[234] the later including an estimated $25 billion in CPP investments that Treasury expects recipients to repay or liquidate.[235] Although describing this estimate as "conservative," neither Secretary Geithner nor Treasury has identified the

[231] EESA limits Treasury to $700 billion in purchasing authority outstanding at any one time as calculated by the sum of the purchases prices of all troubled assets held by Treasury. EESA, *supra* note 1, at § 115(a)-(b).

[232] U.S Department of the Treasury, *Seventh Tranche Report to Congress* (June 3, 2009) (online at www.financialstability.gov/docs/TrancheReports/7th_Tranche-Report-Appendix.pdf).

[233] June 5 TARP Transactions Report, *supra* note 13.

[234] After these figures were provided to the Senate Committee on Banking, Housing, and Urban Affairs, Treasury allocated an additional $44.5 billion of TARP funds in loans to GM, GMAC, and Chrysler. Including these allocations would bring Treasury's estimates to $54.2 billion and $79.2 billion, respectively.

[235] Geithner Testimony, *supra* note 98.

institutions that will supply these anticipated repayments, when they will supply these repayments, or any methodological basis underpinning this figure. The total amount of CPP repayments currently stands at $1.772 billion.[236]

In addition, Treasury's investment in preferred stock entitles it to dividend payments from the institutions in which it invests, usually five percent per annum for the first five years and nine percent per annum thereafter.[237] Treasury has not yet begun to officially report dividend payments on its transaction reports.

c. TARP Accounting as of June 3, 2009

Figure 12: TARP Accounting (as of June 3, 2009)

TARP Initiative	**Announced Funding** *(billions of dollars)*	**Purchase Price** *(billions of dollars)*	**Repayments** *(billions of dollars)*	**Dividend Income** *(billions of dollars)*
Total	645.8	[238]434.7	[239]1.8	[240]6.2
CPP	218.0	199.4	1.8	4.8
TIP	40.0	40.0	0	1.1
SSFI Program	70.0	69.8	0	0
AIFP	80.3	80.3	0	0.2
AGP	12.5	5.0	0	0.1
CAP	TBD	0.0	0	0
TALF	80.0	20.0	0	0
PPIP	75.0	0.0	0	0
Supplier Support Program	5.0	5.0	0	0
Unlocking SBA Lending	15.0	0.0	0	0
HAMP	50.0	15.2	0	0

2. Other Financial Stability Efforts

a. Federal Reserve Board, FDIC, and Other Programs

In addition to the more direct expenditures Treasury has undertaken through TARP, the federal government has also engaged in a much broader program directed at stabilizing the U.S. financial system. Many of these programs explicitly augment Treasury funds, like FDIC guarantees of securitization of PPIF Legacy Loans or asset guarantees for Citigroup and Bank of

[236] June 5 TARP Transactions Report, *supra* note 13.

[237] *See, e.g.*, U.S. Department of the Treasury, Bank of New York Mellon, *Securities Purchase Agreement: Standard Terms*, at A-1 (Oct. 28, 2008) (Annex A).

[238] *See* June 5 TARP Transactions Report, *supra* note 13.

[239] *See* June 5 TARP Transactions Report, *supra* note 13.

[240] As of June 3, 2009. This information was passed on by Treasury officials to Panel staff.

America, or operate in tandem with Treasury programs, such as the interaction between PPIP and TALF. Other programs, like the Federal Reserve Board's extension of credit through its § 13(3) facilities and special purpose vehicles or the FDIC's Temporary Liquidity Guarantee Program, stand independent of TARP and seek to accomplish different goals.

b. Total Financial Stability Resources as of June 3, 2009

Beginning in its April report, the Panel broadly classified the resources that the federal government has devoted to stabilizing the economy through a myriad of new programs and initiatives, as outlays, loans, or guarantees. Although the Panel has calculated the total value of these resources at over $4 trillion, this would translate into the ultimate "cost" of the stabilization effort only if: (1) assets do not appreciate; (2) no dividends are received; no warrants are exercised, and no TARP funds are repaid; (3) all loans default and are written off; and (4) all guarantees are exercised and subsequently written off.

Figure 13: Federal Government Financial Stability Effort (as of June 3, 2009)

Program *(billions of dollars)*	Treasury (TARP)	Federal Reserve Board	FDIC	Total
Total	**700**	**2,440.7**	**1,427.4**	[iii]**4,568.1**
Outlays[i]	466.4	0	29.5	495.9
Loans	86.9	2123.7	0	2,210.6
Guarantees[ii]	92.5	317	1,397.9	1,807.4
Uncommitted TARP Funds	54.2	0	0	54.2
AIG	**70**	[v]**112.5**	**0**	**182.5**
Outlays	[iv]70	0	0	70
Loans	0	[vi]112.5	0	112.5
Guarantees	0	0	0	0
Bank of America	**52.5**	**87.2**	**2.5**	**142.2**
Outlays	[vii]45	0	0	45
Loans	0	0	0	0
Guarantees	[viii]7.5	[ix]87.2	[x]2.5	97.2
Citigroup	**50**	**229.8**	**10**	**289.8**
Outlays	[xi]45	0	0	45
Loans	0	0	0	0
Guarantees	[xii]5	[xiii]229.8	[xiv]10	244.8
Capital Purchase Program (Other)	**168**	**0**	**0**	**168**
Outlays	[xv]168	0	0	168
Loans	0	0	0	0
Guarantees	0	0	0	0
Capital Assistance Program	**TBD**	**TBD**	**TBD**	[xvi]**TBD**
TALF	**80**	**720**	**0**	**800**
Outlays	0	0	0	0
Loans	0	[xviii]720	0	720
Guarantees	[xvii]80	0	0	80
PPIF (Loans)[xix]	**50**	**0**	**600**	**650**
Outlays	50	0	0	50
Loans	0	0	0	0
Guarantees	0	0	[xx]600	600
PPIF (Securities)[xxi]	**25**	**0**	**0**	**25**
Outlays	[xxii]10	0	0	10
Loans	15	0	0	15
Guarantees	0	0	0	0
Home Affordable Modification Program	**50**	**0**	**0**	[xxiv]**50**
Outlays	[xxiii]50	0	0	50
Loans	0	0	0	0
Guarantees	0	0	0	0
Automotive Industry Financing Plan	**80.3**	**0**	**0**	**80.3**
Outlays	[xxv]13.4	0	0	13.4
Loans	[xxvi]66.9	0	0	66.9
Guarantees	0	0	0	0

Auto Supplier Support Program	**5**	**0**	**0**	**5**
Outlays	[xxvii]5	0	0	5
Loans	0	0	0	0
Guarantees	0	0	0	0
Unlocking SBA Lending	**15**	**0**	**0**	**15**
Outlays	[xxviii]15	0	0	15
Loans	0	0	0	0
Guarantees	0	0	0	0
Temporary Liquidity Guarantee Program	**0**	**0**	**785.4**	**785.4**
Outlays	0	0	0	0
Loans	0	0	0	0
Guarantees	0	0	[xxix]785.4	785.4
Deposit Insurance Fund	**0**	**0**	**29.5**	**29.5**
Outlays	0	0	[xxx]29.5	29.5
Loans	0	0	0	0
Guarantees	0	0	0	0
Other Federal Reserve Board Credit Expansion	0	1,291.2	0	1,291.2
Outlays	0	0	0	0
Loans	0	[xxxi]1,291.2	0	1,291.2
Guarantees	0	0	0	0
Uncommitted TARP Funds	[xxxii]**54.2**	**0**	**0**	**54.2**

[i] The term "outlays" is used here to describe the use of Treasury funds under the TARP, which are broadly classifiable as purchases of debt or equity securities (*e.g.*, debentures, preferred stock, exercised warrants, etc.). The outlays figures are based on: (1) Treasury's actual reported expenditures; and (2) Treasury's anticipated funding levels as estimated by a variety of sources, including Treasury pronouncements and GAO estimates. Anticipated funding levels are set at Treasury's discretion, have changed from initial announcements, and are subject to further change. The outlays concept used here represents cash disbursements and commitments to make cash disbursements and is not the same as budget outlays, which under EESA § 123 are recorded on a "credit reform" basis.

[ii] While many of the guarantees may never be exercised or exercised only partially, the guarantee figures included here represent the federal government's greatest possible financial exposure.

[iii] This figure differs substantially from the $2,476-2,976 billion range of "Total Funds Subject to SIGTARP Oversight" reported during testimony before the Senate Finance Committee on March 31, 2009. Senate Committee on Finance, Testimony of SIGTARP Neil Barofsky, *TARP Oversight: A Six Month Update*, 111th Cong. (Mar. 31, 2009) (online at finance.senate.gov/hearings/testimony/2009test/033109nbtest.pdf). SIGTARP's accounting, designed to capture only those funds potentially under its oversight authority, is both less and more inclusive than the Panel's, and thus the two are not directly comparable. Among the differences, SIGTARP does not account for Federal Reserve Board credit extensions outside of the TALF or FDIC guarantees under the Temporary Liquidity Guarantee Program and sets the maximum Federal Reserve Board guarantees under the TALF at $1 trillion.

[iv] This number includes both investments in AIG under the SSFI program: a $40 billion investment made on November 25, 2008, and a $30 billion investment made on April 17, 2009 (less a reduction of $165 million representing bonuses paid to AIG Financial Products employees). June 5 TARP Transactions Report, *supra* note 13.

[v] The value of loans extended by the Federal Reserve Board to AIG has been calculated according to a different methodology from that used in previous Panel reports. Previously, this figure reflected the current balance sheet value of credit extended to AIG and the Maiden Lane II and III SPVs. The Panel has replaced this measurement of government exposure with the maximum amounts the Federal Reserve Board is authorized to loan, as described below.

[vi] As of June 5, the value of loans outstanding to AIG stands at $84 billion. This includes $43 billion in loans directly provided to AIG as well as $41 billion in the outstanding principal amount of loans extended to special purpose vehicles (approximately $18 billion to Maiden Lane II and $23 billion to Maiden Lane III). *See* Board of Governors of the Federal Reserve System, *Federal Reserve Statistical Release H.4.1: Factors Affecting Reserve Balances* (June 4, 2009) (online at www.federalreserve.gov/releases/h41/Current/) (hereinafter "Fed Balance Sheet June 4").

[vii] June 5 TARP Transactions Report, *supra* note 13. This figure includes: (1) a $15 billion investment made by Treasury on October 28, 2008 under the CPP; (2) a $10 billion investment made by Treasury on January 9, 2009 also under the CPP; and (3) a $20 billion investment made by Treasury under the TIP on January 16, 2009.

[viii] Bank of America Asset Guarantee, *supra* note 41 (granting a $118 billion pool of Bank of America assets a 90 percent federal guarantee of all losses over $10 billion, the first $10 billion in federal liability to be split 75/25 between Treasury and the FDIC and the remaining federal liability to be borne by the Federal Reserve Board).

[ix] Bank of America Asset Guarantee, *supra* note 41.

[x] Bank of America Asset Guarantee, *supra* note 41.

[xi] June 5 TARP Transactions Report, *supra* note 13. This figure includes: (1) a $25 billion investment made by Treasury under the CPP on October 28, 2008; and (2) a $20 billion investment made by Treasury under TIP on December 31, 2008.

[xii] Citigroup Asset Guarantee, *supra* note 41 (granting a 90 percent federal guarantee on all losses over $29 billion of a $306 billion pool of Citigroup assets, with the first $5 billion of the cost of the guarantee borne by Treasury, the next $10 billion by FDIC, and the remainder by the Federal Reserve). *See also* Final Citi Guarantee Terms, *supra* note 41 (reducing the size of the asset pool from $306 billion to $301 billion).

[xiii] Citigroup Asset Guarantee, *supra* note 41.

[xiv] Citigroup Asset Guarantee, *supra* note 41.

[xv] This figure represents the $218 billion Treasury has anticipated spending under the CPP, minus the $50 billion investments in Citigroup ($25 billion) and Bank of America ($25 billion) identified above. This figure does not account for anticipated repayments or redemptions of CPP investments, nor does it account for dividend payments from CPP investments.

[xvi] Funding levels for the CAP have not yet been announced but will likely constitute a significant portion of the remaining $54.2 billion of TARP funds.

[xvii] Geithner Testimony, *supra* note 98, at 1; June 5 TARP Transactions Report, *supra* note 13. This figure represents: a $20 billion allocation to the TALF special purpose vehicle on March 3, 2009; Treasury's announcement of an additional $35 billion dedicated to the TALF; and $25 billion dedicated to supporting TALF loans to purchase legacy securities under the PPIP.

[xviii] This number derives from the unofficial 1:10 ratio of the value of Treasury loan guarantees to the value of Federal Reserve Board loans under the TALF. *See* Financial Stability Plan Fact Sheet, *supra* note 26 (describing the initial $20 billion Treasury contribution tied to $200 billion in Federal Reserve Board loans and announcing potential expansion to a $100 billion Treasury contribution tied to $1 trillion in Federal Reserve Board loans). Because Treasury is responsible for reimbursing the Federal Reserve Board for $80 billion of losses on its $800 billion in loans, the Federal Reserve Board's maximum potential exposure under the TALF is $720 billion.

[xix] Because PPIP funding arrangements for loans and securities differ substantially, the Panel accounts for them separately. Treasury has not formally announced either total program funding level or the allocation of funding between the PPIP Legacy Loans Program and Legacy Securities Program. However, the FDIC recently

announced that it was postponing the implementation of the Legacy Loans program. *See* FDIC Loans Program Statement, *supra* note 25. It is not yet clear whether this postponement will affect the allocation of TARP funds for the LLP.

[xx] U.S. Department of the Treasury, *Fact Sheet: Public-Private Investment Program*, at 2 (Mar. 23, 2009) (online at www.treas.gov/press/releases/reports/ppip_fact_sheet.pdf) (hereinafter "Treasury PPIP Fact Sheet") (explaining that, for every $1 Treasury contributes in equity matching $1 of private contributions to public-private asset pools created under the Legacy Loans Program, FDIC will guarantee up to $12 of financing for the transaction to create a 6:1 debt to equity ratio). If Treasury ultimately allocates a smaller proportion of funds to the Legacy Loans Program (i.e., less than $50 billion), the amount of FDIC loan guarantees will be reduced proportionally.

[xxi] In previous reports, the Panel projected that Treasury would split the $100 billion allocated to PPIP evenly between legacy loans and legacy securities. However, it now appears that Treasury will allocate $25 billion to the TALF for legacy securities, implying that only $25 billion of TARP funds will be directly allocated to PPIF Legacy Securities.

[xxii] Treasury PPIP Fact Sheet, *supra* note 260, at 4-5 (outlining that, for each $1 of private investment into a fund created under the Legacy Securities Program, Treasury will provide a matching $1 in equity to the investment fund; a $1 loan to the fund; and, at Treasury's discretion, an additional loan up to $1). In the absence of further Treasury guidance, this analysis assumes that Treasury will allocate funds for equity co-investments and loans at a 1:1.5 ratio, a formula that estimates that Treasury will frequently exercise its discretion to provide additional financing.

[xxiii] Government Accountability Office, *Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues*, at 55 (Mar. 31, 2009) (GAO09/504) (online at www.gao.gov/new.items/d09504.pdf); Geithner Testimony, *supra* note 98. Of the $50 billion in announced TARP funding for this program, only $15.2 billion has been allocated as of June 3, and no funds have yet been disbursed. *See* June 5 TARP Transactions Report, *supra* note 13.

[xxiv] Fannie Mae and Freddie Mac, government-sponsored entities (GSEs) that were placed in conservatorship of the Federal Housing Finance Agency on September 7, 2009, will also contribute up to $25 billion to the Making Home Affordable Program, of which the HAMP is a key component. *See* U.S. Department of the Treasury, *Making Home Affordable: Updated Detailed Program Description* (Mar. 4, 2009) (online at www.treas.gov/press/releases/reports/housing_fact_sheet.pdf).

[xxv] June 5 TARP Transactions Report, *supra* note 13. This figure represents Treasury's equity stake in GMAC.

[xxvi] June 5 TARP Transactions Report, *supra* note 13. Treasury's initial allocation to GM was effectively a loan. Under the terms of the company's pending bankruptcy proceedings the $49.9 billion in debt obligations to Treasury will be converted to a 60 percent stake in the restructured company and $8.8 billion in debt and preferred stock. *See* U.S. Department of the Treasury, *Fact Sheet: Obama Administration Auto Restructuring Initiative, General Motors Restructuring* (May 31, 2009) (online at www.financialstability.gov/latest/05312009_gm-factsheet.html). It is less clear how Treasury's $17 billion in loans to Chrysler will be affected by its bankruptcy proceedings. It appears that approximately $9 billion lent before the Chrysler bankruptcy will be converted to an eight percent equity stake, while $8 billion will be retained as first-lien debt. *See* U.S. Department of the Treasury, *Obama Administration Auto Restructuring Initiative, Chrysler-Fiat Alliance* (Apr. 30, 2009) (online at www.financialstability.gov/latest/tg_043009.html).

[xxvii] June 5 TARP Transactions Report, *supra* note 13.

[xxviii] Geithner Testimony, *supra* note 98, at 15.

[xxix] This figure represents the current maximum aggregate debt guarantees that could be made under the program, which, in turn, is a function of the number and size of individual financial institutions participating. $334.6 billion of debt subject to the guarantee has been issued to date, which represents about 43 percent of the current cap. Federal Deposit Insurance Corporation, *Monthly Reports on Debt Issuance under the Temporary Liquidity Guarantee Program: Debt Issuance under Guarantee Program* (May 20, 2009) (online at www.fdic.gov/regulations/resources/TLGP/total_issuance4-09.html).

[xxx] This figure represents the FDIC's provision for losses to its deposit insurance fund attributable to bank failures in the third and fourth quarters of 2008. See Federal Deposit Insurance Corporation, *Chief Financial Officer's (CFO) Report to the Board: DIF Income Statement (Fourth Quarter 2008)* (online at www.fdic.gov/about/strategic/corporate/cfo_report_4qtr_08/income.html); Federal Deposit Insurance Corporation, *Chief Financial Officer's (CFO) Report to the Board: DIF Income Statement (Third Quarter 2008)* (online at www.fdic.gov/about/strategic/corporate/cfo_report_3rdqtr_08/income.html). As of June 5, 2009, the FDIC had not yet released first quarter 2009 data.

[xxxi] This figure is derived from adding the total credit the Federal Reserve Board has extended as of June 3, 2009 through the Term Auction Facility (Term Auction Credit), Discount Window (Primary Credit), Primary Dealer Credit Facility (Primary Dealer and Other Broker-Dealer Credit), Central Bank Liquidity Swaps, loans outstanding to Bear Stearns (Maiden Lane I LLC), GSE Debt (Federal Agency Debt Securities), the value of Mortgage Backed Securities Issued by GSEs, Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, and Commercial Paper Funding Facility LLC. *See* Fed Balance Sheet June 4, *supra* note 246. The level of Federal Reserve Board lending under these facilities will fluctuate in response to market conditions and independent of any federal policy decisions.

[xxxii] One potential use of uncommitted funds is Treasury's obligation to reimburse the Exchange Stabilization Fund (ESF), currently valued at $50.5 billion. *See* U.S. Department of Treasury, *Exchange Stabilization Fund, Statement of Financial Position, as of April 30, 2009* (online at www.ustreas.gov/offices/international-affairs/esf/esf-monthly-statement.pdf) (accessed June 5, 2009). Treasury must reimburse any use of the fund to guarantee money market mutual funds from TARP money. *See* EESA, *supra* note 1, at § 131. In September 2008, Treasury opened its Temporary Guarantee Program for Money Mutual Funds, U. S. Department of Treasury, *Treasury Announces Temporary Guarantee Program for Money Market Mutual Funds* (Sept. 29, 2008) (online at www.treas.gov/press/releases/hp1161.htm). This program uses assets of the ESF to guarantee the net asset value of participating money market mutual funds. *Id.* EESA § 131 protected the ESF from incurring any losses from the program by requiring that Treasury reimburse the ESF for any funds used in the exercise of the guarantees under the program, which has been extended through September 18, 2009. U.S. Department of Treasury, *Treasury Announces Extension of Temporary Guarantee Program for Money Market Funds* (Mar. 31, 2009) (online at www.treas.gov/press/releases/tg76.htm).