A Retrospective of the Troubled Asset Relief Program

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Introduction

Although authority for the Troubled Asset Relief Program (TARP) expired on Oct. 3, 2010, the pros and cons of the legislative response to the financial crisis continue to be debated. The controversial initiative was put into place as a key aspect of the Emergency Economic Stabilization Act of 2008 (EESA), signed into law by President George W. Bush on Oct. 3, 2008, exactly two years before authority for the program expired.

From its inception, TARP has symbolized what some have termed "the bailout legislation." The controversy inspired Treasury Secretary Timothy Geithner to issue a paper on the "myths" of TARP with the intent of defining the purpose of TARP and delineating its successes.

Background

The credit crisis began building as the subprime mortgage meltdown that came into prominence in 2007 spread from the mortgage industry to the national and global markets and throughout the economy. While at the time the focus was on the subprime industry and the effects of the meltdown fallouts, the credit crisis grew steadily.

A number of events occurring in September 2008 spurred Congress to enact EESA:

- The Federal Housing Finance Agency announced that it had placed the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) into conservatorship.

- Lehman Brothers announced it was filing for bankruptcy, and Merrill Lynch agreed to be sold to Bank of America for approximately $50 billion. Insurance giant American International Group (AIG) sought a $40 billion bridge loan from the Federal Reserve Board to stay in business. The Dow Jones Industrial Average (Dow) fell 504 points over news of Lehman's bankruptcy filing and the sale of Merrill Lynch.

- The Fed announced that it had authorized the Federal Reserve Bank of New York to lend up to $85 billion to AIG under Sec. 13(3) of the Federal Reserve Act. Credit markets stumbled as panicked investors moved their money into the safest investments, such as Treasury bills. The Dow fell another 449 points.

In response to these events, then Treasury Secretary Henry M. Paulson Jr. and Fed Chairman Ben S. Bernanke asked Congress to take quick action on legislation intended to restore confidence in the financial system by removing illiquid mortgage assets from the balance sheets of financial institutions. At the time, Paulson said that "until we get stability in the housing market we're not going to get stability in our financial markets."

On Sept. 20, 2008, President Bush formally proposed an historic bailout of U.S. financial institutions, requesting virtually unfettered authority for the Treasury Department to buy up to $700 billion in distressed mortgage-related assets from private firms. Paulson appeared before the Senate Banking Committee on September 23 to ask Congress to promptly give him wide authority under the plan to rescue the nation's financial system.

Congressional leaders announced on Sept. 28, 2008, that they had reached an accord on a 110-page, 45-section revised plan, which they intended to take to their respective chambers. The House of Representatives defeated the measure by a vote of 228-205 on Monday, Sept. 29, 2008. The Senate was then expected to take action on Wednesday, Oct. 1, 2008. After the House defeated the legislation on Sept. 29, 2008, the legislation was termed a "rescue package."

Senate leaders added tax breaks, dealing with energy, tax extenders and alternative minimum tax relief, as well as higher limits for insured bank deposits in a bid to attract enough votes to reverse defeat in the House. The measure passed the Senate on Oct. 1, 2008, by a vote of 75-24.

With a vote of 263 to 171, the House on Oct. 3, 2008, approved the legislation that was intended to address the credit and liquidity crisis affecting the U.S. financial system. President Bush signed the legislation into law within two hours of its final passage, and declared that the legislation was "essential to helping America's economy weather this financial crisis."

The legislation provided the Treasury Department with funds of up to $700 billion to purchase, manage and sell assets held by financial institutions considered to be "troubled" or "toxic."

TARP

The central feature of EESA was TARP, established by the Treasury Secretary "in accordance with [EESA] and the policies and procedures developed and published by the Secretary." TARP was slated to be run under the Treasury's Office of Financial Stability.

In its original form, TARP, under Sec. 101 of the EESA, would purchase "troubled assets" from financial institutions. This purchase authority was to end on Dec. 31, 2009. A "troubled asset" was defined by EESA as residential or commercial mortgages and any securities, obligations or other instruments that are based on or related to such mortgages. To qualify as a troubled asset, any mortgage, security, obligation or other instrument had to have been originated or issued on or before March 14, 2008. In addition, the Treasury Secretary had to make a determination that the purchase of the asset would promote financial market stability.

Other financial instruments could be considered to be troubled assets if the Secretary determined that their purchase was necessary to promote financial market stability. This determination could only be made after consulting with the Fed chairman and providing the determination in writing to the House Financial Services Committee and Senate Banking Committee.

Specific Provisions

Under EESA Sec. 101 (c), the Treasury Secretary was to take actions that it deemed necessary to facilitate TARP. For example, the Secretary would be given flexibility to establish vehicles to purchase, hold and sell troubled assets so as to minimize the cost of TARP to taxpayers.

The protection of taxpayers' interest was also one of the factors that the Secretary was required to take into consideration when exercising the authorities granted in the EESA. Other factors that the Secretary had to consider under Sec. 103 included:

- keeping families in their homes;
- using funds efficiently in purchasing troubled assets; and
- ensuring that all financial institutions were eligible to participate in TARP.

Once the Secretary established TARP, Sec. 102 of the EESA required the Secretary to establish a program to insure troubled assets originated or issued prior to March 14, 2008. This guarantee included mortgage-backed securities. This guarantee authority was to end on Dec. 31, 2009.

When the Secretary acquired a troubled asset, Sec. 106 of the EESA provided the Secretary with

a number of powers to administer those troubled assets. More specifically, Sec. 106 allowed the Secretary to:

- exercise any rights received in connection with the troubled assets;
- have the authority to manage the troubled assets, including revenues and portfolio risks; and
- sell any of the troubled assets.

Any revenues realized from a sale of troubled assets were to be paid into the general fund of the Treasury for reduction of the public debt. In order to provide funding for the bailout package, Sec. 122 of EESA raised the statutory limit on the public debt to $11.315 trillion.

Executive Compensation

Although not included in Treasury's original three-page proposal, Sec. 111 of the EESA addresses limits on executive compensation for those financial institutions participating in TARP. For direct purchases:

- If the Secretary directly purchased troubled assets from a financial institution and the Secretary "receives a meaningful equity or debt position in the financial institution," the institution would be required to observe appropriate standards concerning executive compensation and corporate governance.
- EESA placed limits on compensation that excluded incentives for executive officers of a financial institution to take unnecessary and excessive risks that threaten the value of the financial institution. This limitation was to last during the period that the Secretary held an equity or debt position in the financial institution.
- Another curb on compensation was implementation of a "clawback" provision that would enable a financial institution participating in TARP to recoup compensation that was based on earnings or gains that later proved to be inaccurate. This clawback applied to "senior executive officers."
- The final compensation limitation prohibited golden parachutes being made to a financial institution's "senior executive officer" during the period that the Secretary held an equity or debt position in the financial institution.

EESA also included a provision governing auction purchases. Specifically, if the Secretary purchased troubled assets at auction, a financial institution that had sold more than $300 million in assets was subject to additional taxes, including a 20-percent excise tax on golden parachute payments triggered by events other than retirement, and tax deduction limits for compensation limits above $500,000.

Responses to EESA and TARP

As details began to emerge about Secretary Paulson's "bailout plan," some lawmakers began to express skepticism. Several warned against rushing legislation too quickly through Congress.

Senate Majority Leader Harry Reid, D-Nev., in a written statement, said a final package must protect the taxpayers "who are footing the bill for this legislation." Reid asserted on Sept. 22, 2008, that the plan should include "more oversight, more transparency, more accountability and more controls to prevent conflicts of interest."

Reid was not alone in his stance. Most critics cited the lack of oversight protection as a chief concern, arguing that Paulson was afforded too much authority over the administration of the funds. The plan, opponents said, would give Paulson what amounts to a "blank check" on spending decisions.

At a Sept. 23, 2008, hearing of the Senate Banking Committee, Paulson and Bernanke faced bipartisan criticism on the unprecedented nature and size of the bailout, the potential risk to taxpayers and the uncertainty as to whether the proposal will actually work. Committee Chairman Christopher Dodd, D-Conn., stressed the need to get things right the first time, saying "there is no second act in this."

Sen. Charles Schumer, D-N.Y., cautioned members to be wary of acting too quickly and creating an ineffective solution without adequate safeguards. "Even on Wall Street, $700 billion is a lot of money," Schumer said.

In reply, Bernanke told the Senators that failure to act would result in "significant adverse consequences." He noted that the plan did not involve an expenditure of $700 billion, but rather a purchase of assets and, if done properly, the bailout would provide the taxpayer with "good value for money." However, whether or not the $700 billion amount would be fully recouped was hard to know, Bernanke admitted.

Evolution of TARP

Shortly after President George Bush signed the EESA, the Treasury Department announced on Oct. 14, 2008, that the federal government would invest up to $250 billion of the $700 billion authorized by the EESA financial rescue package in the nation's financial system by purchasing preferred equity shares in a wide array of banks and thrifts.

"We regret having to take these actions. Today's actions are not what we ever wanted to do but...are what we must do to restore confidence to our financial system," former Treasury Secretary Henry M. Paulson Jr. said. He added that the notion of the government owning a stake in private business is objectionable to most Americans, including himself, "yet the alternative of leaving businesses and consumers without access to financing is totally unacceptable."

President Bush stressed that the government's role would be "limited and temporary," and added that the measures are "not intended to take over the free market, but to preserve it."

At the time of the Treasury's announcement, nine large financial organizations already had indicated their intention to subscribe to the credit facility in an aggregate amount of $125 billion. "These are healthy institutions, and they have taken this step for the good of the U.S. economy. As these healthy institutions increase their capital base, they will be able to increase their funding to U.S. consumers and businesses," Paulson noted.

Capital Purchase Program Details

The preferred share purchase program, termed the Capital Purchase Program (CPP), would be limited to U.S. financial institutions that notified their primary federal regulator of their election to participate before Nov. 14, 2008, the Treasury said. An institution's subscription amount would have to be at least 1 percent of its risk-weighted assets and could be as much as 3 percent of risk-weighted assets or $25 billion, whichever is less. The purchases would be funded by the end of 2008.

The preferred shares purchased by Treasury would qualify as Tier 1 capital for the financial institution and would be senior to common stock and equal to any other preferred shares (other than those that are themselves junior to other shares). In addition, the shares would be transferable.

The preferred shares would pay a cumulative dividend of 5 percent per year for the first five years and 9 percent per year thereafter, which was intended to encourage the issuing institutions to exercise their call options to repurchase the shares. Institutions that sold preferred shares to Treasury would have to accept restrictions on executive compensation, including a ban on golden parachute payments, as set out in EESA.

Taxpayers not only would receive preferred shares that were expected to pay a reasonable return but also would receive warrants for common shares in participating institutions with an aggregate market price equal to 15 percent of the senior preferred investment, Treasury said. Furthermore, Treasury said it expected all participating banks to strengthen their efforts to help struggling homeowners who can afford their homes avoid foreclosure.

Streamlined Process

On Oct. 20, 2008, Treasury announced a "streamlined, systematic process" for all publicly-organized financial institutions wishing to access funds through the CPP. Treasury indicated that it would post an application form and term sheet for privately held eligible institutions and establish a reasonable application deadline for private institutions.

Under the revised process, financial institutions that wished to apply for the CPP would review the program information on the Treasury website and then consult with their federal banking regulatory agency. After this consultation, institutions would submit an application to that same agency. The minimum subscription amount available to a participating institution was 1 percent of risk-weighted assets. The maximum subscription amount was the lesser of $25 billion or 3 percent of risk-weighted assets.

Treasury believed that for the CPP to achieve its stated objective of encouraging U.S. financial institutions to obtain capital to strengthen the financial system and increase the flow of financing to U.S. businesses and consumers, a broad class of financial institutions would need to participate. Therefore, Treasury made capital temporarily available on "attractive" terms to a broad array of banks and thrifts so they could provide credit to the U.S. economy. Treasury, in consultation with the federal banking regulators, set a preferred stock coupon rate at 5 percent over the first five-year period in order to encourage financial institutions across the country to utilize the CPP. The dividend rate would step up to 9 percent after five years.

Asset Purchase Plans Continued

The creation of the CPP did not prevent Treasury from proceeding with its plan to buy troubled assets from financial institutions, as was originally envisioned under the EESA. A solicitation for applications to be financial agents that would manage the purchased assets was issued on Oct. 6, 2008, with a deadline of little more than 48 hours later. The solicitations were for: custodian, accounting, auction management and other infrastructure services; securities assets management services; and whole loan asset management services. A description of the program made clear that Treasury would be purchasing not only asset-backed securities but also whole first and second-lien mortgage loans in significant amounts.

Shortly thereafter, it was announced that Bank of New York Mellon had been selected to act as Treasury's custodian for the implementation of the asset purchase program. Bank of New York Mellon's duties would include the acquisition and auctioning of assets under the program.

Treasury also outlined the steps it intended to use to handle conflicts of interest in the asset purchase program. According to the Treasury, contracts for services under the asset purchase program posed the possibility of "impaired objectivity" conflicts of interest, which are conflicts arising when the contractor's performance obligations could affect other interests of the contractor. Conflicts also could arise if a contractor were to gain access to sensitive, non-public information. A contractor's employees also may have conflicts of interest, Treasury said, since "contractor employees are not always subject to the same ethical restrictions that are imposed by law on Federal Government employees."

The interim guidelines set out a number of requirements for Treasury officials who were dealing with contracts, including:

- obtaining non-disclosure agreements and conflicts of interest agreements;
- requiring the disclosure of actual and potential conflicts of interest and the proposal of a plan to mitigate any conflicts;
- including in appropriate contracts a term creating a fiduciary relationship with the Treasury Department;
- recognizing that some conflicts of interest cannot be adequately mitigated; and
- including the agreed-upon mitigation plan as part of the contractor's obligations.

Executive Compensation Limits

In conjunction with its announcement of the preferred share purchase plan, Treasury established the general executive compensation limits required by EESA. The announced standards would apply to institutions that sell troubled assets to the government, sell preferred shares to the government or participate in a yet-to-be-developed plan to assist some systematically significant failing firms on a case-by-case basis. EESA attempted to place restrictions on compensation for a participating institution's CEO, CFO and next three highest-paid officers, including restrictions on golden parachutes.

The executive compensation limits would apply to institutions that sell more than $300 million of troubled assets to Treasury, the Department said. These institutions would be prohibited from entering into new executive employment contracts that include golden parachutes for the term of the program. Executive compensation in excess of $500,000 would not be deductible for federal income tax purposes, some golden parachute payments would not be deductible and executives who received golden parachutes would pay a 20-percent excise tax.

Treasury noted that stricter limits would apply to institutions that participated in the program to sell preferred shares to the government. These institutions would be required to ensure that senior executive incentive compensation did not encourage inappropriate risk that would threaten the institution's value, and they would need to have the ability to recover any senior executive incentive compensation that was paid based on a materially inaccurate financial statement or other criteria (a "clawback" provision). The institutions would be prohibited from making to a senior executive any golden parachute payment based on an Internal Revenue Code provision and would be required to agree not to deduct executive compensation that exceeded $500,000.

The restrictions on institutions that negotiated for assistance on a case-by-case basis would be the most strict, Treasury said in its announcement. In addition to the limits that applied to institutions that participated in the preferred share purchase program, these failing firms would be

prohibited from making golden parachute payments to any departing senior executives.

FDIC Guarantees

At the same time, the Federal Deposit Insurance Corp. announced that it temporarily would guarantee newly-issued senior unsecured debt of all FDIC-insured institutions and some holding companies and provide deposit insurance for all deposits in non-interest bearing deposit accounts. The guaranteed debt would include commercial paper and inter-bank funding loans issued on or before June 30, 2009, and the guaranty would continue until June 30, 2012. The special deposit insurance coverage for deposits in non-interest-bearing transaction deposit accounts would revert to the statutory limits on Dec. 31, 2009.

Participating institutions would pay additional assessments to fund the two FDIC programs. A 75-basis-point fee would be charged for the protection of newly-issued debt, and a 10-basis-point fee would be added to each participating institution's current deposit insurance assessment to fund the expanded deposit insurance coverage. The same nine institutions that had already agreed at the time to sell preferred shares to the Treasury Department also had agreed to participate in the FDIC programs.

The FDIC programs required the FDIC board to rely on its statutory authority to act to prevent systemic risk. The Treasury Secretary also made a comparable determination that the action was needed.

"The overwhelming majority of banks are strong, safe and sound. But a lack of confidence is driving the current turmoil. And it is a lack of confidence that these guarantees are designed to address," said FDIC Chairman Sheila C. Bair about the announcement.

Focus Shifts to Borrowers

Paulson announced on Nov. 12, 2008, that Treasury was moving away from buying troubled mortgage assets in favor of a second round of capital injections into financial institutions.

When questioned as to why the Treasury had shifted its focus, Paulson told reporters that by the time Congress passed the $700 billion financial bailout package in October, it was clear to him that the original plan of purchasing troubled assets would take time to implement and would not be sufficient given the severity of the problem. "The facts changed and the situation worsened," Paulson said. Asked if the administration had misled Congress by altering the use of the bailout funds, Paulson replied, "I will never apologize for changing an approach or strategy when the facts change."

Paulson noted at that time that there were still many challenges ahead. "Our financial system remains fragile in the face of an economic downturn here and abroad, and financial institutions' balance sheets still hold significant illiquid assets. Market turmoil will not abate until the biggest part of the housing correction is behind us. Our primary focus must be recovery and repair."

TARP Options

Paulson said that Treasury had evaluated options for most effectively deploying the remaining TARP and identified three critical priorities as TARP moved forward:

- **Continue to reinforce the stability of the financial system.** Banks and other institutions critical to the provision of credit must be able to support economic recovery and growth. Both banks and non-banks may need more capital given their troubled asset holdings, projections for continued high rates of foreclosures and stagnant U.S. and world economic conditions.

- **Support the important markets for securitizing credit outside the banking system.** Approximately 40 percent of U.S. consumer credit was provided through securitization of credit card receivables, auto loans, student loans and similar products. This market, "which is vital for lending and growth, has for all practical purposes ground to a halt."

- **Continue to explore ways to reduce the risk of foreclosure.** Paulson said that in recent weeks, the Treasury had examined the relative benefits of purchasing illiquid mortgage-related assets and determined that at the time, it was not the most effective way to use TARP funds. He said that the Treasury would continue to examine whether targeted forms of asset purchase can play a useful role, relative to other potential uses of TARP resources, in helping to strengthen the U.S. financial system and support lending. However, the Treasury now would employ other strategies to address liquidity problems.

Additional Strategies

The Treasury was designing further strategies intended to build capital in financial institutions, Paulson said. He noted that stronger capital positions would enable financial institutions to better manage the illiquid assets on their books and better ensure that they remain healthy.

The Treasury was evaluating programs that would further leverage the impact of a TARP investment by attracting private capital, potentially through matching investments, Paulson said. In developing a potential matching program, the Treasury also would consider the capital needs of non-bank financial institutions that are not eligible for the current capital program. Paulson cautioned that broadening access in this way could be both beneficial and challenging. Non-bank financial institutions provide credit that is essential to U.S. businesses and consumers. However, many are not directly regulated and are active in a wide range of businesses, and taxpayer protections in a program of this sort would be more difficult to achieve.

The Secretary said that before beginning a second capital purchase program, the first one must be completed, and the government must assess its impact and use the information to evaluate the size and focus of an additional program in light of existing economic and market conditions.

Consumer Access to Credit

Paulson said that a second strategy was to support consumer access to credit outside the banking system. Prior to that time, programs designed by the Treasury, Fed and FDIC had been solely targeted at the banking system, while the non-bank consumer finance sector had continued to face difficult funding issues.

Specifically, Paulson said, the asset-backed securitization market played a critical role for many years in lowering the cost and increasing the availability of consumer finance. "This market is currently in distress, costs of funding have skyrocketed and new issue activity has come to a halt. Today, the illiquidity in this sector is raising the cost and reducing the availability of car loans, student loans and credit cards. This is creating a heavy burden on the American people and reducing the number of jobs in our economy," he said.

Treasury, in conjunction with the Fed, was exploring the development of a potential liquidity facility for highly-rated AAA asset-backed securities, Paulson said. They were seeking ways to use TARP that would encourage private investors to come back to "this troubled market" by providing them access to federal financing while protecting the taxpayers' investment. "Addressing the needs of the securitization sector will help get lending going again, helping consumers and supporting the U.S. economy. While this securitization effort is targeted at consumer financing, the program we are evaluating may also be used to support new commercial and residential mortgage-backed securities lending," Paulson noted.

Mitigation of Foreclosures

Finally, Treasury had begun to examine strategies intended to mitigate mortgage foreclosures. "In crafting the financial rescue package, we and the Congress agreed that Treasury would use its leverage as a major purchaser of troubled mortgages to work with servicers and achieve more aggressive mortgage modification standards. Now that we are not planning to purchase illiquid mortgage assets, we must find another way to meet that commitment," Paulson said.

The Secretary spoke of a loan modification model developed by Bair with IndyMac Bank. IndyMac Bank, F.S.B., headquartered in Pasadena, Calif., had been closed by the Office of Thrift Supervision in July 2008, and the FDIC was named as conservator. Based on its dealings with IndyMac, the FDIC initiated a Loan Modification Program designed to achieve affordable and sustainable mortgage payments for borrowers and increase the value of distressed mortgages by rehabilitating them into performing loans. Under the terms of the program, borrowers would receive a loan modification with a maximum 38 percent down to 31 percent housing-to-income ratio through the use of interest rate reduction, amortization term extension, and in some cases, principal deferment.

Paulson said that the Treasury had been working to design and evaluate a number of proposals to induce further modifications. However, he cautioned that each of these would require substantial government subsidies. "We must be careful to distinguish this type of assistance, which essentially involves direct spending, from the type of investments that are intended to promote financial stability, protect the taxpayer, and be recovered under the TARP legislation," the Secretary said. "Maximizing loan modifications, nonetheless, is a key part of working through the housing correction and maintaining the quality of communities across the nation, and we will continue working hard to make progress here."

Global Issues

At this point, the administration was looking beyond the U.S. financial crisis to global issues stemming from the crisis. Paulson said that managing through the current market turmoil while mitigating the impact of the credit crisis was a global as well as a national issue. "We in the U.S. are well aware and humbled by our own failings and recognize our special responsibility to the global economy," he noted. That being said, he noted that the recent "excesses," such as a dramatic increase in capital flows, low interest rates, excessive risk taking and a global search for return, cannot be attributed to one nation.

The U.S. housing correction spotlighted shortcomings in the "outdated" U.S. regulatory system and in other regulatory regimes, and excesses in U.S. and European financial institutions, Paulson said. These institutions found themselves with large holdings of structured products, including complex and opaque mortgage-backed securities. The Secretary noted that some European institutions were characterized by high leverage, exposure to their own housing markets, exposure to Central European institutions, weak business models or overly aggressive expansion, while others faced weaknesses because of inadequate depositor protection systems.

"It should not be surprising that after 13 months of stress in the global capital markets, banks from the U.S. to the U.K., from Germany to Iceland, from Russia to France, had difficulties that exposed some of these weaknesses for the first time. For some of these banks, this proved to be a hurdle too high and action was necessary to support financial stability, Paulson said."

Paulson said that the first priority must be "recovery and repair," and to take steps to fix our system "so that the world does not have to suffer something like this ever again." He noted

that improved cooperation and sharing of information was crucial in fostering global financial stability.

TARP Programs

Capital Purchase Program

TARP was comprised of a number of programs designed to achieve the program's goals. One of the most prominent components was the Capital Purchase Program (CPP).

EESA, as originally proposed, was a means to buy mortgage loans, mortgage-backed securities and certain other assets from banks. However, as passed, EESA covered any financial instrument whose purchase the Secretary of the Treasury, after consultation with the Chairman of the Federal Reserve Board, determined necessary to promote financial market stability.

Shortly after EESA was passed, lending between banks had slowed greatly, credit markets had shut down and many financial institutions were showing signs of severe stress. Based on market indicators, Treasury determined that financial institutions needed additional capital to sustain a normal flow of credit to businesses and consumers.

As a result, Treasury launched the CPP, the largest and most significant TARP program, on Oct. 14, 2008. Treasury initially committed over a third of the total TARP funding, $250 billion, to the CPP. This amount was lowered to $218 billion in March 2009. At the close of TARP, Treasury had invested approximately $205 billion under the CPP.

Of the $250 billion in possible commitments, Treasury invested $125 billion in eight of the largest U.S. financial institutions. In 2008, these banks represented more than half of all bank assets. The remaining $125 billion was made available to qualifying financial institutions of all sizes and types, including banks, savings and loan associations, bank holding companies and savings and loan holding companies.

Institutions interested in participating in the program had to submit an application to their primary federal banking regulator.

Treasury received preferred stock or debt securities in exchange for its investments. There is no fixed date on which the banks must redeem the preferred stock or repay Treasury. However, there are incentives for the banks to repay. The contract terms include a number of incentives intended to encourage banks to replace TARP investments with private capital. These terms include a provision to increase the dividend rate over time, a restriction on the bank from paying dividends to its common shareholders and a restriction on repurchasing shares until the bank repays the TARP preferred stock.

Supervisory Capital Assessment Program and Capital Assistance Program

In early 2009, Treasury and the federal banking agencies developed an assessment or "stress test" on the 19 largest U.S. bank holding companies (BHCs). The assessment was known as the Supervisory Capital Assessment Program (SCAP).

SCAP was designed to identify and quantify potential capital shortfalls and required that, if necessary, additional capital be raised to eliminate any deficiencies. SCAP was intended to ensure that the financial institutions would have sufficient capital to sustain them and allow them to continue to provide loans even if economic conditions deteriorated.

The stress test found that nine of the largest BHCs had adequate capital to withstand more severe economic conditions. Of the 10 BHCs that were determined to need more capital, nine met or exceeded the capital raising requirements through private efforts. Only one institution, Ally Financial, formerly GMAC, required additional TARP funds to meet its SCAP requirements. The capital was provided through the Automotive Industry Financing Program.

In conjunction with SCAP, Treasury launched the Capital Assistance Program (CAP). The program was developed to provide capital under TARP to banks that needed additional capital but were unable to raise it through private sources.

CAP was offered to all banks and qualifying financial institutions, not just to banks that underwent the SCAP. Treasury did not receive any applications for CAP, and the program was terminated on Nov. 9, 2009.

Targeted Investment Program

Treasury established the Targeted Investment Program (TIP) in December 2008. The program was intended to give Treasury the flexibility necessary to provide additional or new funding to financial institutions that Treasury determined critical to the financial system.

Eligibility of participants and the allocation of resources were determined on a case-by-case basis. The program also could be used in coordination with other TARP programs.

Treasury invested $20 billion in each of Bank of America and Citigroup under TIP. These investments were in addition to those that the banks received under the CPP. Like the CPP, Treasury invested in preferred stock and received warrants to purchase common stock in the institutions. However, the TIP investments provided for a higher rate of annual dividends and imposed stricter terms on the companies, including restricting dividends to $0.01 per share per quarter and restrictions on executive compensation and corporate expenses.

In December 2009, both institutions repaid their TIP investments in full, with dividends. Treasury also received warrants from each bank. With the repayment of the investments, the program was closed.

Asset Guarantee Program

The Asset Guarantee Program (AGP) was used to help certain financial institutions facing a potential loss of market confidence because of their holdings of distressed or illiquid assets. Under the program, Treasury agreed to absorb a portion of the losses on those assets. The program was administered by Treasury, the Fed and the Federal Deposit Insurance Corp. Like the TIP, the AGP was created for financial institutions that Treasury and the regulators determined would harm the financial system and the economy should they fail.

The AGP was used, in a limited way, to assist Bank of America and Citigroup in conjunction with the TIP.

In January 2009, Treasury, the Fed and the FDIC agreed to share potential losses on a $118 billion pool of financial instruments owned by Bank of America. However, before the transaction was finalized, Bank of America announced it would terminate negotiations. The bank entered into a termination agreement with the government, agreeing to pay a termination fee of $425 million to the government, $276 million of which went to Treasury.

Also in January 2009, Treasury and the regulators agreed to share potential losses on a $301 billion pool of Citigroup's covered assets. Under the agreement, Treasury and the FDIC received $7.1 billion of preferred stock with terms similar to those under TIP. Treasury also received warrants to purchase 66.5 million shares of stock.

In December 2009, Citigroup requested that the agreement be terminated in conjunction with Citigroup's repayment of the $20 billion TARP investment it had received. Citigroup's financial condition had improved by that time, and the bank had raised over $20 billion in private capital. The agreement was terminated. The AGP has since closed without any payments being made.

Term Asset-Backed Securities Loan Facility

The Term Asset-Backed Securities Loan Facility (TALF) was a major component of the TARP's Consumer and Business Lending Initiative. TALF was a joint Treasury-Fed program intended to restart the asset-backed securitization markets.

Pursuant to its Federal Reserve Act Sec. 13(3) authority, the Federal Reserve Bank of New York (FRBNY) agreed to extend up to $200 billion in non-recourse loans to borrowers to enable the purchase of AAA-rated asset-backed securities (ASB), including those backed by consumer loans, student loans, small business loans and commercial real estate loans. In exchange, borrowers pledged the eligible collateral as security for the loans, including the amount of the equity "haircut" provided by the individual borrower. If a borrower defaulted on its TALF loan or voluntarily surrendered the collateral, the collateral would be sold to TALF LLC, a vehicle created by the FRBNY to purchase and hold seized or surrendered collateral.

Although TALF was designed to provide up to $200 billion in loans secured by eligible collateral, utilization of the full amount was unnecessary because of the positive effects of TALF on liquidity and interest rate spreads resulting from the announcement of TALF, according to Treasury.

TALF was extended past the original termination date of December 2009 to March 2010. By program close, the FRBNY had approximately $70 billion in loans under TALF. Of that amount, $33 billion in TALF loans remained outstanding as of the termination of TARP authority.

Additional Programs

Other programs under TARP's umbrella included:

- Community Development Capital Initiative (CDCI): used to provide financing to communities underserved by traditional banks and financial services providers. Treasury completed funding under the program in September 2010. The total investment amount was approximately $570 for 84 institutions. Of this amount, approximately $363.3 million from 28 banks was exchanged from investments under the CPP into the CDCI.

- Public Private Investment Program: designed to purchase troubled legacy securities (non-agency residential mortgage-backed securities and commercial mortgage-backed securities) considered a major part of the problems in the U.S. financial system thereby helping to ensure that credit was available to households and businesses.

- Automotive Industry Financing Program: created to prevent a "significant disruption of the U.S. automotive industry, because the potential for such a disruption posed a systemic risk to financial market stability," Treasury said when the program was begun in December 2008. Under the program, Treasury made temporary loans to GM and Chrysler on the condition that the companies develop plans to achieve long-term viability.

- American International Group, Inc. Investment Program: provided funding to AIG, at that time the largest insurance company in the world and whose failure Treasury and the Fed said would be "catastrophic." Before TARP, the FRBNY provided assistance to AIG through its Federal Reserve Act Sec. 13(3) authority to lend on a secured basis under "unusual and exigent" circumstances to companies that are not depository institutions.

Oversight

As first proposed by Treasury, the asset purchase program had no oversight provisions, which troubled members of Congress, taxpayers and members of the mainstream media and blogosphere. In addition, Treasury's original draft had no provisions to protect the interests of taxpayers.

The EESA addressed this lack of oversight and taxpayer protection in a number of ways.

- Sec. 103 of the ESSA, regarding "Program Considerations" addressed the protection of taxpayers' interests when purchasing troubled assets under TARP.
- In making purchases of troubled assets under TARP, Sec. 101(e) of the EESA required the Secretary to take the necessary steps to prevent unjust enrichment of financial institutions participating in TARP, including the fact that the sale of a troubled asset to the Secretary could not be set at a higher price than what the seller paid to purchase the asset.
- Under EESA Sec. 113, the Secretary was required to minimize any potential long-term negative impact on taxpayers by taking into account the direct outlays, potential long-term returns on assets purchased, and the overall economic benefits of the program.
- The Secretary also was required under the terms of TARP to purchase assets at the lowest price and to use auctions or reverse auctions to maximize taxpayer resources.
- Sec. 113(d) of the EESA required the Secretary to receive either warrants or senior debt instruments. At a minimum, any warrants received by the Secretary would have to provide taxpayers an equity appreciation. In addition, any warrant would have to contain anti-dilution provisions to protect the value of the securities from market transactions.

Once TARP was established, the President was required to submit a plan to Congress proposing how to recoup from the financial services industry any projected losses to taxpayers. Sec. 134 of the EESA required this presidential plan to be submitted within five years.

The EESA further called for the creation of an oversight board. Sec. 104 established the Financial Stability Oversight Board, which was to be responsible for:

- reviewing the policies implemented by the Secretary under TARP;
- making recommendations to the Treasury Secretary regarding the use of the authority under TARP; and
- reporting any suspected fraud, misrepresentation or malfeasance to the Special Inspector General for the Troubled Asset Relief Program or the Attorney General.

The Special Inspector General for the Troubled Asset Relief Program was established by Sec. 121 of the EESA and was given the duty to conduct, supervise and coordinate audits and investigations of the purchase, management and sale of assets.

In addition, the Comptroller General of the United States was required under EESA Sec. 116 to conduct ongoing oversight of the activities and performance of TARP, and to report every 60 days to Congress.

EESA also created the Congressional Oversight Panel (COP) to assess "the current state of financial markets and the regulatory system." The panel was tasked with overseeing Treasury's actions taken under EESA and regularly reporting to Congress. Along with the Government Accountability Office (GAO) and the Special Inspector General for TARP, the COP was created as a TARP watch dog.

In its first TARP report to Congress, released on Dec. 10, 2008, the COP asked the Treasury a series of questions that "all Americans have the right to ask: who got the money, what have they done with it, how has it helped the country, and how has it helped ordinary people?" The report indicated that the questions were posed in the context of actions Treasury has taken since EESA was passed.

One of the COP's questions was what made Treasury change its strategy in the last two months, questioning why purchasing mortgage-backed assets first was considered a bad idea but later a good one. The panel wrote that Treasury needed to explain how its actions have changed from the original plan conceived under EESA. "If other factors are central to Treasury's thinking, those factors should be identified and clearly explained," the COP said. "The American people need to understand Treasury's conception of the problems in the economy and its comprehensive strategy to address those problems."

In addition to the COP's report, the GAO published a report based on its study of Treasury's actions to date, calling for the Treasury "to better ensure integrity, accountability, and transparency" of TARP, and questioning the Treasury's actions to date.

Both reports questioned the reasoning behind the Treasury's change in strategy in implementing TARP and criticized the department for what the agencies saw as a lack of transparency. The GAO recommended that the Treasury formalize the existing communication strategy so as to ensure that external stakeholders, including Congress, were informed about the program's current strategy and activities and could understand the rationale for changes in this strategy so as to avoid information gaps and unexpected events.

Dodd Comments on GAO Report

"The Treasury Department must make significant changes as to how they are operating this program," stated Senate Banking Committee Chairman Chris Dodd, D-Conn., after receiving the GAO report. Dodd had incorporated the GAO reporting requirement in the financial rescue package in order to ensure adequate oversight of the law.

Frank Response

Following the release of the GAO report, House Financial Services Committee Chairman Barney Frank, D-Mass., who has been critical of Treasury's implementation of the program, said in a written statement, "The American people received two kinds of news about the TARP program -- bad and worse news."

"The bad news was confirmation by the GAO in its first report about the program that Treasury has no way to measure whether taxpayer funds invested in banks are being used in accordance with the purpose of the law --to increase lending. The much worse news is Treasury's response that it does not even have the intention of doing so," Frank said.

Frank noted that the GAO recommended developing metrics to measure how individual banks are using their share of the funds. He noted his disappointment in the Treasury's response to the

recommendation, that it would engage in "further discussions on general metrics for evaluating the overall success of the capital purchase program in addressing the purposes of the EESA."

The Chairman said that by rejecting the recommendation, the Treasury was giving the institutions free reign to use the money any way they wish.

Treasury's Response

The Treasury responded to the COP's report on its actions, including its intended strategies.

In its written answers, the Treasury asserted that its actions had been "part of a comprehensive strategy by Treasury and the federal regulators since the onset of the crisis to stabilize the financial system and housing markets, and strengthen our financial institutions." The Treasury noted that 13 separate programs or lending facilities established by the different federal agencies, including two under TARP, had supported financial institutions. Six other actions that had given support to the domestic housing and mortgage markets also were outlined, including the stabilization of Fannie Mae and Freddie Mac, the HOPE NOW Alliance and the Streamlines Loan Modification Program.

The Treasury also explained why it had abandoned the original plan of purchasing illiquid mortgage assets, pointing to an "unprecedented and accelerating" deterioration in market conditions. Funding pressures and counterparty credit risk rose and, as a result, "credit markets effectively froze." Immediate action to stabilize the financial system was needed, the Treasury said, and the fastest, most direct way was to increase capital in the system by buying equity in healthy banks of all sizes.

When the COP released its second monthly TARP report, on Jan. 9, 2009, the panel documented the efforts to get answers to the questions posed in the COP's first report and details both the answers received from the Treasury and the many questions that the COP claimed still remained unaddressed or unanswered. Commenting on the report's release, Elizabeth Warren, Chair of the Oversight Panel stated, "Because the questions we asked one month ago are important as ever, in this second report we lay out exactly what questions have been answered, what haven't been answered and why these questions are important." Warren added, "The American people have a right to know how their taxpayer dollars are being used, and so far, they have not gotten the transparency and accountability they deserve."

The Winding Down of TARP

The TARP expired on Oct. 3, 2010, two years after the EESA was signed into law by President George W. Bush.

TARP originally was set to expire in October 2009 but was extended one year by Treasury Secretary Timothy Geithner.

In its quarterly report to Congress, issued on Oct. 26, 2010, the Office of the Special Investigator for the Troubled Asset Relief Program (SIGTARP) said that the belief that TARP has ended or is near its end is a "mistaken one." SIGTARP noted that as of Oct. 3, 2010, $178.4 billion TARP funds remained outstanding and, although no new TARP investments could be made, funds already obligated to existing programs could still be expended. In fact, SIGTARP wrote that with more than $80 billion available for spending, "it is likely that more TARP funds will be expended after October 3, 2010 than in the year since last October," when TARP was to have ended.

Winding Down Begins

On Sept. 10, 2009, while speaking to the Congressional Oversight Panel (COP), a watchdog body overseeing TARP, Geithner said the government had to begin to wind down some of the extraordinary support put in place for the financial system as its strategy evolves from one of crisis response to recovery.

Geithner told the COP that while the U.S. financial system was in "substantially stronger" shape than it was earlier, "it is still the case that substantial, enormous challenges lie ahead."

"We must remember that it took years for this crisis to take hold. Given the extent of damage done to the financial system, the loss of wealth for families and the necessary adjustments after a long period of excessive borrowing around the world, it is realistic to assume recovery will be gradual, with more than the usual ups and downs," Geithner said.

Geithner noted at the time that support for the banking sector had decreased significantly, and that he expected banks to repay another $50 billion in government capital investment over the next 12 to 18 months, on top of the $70 billion amount already repaid. Going forward, Geithner said, "We must continue reinforcing recovery until it is self-sustaining and led by private demand."

By December 2009, the Capital Purchase Program (CPP), a key element of TARP, remained open only to small banks and was scheduled to effectively close at the end of the year. The CPP was a voluntary program available to qualifying U.S.-controlled banks, savings associations and certain bank and savings and loan holding companies engaged solely or predominately in financial activities permitted under the relevant law.

Asset managers had been hired to help manage Treasury's portfolio of assets in the wind-down phase of the CPP and other TARP programs, providing valuations of the equity and debt securities issued by public and private financial institutions in the CPP and other programs, including many of the Treasury's investments in small and community banks.

The asset managers also provided the Treasury with analysis of the financial condition, capital structure and risks of financial institutions and assisted in executing transactions consistent with the Treasury's investment policy for the management and disposition of its assets.

Housing Programs

Treasury also announced in December that it would terminate several Housing and Economic Recovery Act (HERA) programs at the end of the year and planned to amend its agreements with Fannie Mae and Freddie Mac to ensure that the government-sponsored enterprises (GSEs) maintained a positive balance sheet.

The program that Treasury established under HERA to support the mortgage market by purchasing GSE-guaranteed mortgage-backed securities (MBS) ended on Dec. 31, 2009. By the conclusion of its MBS purchase program, Treasury had purchased approximately $220 billion of securities across a range of maturities. In addition, the short-term credit facility that Treasury established under HERA for Fannie Mae, Freddie Mac and the Federal Home Loan Banks terminated on Dec. 31, 2009. This credit facility was designed to provide a backstop source of liquidity and was not used.

TARP Repayments

By the end of 2009, Treasury had received repayments on its TARP investments in Wells Fargo and Citigroup in the sum of $45 billion, bringing the total amount of repaid TARP funds at that time to $164 billion. Wells Fargo repaid $25 billion under the CPP, and Citigroup repaid $20 billion under the Targeted Investment Program (TIP). TIP was another TARP program that ended

by the close of 2009. Treasury estimated at that time that total bank repayments should exceed $175 billion by the end of 2010, cutting total taxpayer exposure to the banks by approximately 75 percent.

In addition, Treasury, the Federal Reserve Board, Federal Deposit Insurance Corp. and Citigroup terminated the agreement under which the federal government agreed to share losses on a pool of originally $300 billion of Citigroup assets. This arrangement was entered into in January 2009 under Treasury's Asset Guarantee Program (AGP) and was originally expected to last for 10 years. No losses were paid under the agreement, and the government kept $5.2 billion of $7 billion in trust preferred securities as well as warrants for common shares that were issued by Citigroup as consideration for such guarantee. With this termination, the AGP ended at a profit to the taxpayer, according to Treasury.

Treasury announced on Dec. 10, 2010, that it had received $10.5 billion in proceeds from the sale of its final 2.4 billion shares of Citigroup Inc. common stock, locking in a profit of at least $12 billion on its overall investment in Citigroup.

Treasury received approximately 7.7 billion shares of Citigroup common stock at a price of $3.25 per share from the exchange offers in July 2009 in consideration for the $25 billion in preferred stock received in connection with Citigroup's participation in the Capital Purchase Program. The exchange was part of exchange offers conducted by Citigroup to strengthen its capital base. With the completion of this offering, Treasury had fully disposed of its stake of Citigroup common stock. Following the completion of the offering at $4.35 per share, Treasury's average selling price for the entire 7.7 billion shares was $4.14, Treasury said.

Treasury confirmed that it had invested a total of $45 billion in Citigroup pursuant to TARP as well as having made a $5 billion commitment under the Asset Guarantee Program that was never funded. With this offering, Treasury had recovered all of the $45 billion plus approximately $12 billion in profits, consisting of dividends, interest and gains on the sale of Citigroup common stock and other securities.

Continuation of TARP Wind-Down

In its quarterly report to Congress in May 2010, the Financial Stability Oversight Board (FSOB), another TARP watchdog, reported that the CPP continued to wind down as additional financial institutions repaid the capital received under the program.

- As of March 31, 2010, Treasury had received $135.83 billion in total repayments under the CPP --approximately 65 percent of the total amount of capital invested.

- As of March 31, 2010, Treasury had disposed of warrants from 47 banking organizations, receiving a total of $5.63 billion in gross proceeds. During the quarterly period, three banking organizations repurchased warrants resulting in gross proceeds to Treasury of $5.19 million. Treasury also completed warrant auctions during the quarterly period, yielding $1.6 billion in gross proceeds.

TARP Commitments and Disbursements

The FSOB report also covered the aggregate level and distribution of commitments and disbursements under TARP, repayments of TARP funds and the level of resources that remain available under TARP at the close of the quarter. As of March 31, 2010, Treasury had entered into commitments to invest approximately $491.1 billion and had disbursed approximately $381.54 billion, some of which has been repaid. A large part of the total investments to date

occurred under the CPP following the enactment of EESA in October 2008. The more recent commitments include amounts extended under the Financial Stability Plan.

Housing Initiatives

As TARP continued to wind down, initiatives intended to address the housing market, especially the troublesome problem of rising foreclosures, became a focus of the Obama administration. In its report, the FSOB outlined key initiatives and actions taken under TARP during the period.

In its report, the FSOB reported on its efforts to monitor Treasury's progress under the Home Affordable Modification Program (HAMP), the program intended to help homeowners who are delinquent or at risk of imminent default avoid preventable foreclosures. As of March 31, 2010, 230,801 borrowers had entered permanent modifications under HAMP, and an additional 108,212 borrowers had received final approval from their servicer for a permanent modification. On Feb, 19, 2010, Treasury announced a new initiative, Hardest-Hit Funds, to help address the housing problems facing states that had suffered an average home price drop of more than 20 percent from their respective peak. The initiative made available up to $1.5 billion of TARP funds to support pilot programs developed or sponsored by Housing Finance Agencies (HFAs) in the eligible states that are intended to foster innovative solutions to housing problems, such as those caused by unemployment, loan-to-value ratios in excess of 100 percent or second mortgages.

Additional Initiatives

On Feb. 3, 2010, Treasury announced the Community Development Capital Initiative, a program to provide lower-cost capital under TARP to qualified Community Development Financial Institutions (CDFIs). CDFIs are financial institutions that meet certain eligibility requirements designed to ensure that they meet the credit and development needs of markets that may be underserved by other financial institutions.

Additionally, a number of initiatives intended to increase small business lending, restore the flow of credit to consumers and businesses and stabilize financial markets were launched.

OFS Report

In its July 2010 report on TARP, Treasury's Office of Financial Stability (OFS) said that TARP "succeeded in helping to stabilize the financial system and restore the conditions necessary for economic growth." The OFS notes that TARP succeeded faster and at a lower cost than anticipated.

Treasury reported on the process of winding down TARP. Specifically:

- Treasury recovered more than 75 percent of the TARP funds provided to banks, and expected these capital support programs to provide a positive return to taxpayers.
- The expected cost of TARP continued to fall during the period. In the Mid- Session Review of the President's 2010 Budget in August 2009, the cost of TARP was projected to be $341 billion; as of the Mid-Session review of the 2011 Budget, the estimated cost of TARP was over $225 billion lower.
- The passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010 accelerated the wind down of TARP. Treasury revised the TARP budget so that total expenditures would not exceed $475 billion, roughly one-third lower than the $700 billion originally authorized under EESA.

- Of the $475 billion authorized as of the date of the report, Treasury recovered almost $200 billion and noted that it expected to recover most of the funds that have been invested.

Key TARP Developments

The OFS report outlined key TARP developments, including:

- The Dodd-Frank Act furthered the wind down of TARP and reduced its cost.
- Treasury recovered over half of TARP investments, almost $200 billion of investments made and received nearly $25 billion in additional income from the investments.
- Under the CPP, following the sales of a total of 2.6 billion shares of common stock in Citigroup Inc. for proceeds of approximately $10.5 billion completed in June 2010, Treasury announced the sale of an additional 1.5 billion shares beginning on July 23, 2010.
- Repayments of CPP investments in July 2010 included $376.5 million by Fulton Financial Corp., Inc.
- Under the Public Private Investment Program, Treasury released its third quarterly report, with a summary of capital activity, portfolio holdings and current pricing, and fund performance.

Treasury Review

In October 2010, the OFS released a two-year retrospective on TARP. In the report, the OFS stressed that one of Treasury's primary objectives was to get TARP dollars back. As of the date of the report, more than $200 billion had been returned. In addition, TARP investments had generated $30 billion of proceeds to taxpayers in the form of dividend interest payments and sales of warrants.

In the report, Treasury stressed that TARP would cost taxpayers a fraction of the $700 billion originally authorized under EESA. Treasury said it would not use more than $475 billion in TARP funds, including amounts already expended and recovered. Treasury also wrote that it expected to recover more of those funds other than funds spent on housing programs. Such funds were never intended to be returned to Treasury.

Treasury also noted that in July 2010, the Obama administration and Congress capped the amount that could be invested under TARP to $475 billion, a one-third reduction of the original amount authorized by Congress under EESA. In addition, more than $204 billion of TARP funds had been repaid.

As of Sept. 30, 2010, Treasury had approximately $184 billion in TARP investments and commitments outstanding. Treasury said that it intends to recover or dispose of those investments "as soon as practicable." Generally, Treasury cannot demand repayment, so recovery requires that the institutions replace government support with private capital. This means that the timing of repayments by various institutions will differ, as will the times when the various TARP programs terminate.

2010 TARP Report

Treasury published its monthly TARP report to Congress on Dec. 10, 2010. The report, required under Sec. 105(a) of EESA, sums up the year as it relates to TARP.

In November 2010, the OFS released the Agency Financial Report for Fiscal Year 2010 for the Troubled Asset Relief Program (TARP). This report provides information on financial results relating to the TARP as required by the Emergency Economic Stabilization Act of 2008 and other laws.

Treasury noted in the report that for the second consecutive year, the OFS has earned unqualified or "clean" opinions on its financial statements and its internal control over financial reporting from the Government Accountability Office, with no material weaknesses.

According to the report, of the $475 billion maximum TARP commitments authorized:

- $389 billion had been disbursed;
- $5 billion of commitments had been cancelled under the Asset Guarantee Program;
- $230 billion had been repaid, including $13.5 billion from the General Motors initial public offering and $25 billion from the Citigroup common stock sales; and
- Cumulative income from TARP investments had reached $35 billion.

In November, Treasury received approximately $737 million in dividends, interest and distributions from TARP investments. Significantly, of the $205 billion invested under the Capital Purchase Program, approximately $164.6 billion had been repaid.

Treasury stressed in the report that it would continue to work with federal banking regulators who must evaluate requests from banks interested in repaying the investments.

COP Report Issues

The COP issued its monthly TARP oversight report just before the end of TARP authority. In the September, 2010, report entitled "Assessing the TARP on the Eve of Its Expiration," the panel wrote that although TARP "provided critical support to the financial markets at a time when market confidence was in freefall, the program has been far less effective in meeting its other statutory goals, such as supporting home values, retirement savings, and economic growth."

The COP states in its report that TARP "quelled the financial panic in the fall of 2008," the economy remains weakened. Since TARP began in 2008, more than 7 million homeowners have received foreclosure notices. Since their pre-crisis peaks, home values have dropped 28 percent and stock indices have fallen 30 percent. "Given that Treasury was mandated by law to use the TARP to address these measures of the economy, their lingering weakness is cause for concern," the COP wrote.

The panel noted the unpopularity of TARP with the public and cautioned that this "stigma" may prevent the government from similar programs in the future. The COP said that part of the unpopularity was due to "shortcomings in Treasury's transparency and its implementation of TARP programs."

Finally, the COP wrote that four economic experts were consulted in the TARP assessment and that all generally agreed that while TARP was necessary to stabilize the financial system, it had been mismanaged and could pose significant future costs.

Geithner Responds to Criticism

Shortly after the COP released its report, and in the midst of media scrutiny as to the effectiveness of TARP, Treasury Secretary Timothy Geithner wrote an article published in the Washington Post that addressed what he called five “myths” about TARP. In the Oct. 10, 2010, article, Geithner targeted the main criticisms against TARP.

TARP Cost Taxpayers Hundreds of Billions of Dollars—Geithner said that the cost of TARP would be much lower than expected. The direct costs of TARP will most likely be less than 1 percent of the U.S. gross domestic product. "By comparison, the much less severe savings and loan crisis of the late 1980s and early 1990s cost 2 1/2 times that as a share of our economy," Geithner wrote.

TARP Was a Gift for Wall Street that Did Nothing for Main Street--In 2008, the Bush administration invested nearly $250 billion into the United States largest financial institutions and provided a guarantee, for a fee, to help them continue to operate. "Those emergency actions, taken at a time of grave danger for the U.S. economy, were absolutely essential," Geithner said. "Without them we would have seen a broader collapse and losses of millions more jobs and trillions more dollars in income and savings."

Geithner said that by changing the government’s strategy by investing private money in the financial system and focusing on the victims of the crisis, the Obama administration directed resources toward lowering mortgage rates, reducing foreclosures and helping restart the credit markets for consumers and small businesses.

TARP Was a Quick Fix for the Market Meltdown but Left our Financial System Weak-- Geithner said that the U.S. financial system is in a much stronger position today than before the crisis, with the weakest parts of the system gone. Of the 15 largest financial institutions before the crisis: four are no longer independent entities; five had to restructure; two altered their legal form and are subject to much stricter federal oversight; and 10 have had major changes in senior management and boards of directors.

TARP Worsened Concentration in the Banking Sector, Leaving it More Vulnerable to Another Crisis--Geithner said that the U.S. financial system was in a much stronger position than before the crisis, with the weakest parts of the system gone. Of the 15 largest financial institutions before the crisis: four are no longer independent entities; five had to restructure; two altered their legal form and are subject to much stricter federal oversight; and 10 have had major changes in senior management and boards of directors, he added.

Geithner did concede that the U.S. financial system was more concentrated than before the crisis. "This was unavoidable, but our banking system is still much less concentrated than the systems of every other major country and represents a smaller share of our economy." The Secretary noted that the United States has 7,800 banks and "we are less dependent on banks overall for credit, with securities markets and other financial institutions providing roughly half of all credit to businesses and individuals."

TARP Was the Centerpiece of a Strategy by President Obama to Assert More Government Control Over the Economy--Geithner said that the government has recovered more than $200 billion in TARP funds, as well as made $28 billion in profits. "Our remaining investments in banks are a small fraction of what we inherited," he said. Geithner added that "in the end, 90 percent of

that once-feared $700 billion TARP price tag either will not have been spent or will be returned to the taxpayers."

Latest Figures from Treasury

On Feb. 2, 2011, Treasury released a statement indicating that with the repayment of $3.4 billion by Fifth Third Bancorp, TARP has recovered all but $2 billion of its direct support to banking organizations. Financial institutions received approximately $245 billion in support, and the government currently has received about $243 billion in repayments and other income. Treasury now is estimating that the government will receive a total profit of approximately $20 billion from the support to the financial industry.

If all TARP activities are considered, including the assistance that was provided to the automobile industry, the government paid out about $410 billion, of which more than $274 billion has been recovered, according to Treasury. Treasury is projecting that TARP as a whole eventually will break even and perhaps prove profitable.

Conclusion

TARP, a key aspect of EESA, the so-called “bailout” legislation, has been tremendously controversial. Many taxpayers saw TARP as the government helping big business at their expense. Oversight committees, such as the COP, criticized its administration, particularly in terms of transparency and disclosure.

In a poll taken in the summer of 2010, voters were asked, “Do you think the Troubled Asset Relief Program, known as TARP, was necessary to prevent the financial industry from failing and drastically hurting the U.S. economy, or was it an unneeded bailout?” Fifty-eight percent of Americans said TARP was unneeded.

However, there are many economists who think things would have been worse without the bank rescue — and perhaps far worse. They argue that the primary purpose of TARP was to prevent the collapse of the banking industry, and in that respect, TARP succeeded.

Despite support from economists and some popular media, few lawmakers have strongly defended TARP, knowing its unpopularity with voters.

In the end, it seems the question of whether TARP was a success is almost as controversial as the program itself.

About the Author

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