Congressional Oversight Panel

July 10, 2009

Accounting for the Troubled Asset Relief Program

Excerpted from the Congressional Oversight Panel's July 2009 report, "TARP Repayments, Including the Repurchase of Stock Warrants."

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 July 2, 2009, and (2) an update of the full federal resource commitment as of July 2, 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 loans for facilities designed to restart secondary securitization markets, Treasury has committed to spend $645.5 billion, leaving $60.8 billion available for new programs or other needs.[222] Of the $645.5 billion that Treasury has committed to spend, $441 billion has already been allocated and counted against the statutory $698.7 billion limit.[223] This includes purchases of preferred shares, warrants and/or debt obligations under the CPP, TIP, SSFI Program, and AIFP, a $20 billion loan to TALF LLC, the special purpose vehicle used to guarantee Federal Reserve TALF loans, and the $5 billion Citigroup asset guarantee already exchanged for a guarantee fee composed of additional preferred shares and warrants.[224] Additionally, Treasury has allocated $18 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 the TARP reach $450 billion.

b. Income: Dividends and Repayments

Following the repayments of CPP infusions by nine of the stress-tested BHCs, the total amount of TARP repayments surged from just under $2 billion to over $70 billion.[225] In addition, Treasury's investment in preferred shares entitles it to dividend payments from the institutions in which it invests, usually five percent per annum for the first five years and nine

[222] 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 **Error! Bookmark not defined.**, § 115(a)-(b) (codified at 12 U.S.C. § 5225(a)-(b)); Helping Families Save Their Homes Act of 2009, Pub. L. No. 111-22, sec. 402(f) (online atfrwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s896enr.txt.pdf) (reducing by $1.26 billion the authority for the TARP originally set under EESA at $700 billion).

[223] This figure does not include the repurchases of CPP preferred shares.

[224] U.S. Department of the Treasury, *Troubled Asset Relief Program: Transactions Report For Period Ending June 30, 2009.* (July 2, 2009) (online at www.financialstability.gov/docs/transaction-reports/transactions-report_070209.pdf) (hereinafter "July 2 TARP Transaction Report").

[225] *Id. See also* Section One, Part F of this report (providing a table with detailed information on repurchases to date).

percent per annum thereafter.[226] Treasury has not yet begun to officially report dividend payments on its transaction reports.

c. TARP Accounting as of July 2, 2009

Figure 11: TARP Accounting (as of July 2, 2009)

TARP Initiative	Announced Funding *(billions of dollars)*	Purchase Price *(billions of dollars)*	Repayments *(billions of dollars)*	Dividend Income *(billions of dollars)*
Total	$638	[227]$441	[228]$70.124	[229]$6.651
CPP	218	203.2	70.124	5.255
TIP	40	40	0	1.128
SSFI Program	70	69.8	0	0
AIFP	80	80	0	0.160
AGP	5	5	0	0.108
CAP	TBD	0	0	0
TALF	80	20	0	0
PPIP	75	0	0	0
Supplier Support Program	5	5	0	0
Unlocking SBA Lending	15	0	0	0
HAMP	50	[230]18.0	0	0

2. Other Financial Stability Efforts

Federal Reserve, FDIC, and Other Programs

In addition to the more direct expenditures Treasury has undertaken through the 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 PPIP Legacy Loans or asset guarantees for Citigroup, or operate in tandem with Treasury programs, such as the interaction between PPIP and TALF. Other programs, like the Federal Reserve's extension of credit through its § 13(3) facilities and special purpose vehicles or the FDIC's Temporary Liquidity Guarantee Program, stand independent of the TARP and seek to accomplish different goals.

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[226] *See, e.g.,* Securities Purchase Agreement, supra note 15.

[227] *See* July 2 TARP Transaction Report, *supra* note 224.

[228] *See* July 2 TARP Transaction Report, *supra* note 224.

[229] As of June 30, 2009. This information was provided to the Panel by Treasury staff.

[230] Reflects the cap set on payments to each mortgage servicer. *See* July 2 TARP Transactions Report, *supra* note 224.

3. Total Financial Stability Resources as of July 2, 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 12: Federal Government Financial Stability Effort (as of July 2, 2009)

Program	Treasury (TARP) *(in billions)*	Federal Reserve *(in billions)*	FDIC *(in billions)*	Total *(in billions)*
Total	**$698.7**	**$2,197.2**	**$1,372.7**	[iii]**$4,268.6**
Outlays[i]	516.6	0	37.7	554.3
Loans	36.3	1967.4	0	2,003.7
Guarantees[ii]	85	230	1,335	1,649.8
Uncommitted TARP Funds	60.8	0	0	60.8
AIG	**70**	**100**	**0**	**170**
Outlays	[iv]70	0	0	70
Loans	0	[v]100	0	100
Guarantees	0	0	0	0
Bank of America	**45**	**0**	**0**	**45**
Outlays	[vii]45	0	0	45
Loans	0	0	0	0
Guarantees[vi]	0	0	0	0
Citigroup	**50**	**229.8**	**10**	**289.8**
Outlays	[viii]45	0	0	45
Loans	0	0	0	0
Guarantees	[ix]5	[x]229.8	[xi]10	244.8
Capital Purchase Program (Other)	**168**	**0**	**0**	**168**
Outlays	[xii]168	0	0	168
Loans	0	0	0	0
Guarantees	0	0	0	0
Capital Assistance Program	**TBD**	**TBD**	**TBD**	[xiii]**TBD**
TALF	**80**	**720**	**0**	**800**
Outlays	0	0	0	0
Loans	0	[xv]720	0	720
Guarantees	[xiv]80	0	0	80
PPIF (Loans)[xvi]	**45**	**0**	**540**	**585**
Outlays	45	0	0	45
Loans	0	0	0	0
Guarantees	0	0	[xvii]540	540
PPIF (Securities)	**30**	**0**	**0**	**30**
Outlays	[xviii]12.5	0	0	12.5

Loans	17.5	0	0	17.5
Guarantees	0	0	0	0
Home Affordable Modification Program	**50**	**0**	**0**	[xx]**50**
Outlays	[xix]50	0	0	50
Loans	0	0	0	0
Guarantees	0	0	0	0
Automotive Industry Financing Program	[xxi]**80**	**0**	**0**	**80**
Outlays	[xxii]66.1	0	0	66.1
Loans	13.8	0	0	13.8
Guarantees	0	0	0	0
Auto Supplier Support Program	**5**	**0**	**0**	**5**
Outlays	0	0	0	0
Loans	[xxiii]5	0	0	5
Guarantees	0	0	0	0
Unlocking SBA Lending	**15**	**0**	**0**	**15**
Outlays	[xxiv]15	0	0	15
Loans	0	0	0	0
Guarantees	0	0	0	0
Temporary Liquidity Guarantee Program	**0**	**0**	**785**	**785**
Outlays	0	0	0	0
Loans	0	0	0	0
Guarantees	0	0	[xxv]785	785
Deposit Insurance Fund	**0**	**0**	**37.7**	**37.7**
Outlays	0	0	[xxvi]37.7	37.7
Loans	0	0	0	0
Guarantees	0	0	0	0
Other Federal Reserve Credit Expansion	**0**	**1,147.4**	**0**	**1,147.4**
Outlays	0	0	0	0
Loans	0	[xxvii]1,147.4	0	1,147.4
Guarantees	0	0	0	0
Uncommitted TARP Funds	[xxviii]**60.8**	**0**	**0**	**60.8**

[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 § 123 of EESA 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). 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 credit extensions outside of the TALF or FDIC guarantees under the Temporary Liquidity Guarantee Program and sets the maximum Federal Reserve guarantees under the TALF at $1 trillion.

[iv] This number includes investments under the SSFI program: a $40 billion investment made on November 25, 2008, and a $30 billion investment committed on April 17, 2009 (less a reduction of $165 million representing bonuses paid to AIG Financial Products employees). July 2 TARP Transaction Report, *supra* note 224.

[v] This number represents the full $60 billion that is available to AIG through its revolving credit facility with the Federal Reserve ($43.5 billion had been drawn down as of July 1) and the outstanding principle of the loans extended to the Maiden Lane II and III special purpose vehicles (AIG SPVs) to buy AIG assets (as of July 1, $17.5 billion and $22.4 billion respectively). *See* Fed Balance Sheet July 2, *supra* note 69. The Panel continues to calculate the exposure attributable to the revolving credit facility at $60 billion. However, whereas previously the Panel had calculated the exposure attributable to the AIG SPVs at the initially announced amount of Federal Reserve loans to the SPVs, we have changed our methodology. Based on its review of new Federal Reserve documents, the Panel now believes that its previous methodology overstated the Federal Reserve's exposure to AIG. The initially announced amount of loans was based on the Federal Reserve's estimated cost to purchase a particular pool of AIG assets. However, the value of these assets declined by the time the AIG SPVs purchased them, necessitating a smaller loan than was initially announced. Furthermore, income from the purchased assets is used to pay down the loan, reducing the taxpayers' exposure to losses over time. *See* Board of Governors of the Federal Reserve System, *Federal Reserve System Monthly Report on Credit and Liquidity Programs and the Balance Sheet,* at 14-16 (June 2009) (online at www.federalreserve.gov/newsevents/monthlyclbsreport200906.pdf); Letter from Federal Reserve Chairman Benjamin Bernanke to Congressional Oversight Panel Chair Elizabeth Warren (June 26, 2009).

[vi] Based on its review of newly available information from the Federal Reserve, the Panel has revised its calculation of support provided to Bank of America by excluding from the total the $118 billion asset guarantee agreement between Bank of America, the Federal Reserve, Treasury, and the FDIC. U.S. Department of the Treasury, *Summary of Terms: Eligible Asset Guarantee* (Jan. 15, 2009) (online at www.treas.gov/press/releases/reports/011508bofatermsheet.pdf). The reason for the change is that it is now clear that, despite preliminary agreement, the asset guarantee was never signed; it is not currently in effect, and will likely not be consummated. House Committee on Oversight and Government Reform, Testimony of Federal Reserve Chairman Ben Bernanke, *Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? Part II*, 111th Cong. (June 25, 2009).

[vii] July 2 TARP Transaction Report, *supra* note 224. 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] July 2 TARP Transaction Report, *supra* note 224. 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.

[ix] Citigroup Asset Guarantee (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* U.S. Department of the Treasury, *U.S. Government Finalizes Terms of Citi Guarantee Announced in November* (Jan. 16, 2009) (online at www.treas.gov/press/releases/hp1358.htm) (reducing the size of the asset pool from $306 billion to $301 billion).

[x] *Id.*

[xi] *Id.*

[xii] This figure represents the $218 billion Treasury has anticipated spending under the CPP, minus the $50 billion investment 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.

[xiii] Funding levels for the CAP have not yet been announced but will likely constitute a significant portion of the remaining $60.8 billion of TARP funds.

[xiv] Senate Committee on Banking, Housing, and Urban Affairs, Testimony of Secretary Geithner, *Oversight of the Troubled Asset Relief Program,* 111th Cong., at 1 (May 20, 2009) (online at banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=b64da0f5-9f9b-448a-a352-ad0590543ef9) (hereinafter "May 20 Geithner Testimony"); July 2 TARP Transactions Report, *supra* note 224. 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.

[xv] This number derives from the unofficial 1:10 ratio of the value of Treasury loan guarantees to of the value of Federal Reserve loans under the TALF. *See* U.S. Department of the Treasury, *Fact Sheet: Financial Stability Plan* (Feb.10, 2009) (online at www.financialstability.gov/docs/fact-sheet.pdf) (describing the initial $20 billion Treasury contribution tied to $200 billion in Federal Reserve loans and announcing potential expansion to a $100 billion Treasury contribution tied to $1 trillion in Federal Reserve 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.

[xvi] 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. Treasury has indicated that, of the $100 billion maximum allocation to the PPIP, it plans to disburse $25 billion to the TALF for the financing of the PPIP Legacy Securities program, and $30 billion to the Legacy Securities Program as initial equity and debt funding (leaving at most $45 billion to be allocated to the Legacy Loans Program). U.S. Department of the Treasury, *Joint Statement By Secretary Of The Treasury Timothy F. Geithner, Chairman Of The Board Of Governors Of The Federal Reserve System Ben S. Bernanke, And Chairman Of The Federal Deposit Insurance Corporation Sheila Bair: Legacy Asset Program* (July 8, 2009) (online at www.financialstability.gov/latest/tg_07082009.html). However, the FDIC has postponed the implementation of the Legacy Loans program, *see* Federal Deposit Insurance Corporation, *FDIC Statement on the Status of the Legacy Loans Program* (June 3, 2009) (online at www.fdic.gov/news/news/press/2009/pr09084.html). It is not yet clear how this postponement will affect the allocation of TARP funds for the PPIP.

[xvii] *Id.* at 2-3 (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 $45 billion), the amount of FDIC loan guarantees will be reduced proportionally.

[xviii] *Id.* 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.

[xix] Government Accountability Office, *Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues*, at 2 (June 17, 2009) (GAO09/658) (online at www.gao.gov/new.items/d09658.pdf). Of the $50 billion in announced TARP funding for this program, only $18.0 billion has been allocated as of June 30, and no funds have yet been disbursed. *See* July 2 TARP Transactions Report, *supra* note 224.

[xx] Fannie Mae and Freddie Mac, government-sponsored entities (GSEs) that were placed in conservatorship of the Federal Housing Finance Housing 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).

[xxi] Figures do not total due to rounding.

[xxii] July 2 TARP Transactions Report, *supra* note 224. A substantial portion of the total $80.0 billion in loans extended under the AIFP has since been converted to common equity and preferred shares in restructured companies. Only $13.8 billion has been retained as first lien debt (with $6.7 billion committed to GM and $7.1 billion to Chrysler), which is classified below as loans.

[xxiii] July 2 TARP Transactions Report, *supra* note 224.

[xxiv] May 20 Geithner Testimony, *supra* note 244, at 15.

[xxv] 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. $345.8 billion of debt subject to the guarantee has been issued to date, which represents about 44 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 31, 2009) (online at www.fdic.gov/regulations/resources/TLGP/total_issuance5-09.html) (updated June 17, 2009).

[xxvi] 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 2008and the first quarter of 2009. 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); Federal Deposit Insurance Corporation, *Chief Financial Officer's (CFO) Report to the Board: DIF Income Statement (First Quarter 2009)* (online at www.fdic.gov/about/strategic/corporate/cfo_report_1stqtr_09/income.html).

[xxvii] 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), 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 July 2, *supra* note 69. The level of Federal Reserve lending under these facilities will fluctuate in response to market conditions and independent of any federal policy decisions.

[xxviii] One potential use of uncommitted funds is Treasury's obligation to reimburse the Exchange Stabilization Fund (ESF), currently valued at $52.1 billion. *See* U.S. Department of the Treasury, *Exchange Stabilization Fund, Statement of Financial Position, as of May 31, 2009* (online at www.ustreas.gov/offices/international-affairs/esf/esf-monthly-statement.pdf) (accessed July 2, 2009). Treasury must reimburse any use of the fund to guarantee money market mutual funds from TARP money. *See* EESA, *supra* note 13, at § 131. In September 2008, Treasury opened its Temporary Guarantee Program for Money Mutual Funds, U.S. Department of the 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.* § 131 of EESA 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 the Treasury, *Treasury Announces Extension of Temporary Guarantee Program for Money Market Funds* (Mar. 31, 2009) (online at www.treas.gov/press/releases/tg76.htm).