SIGTARP | OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

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HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

STATEMENT OF NEIL BAROFSKY

SPECIAL INSPECTOR GENERAL
FOR THE TROUBLED ASSET RELIEF PROGRAM

BEFORE THE
HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

April 22, 2010

Chairman Serrano, Ranking Member Emerson, and Members of the Committee:

Overview

Thank you for the opportunity to testify today about the critically important oversight mission of the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP").

As you know, SIGTARP was created by the Emergency Economic Stabilization Act of 2008 ("EESA") to conduct and coordinate audits and investigations concerning the Troubled Asset Relief Program ("TARP"). As such, SIGTARP is primarily responsible for reporting upon, auditing and conducting criminal and civil investigations concerning TARP. Initially envisioned as a large but relatively straightforward toxic asset purchase program, TARP has morphed into multiple complex programs — the current count is 13 — that touch on nearly every major aspect of our economy, from too-big-to-fail Wall Street giants, to regional and community banks, to the asset-backed securities markets, to small-business lending initiatives, to the automobile industry, and, perhaps most broadly to the mortgages of millions of struggling homeowners around the country. I would like to take this opportunity to explain how SIGTARP has used the funding it has already received to meet this extraordinary oversight task thus far and how we anticipate using the $49.6 million requested for SIGTARP in the President's fiscal year 2011 budget.

In just 16 months of existence, SIGTARP has had a tremendous impact on the TARP program. As discussed in more detail below, it has made significant and demonstrable contributions to the transparency of the program; it has worked closely with the Department of the Treasury ("Treasury") and the other agencies administering TARP-related programs to make those programs more effective and less susceptible to waste, fraud and abuse; and it has successfully brought to justice those who have sought to benefit criminally from this national crisis.

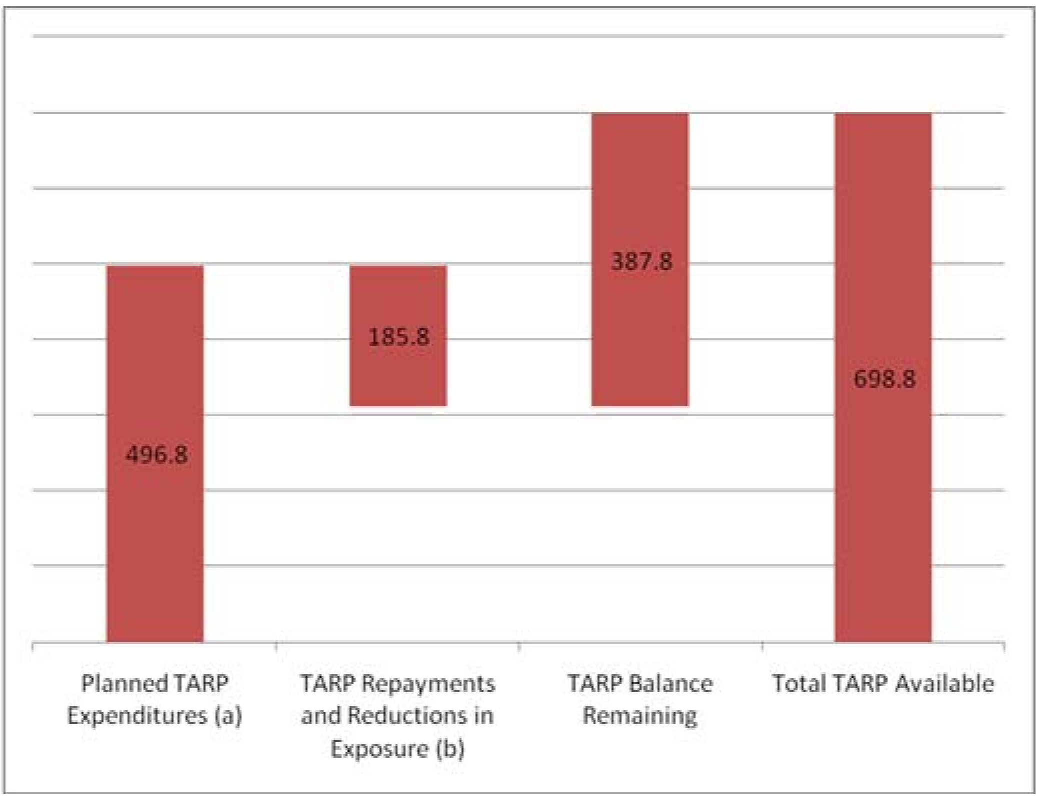
- SIGTARP Quarterly Reports: SIGTARP has fulfilled its EESA-mandated reporting function by producing comprehensive quarterly reports explaining the TARP programs in a detailed but comprehensible manner. SIGTARP's reports are designed to be the desk reference for what is happening in TARP for policy makers in Congress and the Administration and for the general public. Each quarter, SIGTARP describes what is happening in the various TARP programs, what SIGTARP has done over that past quarter, and its recommendations for TARP program implementation.

- SIGTARP's audits: since its inception, SIGTARP has initiated eight audit projects and has issued 20 audit reports. SIGTARP's audits are designed to address the most important issues facing TARP implementation, and its audit reports have had a substantial impact on the debate about these issues, including TARP recipients' use of funds, the circumstances around the first TARP investments, including the extraordinary support received by Bank of America, the American International Group, Inc. ("AIG") bonuses, the AIG counterparty payments, and the early disappointing results in the mortgage modification program.

- SIGTARP's investigations: SIGTARP has rapidly developed into a sophisticated white-collar law enforcement agency. SIGTARP has over 84 ongoing investigations, and important criminal and civil cases have resulted from SIGTARP's investigations involving banks that have attempted to steal TARP funds and fraudsters who have victimized dozens of individuals making false promises about TARP assistance.

Background: TARP, the Creation of SIGTARP, and SIGTARP's Budget Authority

TARP consists of 13 announced programs, six of which are closing or are closed to further purchases. As of March 31, 2010, Treasury had announced programs involving potential spending of $537.1 billion of the $698.8 billion maximum available for the purchase of troubled assets under TARP as authorized by Congress. Of this amount, Treasury had expended or committed to expend approximately $496.8 billion through the 13 implemented programs to provide support for U.S. financial institutions, the automobile industry, the markets in certain types of asset-backed securities ("ABS"), and homeowners. As of March 31, 2010, 77 TARP recipients had paid back all or a portion of their principal or repurchased shares for an aggregate total of $180.8 billion of repayments and a $5 billion reduction in exposure to possible further liabilities, leaving $387.8 billion, or 55.5%, of TARP's allocated $698.8 billion available.



Notes: Numbers affected by rounding. The "planned expenditures" referenced throughout this report represent the funds Treasury currently plans to expend for each program, and a majority of those are committed funds (e.g., signed agreements with TARP fund recipients).

a Repayments include $135.8 billion for CPP, $40 billion for TIP, $4.6 billion for Auto Programs, and a $5 billion reduction in exposure under AGP.

b Treasury experienced a $2.3 billion loss on some investments under the CPP program

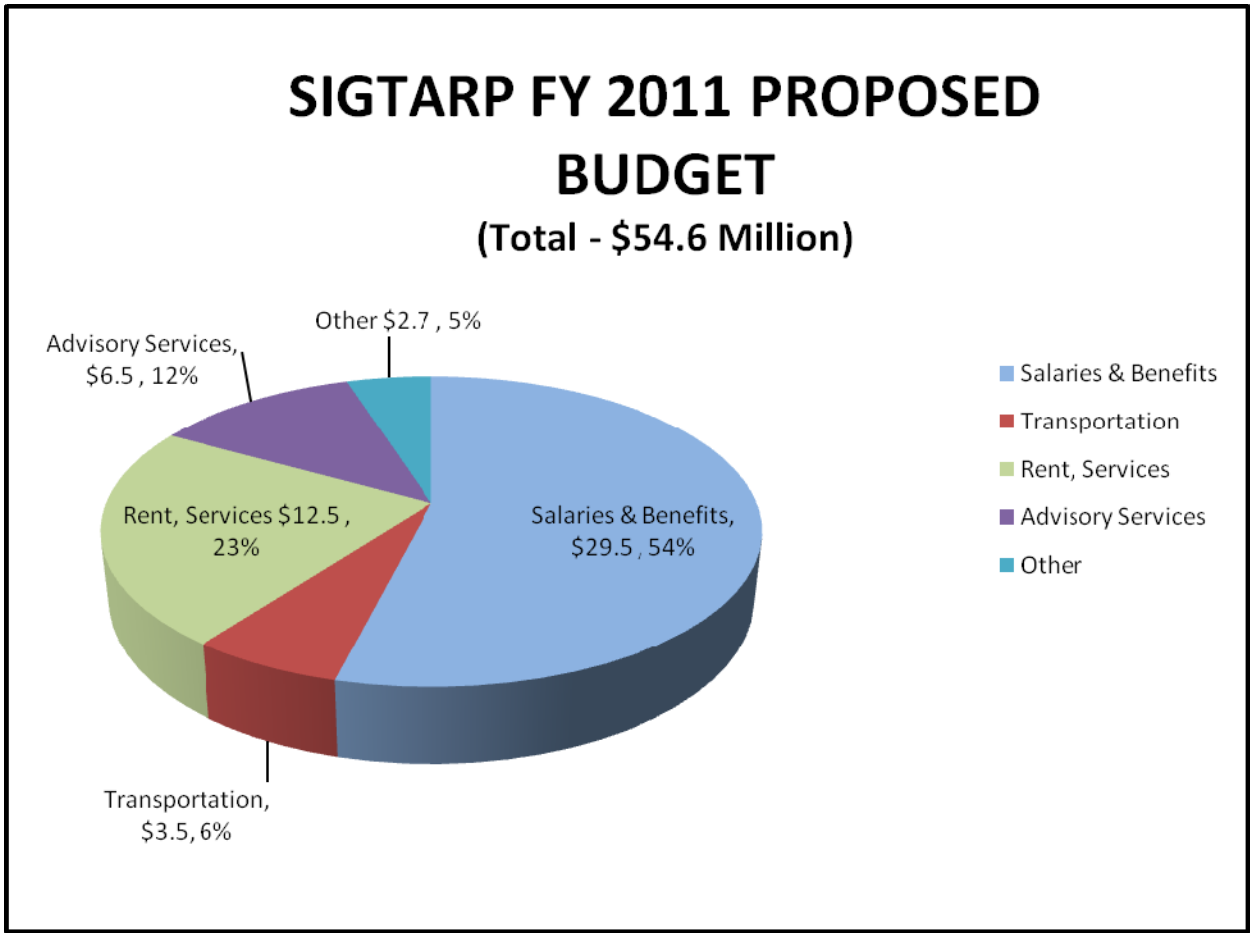
Sources: Treasury, "Transactions Report," 4/2/2010; Treasury, response to SIGTARP data call, 4/12/2010.

In addition to the principal repayments, Treasury has received interest and dividend payments on its investments, as well as revenue from the sale of its warrants. As of March 31, 2010, $14.5

billion in interest, dividends, and other income had been received by the Government, and $5.6 billion in sales proceeds had been received from the sale of warrants and preferred stock received as a result of exercised warrants. At the same time, some TARP participants have missed dividend payments: among participants in the Capital Purchase Program ("CPP"), 104 have missed dividend payments to the Government, although some of them made the payments on a later date. As of March 31, 2010, there was $188.9 million in outstanding unpaid CPP dividends. In addition, three TARP recipients have failed and several others have restructured their agreements with Treasury, increasing the potential for further losses.

Section 121 of EESA created SIGTARP as an independent agency within Treasury responsible for conducting, supervising, and coordinating audits and investigations of any actions taken under EESA. SIGTARP commenced operations on December 15, 2008, with the swearing in of the Special Inspector General. It is important to note that although Secretary of Treasury has extended TARP until October of this year, SIGTARP's oversight and investigative responsibilities do not end at that time. SIGTARP exists as long as Treasury holds purchased assets or insures them. Under the TARP program known as the Public Private Investment Program ("PPIP"), Treasury will hold assets for an anticipated 8-10 years. In addition, although 6 of the 13 TARP programs have closed to new purchases, Treasury is continuing to roll out new programs and initiatives, including several over the past quarter.

Section 121(j) of EESA, as amended, provided SIGTARP with $50 million in no-year money to fund operations. Additionally, section 402(c)(1) of the Helping Families Save Their Homes Act of 2009, Pub. Law No. 111-22, provided SIGTARP with $15 million to "prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under any" EESA program. These supplemental no-year funds are thus not available for SIGTARP's general operational uses, and SIGTARP expects that it will take approximately three fiscal years, *i.e.*, $5 million per year for FY 2010, FY 2011, and FY 2012, to expend them as directed. In the late spring of 2009, SIGTARP determined that its initial operating funds would be expended during the second quarter of fiscal year 2010 and requested an additional $28.3 million that would be needed to fund operations throughout fiscal year 2010. In light of $15 million made available to SIGTARP by Pub. Law No. 111-22, SIGTARP requested additional fiscal year 2010 funding of $23.3 million. On December 16, 2009, the President signed Public Law No. 111-117, the Consolidated Appropriations Act of 2010. The Appropriations Act at Division C, Title 1, provided SIGTARP with the $23.3 million requested. SIGTARP's budget as submitted in the fiscal year 2011 President's budget request is $54.6 million, of which $5 million will be provided under Pub. Law No. 111-22.



Between its commencement in December of 2008 and March 31, 2010, SIGTARP has been extraordinarily productive: publishing six comprehensive quarterly reports to Congress concerning TARP, opening more than 84 investigations, initiating 20 audits, issuing eight audit reports, leveraging oversight resources, testifying at 14 Congressional hearings, building infrastructure, and hiring staff. SIGTARP has secured temporary office space and equipment for staff; has contracted for permanent space and the rehabilitation of the same; has contracted with public and private vendors for personnel services, procurement assistance, publication consulting, data processing and analysis, and office equipment and services. In March of 2010, SIGTARP moved into half of its permanent space at 1801 L. Street, NW, Washington, DC. Further, as of March 31st, SIGTARP has hired 116 managers, lawyers, auditors, investigators, and other professionals with a wealth of experience in program auditing, criminal law enforcement, securities enforcement, and other relevant curricula. To successfully accomplish this hiring challenge, SIGTARP relied on direct hire authority and dual compensation authority waiver delegated by the Office of Personnel Management, as well as authority provided by the Special Inspector General for the Troubled Asset Relief Program Reform Act of 2009, Public Law No. 111-15.

Quarterly Reports to Congress

SIGTARP has issued six wide-ranging quarterly reports to Congress, describing the activities and plans of SIGTARP; explaining and evaluating the various TARP programs (both implemented and announced); reviewing the operations of the Office of Financial Stability ("OFS"), the Treasury entity that administers TARP; and recommending changes to TARP programs and procedures to increase transparency and effective oversight and decrease the potential for fraud, waste and abuse. SIGTARP expends substantial time and resources on its reports to Congress, which are designed to be the comprehensive reference concerning TARP activities for policy makers, Congress and the American people. SIGTARP's reports also satisfied the requisite reporting requirements of SIGTARP's authorizing statute by detailing its operations; describing the categories of troubled assets purchased or otherwise procured by Treasury; explaining the reasons Treasury deemed it necessary to purchase each such troubled asset; listing each financial institution from which such troubled assets were purchased; listing and detailing biographical information on each person or entity hired to manage such troubled assets; estimating the total amount of troubled assets purchased, the amount of troubled assets held, the amount of troubled assets sold, and the profit or loss incurred on each sale or disposition of each such troubled asset; and listing the insurance contracts issued. To date, SIGTARP's quarterly reports include 58 detailed recommendations to improve TARP programs and procedures. Many of these recommendations have been adopted. These quarterly reports are publicly available at http://www.sigtarp.gov/reports.shtml.

Investigative Activities

SIGTARP's Investigations Division ("ID") has developed into a sophisticated white-collar law enforcement agency. Currently, ID has 84 open criminal and civil investigations that concern suspected TARP fraud, accounting fraud, securities fraud, insider trading, bank fraud, mortgage fraud, mortgage servicer misconduct, fraudulent advance-fee schemes, public corruption, false statements, obstruction of justice, theft of trade secrets, money laundering, and tax-related investigations. Although the majority of SIGTARP's investigative activities remain confidential, I would like to highlight several cases that have been brought as the result of SIGTARP's investigations.

- **The Park Avenue Bank**: On March 15, 2010, Charles Antonucci, the former President and Chief Executive Officer of The Park Avenue Bank, was charged by the United States Attorney's Office for the Southern District of New York with offenses including self-dealing, bank bribery, embezzlement of bank funds, and bank, mail and wire fraud, among others. In particular, Antonucci allegedly attempted to steal $11 million of TARP funds by, among other things, making fraudulent claims about the bank's capital position. These charges marked the first time an individual was criminally charged with attempting to steal TARP funds.

  According to the allegations, Antonucci falsely represented that he had personally invested $6.5 million in The Park Avenue Bank to improve its capital position. As set forth in the charges, however, the funds were actually borrowed from The Park Avenue Bank itself and reinvested as part of an undisclosed "round-trip" transaction. The complaint further alleges that this fraudulent transaction was touted by The Park Avenue

Bank in support of its application for TARP funds as evidence of its supposedly improving capital position. The case and investigation are ongoing.

- **Bank of America**: On February 4, 2010, the New York Attorney General charged Bank of America, its former Chief Executive Officer Kenneth D. Lewis, and its former Chief Financial Officer Joseph L. Price with civil securities fraud. According to the allegations, in order to complete a merger between Bank of America and Merrill Lynch & Co., Inc. ("Merrill Lynch"), the defendants failed to disclose to shareholders spiraling losses at Merrill Lynch. Additionally, after the merger was approved, it is alleged that Bank of America made misrepresentations to the Federal Government in order to obtain tens of billions of dollars in TARP funds. The investigation was conducted jointly by the New York Attorney General's Office and SIGTARP, and the case remains pending in New York state court.

  SIGTARP also assisted the SEC with its Bank of America investigation. On February 22, 2010, the Honorable Jed S. Rakoff, United States District Judge for the Southern District of New York, approved a $150 million civil settlement between the Securities and Exchange Commission ("SEC") and Bank of America to settle all outstanding SEC actions against the firm, and ordered significant corporate governance changes at the bank.

- **Nations Housing Modification Center**: On March 19, 2010, Glenn Steven Rosofsky was arrested by agents from SIGTARP and the Internal Revenue Service, Criminal Investigation Division and charged by the U.S. Attorney's Office for the Southern District of California with one count of conspiracy to commit wire fraud and money laundering and one count of money laundering. A separate information the same day charged Michael Trap with conspiracy to commit fraud and money laundering. As set forth in the charges, Rosofsky, Trap, and others operated a telemarketing firm, ostensibly to assist delinquent homeowners with loan modification services. Operating under the names "Nations Housing Modification Center" and "Federal Housing Modification Department," Rosofsky and Trap took advantage of the publicity surrounding the Administration's mortgage modification efforts under the TARP-supported Making Home Affordable ("MHA") program and are alleged to have used fraudulent statements to induce customers to pay $2,500 – $3,000 each to purchase loan modification services that were not actually provided. It is alleged in court documents that the fraud grossed more than $1 million. Trap pled guilty to the charges listed in his March 19 information the following day. The case against Rosofsky remains pending.

- **Federal Felony Charges Against Gordon Grigg:** On April 23, 2009, Federal felony charges were filed against Gordon B. Grigg in the U.S. District Court for the Middle District of Tennessee, charging him with four counts of mail fraud and four counts of wire fraud. The charges are based on Grigg's role in embezzling approximately $11 million in client investment funds that he garnered through false claims, including that he had invested $5 million in pooled client funds toward the purchase of fictional investments he described as the TARP-guaranteed debt. Grigg pleaded guilty to all charges and was sentenced to 10 years imprisonment.

- **Omni National Bank Cases**: Omni National Bank ("Omni") was a national bank headquartered in Atlanta with branch offices in Birmingham, Tampa, Chicago, Fayetteville, N.C., Houston, Dallas, and Philadelphia. Omni failed and was taken over by the Federal Deposit Insurance Corporation ("FDIC") on March 27, 2009. Prior to its failure, Omni had applied for but had not been approved for TARP funds under CPP. SIGTARP has participated in several investigations concerning Omni that have led to criminal charges as part of a mortgage fraud task force that includes SIGTARP, the U.S. Attorney's Office for the Northern District of Georgia, the Federal Deposit Insurance Corporation Office of Inspector General ("FDIC OIG"), the Office of Housing and Urban Development Office of Inspector General ("HUD OIG"), the Federal Bureau of Investigation ("FBI"), and the United States Postal Inspection Service ("USPIS"). The criminal cases in which SIGTARP has participated include charges against Brent Merriell for lying to Omni's regulator and identity theft in connection with a scheme to prompt Omni to forgive $2.2 million in loans; against Dalroy Davy for bank fraud and conspiracy to commit bank fraud in connection with a fraudulent scheme to obtain millions in mortgage loans from Omni; and charges against Jeffrey Levine, Omni's former executive vice president, for making, and causing others to make, materially false entries that overvalued bank assets in the books, reports, and statements of Omni. SIGTARP's involvement in the investigations, including whether the various frauds had an impact on Omni's CPP application, is ongoing.

- **Mount Vernon Money Center**: On March 11, 2010, the U.S. Attorney's Office for the Southern District of New York indicted Robert Egan, president, and Bernard McGarry, chief operating officer, of the Mount Vernon Money Center ("MVMC") with bank fraud for allegedly stealing $50 million entrusted to their company. MVMC engaged in various cash management businesses, including replenishing cash in more than 5,300 automated teller machines owned by banks and other financial institutions. According to the charges, from 2005 through February 2010, Egan and McGarry solicited and collected hundreds of millions of dollars from MVMC's clients on the false representations that they would not commingle clients' funds or use the money for purposes other than those specified in the various contracts with their clients. Egan and McGarry misappropriated their clients' money — including the funds of several institutions in which the American taxpayer was an investor through TARP — to fund tens of millions of dollars in operating losses in MVMC's businesses, to repay outstanding client obligations, and to enrich themselves at their clients' expense. SIGTARP agents assisted with the investigation. A trial date remains to be set.

- **United Law Group**: On March 11, 2010, SIGTARP, along with the USPIS, FBI, U.S. Immigration and Customs Enforcement ("ICE"), and the Orange County District Attorney's Office, executed a publicly filed search warrant obtained by the U.S. Attorney for the Central District of California at the offices of United Law Group, LLC ("ULG") in Irvine, California. This investigation focuses on allegations that ULG engaged in a mortgage modification advance fee scheme. The company allegedly charged struggling homeowners fees ranging from $1,500 to $12,000 without performing services while advising victims to stop paying their mortgages and terminate contact with their lenders. Many ULG customers subsequently lost their homes to foreclosure.

- **Colonial Bank**: On August 3, 2009, SIGTARP, with the FBI, HUD OIG, and the FDIC OIG, executed search warrants at the offices of Taylor, Bean and Whitaker ("TBW"), formerly the nation's 12th-largest loan originator and servicer, and Colonial BancGroup ("Colonial"), which applied for assistance under the CPP. Prior to the execution of these warrants, SIGTARP had served subpoenas on Colonial after it had announced that it had met conditions imposed by Treasury to receive $553 million in TARP funding. Based upon, among other things, the actions of SIGTARP, the funding was never made. Both Colonial and TBW have been shut down, and this investigation, which is being conducted with the Department of Justice and the SEC as well as the FBI and HUD OIG, is ongoing.

- **FTC Action Against Misleading Use of "MakingHomeAffordable.gov"**: On May 15, 2009, based upon an action brought by the Federal Trade Commission ("FTC"), a Federal district court issued an order to stop an Internet-based operation that pretended to operate "MakingHomeAffordable.gov," the official website of the Federal Making Home Affordable program. The FTC's action, which was developed with the investigative assistance of SIGTARP, alleges that the defendants purchased sponsored links as advertising on the results pages of Internet search engines, and, when consumers searched for "making home affordable" or similar search terms, the defendants' ads prominently and conspicuously displayed "MakingHomeAffordable.gov." Consumers who clicked on this link were not directed to the official website, but were diverted to sites that solicit applicants for paid loan modification services. The operators of these websites either purport to offer loan modification services themselves or sold the victims' personally identifying information to others.

Audit Activities

SIGTARP's Audit Division ("AD") conducts, supervises, and coordinates programmatic audits with respect to OFS's operation of TARP and recipients' compliance with their obligations under relevant law and contracts; evaluates TARP policies and procedures; and provides technical assistance to Treasury. With respect to auditing, AD is designed to provide SIGTARP with maximum flexibility in the size, timing, and scope of audits so that, without sacrificing the rigor of the methodology, audit results, whenever possible, can be generated rapidly both for general transparency's sake and so that the resulting data can be used to improve the operations of the fast-evolving TARP. Our recommendations in our audits and quarterly reports have had an immeasurable impact by preventing and deterring fraud, waste and abuse of TARP funds. To date, AD has issued eight audit reports as follows.

- **Use of Funds**: In July 2009, SIGTARP issued its first formal audit report concerning how recipients of CPP funds reported their use of TARP funds based upon a February 2009 survey that SIGTARP sent to 364 financial and other institutions that had completed TARP funding agreements through January 2009. For some respondents, the infusion of TARP funds helped to increase lending; others were able to avoid a "managed" reduction of their activities; others reported that their lending activities would have come to a standstill without

TARP funds; and others explained that they used TARP funds to acquire other institutions, invest in securities, pay off debts, or that they retained the funds to serve as a cushion against future losses.

- **External Influences**: In August 2009, SIGTARP issued an audit that examined whether undue external influences had an impact upon the CPP decision-making process. SIGTARP found no information indicating that external inquiries on CPP applications had affected the decision-making process, but gaps in the internal controls by the Government agencies conducting the CPP application process made it impossible to determine if all attempts to influence TARP decisions were captured by the audit. In connection with the audit, SIGTARP made recommendations regarding the improvement of internal controls and record keeping, which Treasury has adopted.

- **Executive Compensation**: SIGTARP also issued in August 2009 an audit examining executive compensation restriction compliance. This audit examined the efforts of TARP recipients to comply with executive compensation restrictions in place at the time of SIGTARP's survey of banks' use of funds.

- **Original CPP and Bank of America Investments**: In October 2009, SIGTARP released an audit examining the review and approval process associated with TARP assistance to the first nine CPP recipients, with emphasis on additional assistance to Bank of America. The audit concludes that Treasury, the Federal Reserve, and the FDIC implemented programs designed to help prevent a further deterioration of the economy and a significant risk of financial market collapse. The audit also finds that Treasury and other regulators' descriptions of the financial conditions of the first nine institutions as "healthy" were inconsistent with the private beliefs of decision makers at Treasury and the Federal Reserve, and later proved to be inaccurate. In addition to the basic transparency concern that this inconsistency raises, by stating expressly that the "healthy" institutions would be able to increase overall lending, Treasury created unrealistic expectations about the institutions' conditions and their ability to increase lending. Treasury lost credibility when lending at those institutions did not in fact increase and when subsequent events — the further assistance needed by Citigroup and Bank of America being the most significant examples — demonstrated that at least some of those institutions were not in fact healthy.

- **Federal Agencies' Oversight of AIG Executive Compensation**: SIGTARP released in October 2009, an audit report that examined the extent of the knowledge of and oversight by officials from the Federal Reserve, the Federal Reserve Bank of New York ("FRBNY"), and Treasury over compensation programs at AIG, and, specifically, $168 million in retention award payments made to employees of AIG Financial Products Corp. ("AIGFP") in March 2009. The audit concluded, among other things, that Treasury officials effectively outsourced oversight of AIG's compensation systems to the Federal Reserve, failing to take any independent steps to assess broadly the amount or scope of AIG's compensation obligations despite the $40 billion TARP investment in November 2008. As a result, senior Treasury officials were apparently not aware of the details of the March 2009 AIGFP payments until February 28, 2009. This meant that Treasury invested tens of billions of taxpayer dollars in AIG, designed AIG's contractual executive compensation restrictions, and helped manage the Government's majority stake in AIG for several months, all without having any detailed information about the scope of AIG's very substantial, and very controversial, executive compensation obligations. Treasury's failure in oversight potentially resulted in a missed opportunity to avoid the explosively controversial events surrounding the AIGFP retention payments that followed and created such considerable public and Congressional concern.

- **AIG Counterparty Payments**: On November 10, 2008, the Federal Reserve and Treasury announced the restructuring of the Government's financial support to AIG. As part of this restructuring, a special purpose vehicle, Maiden Lane III, purchased certain assets underlying AIGFP's credit default swap ("CDS") contracts from AIG's counterparties using $24.3 billion of FRBNY financing in combination with a $5.0 billion equity investment from AIG. In exchange for this payment and being permitted to retain $35 billion in collateral payments already made (thus effectively being paid par or face value for the underlying assets), the counterparties agreed to terminate their CDS contracts with AIGFP. SIGTARP's audit, which was issued in November 2009, found, among other things, that the terms of the original FRBNY financing did not result from independent analysis, but were simply an adoption of the term sheet from an aborted private financing discussion, and those terms, which included an onerous effective interest rate of 11%, made modification of the terms and further Government action inevitable. The audit also found that, in structuring Maiden Lane III, FRBNY attempted to obtain concessions, or "haircuts" from the CDS counterparties — and one counterparty was prepared to take a modest haircut — but FRBNY's negotiating strategy was hampered by a series of policy decisions that severely limited its ability to obtain concessions, including its decision not to accept concessions unless concessions could be obtained from all of the counterparties, its refusal to use its leverage as regulator to some of the institutions involved, and its basic discomfort with interfering with the sanctity of the counterparties' contractual rights. These policy choices led directly to a negotiating strategy with the counterparties that even then-FRBNY President Timothy Geithner acknowledged had little likelihood of success. The audit further noted that, although Mr. Geithner has denied that his intent was to benefit the counterparties, the overall structure of the AIG bailout resulted in AIG's counterparties receiving tens of billions of dollars they likely would not have otherwise received had AIG gone into bankruptcy.

- **Additional Insights on Use of TARP Funds**: In December 2009, SIGTARP issued an audit conducted as a follow-up to SIGTARP's earlier audit on TARP recipients' use of TARP funds. The follow-up audit examined the use of TARP funds by six institutions — two automobile manufacturers (General Motors Company ("GM") and Chrysler Holding LLC ("Chrysler")), two automobile financing firms (GMAC Inc. and Chrysler Financial Services Americas LLC), and two life insurance companies (The Hartford Financial Services Group, Inc. and Lincoln National Corporation). The six companies were able to provide useful insight on their actual or planned use of TARP funds.

- **HAMP**: A SIGTARP audit report published in March of 2010, examined the design and operation of the Housing Affordable Modification Program ("HAMP") in detail. The audit first found that Treasury's publicly touted measure of success, the number of short-term trial modification *offers* that have been made to struggling homeowners, was largely meaningless, and that Treasury needs to clearly identify the total number of homeowners it actually intends to help stay in their homes through sustainable permanent mortgage modifications. The audit also found that the limited results to date stemmed from, among other things, flaws in HAMP's design, rollout, and marketing that diminished the program's effectiveness in providing sustainable relief to at-risk homeowners. In its original version, HAMP involved frequent and time-consuming revisions of guidelines that created confusion and delay; permitted reliance on unverified verbal borrower data that slowed down conversions to permanent modifications; suffered from insufficient outreach to the American public about eligibility and benefits; and did not fully address risk factors for re-defaults among participating borrowers, including negative equity and high total debt levels even after modification.

These audits may be reviewed in their entirety at http://www.sigtarp.gov/audits.shtml. Additionally, AD is working on the following audits.

- **CPP Warrant Valuation and Disposition Process**: This audit, which is being conducted in response to requests by Senator Jack Reed and Representative Maurice Hinchey, seeks to determine what processes and procedures Treasury has established to ensure that the Federal Government receives fair market value for the warrants it received in connection with TARP investments and the extent to which Treasury has controls in place to facilitate a transparent and well-documented decision-making process.

- **Automobile Dealership Closures**: This audit, undertaken at the requests of Senator Jay Rockefeller and Representative David Obey, examines the process used by GM and Chrysler to identify the more than 2,000 automobile dealerships that were slated for closure in connection with the recent GM and Chrysler bankruptcies. Its objectives are to determine whether GM and Chrysler developed and followed a fair, consistent, reasonable, and documented approach; to understand the role of the Federal Government in these decisions; and to review the cost savings or other benefits to GM and Chrysler.

- **Governance Issues Where U.S. Holds Large Ownership Interests**: SIGTARP received a request from Senator Max Baucus to undertake a body of audit work examining Federal Government oversight of, and interaction with, the management of institutions such as AIG, GM, Chrysler, and Citigroup, in which the Government has or is approaching majority owner status. The audit, which is being conducted jointly with the Government Accountability Office ("GAO"), will also examine the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which are under Government conservatorship.

- **Status of the Federal Government's Asset Guarantee Program with Citigroup**: This review, requested by Representative Alan Grayson, addresses a series of questions about the Government's guarantee of certain Citigroup assets through the Asset Guarantee Program such as: the basis on which the decision was made to provide asset guarantees to Citigroup and the process for selecting the loans and securities to be guaranteed; the characteristics of the assets deemed acceptable for inclusion in the program and how those assets differed from other Citigroup assets; whether adequate risk-management controls were in place to mitigate the risks to the taxpayer; and what safeguards existed to protect taxpayer interests and what the losses were on the portfolio.

- **CPP Applications Receiving Conditional Approval**: This audit examines those CPP applications that received preliminary approval from the Treasury Investment Committee conditioned upon the institutions meeting certain requirements before funds were disbursed. The audit will assess the basis for the decision to grant such conditional approvals and the bank regulators' role in such decisions; whether and how timeframes are established for meeting such conditions; and whether internal controls are in place to ensure that the conditions are met before funds are disbursed.

- **Selection of Asset Managers for the Legacy Securities Program**: This audit will examine the process Treasury followed to select fund managers to raise private capital for joint investment programs with Treasury through the PPIP. It will examine the criteria used by Treasury to select Public-Private Investment Fund ("PPIF") managers and minority partners, and the extent to which Treasury consistently applied established criteria when selecting fund managers and small, veteran- , minority- , and women-owned businesses.

- **Internal Controls for the Legacy Securities Program**: This audit will examine the internal controls in place for both Treasury and each of the PPIF managers for the Legacy Securities Program under PPIP. It will also assess the extent to which Treasury's internal controls mitigate PPIF manager conflicts of interest and ensure overall program compliance.

- **Term Asset-Backed Securities Loan Facility ("TALF") Collateral Monitors' Valuation**: This audit will examine the Federal Reserve's valuation determinations used to issue loans under TALF. It will assess how the Federal Reserve made valuation determinations, including the role of the collateral monitors, when making decisions regarding the eligibility of the collateral and the appropriateness of the requested loan amounts.

- **Office of the Special Master Decisions on Executive Compensation**: This audit will examine the Special Master's decisions on executive compensation at firms receiving exceptional assistance from the Federal Government. This audit will assess the criteria used by the Special Master to evaluate executive compensation and whether the criteria were consistently applied.

- **CPP Exit Strategy**: This audit will examine the process that OFS and Federal banking regulators have established for banks to repay Treasury and exit CPP.

- **Application of the HAMP Net Present Value ("NPV") Test**: This audit, which will be conducted in response to a request from Senator Jeff Merkley and eight other Senators, will assess whether the participating loan servicers are correctly applying the NPV test under the program; the extent to which Treasury ensures that servicers are appropriately applying the NPV test per HAMP guidelines when assessing borrowers for program eligibility; and the procedures servicers follow to communicate to borrowers the reasons for NPV test failure, as well as to identify the full range of loss mitigation options available to such borrowers.

- **Material Loss Review of United Commercial Bank**: SIGTARP is participating in a Material Loss Review of United Commercial Bank, based in San Francisco, with FDIC OIG. In November 2008, United Commercial Bank received $298.7 million of TARP funds through CPP. On November 6, 2009, the California Department of Financial Institutions closed the bank and appointed FDIC as receiver. The objectives of the audit are: determining the causes of the financial institution's failure and resulting material loss to the Deposit Insurance Fund; evaluating FDIC's supervision of the institution; and determining whether the FDIC and Treasury followed applicable procedures in recommending the bank for CPP funding and in monitoring its compliance with the securities purchase agreement.

Leveraging Oversight Resources
SIGTARP actively coordinates its activities with other oversight and law enforcement bodies in an effort to share expertise and leverage the resources of other agencies. In addition to meeting extensively with Treasury and the Federal Reserve concerning program proposals, SIGTARP regularly and continually coordinates with the Financial Stability Oversight Board, the Congressional Oversight Panel ("COP"), and GAO concerning our overlapping oversight responsibilities under EESA. Additionally, SIGTARP has initiated several efforts designed to augment audit and investigative resources. For example, SIGTARP founded the TARP Inspector General Council ("TARP-IG Council"), which includes the Comptroller General and the Inspectors General for Treasury, the Federal Reserve Board, the FDIC, SEC, the Federal Housing Finance Agency, HUD, the Small Business Administration, and the Treasury Inspector General for Tax Administration. The TARP-IG Council meets regularly to discuss developments in TARP and coordinate interconnected audit and investigative issues. Similarly, SIGTARP organized and chairs the Term Asset-Based Securities Loan Facility/Public-Private Investment Program ("TALF/PPIP") Task Force, which includes the Inspector General for the Federal Reserve Board, the FBI, the Financial Crimes Enforcement Network ("FinCEN"), ICE, the Internal Revenue Service Criminal Investigation Division ("IRS-CID"), the SEC, and the USPIS. The task force members participate in regular briefings about the TALF/PPIP, collectively identify areas of fraud vulnerability, engage in training exercises, and coordinate audit and investigative efforts. SIGTARP has also forged partnerships and launched joint investigations with the FBI, the SEC, IRS-CID, and the FTC, among others.

Recently, on February 24, 2010, SIGTARP hosted the inaugural meeting of the Rescue Fraud Working Group. President Obama established the Financial Fraud Enforcement Task Force ("FFETF") "to investigate and prosecute significant financial crimes and other violations relating to the current financial crisis and economic recovery efforts, recover the proceeds of such crimes and violations, and ensure just and effective punishment of those who perpetrate financial crimes and violations." A component of FFETF is the Rescue Fraud Working Group, co-chaired by Special Inspector General Neil M. Barofsky, Assistant Attorney General Lanny A. Breuer of the Criminal Division of the DOJ, and Timothy G. Massad, chief counsel of OFS. Attendees at the inaugural meeting included officials from agencies across the Federal Government, including

OFS; DOJ (Civil, Criminal, and Tax Divisions); the U.S. Attorneys' Offices for the Northern and Central Districts of California, the Eastern District of Virginia, the Eastern and Southern Districts of New York, and the District of New Jersey; the Office of the Comptroller of the Currency; the Office of Thrift Supervision; FinCEN; USPIS; the Board of Governors of the Federal Reserve; the SEC; and the FBI.

Congressional Testimony

One of the primary functions of SIGTARP is to ensure that members of Congress are kept adequately and promptly informed of developments in TARP initiatives and of SIGTARP's oversight activities. To fulfill that role, the Special Inspector General and his staff meet regularly with and brief members and Congressional staff. Since the commencement of SIGTARP, the Special Inspector General has testified before Congress 14 times, as follows.

- On February 5, 2009, Special Inspector General Barofsky testified before the Senate Committee on Banking, Housing and Urban Affairs, during a hearing entitled, "Pulling Back the TARP: Oversight of the Financial Rescue Program." The purpose of this oversight hearing was to explore how TARP can be made more effective in the areas of: protecting home values, college funds, retirement accounts, and life savings; preserving homeownership and promoting jobs and economic growth; maximizing the returns to the taxpayers for their investment; and enhancing some measure of public accountability.

- On February 11, 2009, Special Inspector General Barofsky testified before the Senate Judiciary Committee, during a hearing entitled, "The Need for Increased Fraud Enforcement in the Wake of the Economic Downturn." The purpose of the hearing was, among other things, to examine the issue of fraud in TARP.

- On February 24, 2009, Special Inspector General Barofsky testified before the House Committee on Financial Services, Subcommittee on Oversight and Investigations, during a hearing entitled, "A Review of TARP Oversight, Accountability and Transparency for U.S. Taxpayers." The purpose of this hearing was to ensure that the TARP oversight organizations created/assigned by EESA (*i.e.,* GAO, SIGTARP, and COP) understand their respective roles, cooperate with each other, and avoid repetitive efforts and inefficiencies. The hearing also examined how S.383 (the SIGTARP Act of 2009), which primarily deals with SIGTARP and had already been approved by the Senate, will improve TARP oversight.

- On March 11, 2009, Special Inspector General Barofsky testified before the House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, during a hearing entitled, "TARP Oversight: Assessing Treasury's Efforts to Prevent Waste and Abuse of Taxpayer Funds." The purpose of this hearing was to assess Treasury's oversight of the use of funds by financial institutions that received funds under TARP. Specifically, the hearing evaluated Treasury's data collection procedures for monitoring the use of TARP funds and examined Treasury's ability to detect and prevent waste and misuse of TARP monies.

- On March 19, 2009, Special Inspector General Barofsky testified before the House Committee on Ways and Means, Subcommittee on Oversight, during a hearing entitled, “Hearing on the Troubled Asset Relief Program: Oversight of Federal Borrowing and the Use of Federal Monies.” The purpose of the hearing was to review the role of Federal borrowing in TARP, its impact on the national debt, and Treasury’s efforts to protect public funds. In the latter regard, the hearing explored Federal tax compliance issues.

- On March 31, 2009, Special Inspector General Barofsky testified before the Senate Committee on Finance during a hearing entitled, “TARP Oversight: A Six Month Update.” The purpose of the hearing was to survey the various TARP and TARP-related programs, and to examine SIGTARP’s oversight of these programs.

- On April 23, 2009, Special Inspector General Barofsky testified before the Joint Economic Committee (“JEC”) at a hearing entitled “Following the Money: A Quarterly Report by the Special Inspector General for the TARP.” The testimony focused on the findings and recommendations of SIGTARP’s April Quarterly Report.

- On July 21, 2009, Special Inspector General Barofsky testified before the House Committee on Oversight and Government Reform, during a hearing entitled “Following the Money: Report of the Special Inspector General for the Troubled Asset Relief Program.” The hearing focused on SIGTARP’s July Quarterly Report, and Special Inspector General Barofsky discussed his recommendations to enhance the success of TARP and highlighted the major themes of his report.

- On July 22, 2009, Special Inspector General Barofsky testified before the Oversight Subcommittee of the House Committee on Financial Services, during a hearing entitled “TARP Oversight: Warrant Repurchases and Protecting Taxpayers.” The hearing examined warrants issued in connection with TARP. These warrants give Treasury the right to buy shares of TARP recipient stock at a set price at some point in the future and thus provide an opportunity for taxpayers to share in the upside for their TARP investments.

- On September 24, 2009, Special Inspector General Barofsky testified before the Senate Committee on Banking, Housing and Urban Affairs, during a hearing entitled “Emergency Economic Stabilization Act: One Year Later.” In light of the first anniversary of EESA, the hearing examined how TARP was working.

- On October 14, 2009, Special Inspector General Barofsky testified before the House Committee on Oversight and Government Reform, during a hearing entitled “AIG Bonuses: Report of the Special Inspector General.” The hearing focused on SIGTARP’s audit examining Federal agencies’ oversight of AIG executive compensation.

- On January 22, 2010, Special Inspector General Barofsky testified before the House Committee on Oversight and Government Reform, during a hearing entitled, “The Federal Bailout of AIG.” The hearing focused on the Federal Government’s response to AIG’s collapse and on SIGTARP’s audit report on the decision to pay AIG’s credit default swap counterparties effectively at face value following AIG’s near-bankruptcy.

- On March 25, 2010, Special Inspector General Barofsky testified before the House Committee on Oversight and Government Reform, during a hearing entitled, "Foreclosure Prevention: Is the Home Affordable Modification Program Preserving Homeownership?" The hearing focused on the execution and impact of Treasury's foreclosure prevention efforts, with particular attention to HAMP, and featured the release of SIGTARP's HAMP audit.

- On April 20, 2010, Special Inspector General Barofsky testified before the Senate Committee on Finance, during a hearing entitled, "The President's Proposed Fee on Financial Institutions Regarding TARP: Part 1" The hearing focused on a proposed bank fee to recoup losses experienced under the TARP, and findings and recommendations of SIGTARP's April 2010 Quarterly Report.

Chairman Serrano, Ranking Member Emerson and Members of the Committee, I want to thank you for this opportunity to appear before you in support of the President's fiscal year 2011 budget request for SIGTARP, and I would be pleased to respond to any questions that you may have.