DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

February 23, 2009

Ms. Elizabeth Warren
Chair
Congressional Oversight Panel
732 North Capitol Street, NW
Rooms C-320 and C-617
Mailstop: COP
Washington, DC 20401

Dear Chair Warren:

Thank you for your letters dated January 28 and February 4, 2009. This letter serves as a response to both of these letters. As you know, this Administration shares many of the concerns raised in your letters and recent reports. I am committed to working closely with the oversight entities to ensure that the specific programs that we announced as part of our broader *Financial Stability Plan* (FSP) are in the best interest of taxpayers. In fact, we used many of the Panel's constructive suggestions in designing our new programs. In particular, as part of the FSP, we are instituting a new system of accountability and transparency through tough conditions applied to the federal funds being invested during this challenging time. In order to address the issues raised in your recent letters, this letter describes the overall FSP, including our new *Homeowner Affordability and Stability Plan*. Additionally, attached are the public statements we released on our programs (Joint Regulators' Statement on the *Financial Stability Plan* and *Homeowner Affordability and Stability Plan: Fact Sheet*).

The Financial Stability Plan

Regarding your question on the overall strategy, the FSP provides a broad framework for effectively addressing the major financial challenges facing our nation. As you know, this financial crisis has touched Americans in many ways. For ordinary families – even those with strong credit – it has become difficult to get student loans, car loans, and credit to finance every day needs. Frozen credit markets are largely to blame. For our financial institutions, uncertainty, troubled assets and capital constraints have combined to undermine confidence in the strength and stability of our financial sector. For homeowners, the housing crisis has reduced home values and made it difficult for many responsible borrowers to meet their mortgage payments and stay in their homes. We believe that these problems cannot be addressed in a piecemeal fashion. Instead, we have introduced our FSP, a broad and comprehensive set of initiatives designed to help American families and businesses by restarting the critical flow of credit, stabilizing our financial institutions, and helping homeowners.

Each of these goals requires a multi-pronged approach. To restore lending and get credit flowing again, we are taking a comprehensive approach to both restart the frozen secondary lending markets and improve the balance sheets and capital positions of financial institutions in order to jumpstart their lending. Our efforts to restore confidence in the financial sector will include these steps and will go further to ensure that major financial institutions have adequate capital to meet potential challenges and to help them remove "legacy" assets from their balance sheets.

Over the past two weeks, we laid out details of the plan, including the following components: the *Homeowner Affordability and Stability Plan* (HASP) to stabilize the housing markets and help homeowners; our *Capital Assistance Program* (CAP) to ensure that major financial institutions have adequate capital to meet the challenges ahead and jumpstart lending activities; our *Consumer Business Lending Initiative* (CBLI) to unfreeze consumer and business lending by boosting the secondary lending markets, bringing down borrowing costs and getting credit flowing again; and a *Public-Private Investment Fund* (PPIF) to use private and government capital to purchase legacy assets for removal from bank balance sheets in order to help jumpstart the market for the private real-estate-related assets that are at the core of our financial crisis.

Capital Assistance Program

The CAP is designed to help ensure that our banking institutions have sufficient capital to withstand the challenges ahead. As an essential part of restoring confidence in U.S. banking institutions, this process will begin with the federal supervisory agencies undertaking a coordinated and consistent capital planning exercise with each of the major U.S. banking institutions. This process will include a forward-looking "stress test" to assess whether the institutions have the capital necessary to continue lending and to absorb potential losses that could result from a more severe decline in the economy than projected. Banks will be encouraged to access private markets to raise any additional capital needed, but will also have access to a "capital buffer" provided by Treasury to help absorb losses and serve as a bridge to receiving increased private capital.

Consumer & Business Lending Initiative

Addressing our credit crisis on all fronts means going beyond simply dealing with banks. Full restoration of credit flows to households and businesses will require restarting critical segments of our financial markets, particularly securitization markets. When those markets freeze up, the impact on lending for consumers and businesses – small and large – can be devastating. Unable to sell loans into secondary markets, lenders freeze up, leading those seeking credit, like car loans, to face high interest rates. The Term Asset-Backed Securities Lending Facility (TALF) combines funding from the Emergency Economic Stabilization Act (EESA) and the Federal Reserve in order to promote lending by increasing investor demand for securitized loans. Through the CBLI, we will be dramatically increasing the size of the TALF from $200 billion to as much as $1 trillion and will also be expanding the eligible asset classes.

Public-Private Investment Fund

One aspect of a comprehensive approach is the need to provide greater means for financial institutions to cleanse their balance sheets of what are often referred to as "legacy" assets. Many proposals designed to achieve this outcome are complicated both by their sole reliance on public purchasing and the difficulties in pricing assets. Working together in partnership with the FDIC and the Federal Reserve, the Treasury Department will initiate a PPIF that takes a new approach.

- Public-Private Capital: This new program will be designed with a public-private financing component, which will involve putting public and private capital side-by-side and using public financing to leverage private capital on an initial scale of up to $500 billion, with the potential to expand up to $1 trillion.

- Private Sector Pricing of Assets: Because the new program is designed to bring private sector equity contributions to make large-scale asset purchases, it not only minimizes public capital and maximizes private capital, it allows private sector buyers to determine the price for currently troubled and previously illiquid assets.

Homeowner Affordability and Stability Plan

Your January 28 letter asked about a plan for foreclosure mitigation. As noted, a critical component of the overall FSP plan, the *Homeowner Affordability and Stability Plan,* addresses the current housing crisis. This plan offers assistance to many homeowners suffering at the present time and includes the following critical elements:

1. Refinancing for responsible homeowners suffering from falling home prices
2. A comprehensive $75 billion homeowner stability initiative
    - A loan modification plan to reach 3 to 4 million homeowners
        - Shared effort with lenders to reduce interest payments
        - Incentives to servicers and borrowers
    - Clear and consistent guidelines for loan modifications
    - Required participation by FSP participants

- Modifications of home mortgages during bankruptcy
- Strengthen *Hope for Homeowners* and other FHA loan programs
- Support local communities and help displaced renters

3. Supporting low mortgage rates by strengthening confidence in Fannie Mae and Freddie Mac

Attached to this letter, we have provided a fact sheet that provides descriptions and explanations of the intended impact of the initiatives we have proposed. I want to emphasize that all recipients of capital investments under the new FSP initiatives will be required to commit to participate in mortgage foreclosure mitigation programs consistent with our new guidelines. Our new plan for foreclosure mitigation is vital to our efforts to repair our financial system, and we are extremely focused on the successful implementation of this plan to help millions of homeowners.

I also want to respond to your letter dated February 4, 2009 that requested information to evaluate the effectiveness of foreclosure mitigation efforts using an enclosed Mortgage Foreclosure Mitigation Survey. At this time, the Treasury Department does not track mortgage delinquencies, foreclosures and mortgage loss modifications that would allow us to respond to your request and therefore we cannot answer your questions. However, we have talked with the staffs of the government's bank regulatory agencies, and it is my understanding that these regulators are working to answer your questions. Going forward under the *Homeowner Affordability and Stability Plan*, we will maintain strong oversight requirements included in our homeownership plan and ensure robust data reporting from participating mortgage servicers. From this data, we will be able to answer your questions and evaluate the success of our mortgage modification and foreclosure mitigation programs. Full details of Treasury's oversight measures and reporting requirements will be available by March 4, 2009.

Bank Accountability for the Use of Funds

We share your concerns about bank accountability for the use of government funding. Public funds invested in private institutions should be directed only towards the public interest in strengthening our economy by stabilizing our financial system and not toward inappropriate private gain. We therefore have articulated a series of requirements for all institutions accepting funds under the FSP.

First, we will require financial institutions that receive funds under the FSP to demonstrate how the funds they receive will support lending. The core of the new monitoring requirement is to require recipients of exceptional assistance or capital buffer assistance to show how every dollar of capital they receive is enabling them to preserve or generate new lending compared to what would have been possible without government capital assistance. Each recipient must submit a plan for how it intends to use that capital to preserve and strengthen its lending capacity. This report will be submitted during the application process, and the Treasury Department will make these reports public upon completion of the capital investment in the firm.

Second, we will limit common dividends, stock repurchases and acquisitions to provide additional assurance to taxpayers that all of the capital invested by the government will go to improving banks' capital bases and enabling lending during this economic downturn. All banks that receive new capital assistance will be subject to the following terms:

- *Restricted from paying quarterly common dividend payments in excess of $0.01 a share until the government investment is repaid:* Banks that receive exceptional assistance can only pay $0.01 a share quarterly. That presumption will be the same for firms that receive generally available capital. The Treasury Department and a bank's primary regulator may approve a higher dividend based on an assessment if doing so is consistent with reaching the bank's capital planning objectives.
- *Restricted from repurchasing shares:* All banks that receive capital assistance are restricted from repurchasing any privately-held shares until the government's investment is repaid, except with the approval of the Treasury Department and their primary regulator.
- *Restricted from pursuing acquisitions*: All banks that receive capital assistance are restricted from pursuing cash acquisitions of healthy firms until the government investment is repaid. Exceptions will be made for explicit supervisor-approved restructuring plans.

Third, firms will be required to comply with appropriate and enhanced executive compensation restrictions. As you know, Congress recently passed legislation and Treasury recently issued guidelines. We are studying this legislation in concert with our guidelines in order to design implementing regulations.

All of these requirements attempt to ensure that those institutions receiving public support are acting in the public interest.

<u>Increased Transparency</u>

The Treasury Department launched a monthly bank lending survey and snapshot that we are sending to the top 20 recipients of EESA investments. The Treasury Department published the first lending snapshot on February 17, 2009. These snapshots are designed to provide new, more frequent and more accessible information on banks' lending activities to help taxpayers easily assess the lending and other activities of banks receiving government investments.

To improve transparency associated with all aspects of the FSP, all information disclosed or reported to the Treasury Department by recipients of capital assistance will be posted on *FinancialStability.gov* because we believe taxpayers have the right to know whether these programs are succeeding in creating lending and preserving financial stability. The Treasury Department will post redacted investment contracts under the FSP on *FinancialStability.gov* within five to ten business days of their completion. Whenever the Treasury Department makes a capital investment under these new initiatives, it will make public the value of the investment, the quantity and strike price of warrants received, and the schedule of required payments to the government. The terms of pricing of these investments will be compared to terms and pricing of recent market transactions during the period the investment was made, if available, and those prevailing under more normal market conditions.

In addition, the reports describing the use of FSP funds will be published to provide the public with a way to track the effectiveness of the FSP. In monthly reports submitted to the Treasury Department, firms will need to detail their lending results broken out by category and showing change in the amount of loans they provided to businesses and consumers and assets purchased, accompanied by a description of the lending environment in the communities and markets they serve. This report will also include a comparison to estimates of what their lending would have been in the absence of government support. For public companies, similar reports will be filed with an 8-K simultaneous with the filing of their 10-Q or 10-K reports. Additionally, the Treasury Department will in collaboration with banking agencies - publish and regularly update key metrics showing the impact of the FSP on credit markets. These reports will be put on the Treasury Department's *FinancialStability.gov* website, so that they can be subject to scrutiny by outside and independent experts.

Finally, in the interest of full transparency, the Treasury Department has announced measures to ensure that lobbyists do not influence applications for, or disbursements of, FSP funds, and will certify that each investment decision is based only on investment criteria and the facts of the case.

Together, I believe this comprehensive set of measures will help restore confidence in the strength of U.S. financial institutions, boost lending to households and businesses, and lay the groundwork for restoring the critical flows of credit necessary to support the recovery of our economy.

As you can see from the plans that have been announced, we are deeply committed to ensuring that taxpayers' funds are used in their best interest and that the FSP upholds that standard in every regard.

Thank you again for your inquiries, and I look forward to a close and cooperative working relationship with the Panel.

Sincerely,

Timothy F. Geithner

Attachments:
Joint Regulators' Statement on the Financial Stability Plan, February 10, 2009
Homeowner Affordability and Stability Plan: Fact Sheet, February 19, 2009

cc: Rep. Jeb Hensarling
Sen. John E. Sununu
Mr. Richard H. Neiman
Mr. Damon A. Silvers
Mr. John M. Reich
Mr. John Dugan