

*The U.S. Treasury Department  
Summary Response to GAO Recommendations*

*August 14, 2009*

The Treasury Department (Treasury) welcomes the recommendations on the Troubled Asset Relief Program (TARP) made by the GAO in its June 2009 report. This report provides a response to the June 2009 recommendations and includes an update on the implementation of the open GAO recommendations in the December 2008, January 2009, and March 2009 reports.

Treasury works closely with the GAO on a daily basis regarding TARP programs. Communication with the GAO includes responding to specific inquiries and organizing comprehensive briefings on the progress of TARP programs with senior Treasury staff. Treasury keeps the GAO apprised of its progress on implementing recommendations, as well as on developments with current and proposed programs and policies under the Emergency Economic Stabilization Act of 2008 (EESA).

This report first identifies each open GAO recommendation and then provides a summary of Treasury's actions to address the specific recommendation. As described below, Treasury's Office of Financial Stability (OFS) continues to make tremendous progress on building out the organization and related frameworks and procedures, while simultaneously developing and implementing Treasury's policies to stabilize the financial system.

**GAO Recommendation 1:**

*Treasury should continue to expeditiously hire personnel needed to carry out and oversee TARP.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury has expeditiously increased the OFS workforce in order to carry out and oversee the TARP. As of August 3, 2009, OFS has 194 full-time employees who support the OFS mission 100 percent of their time. These employees include 18 employees who report through Treasury's Office of General Counsel and 19 detailees. In addition to the 194 full-time staff, approximately 40 Treasury employees outside of OFS continue to provide support to OFS on an as-needed basis. Treasury's organizational plans, as of August 3, 2009, call for a total of 225 full-time employees, indicating that OFS was 86 percent staffed as of August 3, 2009.

Treasury continues to use direct-hire and other appointments to expedite hiring of highly qualified candidates. This strategy has enabled Treasury to reduce the number of temporary and contract staff and strengthen the continuity and institutional knowledge of the workforce.

**GAO Recommendation 2:**

*Develop a comprehensive system of internal control over TARP, including policies, procedures, and guidance for program activities that are robust enough to ensure that the program's objectives and requirements are being met.*

**Summary of Treasury's Actions in Response to this GAO Recommendation**

Treasury has developed a framework and plan for internal control over TARP. The Internal Control Framework serves as a guide to the establishment of internal controls for new programs (e.g. applied to the Home Affordable Modification Program and the Public Private Investment Program). Treasury continues to work with program management to identify initial program objectives, risks, control objectives, and control activities. This work includes the preparation and maintenance of process flows and related controls documentation, as well as evidence of control execution. Treasury continues to monitor the operational controls related to program asset acquisition, asset management, and asset disposition activities.

OFS is on schedule to meet its A-123 Program implementation plan and continues to assess the ongoing effectiveness of internal controls over financial reporting. The Interim Assurance Statement for OFS's internal control over financial reporting as of June 30, 2009 was completed in mid-July.

In support of the broader fiscal year-end management assurance statement, OFS is actively evaluating its management controls, internal controls over financial reporting, and compliance with federal financial systems standards. This work is on track for completion by the Department due date.

Management delivered draft policies and procedures to the GAO on June 30, 2009 and is further developing and refining applicable policies and procedures to achieve its targeted completion date of September 30, 2009. The Senior Assessment Team (SAT) continues to guide OFS's efforts to meet the statutory and regulatory requirements for a sound system of internal controls for the TARP.

**GAO Recommendation 3:**

*Treasury should ensure that future CPP agreements include a mechanism that will better enable Treasury to track the use of the capital infusions and seek to obtain similar information from existing CPP participants.*

**Summary of Treasury's Actions in Response to this GAO Recommendation**

Treasury currently collects monthly lending data from all Capital Purchase Program (CPP) participants in the "CPP Monthly Lending Report". This report includes information on average loans balances for consumer lending, commercial lending, and total lending. In addition, the top 21 CPP participants submit the "Monthly Lending and Intermediation Snapshot," which is a two page document detailing monthly loan

balances, originations, and other financial intermediation activity. Beginning in April 2009, the top 21 CPP participants began reporting on small business lending. Treasury has already published six detailed “Snapshots” and three Lending Reports of lending activity by all CPP recipients. Treasury publishes these reports on *FinancialStability.gov*.

Separate from these surveys, Treasury, along with the banking regulatory agencies, is conducting quarterly analysis on the underlying financial condition and selected activities of all CPP participants. These analyses are based on the Regulatory Call Reports that each bank is required to submit quarterly. Once finalized, this analysis will be posted publicly on *FinancialStability.gov*.

In addition, in February 2009, Treasury announced the Capital Assistance Program (CAP). The CAP is designed to ensure that banks have an adequate capital cushion so that they can withstand larger-than-expected losses and maintain lending to creditworthy borrowers in the event that economic conditions worsen. As with the CPP, the CAP is a program through which Treasury provides capital to financial institutions. The CAP guidelines provide for reporting on the following lending activities. First, as part of the application process, banks must submit a plan for how they intend to use CAP capital to preserve and strengthen their lending capacity – specifically, to increase lending above levels relative to what would have been possible without government support. Treasury will make these plans public when participants receive capital under CAP. In addition, banks receiving capital will be required to submit to Treasury monthly reports on their lending broken out by category. This report will include a comparison to their most rigorous estimate of what lending likely would have been in the absence of government support. These reports will be posted on Treasury’s *FinancialStability.gov* website. Treasury continues to evaluate what types of reporting are most useful as it seeks to achieve greater transparency and accountability in the financial stability programs.

**GAO Recommendation 4:**

*Treasury should establish a process to ensure compliance with all CPP requirements, including those associated with limitations on executive compensation, limitations on dividends, and stock repurchase restrictions.*

Summary of Treasury’s Actions in Response to this GAO Recommendation

On June 15, 2009, Treasury published the Interim Final Rule (“the Rule”) on executive compensation as required under the American Recovery and Reinvestment Act of 2009. Treasury is currently in the comment period for the regulation. The Rule contains distinct requirements for TARP CPP participants and TARP Exceptional Assistance Participants. Processes are in place to address the Exceptional Assistance companies and the submission of compensation data on the 25 highest paid employees of each entity. Data submission requests have gone out to all seven Exceptional Assistance companies, which include: AIG; Bank of America Corporation; Citigroup, Inc.; General Motors Company; GMAC Inc.; Chrysler Financial Services Americas LLC; and Chrysler Group LLC.

TARP recipients not identified as Exceptional Assistance companies are required to submit letters of certification signed by their CEO and CFO certifying the company's compliance with establishing a Board Compensation Committee and excessive and luxury expense policy within 90 days following publication of the rule. Certifications with respect to other requirements are due within 90 days of the completion of the TARP recipient's fiscal year. Processes regarding certifications are currently being developed.

As stated in Treasury's response to GAO's March report, Treasury tracks compliance with CPP non-executive compensation requirements (e.g. dividend payments, limitations on dividends, and stock repurchase restrictions) using Bloomberg and other informational sources, such as SEC filings, press releases, and other reports compiled by OFS's retained custodian bank, as well as information provided by CPP participants. Additionally, Treasury engaged asset management firms to help provide information such as the information described to assist OFS with compliance monitoring. More specifically, missing dividend payments are reviewed by a cross-functional group within OFS and documented in a memorandum. OFS's Risk and Compliance Office (CRCO) will be more formally tracking the number of missed payments in the monthly Dividends and Interest Report starting with the July report. Other CPP requirements based on information received or obtained are reviewed and documented by the CPP team, including, if required, decisions made by that team. Instances of non-compliance with CPP requirements of which OFS becomes aware are reported to the CRCO and are evaluated to determine if further action is required.

OFS finalized business functional requirements for exception handling, tracking, and reporting for non-executive compensation CPP requirements and is continuing to investigate potential software solutions as well as other methods to improve compliance monitoring.

**GAO Recommendation 5:**

*Treasury should develop and implement a well-defined and disciplined risk-assessment process; as such a process is essential to monitoring program status and identifying any risks of potential inadequate funding of announced programs.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury has made significant progress in developing a well-defined and disciplined risk-assessment process. The process includes a number of steps, including setting internal operational objectives, setting risk and other objectives, identifying major risks, designing and assigning responsibility for implementing risk mitigation actions, monitoring and reporting on risks, and testing risk mitigation actions.

OFS's Executive Committee and SAT, along with the CRCO have implemented this process. The Executive Committee has responsibility for setting objectives (internal operational, risk and other), and establishing risk priorities. The SAT, along with OFS program offices and the units within OFS that support operational needs, identify major risks. These groups also develop and implement risk mitigation activities, monitor and

report on risks, and test risk mitigation actions. Charters are available for both the Executive Committee and the SAT.

The initial risk identification and assessment process is complete and reflects the results of a combination of top-down and bottom-up processes. Each area within OFS has identified first-cut high level risks. Risk mitigation plans have been established against high and medium risks, and substantial progress has been made on these plans. CRCO reports plan progress as part of its overall management information process.

Beginning in mid-July 2009, CRCO began the second phase of risk assessments, which assesses the risks of each operational unit. The process for these assessments includes a more granular level of risk assessment, including mapping out the processes within each program or support area, developing interview guidelines, conducting structured interviews with OFS personnel, development of a preliminary list and categorization of risks, assessment of the risks, development of risk mitigation plans, and monitoring risk mitigation progress. This process will be done in two phases and should take approximately two to three months each.

**GAO Recommendation 6:**

*Develop a communication strategy/vision that includes building an understanding and support for the various components of the program, specifically actions to preserve homeownership. Specific actions could include hiring a communications officer, integrating communications into TARP operations, scheduling regular and ongoing contact with congressional committees and members, holding town hall meetings with the public across the country, establishing a counsel of advisors, and leveraging available technology. Fully implement a communication strategy that ensures that all key congressional stakeholders are adequately informed and kept up to date about TARP.*

Summary of Treasury's Actions in Response to this GAO Recommendation

OFS is developing an integrated communications plan in coordination with Treasury's Offices of Public Affairs, Legislative Affairs, OFS program offices, and is hiring the appropriate staff to execute this plan. The integrated communications plan will address both internal and external communications and develop recommendations on how Treasury can best communicate the goals and progress of TARP programs to Congress, the general public, Treasury employees, and other stakeholders.

Treasury has taken a number of important steps to improve dissemination of information about TARP. In March 2009, Treasury launched its *FinancialStability.gov* website, which provides comprehensive information on the Financial Stability Plan and all TARP programs, and also features reports issued by Treasury on TARP. Since its launch in March 2009, *FinancialStability.gov* has had over 25 million page views. In addition to the website, Treasury responds to numerous inquiries on TARP from Members of Congress and has begun to conduct periodic briefings with Congressional staff on TARP programs (the first one took place on May 15, 2009 with House and Senate staff and two additional briefings occurred in July). These briefings are in addition to Treasury

Secretary Timothy F. Geithner's and Assistant Secretary Herbert M. Allison, Jr.'s frequent testimonies before Congress and many public statements on TARP and the Financial Stability Plan.

Treasury also regularly communicates all updates on TARP programs with oversight entities: the GAO, the Special Inspector General for the Troubled Asset Relief Program, and the Congressional Oversight Panel.

With regard to its Making Home Affordable program, Treasury has developed an extensive communications strategy by working with a council of advisors from various offices within Treasury including the Office of Public Affairs, the Public Liaison Office, and the Office of Legislative Affairs, as well as communications officials at the White House, Department of Housing and Urban Development, Federal Housing Finance Agency, Fannie Mae, Freddie Mac, NeighborWorks America, and HOPE. In addition, Treasury has hired a Director of Marketing and Communications for the Homeownership Preservation Office (HPO) to better coordinate outreach efforts.

In March 2009, Treasury launched its *MakingHomeAffordable.gov* website, which contains a wealth of information for homeowners on refinancing and modification. Treasury is continually working to ensure that the website has the latest information and is a resource for borrowers, housing counselors, and the media. Since its launch in March 2009, *MakingHomeAffordable.gov* has had over 29.6 million page views. As part of the effort to disseminate information about the Making Home Affordable program, Treasury is working with NeighborWorks America to develop a PSA Ad Council campaign in both English and Spanish to target audiences who may be eligible for the program. The Homeownership Preservation Foundation, is providing free call center services on a 24/7 basis in English and Spanish to borrowers seeking program information. In recent weeks, the call center implemented an escalation process to address urgent borrower needs in a timely manner.

In addition to these efforts, Treasury launched a national outreach campaign in local markets hardest hit by foreclosure. In each area, Treasury hosts a partner roundtable to engage key local officials, including Congressional field office staff and housing counselor groups about the Making Home Affordable program. As part of these outreach activities, Treasury has partnered with local government and nonprofit housing organizations to provide borrowers a sit-down opportunity with mortgage lenders and housing counselors. Cities visited to date include: Miami, Florida; Sacramento, California; Las Vegas, Nevada; and Phoenix, Arizona. By the end of September 2009, Treasury will have hosted events in Chicago, Illinois; Springdale, Maryland; Woodbridge, Virginia; Los Angeles, California; and Tampa, Florida.

HPO hired a Director of Intergovernmental and Industry Relations and is hosting meetings with housing advocacy groups to discuss the challenges they face on the ground and their recommended improvements to the HAMP program. In addition, HPO has

been working with the Hope Now alliance on identifying challenges that stakeholders are encountering with the HAMP program and solutions to these challenges.

HPO has also conducted briefings for Senate and House Congressional staff. In addition, HPO held three briefings for Senate Banking Committee staff, and several meetings with the personal staffs of House and Senate members. In the coming months, HPO will be aggressively reaching out to House Caucuses and other Congressional committees.

**GAO Recommendation 7:**

*Update OFS documentation of certain internal control procedures and the guidance available to the public on determining warrant exercise prices to be consistent with actual practices applied by OFS.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury has implemented this recommendation. Treasury clarified its procedures for determining warrant exercise prices by updating its FAQs on CPP repayment and CAP and posting the updated FAQs on *FinancialStability.gov* website in May 2009. Treasury completed documentation of CPP process flows, risk and compliance matrices, and narratives on June 30, 2009. Treasury supplied the GAO with draft policies and procedures regarding validation of the warrant exercise price calculation on June 30, 2009.

**GAO Recommendation 8:**

*Complete the review of, and as necessary renegotiate, the existing vendor conflicts-of-interest mitigation plans to enhance specificity and conformity with the new interim conflicts-of-interest rule. Take continued steps to manage and monitor conflicts of interest and enforce mitigation plans.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury is actively renegotiating the contracts in place before the new Conflict of Interest interim final regulation became effective on January 21, 2009 and that remained active after April 30, 2009. To date, Treasury has successfully renegotiated the conflicts of interest provisions and approved the conflicts mitigation plans for five of the eight contracts that required modifications; Treasury is actively working on the remaining three contracts. The complex nature of these contracts requires significant time to develop mitigation plans that appropriately meet the provisions of the regulation. Subsequently, the three remaining contracts are in various stages of renegotiation and are expected to be completed by September 30, 2009.

Treasury has taken steps to systematize and formally document processes regarding conflicts of interests. CRCO works with the contractors at the outset of the contract to identify conflicts mitigation plans that meet Treasury's requirements under the new Conflict of Interest interim final regulations. In accordance with the regulations, the

contractors provide documentation related to conflicts of interest throughout the term of the contract. The Contracting Officer's Technical Representatives (COTRs) report any discussions regarding conflicts of interest with their contractors as part of their systematic monitoring of assigned contracts and promptly raise any perceived or potential conflicts of interest to the attention of CRCO for evaluation.

As stated in Treasury's May 2009 Summary Response to the GAO, in conjunction with Treasury Procurement Office, CRCO developed conflict of interest process flows. These flows became the basis of internal and external communications describing the formal processes and requirements contractors and financial agents must follow for conflict of interest communication with Treasury. Treasury delivered a presentation to COTRs and financial agent relationship managers to explain formal processes and distributed a formal email with the same message to all contractors and financial agents. To facilitate these processes, Treasury created a conflicts of interest mailbox as a central method for contractors and financial agents to communicate with Treasury. Types of communication that the mailbox facilitates include, but are not limited to: reports of possible conflicts of interest, updates to the mitigation plans, certification submissions, requests for interpretation of the regulation, and responses to contractors' and financial agents' requests. Additionally, Treasury created a database to document, archive, and monitor communications and information from contractors and financial agents; the database is populated with information shortly after it is received through the mailbox.

Treasury has vetted all public comments received on the interim final COI regulations, and is in the process of drafting revisions to the existing regulations.

**GAO Recommendation 9:**

*Issue guidance requiring that key communications and decisions concerning potential or actual vendor-related conflicts of interest be documented.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury has completed this recommendation. As stated above, CRCO completed written guidance on conflict of interest inquiry and other processes for contractors and financial agents on June 18, 2009. A training session was held on June 23, 2009 for COTRs, Contracting Officers, and other Treasury officials to communicate conflicts of interest inquiry and other request processes. COTRs, Contracting Officers, and other Treasury officials were provided with written guidance at the training session. Treasury also distributed the written guidance to contractors and financial agents during the first week of July, including the request to use a new conflict of interest mailbox to submit their inquiries or other requests regarding conflict of interest. Additionally, Treasury has completed a formal database system to track all conflict of interest inquiries, waiver requests, regulation interpretations and the submission of the certification documents required under the conflict of interest regulations, and Treasury's formal responses to those inquiries. Please see the response to GAO Recommendation #8 above for additional information.

**GAO Recommendation 10:**

*Expedite efforts to conduct usability testing to measure the quality of users' experiences with the financial stability Web site and measure customer satisfaction with the site, using appropriate tools such as online surveys, focus groups, and e-mail feedback forms.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Prior to receiving this recommendation, Treasury was in the process of implementing usability testing for its *FinancialStability.gov* website. Treasury has entered into an agreement with the Department of the Interior's Federal Consulting Group to conduct usability surveys on *FinancialStability.gov* using American Customer Satisfaction Index (ACSI) methodology. ForeSee Results, the firm administering the testing, has started the process of setting up and testing the survey technology. The current project timeline indicates usability testing will begin the second week of August, 2009. ForeSee Results will be presenting twice-yearly Satisfaction Insight Reviews containing feedback on usability of the website to Treasury; the first Satisfaction Insight Review is tentatively scheduled for October 2009.

**GAO Recommendation 11:**

*Explore options for providing to the public more detailed information on the costs of TARP contracts and agreements, such as a dollar breakdown of obligations and/or expenses.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury is assessing the feasibility of providing additional information about TARP Contracts and Agreements on its *FinancialStability.gov* website. Treasury has reviewed information currently available regarding contracts and agreements, including information on *FinancialStability.gov*, and information published to other agencies' public-facing websites. Based on this review and considering the information needs of key stakeholders, Treasury intends to update its website to include descriptive information related to TARP Contracts and Agreements, including an overview and key data about procurement contracts and financial agency agreements.

**GAO Recommendation 12:**

*Ensure that the warrant valuation process maximizes benefits to taxpayers and consider publicly disclosing additional details regarding the warrant repurchase process, such as the initial price offered by the issuing entity and Treasury's independent valuations, to demonstrate Treasury's attempts to maximize the benefit received for the warrants on behalf of the taxpayer.*

Summary of Treasury's Actions in Response to this GAO Recommendation

On June 26, 2009, Treasury released a written description of its warrant repurchase and disposition process for the CPP. When a publicly-traded institution repays Treasury's CPP investment, the original contract under the CPP provides the bank a right to

repurchase the warrants at fair market value via an independent valuation process. The relevant sections of the transaction documentation describing this process can be found in the Warrants FAQ on *FinancialStability.gov*.

Treasury will begin publishing additional information on each warrant that is repurchased, including a bank's initial and subsequent determinations of fair market value, if applicable. Following the completion of each repurchase, Treasury will also publish the valuation inputs used to assess the bank's determination of fair market value. All of this information will be available at *FinancialStability.gov*.

If an issuer chooses not to repurchase the warrants according to its existing contractual rights, Treasury has the discretion to dispose of the warrants as it sees fit over time. In these instances, Treasury will sell the warrants through an auction process. Treasury is currently establishing guidelines for these auctions, which it will publish on *FinancialStability.gov*.

The President has clearly stated that his objective is to dispose of the government's investments in individual companies as quickly as is practicable. In reaching the judgment to dispose of the warrants in the manner described, Treasury considered a range of options including holding the warrants for a longer term or until their expiration. Under those alternate scenarios, there was no certainty that Treasury would realize higher values, and they would have required Treasury to exercise discretionary judgment on timing market sales. Accordingly, Treasury concluded that a fully transparent auction provides the best method to realize the market value of the warrants in the near term on behalf of taxpayers.

Treasury publishes information on all CPP transactions, including warrant repurchases, in the TARP Transactions Reports within two business days of closing. All Transaction reports are available on Treasury's website at *FinancialStability.gov*.

**GAO Recommendation 13:**

*In consultation with the Chairmen of the Federal Deposit Insurance Corporation and the Federal Reserve, the Comptroller of the Currency, and the Acting Director of the Office of Thrift Supervision, ensure consideration of generally consistent criteria by the primary federal regulators when considering repurchase decisions under TARP.*

Summary of Treasury's Actions in Response to this GAO Recommendation

Treasury is not in a position to dictate criteria that regulators should apply in making such decisions. Federal banking law vests the primary regulator of each institution with the authority to determine whether and on what terms to permit the institution to reduce its capital, including by repurchasing or redeeming preferred stock held by Treasury. To the extent different regulators may apply different criteria in making that determination, that variation is a function of the division of authority under the bank regulatory system.