Congressional Oversight Panel

October 9, 2009

Accounting for the Troubled Asset Relief Program

Excerpted from the Congressional Oversight Panel's October 2009 report, "An Assessment of Foreclosure Mitigation Efforts After Six Months."

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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 August 31, 2009; and (2) an update of the full federal resource commitment as of September 30, 2009.

1. The TARP

a. Costs: Expenditures and Commitments[484]

Treasury is currently committed to spend $531.3 billion of TARP funds through an array of programs used to purchase preferred shares in financial institutions, offer loans to small businesses and automotive companies, and leverage Federal Reserve loans for facilities designed to restart secondary securitization markets.[485] Of this total, $375.5 billion is currently outstanding under the $698.7 billion limit for TARP expenditures set by EESA, leaving $323.2 billion available for fulfillment of anticipated funding levels of existing programs and for funding new programs and initiatives. The $375.5 billion includes purchases of preferred and common 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 was exchanged for a guarantee fee composed of additional preferred shares and warrants and has subsequently been exchanged for Trust Preferred shares.[486] Additionally, Treasury has allocated $23.4 billion to the Home Affordable Modification Program, out of a projected total program level of $50 billion.

b. Income: Dividends, Interest Payments, and CPP Repayments

A total of 39 institutions have completely repaid their CPP preferred shares, 24 of which have also repurchased warrants for common shares that Treasury received in conjunction with its preferred stock investments. There were over $375 million in repayments made under the CPP during September.[487] The seven banks that repaid were comparatively small with the largest

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

[485] 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. Pub. L. No. 110-343, § 115(a)-(b), *supra* note 2; Helping Families Save Their Homes Act of 2009, Pub. L. No. 111-22, § 402(f) (reducing by $1.26 billion the authority for the TARP originally set under EESA at $700 billion).

[486] U.S. Department of the Treasury, *Troubled Asset Relief Program Transactions Report for Period Ending September 30, 2009* (Oct. 4, 2009) (online at financialstability.gov/docs/transaction-reports/Transactions_Report_09-30-09.pdf) (hereinafter "September 30 TARP Transactions Report").

[487] *Id.*

repayment being for $125 million.[488] In addition, Treasury is entitled to dividend payments on preferred shares that it has purchased, usually five percent per annum for the first five years and nine percent per annum thereafter.[489] In total, Treasury has received approximately $86 billion in income from repayments, warrant repurchases, dividends, and interest payments deriving from TARP investments[490] and another $1.2 billion in participation fees from its Guarantee Program for Money Market Funds.[491]

c. Citigroup Exchange

Treasury has invested a total of $49 billion in Citigroup through three separate programs: the CPP, TIP, and AGP. On June 9, 2009, Treasury agreed to terms to exchange its CPP preferred stock holdings for 7.7 billion shares of common stock priced at $3.25/share (for a total value of $25 billion) and also agreed to convert the form of its TIP and AGP holdings. On July 23, 2009, Treasury, along with both public and private Citigroup debt holders, participated in a $58 billion exchange. The company received shareholder approval for the exchange on September 3, 2009.[492] As of September 30, 2009, Treasury's common stock investment in Citigroup had a market value of $37.23 billion.[493]

[488] *Id.*

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

[490] U.S. Department of the Treasury, *Cumulative Dividends Report as of August 31, 2009* (Oct. 1, 2009) (online at www.financialstability.gov/docs/dividends-interest-reports/August2009_DividendsInterestReport.pdf); September 30 TARP Transactions Report, *supra* note 486.

[491] U.S. Department of the Treasury, *Treasury Announces Expiration of Guarantee Program for Money Market Funds* (Sept. 18, 2009) (online at www.financialstability.gov/latest/tg_09182009.html).

[492] Citigroup, *Citi Announces Shareholder Approval of Increase in Authorized Common Shares, Paving Way to Complete Share Exchange* (Sept. 3, 2009) (online at www.citibank.com/citi/press/2009/090903a.htm).

[493] The Panel continues to account for Treasury's original $25 billion CPP investment in Citigroup under the CPP until formal approval of the exchange by Citigroup's shareholders and until Treasury specifies under which TARP program the common equity investment will be classified.

d. TARP Accounting

Figure 37: TARP Accounting (as of September 30, 2009)

TARP Initiative	Anticipated Funding *(billions of dollars)*	Purchase Price *(billions of dollars)*	Repayments *(billions of dollars)*	Net Current Investments *(billions of dollars)*	Net Available *(billions of dollars)*
Total	$531.3	$455.5	$72.8	$380.2	[494]$318.5
CPP	218	204.6	70.7	134.2	[495]13.7
TIP	40	40	0	40	0
SSFI Program	69.8	69.8	0	69.8	0
AIFP	80	80	2.1	[496]75.4	[497]0
AGP	5	5	0	5	0
CAP	TBD	0	N/A	0	N/A
TALF	20	20	0	20	0
PPIP	30	9.2	N/A	9.2	20.8
Supplier Support Program	[498]3.5	3.5	0	3.5	0
Unlocking SBA Lending	15	0	N/A	0	15
HAMP	50	[499]23.4	0	23.4	26.6
(Uncommitted)	*167.4*	*N/A*	*N/A*	*N/A*	[500]*$242.7*

[494] This figure is the sum of the uncommitted funds remaining under the $698.7 billion cap ($167.4 billion) and the difference between the total anticipated funding and the net current investment ($155.8 billion).

[495] This figure excludes the repayment of $70.7 billion in CPP funds. Secretary Geithner has suggested that funds from CPP repurchases will be treated as uncommitted funds of the TARP overall upon return to the Treasury.

[496] This figure reflects the amount invested in the AIFP as of August 18, 2009. This number consists of the original assistance amount of $80 billion less de-obligations ($2.4 billion) and repayments ($2.14 billion); $2.4 billion in apportioned funding has been de-obligated by Treasury ($1.91 billion of the available $3.8 billion of DIP financing to Chrysler and a $500 million loan facility dedicated to Chrysler that was unused). September 30 TARP Transactions Report, *supra* note 486.

[497] Treasury has indicated that it will not provide additional assistance to GM and Chrysler through the AIFP. Congressional Oversight Panel, *September Oversight Report: The Use of TARP Funds in Support and Reorganization of the Domestic Automotive Industry* (Sept. 9, 2009) (online at cop.senate.gov/documents/cop-090909-report.pdf. The Panel therefore considers the repaid and de-obligated AIFP funds to be uncommitted TARP funds.

[498] 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. September 30 Transactions Report, *supra* note 486.

[499] This figure reflects the total of all the caps set on payments to each mortgage servicer. September 30 Transactions Report, *supra* note 486.

[500] This figure is the sum of the uncommitted funds remaining under the $698.7 billion cap ($167.4 billion), the repayments ($72.8 billion), and the de-obligated portion of the AIFP ($2.4 billion). Treasury provided de-obligation information on August 18, 2009, in response to specific inquiries relating to the Panel's oversight of the AIFP. Specifically, this information denoted allocated funds that had since been de-obligated.

Figure 38: TARP Repayments and Income

TARP Initiatives	Repayments (as of 9/30/09) *(billions of dollars)*	Dividends[501] (as of 8/31/09) *(billions of dollars)*	Interest[502] (as of 8/31/09) *(billions of dollars)*	Warrant Repurchases[503] (as of 9/30/09) *(billions of dollars)*	Total *(billions of dollars)*
Total	$72.8	$9.74	$0.2	$2.9	$85.9
CPP	70.7	7.3	N/A	2.9	80.9
TIP	0	1.8	N/A	0	1.8
AIFP	2.1	0.47	.2	N/A	2.77
ASSP	N/A	N/A	.004	N/A	.004
AGP[504]	0	0.17	N/A	0	0.17
Bank of America Guarantee	–	–	–	–	[505].276

[501] U.S. Department of the Treasury, *Cumulative Dividends Report as of August 31, 2009* (Oct. 1, 2009) (online at www.financialstability.gov/docs/dividends-interest-reports/August2009_DividendsInterestReport.pdf).

[502] U.S. Department of the Treasury, *Cumulative Dividends Report as of August 31, 2009* (Oct. 1, 2009) (online at www.financialstability.gov/docs/dividends-interest-reports/August2009_DividendsInterestReport.pdf).

[503] 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. September 30 Transactions Report, *supra* note 486.

[504] Citigroup is the lone participant in the AGP.

[505] On September 21, 2009, Bank of America announced the termination of its Asset Guarantee term sheet with the Treasury Department. Bank of America agreed to pay a total of $425 million to Treasury ($276 million), the Federal Reserve ($57 million), and the FDIC ($92 million) to terminate a provisional agreement to guarantee about $118 billion (later downsized to $83 billion) of Bank of America assets. Bank of America, *Termination Agreement* (Sept. 21, 2009) (online at online.wsj.com/public/resources/documents/bofa092109.pdf). Because Treasury's share of the termination fee derives from the never formally consummated provisional agreement and the components of the termination fee do not match this figure's repayment and income categories, we do not apportion the components here. Pursuant to the termination agreement, the government made retrospective valuations for Treasury's portion of the fee covering the four months when the provisional agreement was in place of: (1) "foregone dividends" ($52 million) on the preferred stock that would have been paid by Bank of America to Treasury had the federal government actually made the preferred stock investment contemplated by the provisional agreement; (2) a "pro-rated premium," ($119 million) representing the economic value to Bank of America of Treasury's never consummated preferred stock investment; and (3) a "warrants valuations," ($105 million) representing the economic value of the warrants purchase contemplated by the provisional agreement. *Id.* The FDIC's portion of the termination fee was determined by the same retrospective valuation methodology, but was proportionally smaller than Treasury's portion given the FDIC's more limited investment under the provisional agreement. *Id.* (calculating FDIC to receive $17 million for foregone dividends, $40 million for pro-rated premium for preferred stock, and $35 million for warrants investment). The Federal Reserve's $57 million portion of the termination fee is entirely composed on a pro-rated portion of the commitment fee contemplated by the provisional agreement ($34 million) plus expenses ($23 million). *Id.*

e. Rate of Return

As of September 30, 2009, the average internal rate of return for all financial institutions that participated in the CPP and fully repaid the U.S. government (including preferred shares, dividends, and warrants) is 17.2 percent. The internal rate of return is the annualized effective compounded return rate that can be earned on invested capital. In the case of the CAP program under TARP the return on investment includes dividends and warrants.

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 and the FDIC's Temporary Liquidity Guarantee Program, operate independent of TARP. As shown in the following table, the Federal Reserve has begun publishing its interest earnings on its financial stability initiatives.

Figure 39: Federal Reserve Credit Expansion Programs (as of September 2009)[506]

Federal Reserve Credit Expansion Programs	**Interest Earned Jan. 1- July 30, 2009** *(dollars in millions)*
Federal agency debt securities	$614
Mortgage-backed securities	4,968
Term auction credit	570
Primary credit	[507]134
Primary dealer and other broker-dealer credit	37
Mutual Fund Liquidity Facility	70
Central bank liquidity swaps	1,880
Outstanding principal amount of loan extended to Maiden Lane LLC	102
Commercial Paper Funding Facility	546
Total	**8,524**

[506] Board of Governors of the Federal Reserve System, *Federal Reserve Statistical Release H.4.1: Factors Affecting Reserve Balances* (Oct. 1, 2009) (accessed Oct. 1, 2009) (online at www.federalreserve.gov/releases/h41/20091001/ (hereinafter "October 1 Fed Balance Sheet").

[507] This figure includes interest earned on primary, secondary and seasonal credit facilities.

3. Total Financial Stability Resources (as of September 30, 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 $3.2 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.

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 two of the three non-recourse loans to the Maiden Lane SPVs (used to purchase Bear Stearns and AIG assets).

Figure 40: Federal Government Financial Stability Effort (as of September 30, 2009)

Program *(in billions)*	Treasury (TARP)	Federal Reserve	FDIC	Total
Total	**$698.7**	**$1,658**	**$846.7**	[iii]**$3,203.4**
Outlays[i]	387.3	0	47.7	435
Loans	43.7	1,428.2	0	1,471.9
Guarantees[ii]	25	229.8	799	1,053.8
Uncommitted TARP Funds	242.7	0	0	242.7
AIG	**$69.8**	**$96.2**	**$0**	**$166**
Outlays	[iv]69.8	0	0	69.8
Loans	0	[v]96.2	0	96.2
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)	**$97.3**	**$0**	**$0**	**$97.3**
Outlays	[xii]97.3	0	0	97.3
Loans	0	0	0	0
Guarantees	0	0	0	0
Capital Assistance Program	**TBD**	**$0**	**$0**	[xv]**TBD**
TALF	20	180	0	200
Outlays	0	0	0	0
Loans	0	[xiv]180	0	180
Guarantees	[xiii]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	10	0	0	10
Loans	20	0	0	20
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	**$75.4**	**$0**	**$0**	**$75.4**
Outlays	[xx]55.2	0	0	55.2
Loans	20.2	0	0	20.2
Guarantees	0	0	0	0

Auto Supplier Support Program	**$3.5**	**$0**	**$0**	**$3.5**
Outlays	0	0	0	0
Loans	[xxi]3.5	0	0	3.5
Guarantees	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**	**$47.7**	**$47.7**
Outlays	0	0	[xxiv]47.7	47.7
Loans	0	0	0	0
Guarantees	0	0	0	0
Other Federal Reserve Credit Expansion	**$0**	**$1,152**	**$19** 0	**$1,152**
Outlays	0	0		0
Loans	0	[xxv]1,152	0	1,152
Guarantees	0	0	0	0
Uncommitted TARP Funds	**$242.7**	**$0**	**$0**	**$242.7**

[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. SIGTARP, *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 additional anticipated exposure 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). September 30 TARP Transactions Report, *supra* note 486.

[v] This number represents the full $60 billion that is available to AIG through its revolving credit facility with the Federal Reserve ($39.1 billion had been drawn down as of September 2, 2009) and the outstanding principle of the loans extended to the Maiden Lane II and III SPVs to buy AIG assets (as of September 24, 2009,

$16.6 billion and $19.6 billion respectively). October 1 Fed Balance Sheet, *supra* note 441. Income from the purchased assets is used to pay down the loans to the SPVs, reducing the taxpayers' exposure to losses over time. Board of Governors of the Federal Reserve System, *Federal Reserve System Monthly Report on Credit and Liquidity Programs and the Balance Sheet*, at 16 (Aug. 2009) (online at www.federalreserve.gov/monetarypolicy/files/monthlyclbsreport200909.pdf) (hereinafter "Fed September 2009 Credit and Liquidity Report").

[vi] Beginning in our July report, the Panel excluded from its accounting the $118 billion asset guarantee agreement among Bank of America, the Federal Reserve, Treasury, and the FDIC based on testimony from Federal Reserve Chairman that the agreement was never signed and was never signed or consummated and the absence of the guarantee from Treasury's TARP accounting. House Committee on Oversight and Government Reform, Testimony of Federal Reserve Chairman Ben S. Bernanke, *Acquisition of Merrill Lynch by Bank of America*, at 3 (June 25, 2009) (online at oversight.house.gov/documents/20090624185603.pdf) ("The ring-fence arrangement has not been consummated, and Bank of America now believes that, in light of the general improvement in the markets, this protection is no longer needed"); 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). On September 21, 2009 Bank of America announced that it had reached an agreement with Treasury to resolve the matter of the implied guarantee by paying $425 million to terminate the term sheet. Bank of America, *Bank of America Terminates Asset Guarantee Term Sheet* (Sept. 21, 2009) (online at newsroom.bankofamerica.com/index.php?s=43&item=8536). For further discussion of the Panel's approach to classifying this agreement, *see* Congressional Oversight Panel, *September Oversight Report: The Use of TARP Funds in the Support and Reorganization of the Domestic Automotive Industry*, at 209 (Sept. 9, 2009) (online at cop.senate.gov/documents/cop-090909-report.pdf).

[vii] *September 30 TARP Transactions Report*, *supra* note 486. 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] September 30 TARP Transactions Report, *supra* note 486. 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 after existing reserves, 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 $70.7 billion in repayments that are 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] This figure represents a $20 billion allocation to the TALF SPV on March 3, 2009. *September 30 TARP Transactions Report*, *supra* note 486. Consistent with the analysis in our August report, only $43 billion dollars has been lent through TALF as of September 23 2009, the Panel continues to predict that TALF subscriptions are unlikely to surpass the $200 billion currently available by year's end. Congressional Oversight Panel, *August Oversight Report: The Continued Risk of Troubled Assets*, at 10-22 (Aug. 11, 2009) (discussion of what constitutes a "troubled asset") (online at cop.senate.gov/documents/cop-081109-report.pdf).

[xiv] This number is derived from the unofficial 1:10 ratio of the value of Treasury loan guarantees to the value of Federal Reserve loans under the TALF. 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.

[xv] The CAP was announced on February 25, 2009 and as of yet has not been utilized. The Panel will continue to classify the CAP as dormant until a transaction is completed and reported as part of the program.

[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. See also 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) and 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). The sales described in these statements 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 Treasury guidance, the Panel had previously adopted a 1:1.5 ratio between Treasury equity co-investments and loans at a 1:2 ratio under the program, reflecting an assumption that Treasury would frequently but not always exercise its discretion to provide additional financing. However, Treasury's announcement of the initial round of completed PPIP legacy securities agreements totaling $1.13 billion suggests that Treasury may routinely exercise its discretion to provide $2 of financing for every $1 of equity. *See* U.S. Department of the Treasury, *Treasury Department Announces Initial Closings of Legacy Securities Public-Private Investment Funds* (Sept. 30, 2009) (online at www.ustreas.gov/press/releases/tg304.htm) (indicating that investors would be eligible for $2.26 billion of financing on their investments and that total Treasury financing would be $20 billion on $10 billion on investors' equity investments).

[xviii] U.S. 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) (hereinafter "GAO June 29 Status Report"). Of the $50 billion in announced TARP funding for this program, $23.4 billion has been allocated as of August 28, 2009, and no funds have yet been disbursed. September 30 TARP Transactions Report, *supra* note 486.

[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. MHAP Update, *supra* note 69. 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] September 30 TARP Transactions Report, *supra* note 486. A substantial portion of the total $80 billion in loans extended under the AIFP have since been converted to common equity and preferred shares in restructured companies. $20.2 billion has been retained as first lien debt (with $7.7 billion committed to GM and $12.5 billion to Chrysler). This figure represents Treasury's current obligation under the AIFP. There have been $2.1 billion in repayments and $2.4 billion in de-obligated funds under the AIFP. Treasury De-obligation Document. See also GAO June 29 Status Report, *supra* note xviii at 43.

[xxi] September 30 TARP Transactions Report, *supra* note 486.

[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. $307 billion of debt subject to the guarantee has been issued to date, which represents about 40 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* (Aug. 31, 2009) (online at www.fdic.gov/regulations/resources/TLGP/total_issuance8-09.html) (updated Sep. 24, 2009). The FDIC has collected $9.35 billion in fees and surcharges from this program since its inception in the fourth quarter of 2008. Federal Deposit Insurance Corporation, *Monthly Reports on Debt Issuance Under the Temporary Liquidity Guarantee Program* (Aug. 31, 2009) (online at www.fdic.gov/regulations/resources/TLGP/fees.html) (updated Sept. 24, 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 and second quarters of 2009. 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); Federal Deposit Insurance Corporation, *Chief Financial Officer's (CFO) Report to the Board: DIF Income Statement (Second Quarter 2009)* (online at www.fdic.gov/about/strategic/corporate/cfo_report_2ndqtr_09/income.html). This figure includes the FDIC's estimates of its future losses under loss share agreements that it has entered into with banks acquiring assets of insolvent banks during these three quarters. Under a loss sharing agreement, as a condition of an acquiring bank's agreement to purchase the assets of an insolvent bank, the FDIC typically agrees to cover 80 percent of an acquiring bank's future losses on an initial portion of these assets and 95 percent of losses of another portion of assets. See, for example Federal Deposit Insurance Corporation, *Purchase and Assumption Agreement Among FDIC, Receiver of Guaranty Bank, Austin, Texas, FDIC and Compass Bank*, at 65-66 (Aug. 21, 2009) (online at www.fdic.gov/bank/individual/failed/guaranty-tx_p_and_a_w_addendum.pdf). In information provided to Panel staff, the FDIC disclosed that there were approximately $82 billion in assets covered under loss-share agreements as of September 4, 2009. Furthermore, the FDIC estimates the total cost of a payout under these agreements to be $36.2 billion. Since there is a published loss estimate for these agreements, the Panel continues to reflect them as outlays rather than as guarantees. By comparison, the TLGP does not have published loss-estimates and therefore remains classified as guarantee program.

[xxv] This figure is derived from adding the total credit the Federal Reserve Board has extended as of August 27, 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 Securities (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. Fed Balance Sheet October 1, *supra* note 506. The level of Federal Reserve lending under these facilities will fluctuate in response to market conditions. Fed Report on Credit and Liquidity, *supra* note v.