DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

April 4, 2013

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Response to SIGTARP January 2013 Quarterly Report

Dear Ms. Romero:

I write for two purposes, both of which are in response to your last Quarterly Report to Congress, dated January 30, 2013. First, as I do every quarter, I write to provide an update on open recommendations from the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). Second, I write to raise concerns about SIGTARP's failure to publish correspondence from the Department of the Treasury (Treasury) in the Quarterly Reports about the Troubled Asset Relief Program (TARP).

On the first point, we are currently reviewing the open SIGTARP recommendations regarding the Capital Purchase Program (CPP) and the Home Affordable Modification Program (HAMP). For CPP, we continue to discuss our exit strategy with regulators and to review and evaluate our policies and procedures in light of your recommendations. I discussed these updates in my January 7, 2013 update to you. For HAMP, although you have been looking at re-default since July 2010, we just received your recommendations earlier this week, and thus have only begun to evaluate them. I will note that the Office of the Comptroller of the Currency (OCC) has indicated that HAMP modifications consistently exhibit lower delinquency and re-default rates than industry modifications—something that the OCC attributes to the design of HAMP and we identify as one of HAMP's strengths. Nevertheless, we will review your recommendations and respond more fully in the future.

In addition, the January Quarterly Report made a number of comments about the TARP investment in Ally Financial (Ally). You provided us with a draft of this section of the Quarterly Report prior to publication and asked for our comments, which we provided in a January 15, 2013 letter. Unfortunately, in addition to not publishing our letter, it did not appear that you took our comments into account when finalizing your report. Specifically, the report states that "Treasury has no concrete TARP exit plan for Ally," which is not accurate. Our letter outlined our exit plan (as we have for you on previous occasions): to continue to work on the two restructuring initiatives that are necessary for us to continue to recover the taxpayers' investment—the Chapter 11 process concerning Ally's mortgage subsidiary Residential Capital LLC (ResCap) as well as the sale of the international operations of Ally. As those initiatives are

completed, we can then monetize our remaining investment through a sale of stock (either through an initial public offering or a private sale) or further sales of assets.

Perhaps you stated that we have "no concrete plan" because we did not say which of the monetization alternatives we would pursue. But it would not be in the taxpayers' interest for us to commit to a particular path now. As we explained in the letter, many variables will affect how those options develop and which one will provide the best outcome to taxpayers—such as progress of these initiatives and market conditions. Nor would it make sense to announce a timetable. There is too much uncertainty as to the Chapter 11 process in particular. There could, for example, be a consensual resolution of claims that leads to a plan of reorganization or there could be disputes and litigation that result in a much more protracted process. Our strategy for how we go about monetizing our investment may vary depending on the timetable and what course the process takes.

Secondly, SIGTARP appears to have adopted a new practice of not publishing correspondence from Treasury in the Quarterly Reports. Such letters include our updates on open recommendations (like the ones above), our responses to recommendations, and our responses to past reports. These letters not only provide valuable information to you about the status of TARP, but they would also inform the Congress and the general public about important issues affecting the taxpayers' investment.

Although we have taken steps to keep the public informed by posting this correspondence on our website at www.financialstability.gov, in the interest of transparency and openness, and to reduce the risk of misconceptions and inaccuracies related to investments under TARP, I again ask SIGTARP to publish Treasury's correspondence (including this letter) in the Quarterly Reports. For your convenience, I have enclosed those letters SIGTARP has not published over the past year. As always, I am available to discuss these issues with you further at your convenience.

Sincerely,

Timothy G. Massad

Enclosure

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

January 15, 2013

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Treasury Response to SIGTARP January 2013 Quarterly Report Section 3

Dear Ms. Romero:

I write in response to the vetting draft of section three to the pending SIGTARP Quarterly Report to Congress (draft), which was provided for Treasury's review for factual and technical correctness. We have identified a number of inaccuracies. The draft contends that Treasury has no strategy for exiting its investment in Ally Financial. Treasury has discussed its exit strategy with SIGTARP several times in the past few weeks, and also has described its exit strategy publicly, including in a statement we issued in May 2012.[1]

Ally Financial originally planned to launch an IPO in order to assist Treasury's exit. That plan was postponed in the summer of 2011, however, due to intensifying issues related to Ally Financial's mortgage subsidiary Residential Capital LLC's (ResCap's) legacy mortgage liabilities, and a general weakening in the IPO market. Proceeding with an IPO at that particular moment would not have been in the interest of maximizing returns for taxpayers.

Then, in May 2012, Ally Financial, with Treasury's consent, commenced two strategic initiatives that were necessary and critical for Treasury to continue recovering its investment. The first was the Chapter 11 proceeding by ResCap, which provides a structured way to address the legacy mortgage liabilities (described above) such that they do not adversely affect the rest of Ally Financial's business – the auto finance and banking operations, both of which remain healthy and profitable. Once the legacy mortgage liabilities are addressed, Treasury will be able to monetize its remaining investment. The second strategic initiative was the sale of Ally Financial's international operations, which will generate cash that can be used to repay Treasury. The sale also reduces the size and complexity of the company, which can facilitate monetization of our investment.

Ally Financial has made great progress in both these initiatives, but more work remains to be done. Regarding the first initiative, the court-appointed examiner is due to complete his report in

[1] Timothy G. Massad, Putting Taxpayers in a Stronger Position to Continue Recovering Their Investment in Ally Financial, (May 14, 2012), http://www.treasury.gov/connect/blog/Pages/Putting-Taxpayers-in-a-Stronger-Position-to-Continue-Recovering-Their-Investment-in-Ally-Financial.aspx.

April 2013. In addition, the court also appointed a mediator last month to facilitate discussions between ResCap and its creditors on a restructuring plan. That reorganization plan could be filed as early as May 2013. Regarding the second initiative, Ally Financial entered into contracts last fall to sell all of its international operations at prices aggregating $9.2 billion, which represents an aggregate gain of $1.6 billion. Those sales are due to close at various times over the course of 2013.

As these two key initiatives are completed, Treasury will be able to monetize its remaining investment through a sale of its stock (either through a public or private sale) or through further sales of assets. How those sales options develop will depend on the progress of Ally Financial's two strategic initiatives, market conditions, and other factors. Therefore, Treasury will continue to work with the company and Treasury's advisors in considering these options and making appropriate preparations for them.

In addition, the draft suggests that, given the issues facing ResCap today, Treasury and Ally Financial should have taken different actions at the height of the financial crisis. At that time, Ally Financial provided approximately 75% of the "floor plan" financing for auto dealers to buy vehicles from GM. An Ally Financial Chapter 11 bankruptcy likely would have jeopardized the availability of that financing. That, in turn, could have threatened the survival of GM and Chrysler, as well as the health of the broader auto industry. In addition, GM and Chrysler were already undergoing Chapter 11 restructurings in 2009. Adding an Ally Financial bankruptcy filing at the same time could have significantly decreased the likelihood of successfully completing the GM and Chrysler restructurings. Moreover, it is important to note the changing circumstances with regard to ResCap, as issues surrounding ResCap's legacy mortgage liabilities have significantly intensified since 2009.

I hope this clarifies Treasury's exit strategy for the investment in Ally Financial. As always, if you have any questions, please do not hesitate to contact us.

Sincerely,

Timothy G. Massad

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

January 15, 2013

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Treasury Response to SIGTARP October 2012 Quarterly Report

Dear Ms. Romero:

On October 4, 2012, I wrote to raise concerns regarding SIGTARP's July 2012 Quarterly Report, and previous Quarterly Reports. In particular, SIGTARP's reporting of accounting data regarding the Troubled Asset Relief Program (TARP) is not consistent with the Generally Accepted Accounting Principles (GAAP), or with methods approved by the Government Accountability Office (GAO), which government agencies like Treasury are required to follow. For example, SIGTARP's calculation of amounts "owed" and SIGTARP's use of that number in lieu of Treasury's published numbers (such as the amount of investments "outstanding") is not consistent with those standards. SIGTARP's use of "owed" also is not an accurate calculation of how much TARP recipients actually owe Treasury, nor does it accurately reflect taxpayer returns.

SIGTARP published its October 2012 Quarterly Report three weeks after the October 4 letter. That Quarterly Report, however, did not address or correct these concerns. These concerns also have not been addressed or corrected on SIGTARP's website. To reduce the risk of misconceptions and inaccuracies related to investments under TARP, I again ask SIGTARP to conform its reporting of TARP investments to the standards consistent with GAAP and approved by the GAO. To the extent SIGTARP is concerned about using the amounts "owed" so that SIGTARP's reports are complete, the same goal may be accomplished, accurately, by reporting write-offs and realized losses as well as income earned, separately from reporting the amount of investments outstanding.

In addition, the October 2012 Quarterly Report only included some, but not all, correspondence from Treasury during the quarter. The October 2012 Quarterly Report did not include either of Treasury's responses to the July and April Quarterly Reports, or other correspondence responding to SIGTARP recommendations. In the interest of transparency and openness, I also ask SIGTARP to publish Treasury's correspondence about Quarterly Reports and recommendations, including this letter, alongside the other Treasury correspondence usually published in the Quarterly Reports. For your convenience, I have enclosed those letters SIGTARP did not publish in October 2012, including the October 4 letter referenced above.

Please let me know if you have any questions about these concerns. I look forward to continuing to work with you in the future.

Sincerely,

Timothy G. Massad

Enclosure

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

January 7, 2013

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Status Update on Recommendations in the SIGTARP Quarterly Report

Dear Ms. Romero:

This letter describes the actions taken by the U.S. Department of the Treasury (Treasury) in response to the outstanding recommendations since the Special Inspector General for the Troubled Asset Relief Program's (SIGTARP) *Quarterly Report to Congress*, dated October 25, 2012.

Treasury looks forward to the release of SIGTARP's seventeenth quarterly report on the Troubled Asset Relief Program (TARP) in January 2013. We request that you include the enclosed *Status Update on SIGTARP Recommendations* in that report. We note that SIGTARP has declined to publish some of our recent letters responding to SIGTARP recommendations or noting errors in SIGTARP's quarterly reports. The enclosed status update outlines steps Treasury is taking to implement action plans that are responsive to SIGTARP's outstanding recommendations as well as the progress made in completing the action plans for each outstanding recommendation.

We appreciate the recommendations you have made as well as the constructive relationship we have with you and your team. We look forward to continuing to work together as we move forward.

Sincerely,

Timothy G. Massad

Enclosure

The U.S. Department of the Treasury
Status Update on SIGTARP's Outstanding Recommendations

January 7, 2013

The U.S. Department of the Treasury (Treasury) welcomes the recommendations on the Troubled Asset Relief Program (TARP) from the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). This update serves as a status report on Treasury's response to SIGTARP's open recommendations.

Treasury has given careful consideration to all of SIGTARP's recommendations. Treasury's policies and programs currently address many of the issues you have raised, and in many cases Treasury has taken specific actions to implement your recommendations. When we determined that a recommendation would not help carry out Treasury's statutory duties under the Emergency Economic Stabilization Act (EESA), we developed alternative methods to address SIGTARP's underlying concerns and explained those methods in our summary responses to SIGTARP and to Congress.

Specific Recommendations from SIGTARP's Reports

[Compliance]: Additional anti-fraud protections should be adopted in MHA to verify the identity of the participants in the transaction and to address the potential for servicers to steal from individuals by receiving Government subsidies without applying them for the benefit of the homeowner.

Making Home Affordable-Compliance (MHA-C), which acts as Treasury's compliance agent for the Making Home Affordable Program (MHA), has developed and implemented procedures to verify that incentives paid to servicers are accurately applied to the respective homeowner participating in MHA during its servicer compliance reviews. MHA-C selects and reviews modified mortgage loans and assesses the servicers' controls and processes for appropriately applying such homeowners' reduction in principal. MHA-C also reviews investor payments remitted to servicers to verify that servicers are not retaining these incentives. This process mitigates the risk of servicer misappropriation of homeowner subsidies.

Additionally, Treasury undertook a pilot program to verify owner-occupancy and identity, as described in our October 7, 2010 status update. Working with MHA-C, Treasury identified a vendor that was able to assist in gathering borrower information used to confirm the borrower's identity and owner occupancy. The vendor was also able to collect information needed to verify the accuracy of the individual's Dodd-Frank Certification. Treasury has released Supplemental Directive 12-04 that provides additional guidance to servicers for compliance with the requirements of Dodd-Frank, as well as MHA requirements related to borrower identity and owner-occupancy, as applicable, for non-GSE mortgages. The Supplemental Directive became effective September 30, 2012, and Treasury subsequently implemented its program to verify

owner-occupancy, borrower identity and Dodd-Frank certifications, in accordance with the terms of the directive. Treasury considers this recommendation closed.

[Housing] Treasury should publicly assess the top 10 MHA servicers' program performance against acceptable performance benchmarks in the areas of: the length of time it takes for trial modifications to be converted into permanent modifications, the conversion rate for trial modifications into permanent modifications, the length of time it takes to resolve escalated homeowner complaints, and the percentage of required modification status reports that are missing.

Treasury established specific obligations and benchmarks for key MHA Program requirements and performance metrics throughout the MHA Program. Servicer performance data on trial duration, conversion rates for permanent modifications, complaint escalation resolution time and OMR reporting are currently published in the monthly MHA Servicer Performance Report. In June 2011, Treasury began publishing more detailed results of servicer performance for the largest MHA servicers (measured by MHA activity) in the MHA Servicer Assessments. Servicers are reassessed on a quarterly basis, with results published in subsequent reports. Treasury continues to review the universe of benchmarks used in these quarterly Servicer Assessments, and will continue to develop and improve the process where appropriate. Treasury considers this recommendation closed.

[CPP] In order to fulfill Treasury's responsibility to wind down its TARP Capital Purchase Program investments in a way that protects taxpayer interests, before allowing a TARP bank to purchase Treasury's TARP shares at a discount to the TARP investment (for example as the successful bidder at auction), Treasury should undertake an analysis, in consultation with Federal banking regulators, to determine that allowing the bank to redeem its TARP shares at a discount to the TARP investment outweighs the risk that the bank will not repay the full TARP investment. Treasury should document that analysis and consultation.

Treasury appreciates SIGTARP's recommendations regarding the wind down process for the Capital Purchase Program and is continuing to review them. We would note at this time that our strategy for winding down the program was developed after extensive analysis and consultation with Federal banking regulators, and we continue to communicate with regulators as we develop the next steps in the process. We consider on a regular basis whether banks that remain in the program are likely to repay the respective investments in the near future or whether it is preferable to sell any particular investment. In addition, no bank can bid to purchase its shares if its federal banking regulator objects, and a bank will succeed only if its bid is the highest in an open, competitive auction. We remain committed to balancing the need to wind down the program in a timely manner with maximizing value for the taxpayers.

[CPP] In order to fulfill Treasury's responsibility to wind down its TARP investments in a way that promotes financial stability and preserves the strength of our nation's community banks, Treasury should undertake an analysis in consultation with Federal banking regulators that ensures that it is exiting its Capital Purchase Program investments in a way that satisfies the goals of CPP, which are to promote financial stability, maintain confidence in the financial system and enable lending. This financial stability analysis of a bank's exit from TARP should determine at a minimum: (1) that the bank will remain healthy and viable in the event of an auction of Treasury's preferred shares; and (2) that the bank's exit from TARP does not have a negative impact on the banking industry at a community, state, regional, and national level. Treasury should document that analysis and consultation.

Treasury appreciates SIGTARP's recommendations concerning the CPP wind down process and is continuing to review them. As noted above, our strategy was developed in consultation with the Federal banking regulators, and we believe it serves the various objectives we must consider and balance. While we believe it addresses the concerns you raise, we are always willing to examine our practices and refine them where appropriate. We will be happy to share more detailed thoughts regarding your suggestions at a later time.

[CPP] Treasury should better document its decision whether or not to auction its preferred shares in a TARP bank to adequately reflect the considerations made for each bank and detailed rationale.

We share your belief that adequate documentation of decisions is important. While we believe our practices are strong in this regard and address your concerns, we are nevertheless reviewing them in light of your recommendation.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 9, 2012

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Treasury Response to SIGTARP LIBOR Recommendation

Dear Ms. Romero:

I am writing in response to your recent letter to Secretary Geithner recommending that the U.S. Department of the Treasury change several TARP programs "to cease reliance on LIBOR." We share your concerns about the integrity of the London Interbank Offered Rate (LIBOR), which is a key benchmark rate used for financial transactions throughout the world. As you may know, a broad global effort is underway to analyze and seek reform to LIBOR and explore alternatives.

Your letter focuses on two TARP programs—the Term Asset-Backed Securities Loan Facility (TALF) and the Legacy Securities Public-Private Investment Program (PPIP)—which are indexed, in part, to LIBOR.

TALF is a joint program by Treasury and the Federal Reserve Board of Governors, and I understand that the Federal Reserve has responded separately to your recommendation. As the Federal Reserve has noted, neither it nor Treasury has the authority to change unilaterally the interest rate on the small number of remaining loans that rely on LIBOR. Moreover, if we sought to renegotiate the rate, it is likely that borrowers either would not agree to a rate change or would agree only to a change that would result in a lower payment to the taxpayers. Accordingly, we do not believe that pursuing such a change would benefit taxpayers. As you know, the program has not sustained any losses to date, and current estimates suggest that it will result in a small gain under TARP.

PPIP is a Treasury program, and I write primarily to respond to your recommendation regarding that program. Treasury launched PPIP in March 2009 to unlock credit markets, to help stabilize the global financial system, and to support the housing market. Specifically, Treasury provided loans and equity capital to nine Public-Private Investment Funds (PPIFs) to purchase non-agency residential mortgage-backed securities (RMBS) and commercial mortgage-backed securities (CMBS). PPIP is widely credited with helping to stabilize and restart the market for those securities. Moreover, based on current estimates, Treasury expects that this program will generate an overall lifetime

profit for taxpayers. Some of the PPIFs have already wound down their portfolios and have provided net gains for taxpayers.

Your letter recommends that Treasury unilaterally change the benchmark rate for PPIP, because LIBOR may not be reliable and because of a general "lack of confidence" in the rate. You further suggest that such a change "will not be difficult to accomplish." We do not agree. Treasury's legal rights in regard to PPIP—as with most TARP programs—are governed by written contracts. The PPIP contracts provide, in general terms, that the benchmark rate shall change to the Prime rate if Treasury "reasonably determines" that LIBOR does not accurately reflect the current cost of funding the loans in the London interbank market.[1] In other words, Treasury would need evidence that LIBOR is currently misstated in order to have the right to change the benchmark rate unilaterally. As you know, the Commodity Futures Trading Commission conducted an enforcement action regarding LIBOR practices that occurred prior to and during the financial crisis in 2007-09. In addition, global regulators are moving forward to address structural vulnerabilities and weaknesses regarding the LIBOR-setting process. To date, however, enforcement agencies have not released any findings, documentation, or other evidence that the rate is currently misstated. Of course, those reviews are still ongoing.

Moreover, we believe it is possible that changing the benchmark PPIP rate at this time may in fact harm, rather than benefit, taxpayers. LIBOR was chosen as the benchmark for the PPIP loan agreements because it is widely used in the markets that the program was designed to help restart. The securities purchased by the PPIFs often carry interest rates indexed off of LIBOR, as do many of the mortgages underlying the securities. Having a corresponding rate was essential because the PPIFs were designed to be special purpose entities with no other business besides purchasing and managing those investments. Over the last three years, the PPIP fund managers developed their investment strategies and structured their portfolios—including use of permitted interest rate hedges—on the basis that Treasury's debt investment would be indexed to LIBOR. Abruptly altering the benchmark index at this time could have significant adverse consequences on the performance of the PPIFs and to the markets in which they invest, which could reduce the returns from the PPIF's investments and thus proceeds received by taxpayers.[2]

As noted above, the United States and global regulatory communities are conducting a comprehensive review of LIBOR. We support reforms to strengthen the integrity and governance of LIBOR, and we are working with authorities in the United States and abroad to pursue near-term reforms. Recently, the Managing Director of the United Kingdom's Financial Services Authority announced a series of reforms to LIBOR, which

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[1] The contracts state that if Treasury "reasonably determines" that LIBOR "would not adequately and fairly reflect the cost to a commercial bank funding the Loans on a matched basis in the London interbank market of making or maintaining the Loans for such Accrual Period," then the PPIP borrower "shall pay interest on the Principal Amount at a rate per annum equal to the Prime Rate plus the Applicable Margin."

[2] As you know, taxpayers receive approximately half of any PPIF equity proceeds, by virtue of their equity interest in the PPIFs.

were endorsed by the Bank of England. In addition, the United States and the global regulatory community are considering longer-term changes as alternatives to LIBOR, which could include transaction-based benchmarks, where appropriate. These efforts, which are still ongoing, will provide additional information as Treasury considers whether any changes to TARP would be appropriate.

For the reasons outlined above, Treasury is not making changes to the PPIP benchmark rate at this time. Nonetheless, as regulators and enforcement agencies continue to review LIBOR practices and consider potential reforms, we will continue to assess whether any changes to PPIP are necessary and appropriate to protect taxpayers' interests. Of course, we would welcome any additional information, supporting evidence, or analysis that could help inform that judgment.

Thank you for your letter. Please let us know if you would like to discuss these issues further.

Sincerely,

Tim Massad

Timothy G. Massad
Assistant Secretary for Financial Stability

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 4, 2012

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20036

Re: Reporting of TARP Investments

Dear Ms. Romero:

In connection with your upcoming October 2012 Quarterly Report to Congress, I write to raise some concerns regarding your July 2012 Quarterly Report (and previous Reports). In particular, I am concerned that SIGTARP's accounting methods are not consistent with either the Generally Accepted Accounting Principles (GAAP), or with methods approved by the Government Accountability Office (GAO). To reduce the risk of misconceptions and inaccuracies related to investments under the Troubled Asset Relief Program (TARP), I ask SIGTARP to conform its reporting of TARP investments to the standards consistent with GAAP and approved by the GAO. In the interest of maximum transparency and openness, I also ask that you publish Treasury's responses to your Quarterly Reports, alongside the other Treasury correspondence you usually publish.

I. Background

The Department of the Treasury (Treasury) is committed to transparency in all of its programs, including TARP. To that end, Treasury devotes a substantial amount of time, energy, and resources to providing complete and accurate accounting of TARP's finances. For example, we prepare annual financial statements for TARP in accordance with GAAP (promulgated by the Federal Accounting Standards Advisory Board). These financial statements are audited by the GAO, and Treasury has received an unqualified audit opinion from the GAO each year since TARP began. Treasury also has received a Certificate of Excellence in Accountability Reporting from the Association of Government Accountants each of those years. Such accomplishments and recognition are rare, especially for a start-up operation of this magnitude.

In addition to the annual financial reporting, Treasury also provides a monthly report to Congress that details how TARP funds have been used, the amount recovered in each program, and current estimates of the cost of each TARP program; a monthly housing report containing detailed metrics on TARP housing programs; a quarterly report on the Public-Private Investment Program that provides detailed information on the funds, their investments, and returns; a quarterly report that details all dividend and interest payments; and periodic reports on the sale of warrants, which include information on auctions as well as on how the sale price was determined in the case of any purchase of warrants by a TARP recipient. Treasury also issues a report on each

TARP transaction, such as a sale or repayment by an institution, within two business days of completing the transaction. Annual use-of-capital surveys contain detailed information on the lending and other activities of banks that have received TARP funds.

In addition to these reports, many of which are not required by statute or any other authority, Treasury also maintains an extensive Financial Stability website at www.financialstability.gov. This website allows taxpayers to review how TARP money is spent, identify the recipients of TARP funds, and access the terms of our investments. On www.financialstability.gov, Treasury's "Daily TARP Update," which shows the status of all TARP funds in detail – the amount obligated, the amount disbursed, the amount repaid, the amount of additional income received, and the amount attributed to write-offs and realized losses – is updated each day. Other reports available on the website show every TARP investment agreement and contract, all program guidelines and application materials, procurement contracts, and other material pertaining to the program.

Recently, in your Quarterly Report to Congress and other public statements, you included figures not consistent with Treasury's audited financial statements, Treasury's monthly report to Congress, or Treasury's Daily TARP Update. As I explain in more detail below, I am concerned that your alternative figures could lead to confusion about the taxpayers' investment in TARP.

II. Reporting the Amounts "Outstanding" Are More Accurate than SIGTARP's Reports of the Amounts "Owed."

Treasury follows GAAP, the same accounting standards that the Congressional Budget Office (CBO), the GAO, and all other Federal entities use in their financial reporting. These concepts dictate that Treasury report the amount "outstanding" on TARP investments. The amount "outstanding" represents the amount disbursed less principal repayments, write-offs, and realized losses. Based on those figures, as of June 30, 2012, (the time period for your most recent Quarterly Report) the amount "outstanding" on Treasury's TARP investments was $93.5 billion.

The figure SIGTARP recently reported, both in the Quarterly Report and on the front page of the SIGTARP website (see Attachment A), was $109 billion "owed." The amount "owed" is different from the amount "outstanding" and is not consistent with a GAAP methodology. The amount "owed" represents only the amount disbursed less principal repayments on those investments. It excludes write-offs related to bankrupt entities and realized losses generally resulting from common stock sales. The chart below – using figures as of June 30, 2012 – provides additional clarity.

Amount disbursed	$411.59	---- Does not include housing
Less principal repaid	$302.54	
Subtotal	$109.05	---- SIGTARP reporting ("owed")
Less write offs and realized losses	$ 15.55	
Total	$ 93.50	---- GAAP ("outstanding")

In addition, Treasury's outstanding investments are not loans that typically are considered "owed" to the lender; rather they are equity investments in the institutions. Finally, SIGTARP's

use of the amount "owed" is not even an accurate presentation of what would make the taxpayers "whole." This is because SIGTARP's calculation of the amount "owed" does not include any of the additional income Treasury has received on any of the TARP investments. As of June 30, 2012, such additional income (from dividends, interest payments, warrant sales, and stock sales) is $41.10 billion.

The figures for TARP's bank support programs illustrate the issue with conflating "owed" with "outstanding" and neglecting to include additional income in SIGTARP's calculations. As of June 30, 2012, the amount outstanding under the bank support programs was $11.63 billion. If every remaining bank repaid its principal investment in full tomorrow, the amount outstanding would be zero. By contrast, under SIGTARP's method, there would still be an amount "owed" of roughly $2.77 billion on the bank support programs – because this is the amount of write-offs and realized losses. But this amount is neither outstanding nor recoverable. Moreover, it also implies that the banking programs have resulted in a net loss. But quite the opposite is true. As of June 30, 2012, the banking programs have already resulted in a gain to taxpayers of $19 billion because of additional income from dividends, warrant sales, and stock sales. At this point, each additional dollar recovered from TARP's banking programs represents an additional dollar of profit to taxpayers on those programs.

The following chart sets forth the relevant figures for the bank programs as of June 30, 2012:

Amount disbursed	$245.10	---- Bank Support Only
Less principal repaid	$230.71	
Subtotal	$ 14.39	---- SIGTARP reporting ("owed")
Less write offs and realized losses	$ 2.77	
Total Outstanding	$ 11.63	---- Consistent with GAAP
Income Revenues	$ 33.68	---- Other Income (not principal)
Total Cash Back	$264.39	---- Principal and Other Income
Net Program Result	$ 19.29	---- Net Gain to Taxpayers

SIGTARP's use of "owed" is inconsistent with (a) the required governmental accounting standards, (b) the legal definition of what can be "owed," and (c) the common sense understanding of the amount necessary to be made "whole."

III. Cost Estimates

Our concerns over SIGTARP's accounting also extend to how SIGTARP has recently reported individual investments as well. Treasury no longer has any investment in Chrysler or Chrysler Financial, for example. We report a net loss of $1.24 billion on the Chrysler investments, which reflect the total amount invested less repayments and additional income. Treasury's accounting has been audited by GAO. Yet SIGTARP does not report these GAAP-based numbers. Instead, you recently testified before Congress that "Treasury suffered a $2.9 billion loss on its TARP investment in Chrysler." Your calculation appears to have ignored the income received in the form of interest payments and gains on sale of stock; this oversight is inconsistent with GAAP.

IV. Transparent and Accurate Information is Critical to the Public's Understanding of TARP.

I also wish to raise another concern about certain inaccuracies in your reports. On July 10, 2012, I wrote to you to respond to your April 2012 Quarterly Report to Congress. In that letter, I responded to inaccuracies in your Report related to "widely held misconceptions" about the overall cost of TARP. I also identified ways in which your Report addressed issues outside the scope of your statutorily limited mandate to oversee the purchase, management, and sale of assets under TARP. In particular, your Report misstated and omitted key facts about what authorities regulators have exercised under the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding systemically important financial institutions.

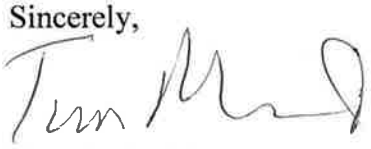
Standard practice under the Generally Accepted Government Accounting Standards (GAGAS) is for the auditor to include in its report the agency's response. Historically, you have published in the Quarterly Reports all intra-quarter correspondence with Treasury, including Treasury's responses to past Quarterly Reports. In contrast, my July 10, 2012 letter was not included in your July Quarterly Report. When we first raised this point with your senior team, they suggested that it was likely an oversight and that they would look into it immediately. Two weeks later, your team explained that not publishing my letter was a deliberate decision, and they referred to it as an exertion of SIGTARP's "independence."

Your failure to publish my response is inconsistent both with the GAGAS and your historical practice for Quarterly Report correspondence. It is also surprising, given that SIGTARP asks for a response in the Data Call process, and publishing our response (particularly when it points out inaccuracies in a SIGTARP report) furthers the goals of transparency and accuracy. It is unclear how publishing Treasury's official response to a SIGTARP report affects your independence in any way. Therefore, I renew my request that you publish that letter, along with this one, in your upcoming Quarterly Report.

V. Conclusion

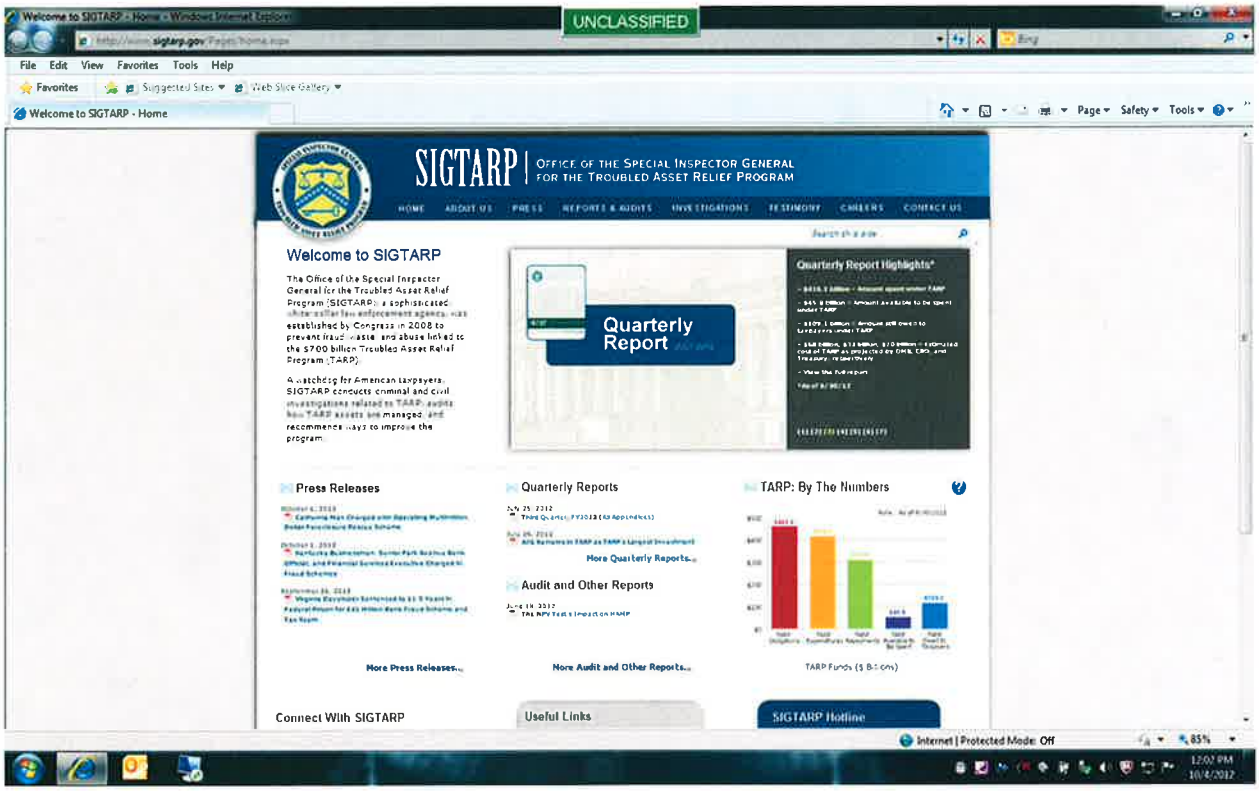
Treasury believes in effective oversight. Treasury also believes in transparency and providing clear and accurate information to the public. Despite the volume of information Treasury makes public about TARP, there are often misconceptions about the program. To reduce the risk of misconceptions and inaccuracies, we ask SIGTARP to conform its reporting of TARP accounting to the standards consistent with GAAP and GAGAS and approved by the GAO, and to publish Treasury's responses to SIGTARP's reports.

Sincerely,



Timothy G. Massad
Assistant Secretary for Financial Stability

Attachment A – SIGTARP website on October 4, 2012



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

July 10, 2012

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Assets Relief Program
1801 L Street, NW, 4th Floor
Washington, D.C. 20220

Re: SIGTARP Quarterly Report to Congress

Dear Ms. Romero:

I am writing in response to your recent Quarterly Report to Congress (Report), dated April 25, 2012. The Department of the Treasury strongly supports transparency in all its programs and activities, including the Troubled Assert Relief Program (TARP). We also appreciate the important oversight role of the Office of the Special Inspector General for TARP (SIGTARP).

In particular, we recognize that SIGTARP has a statutory responsibility to produce a quarterly report that provides information on the purchase, sale, and management of assets under TARP, as well as on SIGTARP's activities related to those subjects. As you know, Treasury devotes a substantial amount of time and staff resources to supporting this effort. For each Report, we respond to hundreds of requests for information, often under tight deadlines that require our team to work nights, weekends, and holidays. Treasury staff compile the detailed transactional and housing-related data that is included in each Report; we carefully review close to three hundred pages of "vetting drafts" of almost every section of each Report; and we provide numerous factual edits and corrections.

SIGTARP, however, does not share in advance its Executive Summary (Summary)—which appears at the beginning of each Report—and the most recent Summary raises several concerns. First, it makes assertions that we believe are incorrect and not supported by factual evidence. For example, the Summary states that it "is a widely held misconception that TARP will make a profit." As you know, Treasury regularly publishes estimates of the overall cost of TARP. This information is widely available and frequently cited in the press. In fact, the cost figures included in the Summary of your recent report are not independent projections made by SIGTARP, but rather are Treasury's own published estimates. Nonetheless, to the extent there is a misconception, we believe it is the opposite: many people incorrectly believe that TARP will cost taxpayers hundreds of billions of dollars. As you know, while TARP's bank programs have resulted in a positive return for taxpayers, our most recent estimate is that TARP is projected to have an overall direct fiscal cost of $60 billion, due primarily to the cost of the programs to help homeowners avoid foreclosure.

Second, the Summary raises issues that are outside of the purchase, management, and sale of assets under TARP; raises issues that are not addressed in the body of the Report; and misstates or omits key facts. For example, the Summary states: "The Dodd-Frank Act gives regulators enhanced supervision for institutions deemed systemically significant ('SIFIs'). However, regulators have not proposed rules on the supervision and have been silent on how they will use their new authority." This is incorrect. In December 2011, the Federal Reserve issued proposed rules for the enhanced supervision of large bank holding companies and for the supervision of nonbank financial companies that are designated by the Financial Stability Oversight Council (Council) for such supervision; and in April 2012, the Council issued a final rule and interpretive guidance on the process and analytic framework for the designation of nonbank financial companies for supervision by the Federal Reserve. Moreover, federal regulators have spoken at length—in congressional hearings and in other public contexts—about their new authorities under Dodd-Frank. And again, these issues are outside of the management of TARP and are not addressed in the body of the Report.

Third, the Summary states that "[a]ll SIGTARP recommendations should be fully implemented for Treasury to adequately protect taxpayers against fraud, waste, and abuse." This statement, however, is inconsistent with other guidance your office has provided to Treasury. In numerous instances, when we have not agreed with a particular recommendation, we have worked with your staff to address the underlying issue in an alternative manner.[1] Although such recommendations are usually recorded as "partially implemented," we understood SIGTARP to be satisfied with Treasury's actions. In recent discussions, your senior staff has confirmed this understanding. Nonetheless, the Summary seems to criticize Treasury for not "fully" implementing each and every recommendation.

As always, I would be happy to discuss these matters further at your convenience. We value a constructive relationship with all of our oversight bodies, and we look forward to working with you in the future.

Sincerely,

Timothy G. Massad

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[1] For example, Recommendation 26 states that Treasury should require "the notarized signature and thumbprint" of each homeowner as a condition to obtaining a mortgage modification under its housing program. Treasury did not implement this recommendation as it would have made it harder to provide assistance to eligible homeowners without a corresponding benefit. Instead, as the Report notes, Treasury took several other "actions to prevent fraud on the part of either MHA servicers or applicants." Although the Report lists the recommendation as only "partially implemented," we understood this item to be closed to mutual satisfaction.