Congressional Oversight Panel

August 11, 2009

Accounting for the Troubled Asset Relief Program

Excerpted from the Congressional Oversight Panel's August 2009 report, "The Continued Risk of Troubled Assets."

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

TARP Accounting

Each month since its April oversight report, the Panel has summarized the resources that the federal government has committed to economic stabilization. The following financial update provides: (1) an updated accounting of the TARP, including a tally of dividend income and repayments the program has received as of July 31, 2009; and (2) an update of the full federal resource commitment as of July 30, 2009.

1. The TARP

a. Costs: Expenditures and Commitments[247]

Treasury is currently committed to spend $532.8 billion of TARP funds 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.[248] Of this total, $370.2 billion is currently outstanding under the $698.7 billion limit for TARP expenditures set by EESA, leaving $328.5 billion available for fulfillment of anticipated funding levels of existing programs and for funding new programs and initiatives. The $370.2 billion 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 (SPV) used to guarantee Federal Reserve TALF loans; and the $5 billion Citigroup asset guarantee, which has subsequently been exchanged for a guarantee fee composed of additional preferred shares and warrants.[249] Additionally, Treasury has allocated $20 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.

b. Income: Dividends and Repayments

The repayments of CPP preferred shares by nine of the large, stress-tested BHCs has led to a surge this month in amount of total TARP repayments – from the just under $2 billion reported in our July report to over $70 billion largely as a result of repayments.[250] Several of those BHCs have also repurchased the warrants Treasury received in conjunction with its preferred stock investments. In addition, Treasury is entitled to dividend payments on preferred shares it has purchased, usually five percent per annum for the first five years and nine percent

---

[247] Treasury will release its next tranche report when transactions under the TARP reach $450 billion.

[248] EESA, as amended by the Helping Families Save Their Homes Act of 2009, limits Treasury to $698.7 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 § 115(a)-(b); Helping Families Save Their Homes Act of 2009, Pub. L. 111-22, § 402(f) (reducing by $1.26 billion the authority for the TARP originally set under EESA at $700 billion).

[249] July 31 TARP Transactions Report, *supra* note 104.

[250] July 31 TARP Transactions Report, *supra* note 104.

per annum thereafter.[251] Treasury has begun to report dividend payments made by CPP participant banks pursuant to a recommendation in GAO's March TARP oversight report.[252]

[251] *See, e.g.*, U.S. Department of the Treasury, *Securities Purchase Agreement: Standard Terms* (online at www.financialstability.gov/docs/CPP/spa.pdf) (hereinafter "Securities Purchase Agreement").

[252] *See* Government Accountability Office, *Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues*, at 1 (Mar. 2009) (online at www.gao.gov/new.items/d09504.pdf).

c. TARP Accounting as of July 31, 2009

Figure 24: TARP Accounting (as of July 31, 2009)

TARP Initiative	Anticipated Funding *(in billions)*	Purchase Price *(in billions)*	Repayments *(in billions)*	Net Current Investments *(in billions)*	Net Available *(in billions)*
Total	$532.8	$442.5	$72.3	$370.2	$328.5
CPP	218	204.3	70.2	134.2	[253]13.6
TIP	40	40	0	40	0
SSFI Program	69.8	69.8	0	69.8	0
AIFP	80	80	2.1	77.8	0[254]
AGP	5	5	0	5	0
CAP	TBD	0	N/A	0	N/A
TALF	20	20	0	20	0
PPIP	30	0	N/A	0	30
Supplier Support Program	[255]3.5	3.5	0	3.5	[256]0
Unlocking SBA Lending	15	0	N/A	0	15
HAMP	50	[257]19.9	0	19.9	30.1
(Uncommitted)	*167.4*	*N/A*	*N/A*	*N/A*	*239.8*

[253] This figure reflects the repayment of $70.173 billion in CPP funds. Secretary Geithner has suggested that funds from CPP repurchases will be treated as uncommitted funds upon return to the Treasury. *See* This Week with George Stephanopoulos, Interview with Secretary Geithner (Aug. 2, 2009) (online at www.abcnews.go.com/print?id=8233298) ("[W]hen I was here four months ago, we had roughly $40 billion of authority left in the TARP. Today we have roughly $130 billion, in partly [sic] because we have been very successful in having private capital come back into this financial system. And we've had more than $70 billion ... come back into the government"). The Panel has therefore presented the repaid CPP funds as uncommitted (i.e., generally available for the entire spectrum of TARP initiatives). The difference between the $130 billion of funds available for future TARP initiatives cited by Secretary Geithner and the $239.8 billion calculated as available here is the Panel's decision to classify certain funds originally provisionally allocated to TALF and PPIP as uncommitted and available for TARP generally. *See infra* notes xiv and xvi.

[254] Treasury has indicated that it will not provide additional assistance to GM and Chrysler through the AIFP. *See* Nick Bunkley, *U.S. Likely to Sell G.M. Stake Before Chrysler*, New York Times (Aug. 5, 2009) (online at www.nytimes.com/2009/08/06/business/06auto.html?_r=1&scp=2&sq=ron%20bloom&st=cse) (hereinafter "U.S. Likely to Sell"). The Panel therefore considers the repaid AIFP funds to be uncommitted.

[255] On July 8, 2009, Treasury lowered the total commitment amount for the program from $5 billion to $3.5 billion, this reduced GM's portion from $3.5 billion to $2.5 billion and Chrysler's portion from $1.5 billion to $1 billion. July 31 TARP Transactions Report, *supra* note 104.

[256] Treasury has indicated that it will not provide additional funding to auto parts suppliers through the Supplier Support Program. *See* U.S. Likely to Sell, *supra* note 255.

[257] This figure reflects the cap set on payments to each mortgage servicer. *See* July 31 TARP Transactions Report, *supra* note 104.

Figure 25: TARP Income (as of July 31, 2009)[258]

TARP Initiative	Repayments *(in billions)*	Dividends[259] *(in billions)*	Warrants Repurchased[260] *(in billions)*	Total *(in billions)*
Total	$72.3	$7.3	[261]$1.7	$81.3
CPP	70.2	5.5	1.7	77.4
TIP	0	1.5	0	1.5
AIFP	2.1	.2	N/A	2.3
AGP	0	.2	0	.2

2. Other Financial Stability Efforts

Federal Reserve, FDIC, and Other Programs

In addition to the direct expenditures Treasury has undertaken through TARP, the federal government has engaged in a much broader program directed at stabilizing the U.S. financial system. Many of these initiatives explicitly augment funds allocated by Treasury under specific TARP initiatives, such as FDIC and Federal Reserve 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 section 13(3) facilities and SPVs or the FDIC's Temporary Liquidity Guarantee Program, operate independent of TARP.

3. Total Financial Stability Resources (as of July 31, 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 calculates the total value of these resources at over $3.1 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

---

[258] This table only reflects programs that have provided Treasury with reimbursements in the form of investment repayments, warrant repurchases or dividend payments. The table does not include interest payments made by participants in the programs.

[259] As of July 31, 2009. This information was provided to the Panel by Treasury staff.

[260] This number includes $1.6 million in proceeds from the repurchase of preferred shares by privately-held financial institutions. For privately-held financial institutions that elect to participate in the CPP, Treasury receives and immediately exercises warrants to purchase additional shares of preferred stock.

[261] Two warrant repurchases that were agreed to after July 31, 2009 are not reflected in the $1.7 billion figure. The Bank of New York Mellon Corporation announced on Aug. 5, 2009 that it had repurchased its warrants for $136 million. The Bank of New York Mellon, *The Bank of New York Mellon Repurchases Warrant Related to TARP Capital Investment* (Aug. 5, 2009) (online at bnymellon.mediaroom.com/file.php/715/pr080509.pdf). In addition, Morgan Stanley announced on August 6, 2009 that it had agreed to repurchase its warrants for $950 million. Morgan Stanley, *Morgan Stanley Agrees to Repurchase Warrant from the U.S. Government* (Aug. 6, 2009) (online at www.morganstanley.com/about/press/articles/42d008d5-8209-11de-b5d1-6d6288639586.html). Thus, the total anticipated warrant repurchases through August 6, 2009 are at least $2.28 billion.

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.

With respect to the FDIC and Federal Reserve programs, the risk of loss varies significantly across the programs considered here, as do the mechanisms providing protection for the taxpayer against such risk. The FDIC, for example, assesses a premium of up to 100 basis points on Temporary Liquidity Guarantee Program (TLGP) debt guarantees. The premiums are pooled and reserved to offset losses incurred by the exercise of the guarantees, and are calibrated to be sufficient to cover anticipated losses and thus remove any downside risk to the taxpayer. In contrast, the Federal Reserve's liquidity programs are generally available only to borrowers with good credit, and the loans are over-collateralized and with recourse to other assets of the borrower. If the assets securing a Federal Reserve loan realize a decline in value greater than the "haircut," the Federal Reserve is able to demand more collateral from the borrower. Similarly, should a borrower default on a recourse loan, the Federal Reserve can turn to the borrower's other assets to make the Federal Reserve whole. In this way, the risk to the taxpayer on recourse loans only materializes if the borrower enters bankruptcy. The only loans currently "underwater" – where the outstanding principal amount exceeds the current market value of the collateral – are the non-recourse loans to the Maiden Lane SPVs (used to purchase Bear Stearns and AIG assets).

Figure 26: Federal Government Financial Stability Effort (as of July 30, 2009)

Program	Treasury (TARP) *(in billions)*	Federal Reserve *(in billions)*	FDIC *(in billions)*	Total *(in billions)*
Total	**$698.7**	**$1,608.2**	**$836.7**	[iii]**$3,143.6**
Outlays[i]	390.3	0	37.7	425.5
Loans	43.6	1378.4	0	1422
Guarantees[ii]	25	229.8	799	1053.8
Uncommitted TARP Funds	239.8	0	0	239.8
AIG	**$69.8**	**$98**	**$0**	**$167.8**
Outlays	[iv]69.8	0	0	69.8
Loans	0	98[v]	0	98
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)	**$97.8**	**$0**	**$0**	**$97.8**
Outlays	[xii]97.8	0	0	97.8
Loans	0	0	0	0
Guarantees	0	0	0	0
Capital Assistance Program	**TBD**	**$0**	**$0**	[xiii]**TBD**
TALF	**$20**	**$180**	**$0**	**$200**
Outlays	0	0	0	0
Loans	0	[xv]180	0	180
Guarantees	[xiv]20	0	0	20
PPIP (Loans)[xvi]	**$0**	**$0**	**$0**	**$0**
Outlays	0	0	0	0
Loans	0	0	0	0
Guarantees	0	0	0	0
PPIP (Securities)	[xvii]**$30**	**$0**	**$0**	**$30**
Outlays	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**	[xix]**$50**
Outlays	[xviii]50	0	0	50
Loans	0	0	0	0
Guarantees	0	0	0	0

Automotive Industry Financing Program	**$77.8**	**$0**	**$0**	**$77.8**
Outlays	[xx]**55.2**	**0**	**0**	**55.2**
Loans	**22.6**	**0**	**0**	**22.6**
Guarantees	**0**	**0**	**0**	**0**
Auto Supplier Support Program	**$3.5**	**$0**	**$0**	**$3.5**
Outlays				
Loans	0	0	0	0
Guarantees	[xxi]3.5	0	0	3.5
	0	0	0	0
Unlocking SBA Lending	**$15**	**$0**	**$0**	**$15**
Outlays	[xxii]15	0	0	15
Loans	0	0	0	0
Guarantees	0	0	0	0
Temporary Liquidity Guarantee Program	**$0**	**$0**	**$789**	**$789**
Outlays	0	0	0	0
Loans	0	0	0	0
Guarantees	0	0	[xxiii]789	789
Deposit Insurance Fund	**$0**	**$0**	**$37.7**	**$37.7**
Outlays	0	0	[xxiv]37.7	37.7
Loans	0	0	0	0
Guarantees	0	0	0	0
Other Federal Reserve Credit Expansion	**$0**	**$1,100.4**	**$0**	**$1,100.4**
Outlays	0	0	0	0
Loans	0	[xxv]1,100.4	0	1,100.4
Guarantees	0	0	0	
Uncommitted TARP Funds	[xxvi]**$239.8**	**$0**	**$0**	**$239.8**

[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. Outlays as used here represent investments and assets purchases and commitments to make investments and asset purchases and are not the same as budget outlays, which under section 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 is roughly comparable to the $3.0 trillion current balance of financial system support reported by SIGTARP in its July report. *See* Office of the Special Inspector General for the Troubled Asset Relief Program, *Quarterly Report to Congress*, at 138 (July 21, 2009) (online at www.sigtarp.gov/reports/congress/2009/July2009_Quarterly_Report_to_Congress.pdf). However, the Panel has

sought to capture anticipated exposure beyond the current balance, and thus employs a different methodology than SIGTARP.

[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 31 TARP Transactions Report, *supra* note 104.

[v] This number represents the full $60 billion that is available to AIG through its revolving credit facility with the Federal Reserve ($43 billion had been drawn down as of July 30, 2009) and the outstanding principle of the loans extended to the Maiden Lane II and III SPVs to buy AIG assets (as of July 30, 2009, $17.2 billion and $20.8 billion respectively). *See* Board of Governors of the Federal Reserve System, *Federal Reserve Statistical Release H.4.1: Factors Affecting Reserve Balances* (July 30, 2009) (online at www.federalreserve.gov/releases/h41/Current/) (accessed Aug. 4, 2009) (hereinafter "Fed Balance Sheet July 30"). Income from the purchased assets is used to pay down the loans to the SPVs, 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).

[vi] As noted in its previous report, the Panel no longer accounts for the $118 billion Bank of America asset guarantee which, despite preliminary agreement, was never signed. S*ee* Congressional Oversight Panel, *July Oversight Report: TARP Repayments, Including the Repurchase of Stock Warrants*, at 85 (July 7, 2009) (online at cop.senate.gov/documents/cop-071009-report.pdf) (hereinafter "Panel July Report").

[vii] July 31 TARP Transactions Report, *supra* note 104. 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 31 TARP Transactions Report, *supra* note 104. 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] U.S. Department of the Treasury, *Summary of Terms: Eligible Asset Guarantee* (Nov. 23, 2008) (online at www.treasury.gov/press/releases/reports/cititermsheet_112308.pdf) (hereinafter "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] Citigroup Asset Guarantee, *supra* note ix.

[xi] Citigroup Asset Guarantee, *supra* note ix.

[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, and the $70.2 billion in repayments that will be reflected as uncommitted TARP funds. This figure does not account for future repayments 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 $239.8 billion of TARP funds.

[xiv] This figure represents a $20 billion allocation to the TALF SPV on March 3, 2009. July 31 TARP Transactions Report, *supra* note 104. In previous reports, the Panel had projected TALF funding at a total level of $800 billion, comprising $80 billion in Treasury (TARP) guarantees and $720 billion in Federal Reserve loans. *See, e.g.*, Panel July Report, *supra* note vi, at 86. However, it now appears unlikely that the program will exceed the initial $200 billion funding level, described *infra*. As of August 7, 2009, $41.4 billion had been lent out through the TALF to finance the purchase of ABS. Federal Reserve Bank of New York, *Term Asset-Backed Securities Loan Facility: non-CMBS* (accessed Aug. 7, 2009) (online at www.newyorkfed.org/markets/TALF_recent_operations.html); Federal Reserve Bank of New York, Term Asset-Backed Securities Loan Facility: CMBS (accessed Aug. 7, 2009) (online at www.newyorkfed.org/markets/CMBS_recent_operations.html). While TALF subscriptions are expected to increase

due to various factors, including the seasonal nature of student loans, the time required to structure deals related to CMBS (recently made eligible as collateral under the program), and the financing of PPIP legacy securities purchases, it would require an extremely large increase in the rate of TALF subscriptions to surpass the $200 billion currently available by year's end.

[xv] This number derives from the unofficial 1:10 ratio of the value of Treasury loan guarantees to 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 $20 billion of losses on its $200 billion in loans, the Federal Reserve Board's maximum potential exposure under the TALF is $180 billion.

[xvi] It now appears unlikely that resources will be expended under the PPIP Legacy Loans Program in its original design as a joint Treasury-FDIC program to purchase troubled assets from solvent banks. In June, the FDIC cancelled a pilot sale of assets that would have been conducted under the program's original design. *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). In July, the FDIC announced that it would rebrand its established procedure for selling the assets of failed banks as the Legacy Loans Programs. Federal Deposit Insurance Corporation, *Legacy Loans Program – Test of Funding Mechanism* (July 31, 2009) (online at www.fdic.gov/news/news/press/2009/pr09131.html). These sales do not involve any Treasury participation, and FDIC activity is accounted for here as a component of the FDIC's Deposit Insurance Fund outlays.

[xvii] 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) ("Treasury will invest up to $30 billion of equity and debt in PPIFs established with private sector fund managers and private investors for the purpose of purchasing legacy securities") ; U.S. Department of the Treasury, *Fact Sheet: Public-Private Investment Program*, at 4-5 (Mar. 23, 2009) (online at www.treas.gov/press/releases/reports/ppip_fact_sheet.pdf) (hereinafter "Treasury PPIP Fact Sheet") (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.

[xviii] 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, $19.9 billion has been allocated as of July 31, 2009, and no funds have yet been disbursed. *See* July 31 TARP Transactions Report, *supra* note 104.

[xix] 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).

[xx] July 31 TARP Transactions Report, *supra* note 104. A substantial portion of the total $80 billion in loans extended under the AIFP has since been converted to common equity and preferred shares in restructured companies. $26.1 billion has been retained as first lien debt (with $7.7 billion committed to GM and $14.9 billion to Chrysler), which is classified below as loans. *See also* Government Accountability Office, *Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues*, at 43 (June 31, 2009) (GAO09/658) (online at www.gao.gov/new.items/d09658.pdf).

[xxi] July 31 TARP Transactions Report, *supra* note 104.

[xxii] Treasury PPIP Fact Sheet, *supra* note xvii.

[xxiii] 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. $339.0 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* (June 30, 2009) (online at www.fdic.gov/regulations/resources/TLGP/total_issuance6-09.html) (updated July 16, 2009).

[xxiv] 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 and 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).

[xxv] This figure is derived from adding the total credit the Federal Reserve Board has extended as of July 30, 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 30, *supra* note ix. The level of Federal Reserve lending under these facilities will fluctuate in response to market conditions.

[xxvi] 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* (Sep. 29, 2008) (online at www.treas.gov/press/releases/hp1161.htm). This program uses assets of the Emergency Stabilization Fund (ESF) to guarantee the net asset value of participating money market mutual funds. *Id.* In response to an inquiry from the Panel, *see* Letter from Congressional Oversight Panel Chair Elizabeth Warren to Treasury Secretary Timothy F. Geithner (May 26, 2009) (attached as Appendix I), Treasury has indicated that funds with "an aggregate designated asset base on nearly $2.5 trillion calculated as of September 19, 2008" were participating in the Program as of May 1, 2009. *See* Letter from Treasury Secretary Timothy F. Geithner to Congressional Oversight Panel Chair Elizabeth Warren (July 21, 2009) (attached as Appendix II, hereinafter "Treasury MMMF Letter"). In previous reports, the Panel has suggested that Treasury may fund any losses suffered by the ESF under the program – incurred if payouts on the program guarantees exceed income earned through premiums paid by participants – through the use of otherwise uncommitted TARP funds. Treasury has determined, however, that section 131 of EESA's mandate that Treasury reimburse the ESF "from funds under this Act" does not permit Treasury to use TARP funds, which are reserved for the purchase or insurance of troubled assets, but instead, by default, directs Treasury to use non-TARP funds made available pursuant to section 118 of EESA, which provides for the payment of "actions authorized by this Act, including the payment of administrative expenses." *Id*. Treasury has indicated that it believes that it lacks authority to extend the program beyond September 18, 2009, the expiration date of the program under the guarantee agreements with participants because section 131(b) of EESA prohibits the use of the ESF "for the establishment of any future guaranty programs for the United States money market mutual fund industry." *Id.* In our past reports, we have noted the operation of the program but have not included it in our accounting, in part because of the uncertainty of the extent of Treasury's exposure. While we now know that Treasury's exposure theoretically is $2.5 trillion (the amount of the money market mutual funds guaranteed), Treasury is intent on letting the program expire on September 18, 2009 irrespective of whether it has authority to extend it. Given the program's imminent expiration, the desire to preserve comparisons with our earlier accountings, and the unlikelihood of any losses under the program, the Panel will continue to exclude it from its accounting.