United States Government Accountability Office

GAO

Report to Congressional Committees

October 2009

TROUBLED ASSET RELIEF PROGRAM

One Year Later, Actions Are Needed to Address Remaining Transparency and Accountability Challenges

GAO-10-16

GAO

Accountability·Integrity·Reliability

Highlights

Highlights of GAO-10-16, a report to congressional committees

Why GAO Did This Study

GAO's eighth report assesses the Troubled Asset Relief Program's (TARP) impact over the last year. Specifically, it addresses (1) the evolution of TARP's strategy and the status of TARP programs as of September 25, 2009; (2) the Department of the Treasury's (Treasury) progress in creating an effective management structure, including hiring for the Office of Financial Stability (OFS), overseeing contractors, and establishing a comprehensive system of internal control; and (3) indicators of TARP's performance that could help Treasury decide whether to extend the program. GAO reviewed relevant documentation and met with officials from OFS, contractors, and financial regulators.

What GAO Recommends

While Treasury has been generally responsive to GAO's prior 35 recommendations, GAO reiterates the importance of fully implementing several previous recommendations. GAO also makes three new recommendations. Specifically, the Secretary should (1) coordinate with the Federal Reserve and FDIC to help ensure that the decision to extend or terminate TARP is considered in a broader market context, (2) document and communicate the results of its determination, and (3) update its projected use of funds. Treasury agreed with the first two recommendations. With the third, it stated that Treasury regularly re-evaluates its funding needs. However, GAO found that a thorough review of its estimates is warranted.

View GAO-10-16 or key components.

For more information, contact Thomas J. McCool, 202-512-2642, mccoolt@gao.gov.

October 2009

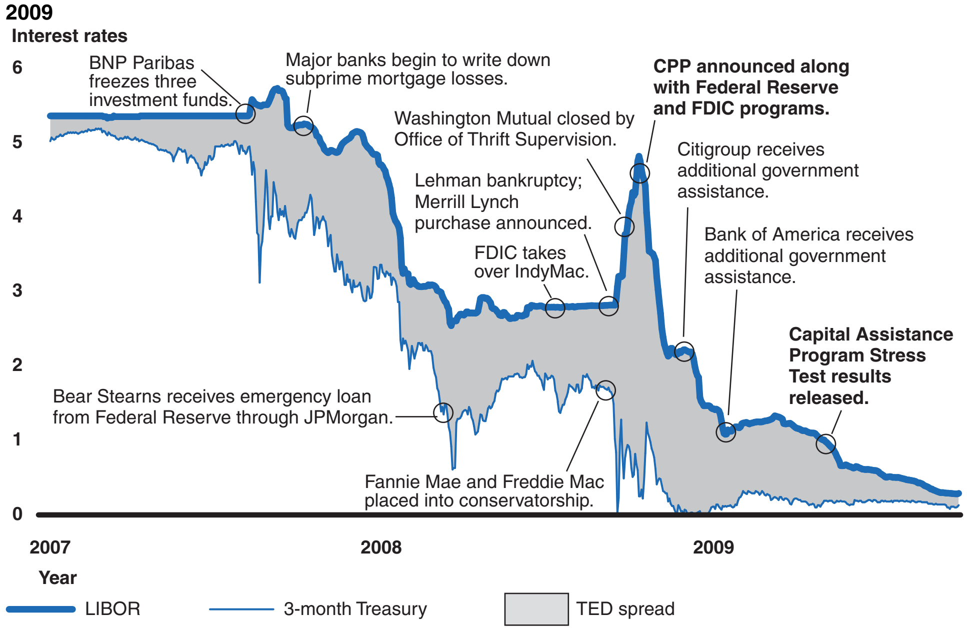
TROUBLED ASSET RELIEF PROGRAM

One Year Later, Actions Are Needed to Address Remaining Transparency and Accountability Challenges

What GAO Found

Over the last year, TARP in general, and the Capital Purchase Program (CPP) in particular, along with other efforts by the Board of Governors of the Federal Reserve System (Federal Reserve) and Federal Deposit Insurance Corporation (FDIC), have made important contributions to helping stabilize credit markets. To illustrate, figure 1 shows that while it is difficult to isolate the impact of TARP, the TED spread—a key indicator of credit risk that gauges the willingness of banks to lend to other banks—has narrowed to levels not seen since market turmoil began in late 2007. However, TARP is still a work in progress, and many uncertainties and challenges remain. For example, while some CPP participants had repurchased over $70 billion in preferred shares and warrants as of September 25, 2009, whether Treasury will fully recoup TARP assistance to the automobile industry and American International Group Inc., among others, remains uncertain. Moreover, other programs, such as the Public-Private Investment Program and the Home Affordable Modification Program (HAMP) are still in varying stages of implementation.

Figure 1: TED Spread, 3-Month LIBOR, and 3-Month Treasury Bill Yield, as of September 29, 2009



Source: GAO analysis of data from Thomson Reuters Datastream.

Note: Rates and yields are daily percentages. The area between the LIBOR and Treasury yield is the TED spread.

As of September 25, 2009, Treasury had disbursed almost $364 billion in TARP funds; however, Treasury has yet to update its projected use of funds for most programs in light of current market conditions, program participation rates, and repurchases. Without more current estimates about expected uses of the remaining funds, Treasury's ability to plan for and effectively execute the next steps of the program will be limited. Amid concerns about the direction and transparency of TARP, the new administration has attempted to provide a more strategic direction for using the remaining funds. TARP has moved from investment-based initiatives to programs aimed at stabilizing the securitization markets and preserving homeownership, and most recently at providing assistance to community banks and small businesses. While some programs, such as the Term Asset-Backed Securities Loan Facility, appear to have generated market interest, others, such as HAMP, face ongoing implementation and operational challenges. Related to transparency, Treasury has taken a number of steps to improve communication with the public and Congress, including launching a Web site and preparing to hire a communications director for OFS to support these efforts.

Treasury has also made significant progress in establishing and staffing OFS; however, it must continue to focus on filling critical leadership positions, including the Chief Homeownership Preservation Officer and Chief Investment Officer, with permanent staff. Treasury's network of contractors and financial agents that support TARP administration and operations has grown from 11 to 52. While Treasury has an appropriate infrastructure in place, it must remain vigilant in managing and monitoring conflicts of interests that may arise with the use of private sector sources.

GAO again notes that isolating and estimating the effect of TARP programs remains a challenging endeavor. As shown in table below, the indicators that GAO has been monitoring over the last year suggest that there have been broad improvements in credit markets since the announcement of the first TARP program (CPP) and that a number of anticipated effects of TARP have materialized, although not necessarily due to TARP actions alone. Specifically, the cost of credit and perceptions of risk (as measured by premiums over Treasury securities) have declined significantly in interbank, corporate debt, and mortgage markets. Further, our analysis of Treasury's loan survey results over most of the past year shows that collectively the largest CPP participants have reported extending almost $2.3 trillion in new loans since receiving $160 billion in CPP capital. While Treasury has not fully developed a comprehensive framework for assessing the need for additional actions and evaluating program results in a transparent manner, in a recent report Treasury began to lay the foundation for such a framework and provided a number of financial indicators. A framework that utilizes indicators or measures of program effectiveness would help in weighing the benefits of TARP programs against the cost of employing additional taxpayer resources. Also, as Treasury considers further action under TARP and considers whether to extend the program beyond December 31, 2009, it will need to evaluate TARP in the broader context of efforts by the Federal Reserve and FDIC to stabilize the financial system. Finally, Treasury will need to document its analysis and effectively communicate its reasoning to Congress and the American people for its decisions to be viewed as credible.

Changes in Select Credit Market Indicators, October 13, 2008, to September 30, 2009

Credit market rates and spreads		
Indicator	**Description**	**Basis point change from October 13, 2008, to September 30, 2009**
LIBOR	3-month London interbank offered rate (an average of interest rates offered on dollar-denominated loans)	Down 446
TED Spread	Spread between 3-month LIBOR and 3-month Treasury yield	Down 443
Aaa bond rate	Rate on highest-quality corporate bonds	Down 143
Aaa bond spread	Spread between Aaa bond rate and 10-year Treasury yield	Down 85
Baa bond rate	Rate on corporate bonds subject to moderate credit risk	Down 263
Baa bond spread	Spread between Baa bond rate and 10-year Treasury yield	Down 205
Mortgage rates	30-year conforming loans rate	Down 142
Mortgage spread	Spread between 30-year conforming loans rate and 10-year Treasury yield	Down 83
Quarterly mortgage volume and defaults		
Indicator	**Description**	**Change from December 31, 2008 to June 30, 2009**
Mortgage originations	New mortgage loans	Up $290 billion to $550 billion
Foreclosure rate	Percentage of homes in foreclosure	Up 100 basis points to 4.30 percent

Source: GAO analysis of data *from Global Insight*, the Federal Reserve, Thomson Reuters Datastream, and *Inside Mortgage Finance.*

Note: Rates and yields are daily except mortgage rates, which are weekly. Higher spreads (measured as premiums over Treasury securities of comparable maturity) represent higher perceived risk in lending to certain borrowers. Higher rates represent increases in the cost of borrowing for relevant borrowers. As a result, "Down" suggests improvement in market conditions for credit market rates and spreads. Foreclosure rate and mortgage origination data are quarterly. See GAO-09-161, GAO-09-296, GAO-09-504, and GAO-09-658.

Contents

Tables

Figures

Abbeviations:

ABS	asset-backed securities
AGP	Asset Guarantee Program
AIFP	Automotive Industry Financing Program
AIG	American International Group, Inc.
ARRA	American Recovery and Reinvestment Act of 2009
CAP	Capital Assistance Program
CDFI	Community Development Financial Institutions
CDS	credit default swap
CMBS	commercial mortgage-backed securities
COP	Congressional Oversight Panel
CPP	Capital Purchase Program
FAR	Federal Acquisition Regulation
FDIC	Federal Deposit Insurance Corporation
FinSOB	Financial Stability Oversight Board
FRBNY	Federal Reserve Bank of New York
GM	General Motors Company
GMAC	GMAC LLP
GSE	government-sponsored enterprise
HAMP	Home Affordable Modification Program
HPDP	Home Price Decline Protection
HPO	Homeownership Preservation Office
HUD	Department of Housing and Urban Development
IAA	interagency agreements
LIBOR	London Interbank Offered Rate
MBS	mortgage-backed securities
MHA	Making Home Affordable
MLSA	Master Loan and Security Agreement
OCC	Office of the Comptroller of the Currency
OFS	Office of Financial Stability
OGE	Office of Government Ethics
OMB	Office of Management and Budget
OTS	Office of Thrift Supervision
PPIP	Public-Private Investment Program
SBA	Small Business Administration
SCAP	Supervisory Capital Assessment Program
SIGTARP	Special Inspector General for TARP
SSFI	Systemically Significant Failing Institutions Program
TALF	Term Asset-backed Securities Loan Facility
TARP	Troubled Asset Relief Program
TIP	Targeted Investment Program

United States Government Accountability Office
Washington, DC 20548

October 8, 2009

Congressional Committees

About a year ago, when the Emergency Economic Stabilization Act of 2008 (the act) that authorized the Troubled Asset Relief Program (TARP) was enacted, the U.S. financial system was facing the most severe financial crisis since the Great Depression.[1] The crisis, which threatened the stability of the financial system and the solvency of many financial institutions, prompted the Department of the Treasury (Treasury) to request and Congress to authorize Treasury to buy or guarantee up to $700 billion of the "troubled assets" that were deemed to be at the heart of the crisis, including mortgages and mortgage-based securities, and any other financial instrument Treasury determined it needed to purchase to help stabilize the financial system.[2]

When the act was signed on October 3, 2008, financial markets were in significant turmoil. The dramatic correction in the U.S. housing market had precipitated a decline in the price of financial assets associated with housing, in particular mortgage assets based on subprime loans that lost value as the housing boom ended and the market underwent a dramatic correction. Some institutions found themselves so exposed that they were threatened with failure—and some failed—because they were unable to raise the necessary capital as the value of their portfolios declined. Other institutions, ranging from government-sponsored enterprises (GSE) such as Fannie Mae and Freddie Mac to Wall Street firms, were left holding "toxic" or "legacy" assets that became increasingly difficult to value, were illiquid, and potentially had little worth. Moreover, investors not only stopped buying securities backed by mortgages but also became reluctant to buy securities backed by many other types of assets. Because of

[1]The Emergency Economic Stabilization Act of 2008 (the act), Pub. L. No. 110-343, 122 Stat. 3765 (2008), codified at 12 U.S.C. §§ 5201 et seq. The act originally authorized the Department of the Treasury (Treasury) to purchase or guarantee up to $700 billion in troubled assets. The Helping Families Save Their Homes Act of 2009, Pub. L. No. 111-22, Div. A, 123 Stat. 1632 (2009), amended the act to reduce the maximum allowable amount of outstanding troubled assets under the act by almost $1.3 billion, from $700 billion to $698.741 billion.

[2]Section 3(9) of the act, 12 U.S.C. § 5202(9). The act requires that the appropriate committees of Congress be notified in writing that the Secretary of the Treasury, after consultation with the Federal Reserve Chairman, has determined that it is necessary to purchase other financial instruments to promote financial market stability.

uncertainty about the financial condition and solvency of financial entities, the prices banks charged each other for funds rose dramatically, and interbank lending effectively came to a halt. The resulting credit crunch made the financing on which businesses and individuals depend increasingly difficult to obtain as cash-strapped banks held on to their assets. By late summer of 2008, the potential ramifications of the financial crisis ranged from the continued failure of financial institutions to increased losses of individual savings and corporate investments and further tightening of credit that would exacerbate the emerging global economic slowdown that was beginning to take shape.

The act requires GAO to report at least every 60 days on the status of TARP. As the act required, our reports have focused on (1) findings resulting from our oversight of TARP's performance in meeting the purposes of the act; (2) the financial condition and internal controls of TARP, its representatives, and agents; (3) the characteristics of both asset purchases and the disposition of assets acquired, including any related commitments that are entered into; (4) TARP's efficiency in using the funds appropriated for the program's operation; (5) TARP's compliance with applicable laws and regulations; (6) efforts to prevent, identify, and minimize conflicts of interest of those involved in TARP's operations; and (7) the efficacy of contracting procedures.[3]

This report assesses the program's impact over the last year. Specifically, it addresses (1) the evolution of the TARP strategy and the status of TARP programs as of September 25, 2009; (2) the Department of the Treasury's (Treasury) progress in creating an effective management structure, including hiring for the Office of Financial Stability (OFS), overseeing contractors, and establishing a comprehensive system of internal control; and (3) changes in the condition of financial markets as measured by indicators of TARP's performance that could help Treasury decide whether to extend the program.

Scope and Methodology

We took several steps to update information on the status of TARP funds, including disbursements, dividend payments, repurchases, and warrant liquidations, from October 3, 2008, through September 25, 2009 (unless otherwise noted), and the status of Treasury's actions taken in response to recommendations from our TARP reports, including its progress in

[3]Section 116 of the act, 12 U.S.C. § 5226.

developing a comprehensive system of internal control.[4] We reviewed documents provided by OFS and conducted interviews with officials from OFS, including the Chief Financial Officer, Deputy Chief Financial Officer, Cash Management Officer, Director of Internal Controls, and their representatives.

For the Capital Purchase Program (CPP), we reviewed documents from OFS that described the amounts, types, and terms of Treasury's purchases of senior preferred stocks, subordinated debt, and warrants under CPP. We also reviewed documentation and interviewed officials from OFS who were responsible for approving financial institutions' participation in CPP and overseeing the repurchase process for CPP preferred stock and warrants. Additionally, we contacted officials from the four federal banking regulators—the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System and Federal Reserve Banks (Federal Reserve), and the Office of Thrift Supervision (OTS)—to obtain information on their processes for reviewing CPP applications, the status of pending applications, their processes for reviewing preferred stock and warrant repurchase requests, and their examination processes for reviewing recipients' lending activities and compliance with TARP requirements.

To update the status of the Capital Assistance Program (CAP), we reviewed relevant documents and interviewed OFS officials about the program. We also met with Federal Reserve officials to discuss the stress test methodology and results for the 19 largest U.S. bank holding companies and reviewed related documents relevant to CAP.

[4]For our past 60-day reports, see GAO, *Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency*, GAO-09-161 (Washington, D.C.: Dec. 2, 2008); *Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-296 (Washington, D.C.: Jan. 30, 2009); *Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-504 (Washington, D.C.: Mar. 31, 2009); *Auto Industry: Summary of Government Efforts and Automakers' Restructuring to Date*, GAO-09-553 (Washington, D.C.: Apr. 23, 2009); *Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-658 (Washington, D.C.: June 17, 2009); *Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable*, GAO-09-837 (Washington D.C.: July 23, 2009); and *Troubled Asset Relief Program: Status of Federal Assistance to AIG*, GAO-09-975 (Washington, D.C.: Sept. 21, 2009).

To update our work on the Targeted Investment Program (TIP) and the Asset Guarantee Program (AGP), we reviewed the Securities Purchase Agreements that Citigroup Inc. (Citigroup) and Bank of America Corporation (Bank of America) entered into with Treasury and the Master Agreement signed by Citigroup, Treasury, FDIC, and the Federal Reserve Bank of New York (FRBNY). In addition, we interviewed OFS officials, including the acting Chief Investment Officer and the General Counsel, to obtain information on the current status of TIP and AGP in terms of new applicants for the programs, compliance with their requirements, and possible exit strategies for unwinding the TIP investments.

For the Systemically Significant Failing Institutions (SSFI) program, we reviewed relevant documents from Treasury, the Federal Reserve, and American International Group, Inc. (AIG), including securities purchase agreements, periodic reports provided to Treasury, and other relevant documentation. We also met with officials from each organization and relevant state insurance regulators.

To meet the report's objectives with respect to the Consumer and Business Lending Initiative, we reviewed announcements and other publicly available information on the Term Asset-Backed Securities Loan Facility (TALF) that were available on the FRBNY's Web site, in OFS internal reports, and in program design documents from Treasury and FRBNY. We also interviewed officials from OFS, FRBNY, and the Federal Reserve, as well as TALF investors, a securitization attorney, three underwriters, two major credit rating agencies, an academic, a policy analyst, and TALF issuers for commercial mortgage-backed securities (CMBS) and asset-backed securities (ABS) backed by credit cards, auto loans, student loans, and Small Business Administration (SBA) loans.

To meet the report's objectives with respect to the Public-Private Investment Program (PPIP), we reviewed PPIP-related announcements, OFS internal reports, and program operation and design documents published by Treasury and FDIC. We also interviewed officials from Treasury and FDIC, as well as a policy analyst and an economist.

To determine the status of TARP assistance provided through the Automotive Industry Financing Program (AIFP), we reviewed documents related to the restructuring of General Motors Company (GM) and Chrysler Group LLC (Chrysler), including the automakers' bankruptcy filings, credit agreements between the automakers and the federal government, and TARP disbursements to the automakers. We also interviewed Treasury officials, including officials from Treasury's auto team, and representatives from GM and Chrysler.

To determine the program status of the Home Affordable Modification Program (HAMP) and the status of our previous recommendations related to the program, we reviewed Treasury's guidelines for each HAMP component, published reports on servicer performance, and Treasury's written response to our July recommendations. In addition, we interviewed Treasury officials and officials at Fannie Mae and Freddie Mac—financial agents of Treasury for HAMP—about the status of program implementation, including a comprehensive system of internal control. We also reviewed documentation of Treasury's recent communications with servicers, such as draft servicer guidelines and letters sent to participating servicers. Finally, we spoke with representatives of consumer groups, housing counselors, and servicer associations to obtain their views on the implementation of HAMP to date.

To determine Treasury's progress in developing an overall communications strategy for TARP, we interviewed individuals from OFS and Treasury's Office of Public Affairs and Office of Legislative Affairs to determine what steps Treasury had taken to improve and coordinate communications with the public and Congress.

To assess Treasury's progress in hiring permanent staff for OFS, we met with officials from the Human Resources Office and OFS to discuss hiring efforts and reviewed various documents that OFS provided to us. In the interviews, officials discussed their processes for recruiting individuals with the skill sets and competencies needed to administer TARP, including steps taken to find permanent replacements to fill key leadership positions. To examine changes in the composition of staff since the office was established, we reviewed past GAO reports on TARP and various documents that OFS provided to us, including OFS's updated organizational chart. To gauge OFS's mix of permanent and temporary staff and the number of vacancies, we reviewed the totals for each type of staff over time and within each OFS office.

To assess OFS's use of contractors and financial agents to support TARP administration and operations, we obtained information from Treasury on contracting activity as of September 18, 2009—including task orders and modifications—for the OFS-support financial agency agreements, contracts, blanket purchase agreements, and interagency agreements (IAA). We analyzed this information to identify each contract's and agreement's purpose, period of performance, and potential value. To assess OFS's processes for (1) management and oversight of contractors' and financial agents' performance, and (2) managing conflicts of interest of contractors and financial agents supporting TARP administration and operations, we reviewed applicable documents that had become available from OFS since our June 2009 report. We also communicated with Treasury compliance officials and reviewed applicable documentation concerning OFS's progress in (1) completing reviews of vendor conflicts-of-interest mitigation plans to conform with applicable TARP requirements and (2) issuing guidance on OFS requirements and procedures for documenting and resolving conflicts of interest.

As we noted in our initial report under the mandate, we identified a preliminary set of indicators on the state of credit and financial markets that might be suggestive of the performance and effectiveness of TARP.[5] We consulted Treasury officials and other experts and analyzed available data sources and the academic literature. We selected a set of indicators that offered perspectives on different facets of credit and financial markets, including perceptions of risk, cost of credit, and flows of credit to businesses and consumers.[6] We assessed the reliability of the data upon which the indicators were based and found that, despite certain limitations, they were sufficiently reliable for our purposes. To update the indicators in this report, we primarily used data from Thomson Reuters Datastream, a financial statistics database. As these data are widely used, we conducted only a limited review of the information but ensured that the trends we found were consistent with other research. We also relied on data from *Inside Mortgage Finance*, Treasury, the Federal Reserve, the Chicago Board Options Exchange, the Securities Industry and Financial Markets Association, and *Global Insight*. We have relied on data from these sources for past reports and determined that, considered together, they are sufficiently reliable for the purpose of presenting and analyzing trends in financial markets. The data from Treasury's survey of lending by the largest CPP recipients (as of July 31, 2009, the latest available survey) are based on internal reporting from participating institutions, and the definitions of loan categories may vary across banks. Because these data

[5]See GAO-09-161.

[6]No indicator on its own provides a definitive perspective on the state of markets; collectively, the indicators should provide a broad sense of the stability and liquidity of the financial system and could be suggestive of the program's impact. However, it is difficult to draw conclusions about causality, because a variety of actions have been taken to address the economic downturn.

are unique, we are not able to benchmark the origination levels against historical lending or seasonal patterns at the institutions. Based on discussions with Treasury and our review, we found that the data were sufficiently reliable for the purpose of documenting trends in lending. Lastly, we collected data on loan balances from the Consolidated Financial Statements for Bank Holding Companies Y-9C Report Forms, the primary analytical tool that regulators use to monitor financial institutions. We verified that the input process did not result in data entry errors. Because the Y-9C is the primary source for balance sheet data and can be corroborated to some extent by audited financial statements, we conducted only a limited review of this data.

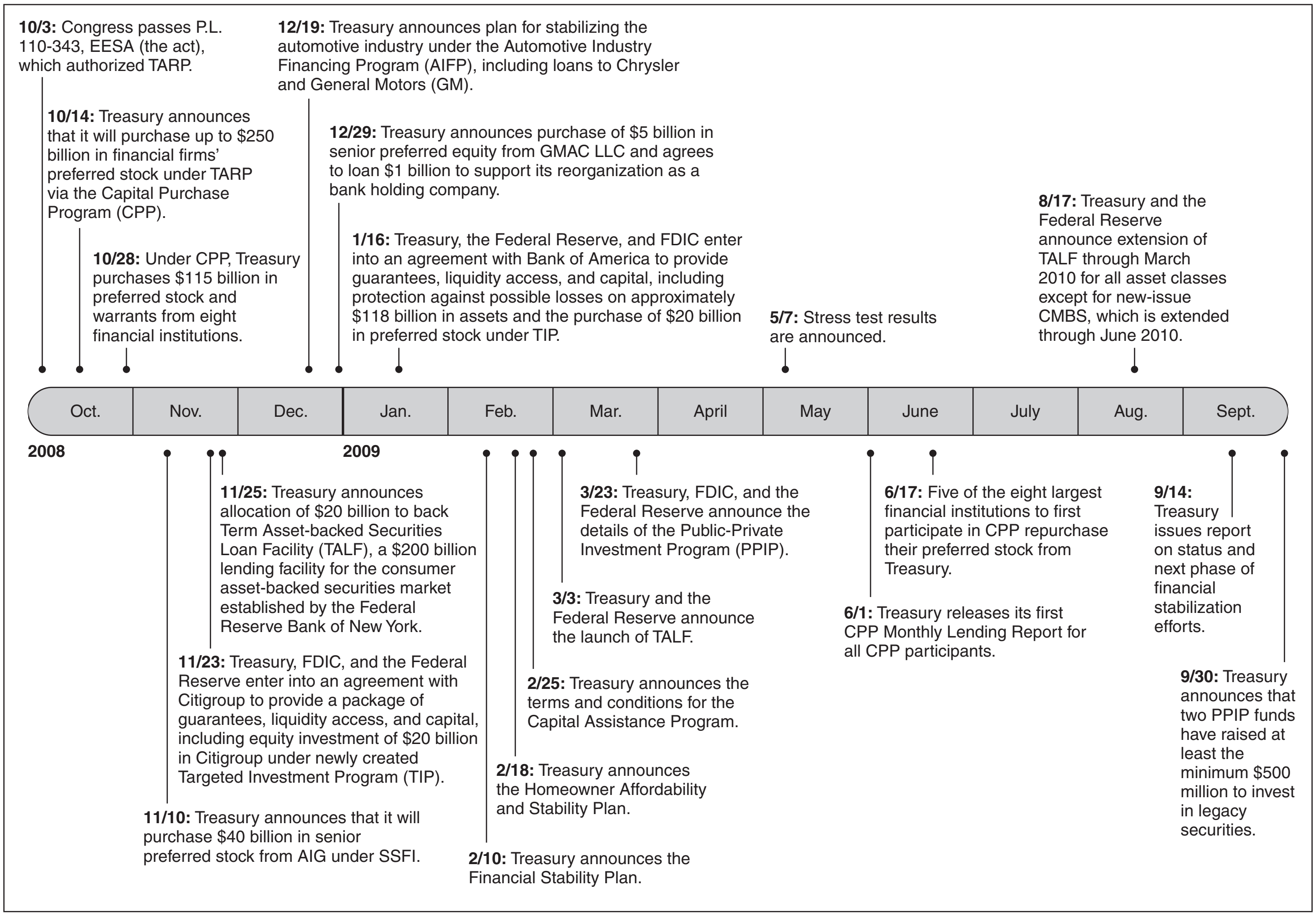
We conducted this performance audit from July 2009 to October 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

TARP Is A Key Part of the United States' Response to the Recent Financial Crisis

Before the act was passed, TARP was expected to be a program to purchase mortgage-backed securities (MBS) and whole loans from financial institutions to stabilize the financial system. Within 2 weeks of enactment, however, following similar action by several foreign governments and central banks, Treasury—through the newly established OFS—announced that it would make $250 billion available to U.S. financial institutions through purchases of preferred stock to provide additional capital that would help enable the institutions to continue lending. This effort was coordinated with a number of foreign governments as part of a global effort to stabilize financial markets. In the United States, the Federal Reserve and FDIC also announced concurrent coordinated actions that were intended to increase confidence in the U.S. financial system. Treasury's decision to change its strategy raised questions about TARP's transparency, and the fact that the funds were disbursed before a comprehensive system of internal control had been established raised issues of accountability. Figure 1 provides an overview of key dates for TARP implementation.

Figure 1: Timeline for the Implementation of TARP, October 3, 2008, through September 30, 2009



Source: GAO.

Overview of GAO Recommendations

In the last year, GAO has made 35 recommendations to Treasury and one to the Federal Reserve on a number of issues surrounding the implementation of TARP and the need to improve its operations and transparency.[7] Some of our recommendations applied to TARP in general, while others, such as CPP and HAMP, were program specific. Our

[7]Appendix I provides a complete list of the recommendations by report and their status as of September 25, 2009.

recommendations to Treasury generally fell into three broad categories: (1) transparency, reporting, and accountability; (2) management infrastructure; and (3) communication. Other TARP oversight entities, such as the Special Inspector General for TARP (SIGTARP) and the Congressional Oversight Panel, have also made numerous recommendations aimed at improving the implementation and oversight of TARP.

Transparency, reporting, and accountability. We made a series of recommendations aimed at improving the transparency and accountability of TARP and its programs. Initially, we made a series of recommendations aimed at improving the transparency of CPP. As a result, OFS now requires all CPP participants to participate in some form of monthly lending survey. We recommended that OFS report publicly the monies, such as dividends, paid to Treasury by TARP participants, something OFS started doing in June 2009. Similarly, Treasury took steps to implement our recommendations aimed at making the warrant repurchase process more transparent. Finally, we made a number of recommendations addressing the basis and design of HAMP's Home Price Decline Protection program and the need to routinely review and update the key assumptions that underlie Treasury's projection of the number of borrowers likely to be assisted. Treasury has started to address many of these recommendations.

Management infrastructure. To ensure that OFS established a robust management structure, comprehensive system of internal control, and risk assessment process, we made a series of recommendations aimed at addressing challenges associated with establishing a federal program in a short period of time including challenges associated with staffing, contractor oversight, and internal controls. For example:

- We recommended that Treasury expedite its hiring efforts to help ensure that OFS had the needed personnel throughout the implementation phase of the program and that key OFS leadership positions were filled during and after the transition to the new administration. In certain areas, challenges remain, and most recently we recommended that Treasury fully staff vacant positions in the Homeownership Preservation Office—including filling the position of Chief Homeownership Preservation Officer with a permanent placement—and evaluate staffing levels and competencies.
- We recommended that OFS take a number of actions to ensure an appropriate oversight infrastructure to manage contractors and address conflicts of interest, including ensuring that sufficient personnel were

assigned and properly trained to oversee the performance of all contractors. We recommended that OFS issue regulations on conflicts of interest involving Treasury's agents, contractors, and their employees and related entities as expeditiously as possible. We also recommended issuing guidance requiring that key communications and decisions concerning potential or actual vendor-related conflicts of interest be documented.

- More broadly, we recommended that Treasury continue to develop a comprehensive system of internal control over TARP, including policies, procedures, and guidance that were robust enough to protect taxpayers' interests and ensure that the program objectives were being met. For example, we recommended improvements in documenting certain internal control procedures and in updating the guidance available to the public on determining warrant exercise prices so that it was consistent with OFS's actual practices. Finally, we recommended that OFS expeditiously finalize a comprehensive system of internal control over HAMP.

- We also recommended that Treasury develop a process to monitor the status of programs and identify any potential risk that announced programs would not have adequate funding. Most recently, we also recommended that OFS develop a means of systematically assessing servicers' capacity to meet HAMP requirements during program admission.

Communication. In light of the backlash from Congress and others regarding Treasury's initial shift in the program from purchases of mortgages and mortgage-backed securities to capitalization of financial institutions, we made a series of recommendations over the past year aimed at improving OFS's communication with Congress and the public. While the theme has been constant, the recommendations have attempted to help ensure that Treasury develops a comprehensive communication strategy and clearly articulated vision for the program that goes beyond just providing information. We have recommended, for instance, that Treasury develop a communication strategy that includes building an understanding and support for the various components of the program. Treasury continues to take steps to address these recommendations, including hiring a communications officer, integrating communications into TARP operations, scheduling regular and ongoing contact with congressional committees and members, and attempting to leverage technology.

We made one recommendation that was not directed to Treasury. To help improve the transparency of CAP—in particular the stress test results—we recommended that the Director of Supervision and Regulation of the Federal Reserve consider periodically disclosing to the public the aggregate performance of the 19 bank holding companies against the more adverse scenario forecast for the duration of the 2-year forecast period and decide whether the scenario needs to be revised. At a minimum, the Federal Reserve should provide the aggregate performance data to OFS program staff for the 19 institutions participating in CAP or CPP. We are addressing these issues in ongoing work.

TARP Has Moved from Capitalizing Institutions to Stabilizing Securitization Markets and Preserving Homeownership, but Effective Communication Remains a Challenge

TARP is one of many programs and activities the federal government has put in place over the past year to respond to the financial crisis. As of September 25, 2009, it had disbursed almost $364 billion to participating institutions. Participating institutions have in turn made billions in dividends, interest, and principal payments on loans and some have started to repurchase their preferred shares and warrants. With the exception of CPP, which has hundreds of participants of various types and sizes, most of the other investment-based programs have provided substantial amounts of assistance to individual institutions. For example, AIG has received assistance under SSFI and GM and Chrysler have received support through AIFP. Amid concerns about the direction of the program and lack of transparency, the new administration has attempted to provide a more strategic direction for using the remaining funds and has created a number of programs aimed at stabilizing the securitization markets, preserving homeownership, and most recently at providing assistance to community banks and small businesses. Some programs, such as TALF—which is operated by FRBNY, with Treasury providing a backstop against losses—appear to be achieving the intended results, if on a reduced scale. Others, such as HAMP and PPIP, face ongoing implementation or operational challenges. Finally, over the past year OFS has also started to take steps to formalize its communication strategy and improve the way it communicates with Congress and the public.

Over the Last Year, Treasury Has Disbursed Almost $364 Billion and Had More Than $70 Billion Returned From Participants

In the past year, Treasury has implemented a range of TARP programs to stabilize the financial system. As of September 25, 2009, OFS had disbursed almost $364 billion for TARP loans and equity investments (table 1). Disbursements represent amounts actually paid to make troubled asset purchases or loans. Participating institutions have also paid Treasury billions of dollars in repurchases of preferred shares and warrants, dividend payments, and loan repayments. In general, Treasury's authority to purchase, commit to purchase, or commit to guarantee troubled assets will expire on December 31, 2009. However, the Secretary of the Treasury, upon submission of a written certification to Congress, may extend these authorities to no later than October 3, 2010—2 years from the date of enactment.[8] Based on the total prices of outstanding troubled asset purchases and outstanding commitments to purchase and the total face amount of outstanding guarantees as of September 25, 2009, almost $329 billion remains available under the almost $700 billion limit on Treasury's authority to purchase or insure troubled assets; however, while Treasury has updated its projected use of funds for AGP and AIFP, it has not modified any of its estimates for the others despite changes in current market conditions, program participation rates, and repurchases since March 2009. For example, when Treasury updated its estimates in March 2009, it estimated that CPP participants' repurchases would total about $25 billion but almost three times that amount has been repurchased as of September 25, 2009. Moreover, questions remain about the projected use of funds associated with consumer and business lending initiatives and PPIP. While Treasury officials acknowledge they are currently reviewing potential changes to the projections for the future, they continue to believe that these estimates are appropriate program funding allocations given current market conditions. Without more meaningful estimates about projected uses of the remaining funds, Treasury's ability to plan for and effectively execute the next phase of the program will be limited.

Table 1: Status of TARP Funds, as of September 25, 2009

Dollars in billions

Program and purpose	Cash disbursed and received	Asset purchase price[a]
Capital Purchase Program. To provide capital to viable banks through the purchase of preferred shares and subordinated debentures.	$204.6	$204.6
Targeted Investment Program. To foster market stability and thereby strengthen the economy by making case-by-case investments in institutions that Treasury deems are critical to the functioning of the financial system.	40.0	40.0
Capital Assistance Program. To restore confidence throughout the financial system that the nation's largest banking institutions have sufficient capital to cushion themselves against larger-than-expected future losses, and to support lending to creditworthy borrowers.	0.0	0.0
Systemically Significant Failing Institutions. To provide stability in financial markets and avoid disruptions to the markets from the failure of a systemically significant institution. Treasury determines participation in this program on a case-by-case basis.	43.2	69.8

[8]Sections 106(e) and 120 of the act, 12 U.S.C. §§ 5216(e), 5230.

Dollars in billions

Program and purpose	Cash disbursed and received	Asset purchase price[a]
Asset Guarantee Program. To provide federal government assurances for assets held by financial institutions that are viewed as critical to the functioning of the nation's financial system.	0.0	5.0
Automotive Industry Financing Program. To prevent a significant disruption of the American automotive industry.	75.9	81.1
Home Affordable Modification Program. To offer assistance to homeowners through a cost-sharing arrangement with mortgage holders and investors to reduce the monthly mortgage payment amounts of homeowners at risk of foreclosure to affordable levels.	0.0[b]	22.3
Consumer and Business Lending Initiative.[c] To support consumer and business credit markets by providing financing to private investors to issue new securitizations to help unfreeze markets and lower interest rates for auto, student, and small business loans; credit cards; commercial mortgages; and other consumer and business credit.	0.1	20.0
Public-Private Investment Program. To address the challenge of "legacy assets" as part of Treasury's efforts to repair balance sheets throughout the financial system and increase the availability of credit to households and businesses.	0.0	0.0
Total	**$363.8**	**$442.8**
Less repurchases[d]	70.7	70.7
Less loan principal repayments	2.1	2.1
Less dividends and interest received	9.5	n/a[e]
Less repurchased warrants and preferred stock obtained through the exercise of warrants	2.9	n/a[e]
Net disbursements and total troubled assets outstanding	**$278.6**	**$370.0**

Source: GAO presentation of OFS, Treasury, data (unaudited).

[a]The Asset Purchase Price reflects the aggregate amount Treasury agreed to pay to purchase outstanding troubled assets that are subject to the almost $700 billion purchase limit in section 115 of the Emergency Economic Stabilization Act (the act). This amount includes signed contract amounts not yet disbursed and the aggregate amount of outstanding guarantees made by Treasury, even though Treasury has not disbursed any cash to honor a guarantee. For example, AGP's asset purchase price includes the $5 billion Citigroup guarantee, even though no cash has been disbursed to Citigroup through this program. However, as required under section 102 of the act, it does not include a subtraction from the outstanding guarantee amount to reflect the balance in the Troubled Assets Insurance Financing Fund.

[b]As of September 25, 2009, Treasury had disbursed almost $1 million in HAMP investor subsidies and incentive payments to participating servicers.

[c]The Consumer and Business Lending Initiative includes TALF and the former Small Business and Community Lending Program.

[d]Repurchases represent the amounts received from CPP participant institutions that bought back their preferred shares from Treasury. Repurchases exclude any amounts relating to private institutions' buybacks of their preferred shares obtained through the exercise of warrants and public institutions' buybacks of their warrants.

[e]Dividend payments and the amounts received from the repurchases of warrants and preferred stock issued through the exercise of the warrants are not to be used to reduce the outstanding balance under the almost $700 billion TARP limit. However, these amounts are deposited in the general fund of the U.S. Treasury or the Troubled Asset Insurance Financing Fund, and they offset the amount of Treasury's disbursements.

As shown in table 1, repurchases of preferred stock and repayments of loan principal have reduced the outstanding balance of the program. Specifically, 41 institutions, including 10 of the largest bank holding companies participating in TARP, had repurchased all or a portion of their preferred stock from Treasury for a total of about $70.7 billion as of September 25, 2009 (table 2).[9] While the decision to allow an institution to repurchase its preferred shares rests with its primary federal regulator, we continue to believe that Treasury, as administrator of CPP, has a responsibility to help ensure that institutions are being treated consistently and that the regulators are applying generally consistent criteria when reviewing TARP participants' requests to repurchase their preferred shares.[10]

Table 2: Capital Purchase Program Repurchases, from TARP's Inception through September 25, 2009

Dollars in millions

Institution type	Repurchase amount for preferred stock initially issued to Treasury	Repurchase amount for preferred stock issued through exercise of warrants	Repurchase amount for warrants
Private Institutions	$44.4	$1.6	n/a
Publicly held Institutions	$70,644.8	n/a	$2,897.9
Total	**$70,689.2**	**$1.6**	**$2,897.9**

Source: GAO presentation of OFS, Treasury, data (unaudited).

[9]Under the terms of the CPP securities purchase agreement, CPP participants have a right to repurchase their preferred or debt securities and warrants from Treasury. Our use of the term "repurchases" is general and does not differentiate between repurchases and redemptions of senior preferred stock. A redemption of senior preferred stock occurs when an institution completes a qualified equity offering per the standard terms of the preferred stock and subsequently exchanges cash for the senior preferred stock it previously issued to Treasury. A repurchase occurs when the institution buys back its senior preferred shares without having completed a qualified equity offering, as permitted by American Recovery and Reinvestment Act, Pub. L. No. 111-5, div. B, § 7001, 123 Stat, 516 (2009), or another authority.

[10]The primary federal regulators are FDIC, the Federal Reserve, OCC, and OTS.

A number of participants have also started to repurchase their warrants and preferred stock obtained through the exercise of warrants.[11] However, unlike preferred stock, these amounts are deposited in the general fund of the U.S. Treasury and are not to be used to reduce the outstanding troubled assets counted against the almost $700 billion limit, as required by the act (see table 2). Specifically, as of September 25, 2009, 20 financial institutions had repurchased their warrants, and 3 had repurchased their warrant preferred stock from Treasury, at an aggregate cost of about $2.9 billion.

While the first warrants repurchased were valued using a valuation process agreed to by Treasury, some in the industry have suggested that an auction process may represent the best method for Treasury to realize the market value of the warrants and provide a more transparent process. Treasury announced in June 2009 that it would auction certain warrants but has yet to establish guidelines for how the auction process will work. Treasury and others have noted that an auction method may not necessarily yield the best price for the federal government. As of September 25, 2009, Treasury had not yet auctioned any securities.

As of September 25, 2009, Treasury had received approximately $9.2 billion in dividend payments on shares of preferred stock acquired through CPP, TIP, AIFP, and AGP (table 3). Treasury's agreements under these programs entitled it to receive dividend payments on varying terms and at varying rates.[12] The dividend payments to Treasury are contingent on each institution declaring dividends. However, AIG—the sole participant in

[11]In addition to preferred stock, Treasury also received from the privately held institutions warrants to purchase a specified number of shares of preferred stock—called warrant preferred stock—that pay quarterly dividends at a rate of 9 percent per year. The exercise price for the warrant preferred stock is $0.01 per share unless the financial institution's charter requires otherwise. Treasury exercised these warrants immediately for privately held institutions.

[12]For example, according to the CPP terms for publicly held institutions, participating institutions pay quarterly dividends at a rate of 5 percent per year for the first 5 years on the initial preferred shares acquired by Treasury. After the first 5 years, the preferred shares pay quarterly dividends at a rate of 9 percent per year. Any preferred shares acquired through Treasury's exercise of warrants pay quarterly dividends at a rate of 9 percent per year.

SSFI—had not declared dividends and therefore had not made any of its three scheduled dividend payments as of September 25, 2009.[13]

Table 3: TARP Dividend Payments Received, as of September 25, 2009

Dollars in millions

Program	Dividend payments received	Cumulative dividends not declared and not paid	Noncumulative dividends not declared and not paid
Capital Purchase Program[a]	$6,733.9	$74.1	$1.6
Targeted Investment Program	1,862.2	-	-
Automotive Industry Financing Program[b]	430.6	-	-
Asset Guarantee Program	174.8	-	-
Systemically Significant Failing Institutions Program[c]	-	-	1,226.8
Total	**$9,201.5**	**$74.1**	**$1,228.4**

Source: GAO presentation of OFS, Treasury, data (unaudited).

[a]Dividend payments received includes interest received on subordinated debentures received under the program.

[b]AIFP participants that issued debt instruments to Treasury are not reflected on this table.

[c]On April 17, 2009, AIG and Treasury restructured their November 25, 2008, agreement. Under the restructuring, Treasury exchanged $40 billion of cumulative Series D preferred shares for $41.6 billion of noncumulative Series E preferred shares. The amount of Series E preferred shares is equal to the original $40 billion plus approximately $733 million in undeclared dividends as of February 1, 2009—the scheduled quarterly dividend payment date—$15 million in dividends compounded on the undeclared dividends, and an additional $855 million in dividends accrued from February 1, 2009, but not paid as of April 17, 2009. The amount of dividends not declared and not paid in the table represents unpaid dividends since the April 17, 2009, restructuring. The last scheduled dividend payment date was August 1, 2009, and the next payment date is November 1, 2009.

Treasury borrows funds to finance the gap between the federal government's revenues and outlays and is subject to a statutory debt limit. Because Treasury must borrow the funds disbursed, TARP and other actions taken to stabilize the financial markets increase the federal debt and result in related borrowing costs in the form of interest. Because Treasury manages its cash position and debt issuances from a governmentwide perspective, it is generally not possible to match TARP

[13]See GAO-09-975. Treasury officials stated that, in accordance with the securities purchase agreement, if AIG fails to make one more dividend payment, Treasury will be able to elect at least three members to its board of directors.

disbursements with specific debt securities issued by Treasury and the related borrowing costs. Moreover, Treasury typically does not calculate the federal government's borrowing cost related to specific disbursements, including the net disbursements for TARP. However, Treasury provided us with an unaudited estimate of approximately $2.3 billion in borrowing costs based on certain assumptions relating to the net disbursements for TARP from TARP's inception through September 30, 2009.[14] Using different assumptions would result in different estimated borrowing costs. Treasury's estimation of the federal government's borrowing costs for TARP does not represent the ultimate costs of TARP and does not consider, among other things, the intra-governmental interest that TARP incurs.

CPP Is Treasury's Largest Program for Capitalizing Institutions and Stabilizing the Financial System

Over the past year, CPP—the largest and most widely used program under Treasury's TARP authority for stabilizing the financial markets—made investments in large publicly held financial institutions quickly but faced challenges and delays in developing standard terms for investing in smaller, nonpublic institutions.[15] As of September 25, 2009, Treasury had provided capital to 685 financial institutions through CPP. Treasury has extended the CPP application deadline for small banks and increased the amount of investment they can receive to encourage participation, but the number of CPP disbursements has decreased dramatically. Investments that are being made are going to relatively small banks. For example, the average investment size for the 9 institutions funded in August 2009 was $14.4 million, compared with the average investment size of $121 million for the 147 institutions funded in January 2009.

According to Treasury, over 430 institutions have withdrawn their applications to CPP after receiving approval for funding. Also, federal banking regulators' data show that over 1,800 applications have been withdrawn since the start of the program. The number of approved institutions withdrawing increased earlier this year, in part because of uncertainties about program requirements (e.g., changes to executive compensation). Anecdotally, some of the reasons cited have included

[14]According to Treasury, it estimated the borrowing costs for TARP as a proportion of total monthly borrowing costs on a rolling basis since TARP's inception. These borrowing costs included refinancing TARP when initial financing matured as well as the reduction of financing costs due to repurchases.

[15]For a detailed discussion of CPP, see appendix II.

increased confidence in the financial condition of banks and, for smaller institutions, the relatively high cost of closing CPP transactions. We are continuing to review the process used to assess applications for CPP funding to determine the extent to which Treasury consistently applied established criteria and adequately documented the regulators' recommendations and its final decisions. The results of this review will be discussed in a subsequent report.

Over the last year, and consistent with our recommendation that Treasury bolster its ability to determine whether institutions' activities are generally consistent with the act's purposes, Treasury and federal banking regulators have made progress in monitoring the activities of CPP participants. Specifically:

- Using its new monthly lending surveys, in February 2009 Treasury began to publish detailed information for the 20 largest CPP institutions. In April 2009, it added questions addressing their small business lending activity to the survey.[16] In June Treasury began to publish basic information from all CPP participating institutions.[17] The monthly surveys are an important step toward greater transparency and accountability for institutions of all sizes. In August 2009, Treasury and the bank regulators began publishing a quarterly analysis of regulatory financial data for CPP and non-CPP institutions that focuses on three broad categories: on- and off-balance sheet items, performance ratios, and asset quality measures.[18] Moreover, the largest CPP institutions that have repurchased their preferred shares and warrants have agreed to voluntarily provide lending information through 2009. These data will enable Treasury and others to monitor the institutions' lending activities following the repurchase of their shares.
- In the past year, the federal banking regulators have taken steps to help ensure compliance with the CPP agreements and other TARP requirements, as we recommended. All of the federal banking regulators have issued or are finalizing examiner guidance and procedures for assessing institutions' compliance with CPP and other TARP

[16]The name of the survey report is *Monthly Lending and Intermediation Snapshot*. The original 20 institutions were expanded to 22 when American Express Company was added in March 2009, and Hartford Financial Services Group, Inc. was added in July 2009.

[17]The *CPP Monthly Lending Report*.

[18]The *Quarterly Capital Purchase Program Report*.

requirements.[19] For example, in March 2009 OCC issued a supervisory memorandum to all examination staff that provided specific forms, checklists, and guidance for assessing compliance with CPP and TARP requirements. They plan to examine institutions' compliance with TARP requirements on executive compensation, dividend payments, and stock repurchases as part of routine examinations. Three of the four banking regulators had conducted 351 examinations as of September 2009, that included checking for compliance with CPP and TARP requirements. According to these regulators, the institutions examined were generally in compliance with the requirements.

- Treasury also has hired three asset management firms to provide market advice about its portfolio of investments in financial institutions participating in various TARP programs. Consistent with our recommendation that Treasury increase its oversight of compliance with terms of the CPP agreements, including limits on dividends and stock repurchases, these managers are responsible for helping OFS monitor compliance with these terms. However, Treasury has yet to finalize the specific guidance and performance measures for the asset managers' oversight responsibilities or identify the process for monitoring the asset managers' performance. We plan to continue monitoring this area.

The Level of Participation in the Capital Assistance Program Remains Uncertain

As of September 25, 2009, no funds had been expended under CAP.[20] The Federal Reserve's stress tests of the 19 largest bank holding companies in May 2009 identified 10 bank holding companies that needed to raise approximately $75 billion in additional capital. According to FinSOB, this result was better than the markets anticipated and helped boost the markets' confidence in the largest banks.[21] By September 25, 2009, these 10 institutions had raised about $79 billion in capital, and 9 institutions had

[19] OTS, *Monitoring and Documenting the Use of Funds from Federal Financial Stability and Guaranty Programs* (Mar. 18, 2009). OCC, *Examination Guidance for Institutions Participating in the Treasury's TARP Capital Purchase Program*, (Mar. 26, 2009). FDIC, *Monitoring the Use of Funding from Federal Financial Stability and Guaranty Programs*, (Jan. 12, 2009). FDIC, *Examination Guidelines for Financial Institutions Receiving Subscriptions from U.S. Department of the Treasury's TARP CPP Program*, (Feb. 9, 2009). Federal Reserve, *Applying Supervisory Guidance and Regulations on the Payment of Dividends, Stock Redemptions, and Stock Repurchases at Bank Holding Companies*, (Mar. 27, 2009).

[20] For a detailed discussion of this program, see appendix III.

[21] Financial Stability Oversight Board, *Financial Stability Oversight Board Quarterly Report to Congress for the quarter ending June 30, 2009.*

successfully raised the full amount required by the stress test. While the program is open to other institutions that did not participate in the stress test, the extent to which these other institutions will choose to participate in the program appears limited. Treasury extended the CAP application deadline from May 25, 2009, to November 9, 2009. As of September 25, 2009, Treasury had not received any CAP applications. However, regulators said that they had begun to receive CAP applications.

Overseeing Investments in Programs That Targeted Certain Critically Important Institutions Presents Challenges

Early in the implementation of TARP, Treasury announced that it was providing what it refers to as "exceptional assistance" to three institutions deemed to be critically important to financial markets and subsequently created three programs—TIP, SSFI, and AGP—to provide that assistance.[22] TIP investments in Bank of America and Citigroup, Inc. in January 2009 and December 2008, respectively, followed the institutions' participation in CPP. In addition, OFS provided assistance to AIG under SSFI. Treasury officials said that they did not expect to have to use these programs again if economic conditions and market stability continued to improve.

Treasury has yet to develop exit strategies for unwinding these investments but has said that it intends to sell the federal government's ownership interest as soon as practicable. Bank of America and Citigroup have yet to announce any plans to repurchase outstanding shares or warrants under CPP or TIP in the near term. Treasury, the Federal Reserve, FDIC, and Citigroup have yet to finalize the segregation of assets or the valuation process for the assets that will remain on Citigroup's books but will be guaranteed by the government under AGP. Conversely, Bank of America withdrew from AGP before an agreement was finalized and recently negotiated and paid FDIC, the Federal Reserve, and Treasury a total of $425 million in termination fees to cover the benefit it received from the announcement of the federal government guarantee. AIG continues to rely on federal assistance to maintain its investment grade rating, and whether the federal government will fully recoup its investment in AIG in the long term remains unclear.[23]

[22]For a detailed discussion of TIP, AGP, and SSFI, see appendixes IV through VI, respectively.

[23]GAO-09-975.

Treasury's capital investments in these three companies totaled more than $100 billion as of September 25, 2009, and are a significant portion of TARP disbursements. Given the three financial institutions' ongoing participation in TARP, oversight and management of these large investments continues to be a challenge, especially managing the government's investment and developing an appropriate exit strategy. According to OFS, TIP investments in Citigroup and Bank of America are monitored through the same process as CPP investments, as the interests are incremental to the CPP investments in these institutions. OFS has also put in place dedicated teams charged with monitoring and managing its investments in AIG and the Citigroup asset guarantee. These investments also raise broader questions about how Treasury is managing its investments in institutions that have received what Treasury refers to as an exceptional level of assistance. To respond to these concerns, we and SIGTARP are conducting a coordinated review of how the federal government is monitoring and managing its investments.

Programs Aimed at Restarting Secondary Markets Have Had Mixed Success

The Consumer and Business Lending Initiative announced in February as part of the Financial Stability Plan consists of two programs, including the Federal Reserve's TALF, operated primarily by FRBNY, and a program to directly purchase securities backed by SBA-guaranteed small business loans that has yet to materialize. A separate program, PPIP, which is being implemented in cooperation with the Federal Reserve and FDIC, is intended to invest in funds that provide a market for the legacy loans and securities that currently burden the financial system.

Term Asset-Backed Securities Loan Facility. The Federal Reserve extended TALF into 2010. This program has been used to finance a variety of ABS, but as of September 17, 2009, the bulk of the loans have been collateralized by credit card and auto ABS—the largest asset classes historically according to Federal Reserve officials.[24] Some market participants for SBA-related securities noted that TALF, even without high transaction volumes of SBA-backed securities, had benefited small businesses by helping to restore confidence in the SBA market, and some thought that it had helped unfreeze the market. Overall, participation has been lower than expected for all assets, and officials cite recent improvements in securitization and credit markets as a reason. Some

[24]For a detailed discussion of the Federal Reserve's TALF and Treasury's role, see appendix VII.

TALF participants and market observers also told us that TALF financing terms had become less favorable as credit markets stabilized, making TALF less appealing.

Small Business Lending. Treasury has yet to begin purchasing securities backed by SBA-guaranteed small business loans as part of the Consumer and Business Lending Initiative. Initially, Treasury anticipated purchasing securities backed by SBA section 7(a) guaranteed loans by the end of March 2009 and securities backed by SBA section 504 loan guarantees by the end of May 2009; however, no purchases had been made as of September 21, 2009. Several factors have been cited to explain this delay. First, a Treasury official told us that some participants in the SBA loan markets said they did not want to sell SBA-guaranteed securities to Treasury if doing so would require them to provide warrants to Treasury and to comply with executive compensation restrictions.[25] Second, some market participants said that this program might not be as helpful to the SBA loan market as initiatives by SBA, because SBA efforts included reductions in fees and increases in guarantees for the 7(a) program that had been helpful. One major market participant also noted that high participation in Treasury's direct purchase program was unlikely, in part because of the requirements of the act noted above.

Public-Private Investment Program. Treasury announced PPIP in March 2009 to help add liquidity to the market for legacy assets (both securities and loans), to allow banks and other financial institutions to free up capital, and to stimulate the extension of new credit.[26] Treasury continues to take steps to implement the Legacy Securities Program, and FDIC has continued to develop the Legacy Loans Program by conducting a pilot sale of receivership assets to test the funding mechanism contemplated for this program. Some market participants and observers we spoke with in the summer of 2009 told us that while the problem of toxic assets remained, there have been delays in launching PPIP. These individuals, Treasury, and FDIC cited rising investor confidence following the stress test results and successful capital-raising by financial institutions as one of the main reasons. In addition, banks have had increasing incentives to hold troubled assets in the short term, rather than selling them and taking losses now, in the hopes that such assets will

[25]Conversely, CPP participants may be willing to participate in the program, because they already must comply with the requirements of the act.

[26]For a detailed discussion of PPIP, see appendix VIII.

perform better in the future. Treasury officials also noted the difficulty of measuring the impact of the program announcement on markets. Nevertheless, Treasury officials noted the financial market's positive reaction when the program was announced and said that they continued to believe that the program is important to further bolstering financial markets. Treasury officials stated that as of October 5, 2009, five of the nine pre-qualified funds have raised at least the minimum $500 million to qualify to invest in two legacy securities. The first two legacy securities PPIP funds closed on September 30, 2009.

The Automotive Industry Benefited from about $80 Billion in TARP Funding, but the Future Viability of Chrysler and GM Remains Uncertain

AIFP has provided assistance to Chrysler, GM, auto suppliers, and auto finance companies in an effort to assist the failing domestic automotive industry. Over the past year, Chrysler and GM underwent bankruptcy reorganization and streamlined their operations by closing factories and reducing the number of dealerships. However, whether the reorganized Chrysler and GM will achieve long-term financial viability remains unclear. In addition to funding provided under AIFP, the federal government has launched other programs to help the automotive industry. In particular, the Department of Transportation's Car Allowance Rebate System program ("Cash for Clunkers") provided nearly $3 billion in rebates to consumers who purchased more fuel-efficient vehicles, and the Department of Energy's Advanced Technology Vehicles Manufacturing Incentive Program has provided loans for the development of motors and components that use advanced technologies.[27] Automotive and financial experts we spoke with as part of our ongoing monitoring of AIFP agree that the federal government-provided funding likely increased Chrysler's and GM's odds of attaining financial success but said that other factors would affect the outcome, including consumer preferences, the strength of the economy, and the success of the companies in continuing to increase their profitability.[28] We are continuing to evaluate Treasury's exit strategy for AIFP and the impact of the assistance on pensions and plan to report on these issues in future reports.

[27] GAO plans to report separately on this program in 2010.

[28] For additional information on AIFP see appendix IX.

Home Affordable Modification Program Continues to Face Ongoing Challenges

HAMP faces a significant challenge that centers on uncertainty over the number of homeowners it will ultimately help. Residential mortgage defaults and foreclosures are at historic highs, and Treasury officials and others have identified reducing the number of unnecessary foreclosures as critical to the current economic recovery. In our July 2009 report, we noted that Treasury's estimate that it would likely help 3 to 4 million homeowners under the HAMP loan modification program may have been overstated.[29] Further, we and others have raised concerns about the capacity and consistency of servicers participating in HAMP in offering loan modifications to qualified homeowners facing potential foreclosure. Treasury has taken some actions to encourage servicers to increase the number of modifications made, including sending a letter to participating HAMP servicers and meeting with them to discuss challenges to making modifications. However, the ultimate result of Treasury's actions to increase the number of HAMP loan modifications and the corresponding impact on stabilizing the housing market remains to be seen.[30]

Treasury faces a number of other challenges in implementing HAMP, including ensuring that decisions to deny or approve a loan modification are transparent to borrowers and establishing an effective system of operational controls to oversee the compliance of participating servicers with HAMP guidelines. In July 2009, we made several recommendations to Treasury concerning HAMP. Among other things, we recommended actions to monitor particular program requirements, re-evaluate and review certain program components and assumptions, and finalize a comprehensive system of internal control over HAMP. Treasury noted that it would take various actions in response to our recommendations, such as exploring options to monitor counseling requirements and working to refine its internal controls over the program. We plan to continue to monitor Treasury's responses to our recommendations as part of our ongoing work on HAMP.

In our July report, we also noted that Treasury lacked a way to assess, during the admission process, the capacity of servicers to meet program requirements. Recently, Treasury reported significant variations across participating servicers in the number of trial modifications started as a percent of estimated eligible loans (those delinquent by at least 60 days). To encourage servicers to increase the number of modifications they were

[29] GAO-09-837.

[30] For additional information about HAMP see appendix X.

making, Treasury and the Department of Housing and Urban Development sent a letter to participating HAMP servicers in July 2009 asking them to expand their capacity to make modifications. Treasury also subsequently held a meeting with servicers to discuss challenges to making modifications and strategies to improve the program's effectiveness.

Treasury Has Taken Steps to Improve Communication with the Public and Congress

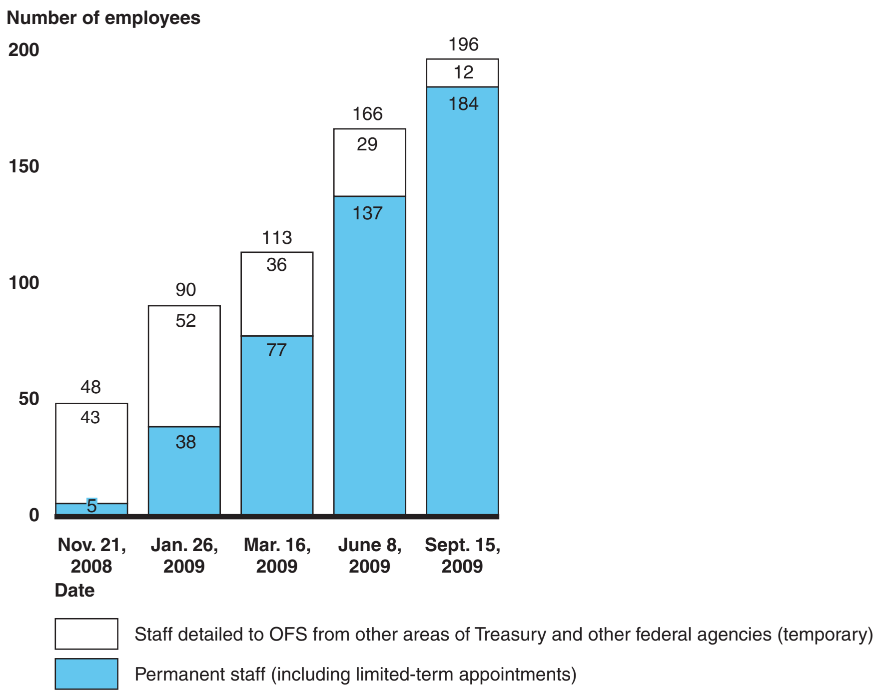
Since Treasury's unexpected shift soon after the act was passed toward making capital investments in financial institutions rather than purchasing the mortgages and mortgage-related assets on their books, Treasury has struggled to improve the transparency of the program and effectively communicate a strategic vision for TARP. Over the last year, Treasury has posted information on its Web site; announced decisions in press releases, press conferences, and speeches; and testified at congressional hearings. But these efforts, although intended to help ensure that TARP programs and decisions are transparent, have not always been effective in communicating Treasury's rationale for certain decisions or in addressing confusion and concerns about the program. As discussed previously, we made a series of recommendations aimed at improving the transparency of TARP, including establishing more effective communication with Congress and the public and developing a clearly articulated strategy for the program, among other things.

Over the last several months, Treasury has taken steps to improve its communication efforts, including releasing the Financial Stability Plan in February 2009; launching its FinancialStability.gov Web site in March 2009; and, in August 2009, adding a usability survey on its FinancialStability.gov Web site to gauge user satisfaction and gather input on the quality of users' experience navigating the site. Moreover, OFS has formed a working group to help ensure that Treasury's communication strategy addresses both internal and external communications and that appropriate staff are being hired to support the strategy. Treasury officials told us that key components of the strategy included (1) coordinating communication among OFS and Treasury's Office of Public Affairs and Office of Legislative Affairs to help ensure that congressional and other external stakeholders received timely information, (2) continuously improving the financial stability Web site, and (3) conducting outreach across the country on the homeownership preservation programs. To support these efforts, Treasury is planning to hire a communications director for OFS once it completes a position description of duties and responsibilities. Treasury has already hired a communications director and four staff members to support its efforts to communicate with the public and Congress on the homeownership programs. These ongoing efforts should help address the concerns about Treasury's communication on TARP issues that we noted in earlier reports.

The Office of Financial Stability Has Made Progress in Developing a Management Infrastructure and a Comprehensive System of Internal Control

As we recommended in our December 2008 report, Treasury has expeditiously hired OFS staff to administer TARP duties. Over the last year, the total number of OFS staff has quadrupled, rising from 48 in November 2008 to 196 as of September 15, 2009 (see fig. 2). Moreover, OFS has relied increasingly on permanent staff rather than detailees. For example, OFS increased the number of permanent staff from 5 in November 2008 to 184 as of September 15, 2009, while the number of detailees fell from 43 in November 2008 to 12 as of September 15, 2009.

Figure 2: Number of Permanent Staff and Detailees, November 21, 2008, through September 15, 2009



Source: GAO analysis of Treasury data.

While Treasury has made progress in establishing OFS and filling many positions, it continues to face hiring challenges. Treasury officials said that the direct-hire authority authorized by TARP had been helpful in bringing staff on board expeditiously. OFS has increased its estimate of the number of full-time staff that it needs based on changes to TARP and currently estimates that it will need 283 full-time equivalents for fiscal year 2010 to operate at full capacity. Most of the increase in the estimate of full capacity is attributable to anticipated needs in the Homeownership Preservation, Investment, and Compliance offices and staff for the Director of Internal Review. In addition, the Assistant Secretary for Financial Stability has continued to develop OFS's organizational structure. For example, the Assistant Secretary is considering establishing a Director of OFS Internal Review who will help oversee internal control and compliance procedures and liaise with oversight entities.

OFS has experienced challenges finding permanent staff for some of its key senior positions, specifically the Chief Homeownership Preservation Officer and the Chief Investment Officer. The Chief Homeownership Preservation Officer position has been filled by two successive interim appointments, and the Director of Operations is currently serving as the acting chief. Similarly, the Director of Investments has been serving as the acting Chief Investment Officer since the interim chief left in June 2009. In our July report, we emphasized that the lack of a permanent head of the Homeownership Preservation Office (along with the number of vacancies in the office itself) could impact Treasury's ability to effectively monitor HAMP and recommended that these staffing needs be given high priority.[31] Treasury has hired an executive search firm to recruit candidates for these leadership positions, potentially facilitating the process of identifying qualified applicants but also adding additional time to the hiring process. The Assistant Secretary is reassessing the duties of the Chief Operating Officer and the need for the position, which is currently vacant, to bring them in line with TARP's current needs before filling the position.

[31] GAO-09-837.

Treasury Has Strengthened Management and Oversight of Contracting and Vendor-Related Conflicts of Interest

After nearly a year, the number of private contracts and financial agency agreements Treasury uses as part of OFS's management infrastructure has grown from 11 to 52. Treasury has primarily used two mechanisms for engaging private sector firms. First, as of September 18, 2009, Treasury has exercised its statutory authority to retain seven financial agents to provide services such as managing TARP's public assets.[32] Second, Treasury has entered into contracts and blanket purchase agreements under the Federal Acquisition Regulation (FAR) for a variety of legal and accounting services, investment consulting, and other services and supplies. In some cases, interagency agreements (IAA) are also used in support of OFS's administration and operations for TARP to engage vendors that have existing contracts with other Treasury offices or bureaus or other federal agencies. As of September 18, 2009, Treasury had 39 contracts and blanket purchase agreements and six IAAs. Legal services contracts and financial agency agreements accounted for 57 percent of the service providers directly supporting OFS's administration of TARP. For contracts and agreements in place through August 31, 2009, Treasury reports incurring a total of $110.2 million in expenses. The potential value of all 52 TARP support agreements and contracts—some completed and some scheduled to run until June 2014—totals about $601.6 million.[33]

The share of work by small businesses—including minority- and women-owned businesses—under TARP contracts and financial agency agreements has grown substantially since November 2008, when only one of Treasury's prime contracts was with a small business and only one minority small business firm was a subcontractor with a large business contractor. From the outset, Treasury has encouraged small businesses to pursue procurement opportunities for TARP contracts and financial agency agreements. As shown in table 4, eight of Treasury's prime contracts and financial agency agreements are with small and/or minority-

[32]To implement TARP, Treasury is using its authorities to enter into agreements that designate financial institutions as financial agents for Treasury. Section 101(c)(3) of the act; see also 31 C.F.R. pt 202. The financial agency agreements, which are completed through Treasury's Office of the Fiscal Assistant Secretary and are not subject to the Federal Acquisition Regulation, are used to hire asset managers, custodial agents, and financial advisors, among others, and to manage troubled assets purchased under TARP, including revenues and portfolio risks.

[33]The total for Treasury's reported incurred expenses as of August 31, 2009, is for 40 contracts and agreements. As of September 18, 2009, 13 of the 52 TARP support contracts and IAAs were completed. For detailed information on all TARP financial agency agreements, contracts, and blanket purchase agreements, and services obtained through IAAs, see GAO-10-24SP.

and women-owned businesses. The majority of these businesses are subcontractors to TARP prime contractors.

Table 4: TARP Contracts, Financial Agency Agreements, and Subcontracts with Minority-Owned, Women-Owned, and Small Businesses, as of September 18, 2009

Socioeconomic business category	Prime contracts and financial agency agreements	Subcontracts[a]	Total
Minority-owned[b]	3[c]	9	**12**
Women-owned	2	14	**16**
Other small	3	15	**18**
Total	**8**	**38**	**46**

Source: GAO presentation of OFS, Treasury, data (unaudited).

[a]As of September 18, 2009, TARP prime contractors and financial agents had awarded 80 subcontracts.

[b]ncludes both small and non-small minority-owned businesses and minority/women-owned businesses.

[c]Since our June 2009 report, Treasury has reclassified one reported minority-owned contract as an interagency agreement, reducing the number of reported minority-owned prime contracts for this report. Treasury does not provide the socioeconomic status of entities contracted through interagency agreements.

Treasury's Processes for Managing and Monitoring Conflicts of Interest among Contractors and Financial Agents Continue to Mature

Treasury's reliance on private sector resources to assist OFS with implementing TARP underscores the importance of addressing conflicts-of-interest issues. As required by the act, in January 2009 Treasury issued an interim regulation on TARP conflicts of interest, which was effective immediately.[34] With this action, Treasury put in place a set of clear requirements to address actual or potential conflicts that may arise during the selection of retained entities seeking a contract or financial agency

[34]TARP Conflicts of Interest, 74 Fed. Reg. 3431-3436 (Jan. 21, 2009) (codified at 31 C.F.R. Part 31). Treasury issued this regulation as an interim rule pursuant to 41 U.S.C. § 418b and 5 U.S.C. § 553(b)(3)(B) based on a determination that urgent and compelling circumstances and good cause existed that justified the promulgation of the interim rule without public comment. Treasury found it essential to issue conflict-of-interest regulations without delay so that anyone participating in the TARP program would have clear information as soon as possible on avoiding conflicts of interest. 74 Fed. Reg. 3432. Treasury received public comments on the interim rule and anticipates that the process of developing a final rule will take more time. Treasury's action to issue this regulation as an interim rule, effective immediately, is responsive to our December 2008 recommendation to issue regulations as expeditiously as possible.

agreement with the Treasury, particularly those involved in the acquisition, valuation, management, and disposition of troubled assets.[35]

Since January 2009, OFS's Chief Risk and Compliance Office has been actively renegotiating several contracts that predated the TARP conflicts-of-interest rulemaking to enhance specificity and conformity with the regulations. To date, conflicts-of-interest provisions and approved mitigation plans have been renegotiated for three of the six contracts, as shown in table 5. According to Treasury, the complex nature of these contracts and business relations with other firms means that significant time is required to develop mitigation plans that appropriately meet the provisions of the regulations, and as a result these plans are in various stages of renegotiation.

Table 5: Status of Treasury's Actions to Renegotiate Existing Vendor Mitigation Plans That Predated the January 2009 TARP Conflict-of-Interest Regulation, as of September 18, 2009

Contractor or financial agent	Status of renegotiated conflict-of-interest mitigation plan[a]
Bank of New York Mellon	Pending
Ennis Knupp & Associates, Inc.	Completed April 2009
Ernst & Young, LLP	Pending
Hughes, Hubbard, & Reed, LLP	Completed May 2009
PricewaterhouseCoopers, LLP	Pending
Squire Sanders & Dempsey, LLP	Completed July 2009

Source: GAO analysis of Treasury information.

[a]As of March 2009, Treasury was also reviewing for renegotiation mitigation plans for two more contractors—-Simpson Thacher & Bartlett (I) and Sonnenschein Nath & Rosenthal (II). According to Treasury however, the renegotiations stopped when these contracts were found to be close to completion and the performance of services was ending. Separate ongoing contracts awarded to both companies after January 2009 for other services have contract provisions and mitigation plans in conformance with the TARP conflict of interest regulations.

[35]Under Treasury's regulations, retained entities are contractors, financial agents, and their subcontractors. Treasury's regulations also address conflicts and other matters that may arise in the course of TARP services. The scope of the regulation does not include administrative services identified by the TARP Chief Risk and Compliance Officer. 31 C.F.R. § 31.200(b). OFS determined that because some administrative services (e.g., temporary services for document production) do not have substantial decision-making authority, those contractors are unlikely to have conflicts of interest and do not warrant the burden imposed by the regulatory requirements. 74 Fed. Reg. 3432. See our e-Supplement at GAO-10-24SP, which identifies the contractors and financial agents covered by TARP conflict-of-interest requirements under 31 C.F.R. Part 31.

Since March 2009, and consistent with our recommendation, Treasury has strengthened guidance and procedures requiring that key communications and decisions concerning potential or actual vendor-related conflicts of interest be documented. In an effort to improve the monitoring of contracts and formally document conflict-of-interest processes, Treasury has taken several steps. For example, it has developed and implemented conflicts-of-interest procedures and distributed guidance documents to Treasury contracting staff and TARP contractors and financial agents that include detailed workflow charts depicting the standardized processes for the review and disposition of conflict-of-interest inquiries.[36] Also, Treasury has finished implementing an improved internal reporting database for documenting and tracking all conflict-of-interest inquiries and requests for conflicts-of-interest waivers.[37] Treasury's guidance was sent to contractors and financial agents in early July, along with a request that all inquiries related to conflicts of interest be submitted via email to the "TARP.COI" mailbox created in April 2009 for contractors and financial agents to document communications to Treasury. Although Treasury has an appropriate management infrastructure in place, it must remain vigilant in managing and monitoring conflicts of interest that may arise with the use of private sector resources.

OFS Has Continued Developing a Financial Reporting System and Related Internal Controls

As required by the act, Treasury must annually prepare and submit to Congress and the public audited fiscal year financial statements for TARP that are prepared in accordance with generally accepted accounting principles.[38] Moreover, the act requires Treasury to establish and maintain an effective system of internal control over TARP that provides reasonable

[36]As part of issuing guidance requiring that key conflict-of-interest communications and decisions be documented, in July 2009 OFS e-mailed a complete set of workflow charts to Treasury contracting staff and officials from TARP contractors and financial agents. The conflicts-of-interest workflow charts reflect standard procedures for reviews of conflicts of interest raised by (1) new solicitations or competitive task orders, (2) work done under existing contracts, (3) financial agent selection, (4) work done under existing financial agency agreements, (5) initial and reviews of initial and subsequent conflict-of-interest certifications, (6) conflicts-of-interest inquiries from TARP contractors and financial agents, and (7) conflict-of-interest waiver requests from TARP contractors and financial agents.

[37]Treasury also developed a separate internal reporting system for documenting and tracking all conflicts-of-interest certifications required of TARP contractors and financial agents. According to Treasury, an improved internal conflicts-of-interest certification database will be implemented in the near future.

[38]Section 116(b) of the act, 12 U.S.C. § 5226(b).

assurance of achieving three objectives: (1) reliable financial reporting, including financial statements and other reports for internal and external use;[39] (2) compliance with applicable laws and regulations;[40] and (3) effective and efficient operations, including the use of TARP resources.[41] Accordingly, OFS continues to develop a comprehensive system of internal control for TARP.[42]

The fiscal year ending September 30, 2009, will be the first period for which Treasury prepares financial statements for TARP.[43] The act requires that Treasury assess and report annually on the effectiveness of TARP's internal controls over financial reporting.[44] The act also requires GAO to audit TARP's financial statements annually in accordance with generally accepted auditing standards.[45]

We are currently performing an audit of TARP's financial statements and the related internal controls. Our objectives are to render opinions on (1) the financial statements as of and for the period ending September 30, 2009; and (2) internal controls over both financial reporting and

[39]An entity's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and disposition of the assets of the entity; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles and that receipts and expenditures of the entity are being made only in accordance with authorizations of management and those charged with governance; and (3) provide reasonable assurance regarding prevention or timely detection and correction of any unauthorized acquisition, use, or disposition of the entity's assets that could have a material effect on the financial statements.

[40]Internal controls over compliance with laws and regulations should provide reasonable assurance that transactions are executed in accordance with laws governing the use of budget authority and with other laws and regulations that could have a direct and material effect on the financial statements and, as applicable, any other laws, regulations, and governmentwide policies identified in the Office of Management and Budget's audit guidance.

[41]Section 116(c) of the act, 12 U.S.C. § 5226(c).

[42]Section 101 of the act, 12 U.S.C. § 5211, established OFS within the Department of the Treasury to implement TARP.

[43]The TARP financial statements will include an estimate of the value of the TARP's investments as of September 30, 2009.

[44]Section 116(c) of the act, 12 U.S.C. § 5226 (c).

[45]Section 116(b) of the act, 12 U.S.C. § 5226(b).

compliance with applicable laws and regulations as of September 30, 2009. We will also be reporting on the results of our tests of TARP's compliance with selected provisions of laws and regulations related to financial reporting. The results of our financial statement audit will be published in a separate report.

Conditions in Credit Markets Have Improved Since TARP Was Implemented, but Treasury Needs to Establish a Basis for Future TARP Actions

Although isolating and estimating the effect of TARP programs remains a challenging endeavor, the indicators that we have been monitoring over the last year suggest that there have been broad improvements in credit markets since the announcement of CPP, the first TARP program. Specifically, we found that:

- the cost of credit and perceptions of risk declined significantly in interbank, corporate debt, and mortgage markets;
- the decline in perceptions of risk (as measured by premiums over Treasury securities) in the interbank market could be attributed in part to several federal programs aimed at stabilizing markets that were announced on October 14, 2008, including CPP; and
- institutions that received CPP funds in the first quarter of 2009 saw more improvement in their capital positions than banks outside the program.

Acting on GAO's recommendation that Treasury collect information about the impact of its investments on participants' lending activities, Treasury implemented a monthly survey. Our analysis of the surveys, which cover October 2008 through July 2009, show that collectively the 21 largest participants reported extending almost $2.3 trillion in new loans since receiving $160 billion in CPP capital from the Treasury. Although lending standards remained tight, new lending by these institutions increased from $240 billion a month during the fourth quarter of 2008 to roughly $287 billion a month in the second quarter of 2009. Because loan origination data is not available for most banking institutions—including CPP recipients outside of the largest institutions—the ability to perform more rigorous analysis to determine the extent to which the increased lending could be attributed to TARP is limited.[46] Consistent with the intent of

[46]Loan originations are new loans by banks. Some analysts have argued for using changes in loan balances to compare banks, but our analysis suggests that using such measures as a proxy for originations may lead to invalid conclusions.

TALF, asset-backed security issuance has recently shown signs of a slight recovery. While foreclosures continued to increase, it is too soon to judge the effects of the HAMP program. Treasury recently released a report that discusses the next phase of its stabilization and rehabilitation efforts. Treasury's report also begins to establish a framework that could provide a basis for deciding whether any further actions will be necessary to assist in financial stabilization after its authority to purchase or insure additional troubled assets expires on December 31, 2009 (unless it is extended through October 3, 2010). As it decides the future of TARP, Treasury will need to document and communicate its reasoning to Congress and the American people in order for its decisions to be viewed as credible. Continuing to develop its quantitative indicators of market conditions to benchmark TARP programs and its measures of program effectiveness would support Treasury in this process.

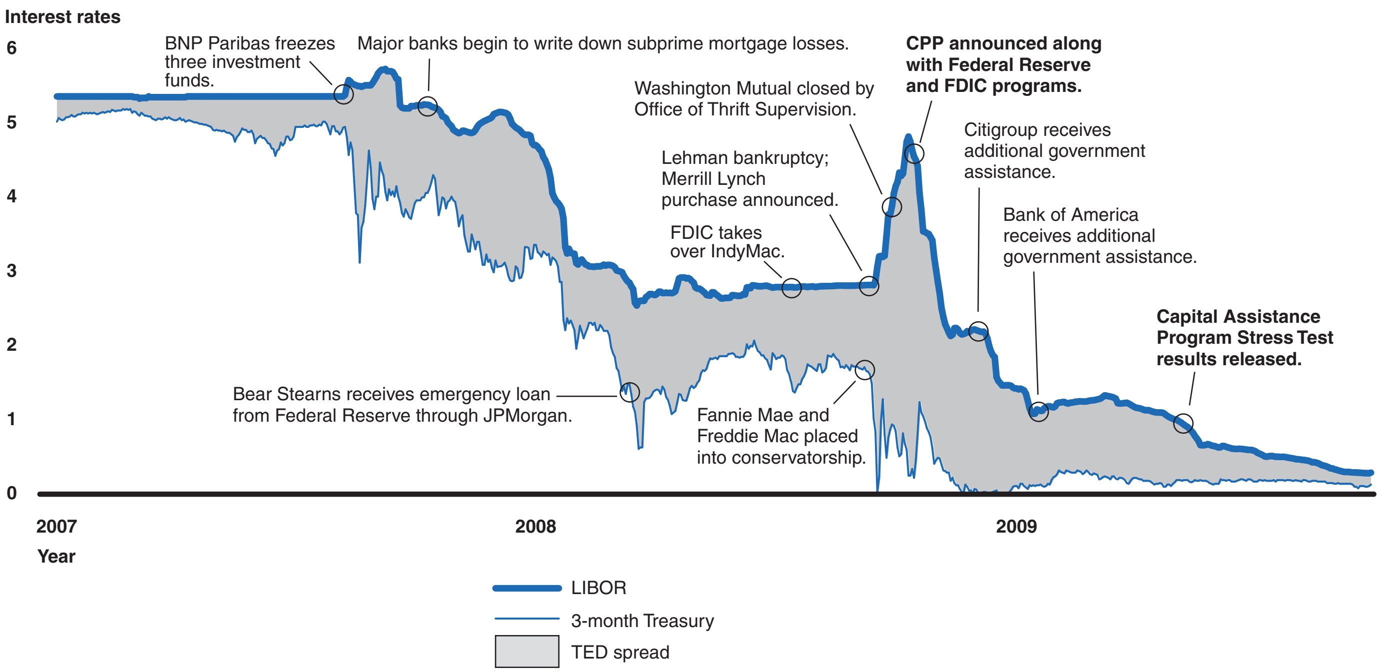
Some Anticipated Effects of TARP on Credit Markets and the Economy Have Materialized, but Not Necessarily Due to TARP Actions Alone

In our reports since December 2008, we have highlighted the intended effects of several broad-based TARP programs, including CPP, CAP, TALF, PPIP, and HAMP. Chief among these intended effects was to stabilize and return confidence to the financial system. We paid particular attention to developments in the interbank market by monitoring the London Interbank Offered Rate (LIBOR), which is the cost of interbank credit, and the TED spread, which captures the risk perceived in interbank markets and gauges the willingness of banks to lend to other banks (see fig. 3).[47] As figure 3 shows, LIBOR increased significantly in September 2008, and more importantly banks began to pay an even higher premium for loans to compensate for the perceived increase in default risk. After widening somewhat after the first major subprime mortgage write-down and the Bear Stearns rescue, the TED spread increased significantly in the days following the bankruptcy of Lehman Brothers and other adverse events, exceeding 4.5 percent at its highest point (450 basis points). However, since the announcement of CPP and other interventions in October 2008, the 3-month LIBOR and TED spread have fallen by more than 430 basis points.[48] About 60 basis points of that decline occurred after the announcement of the stress test results associated with CAP in May 2009.

[47]In our reports, the TED-spread is the spread between the 3-month LIBOR and 3-month Treasury yield. Increases in the TED spread imply a greater aversion to risk.

[48]A basis point is a common measure used in quoting yields on bills, notes, and bonds and represents 1/100 of a percent of yield. An increase from 4.35 percent to 4.45 would be an increase of 10 basis points.

Figure 3: TED Spread, 3-Month LIBOR, and 3-Month Treasury Bill Yield, from January 1, 2007, to September 29, 2009



Source: GAO analysis of data from Thomson Reuters Datastream.

Note: Rates and yields are daily percentages. The area between the LIBOR and Treasury yield is the TED spread.

To examine whether the decline in the TED spread could be attributed in part to TARP, we conducted additional analysis using a simple econometric model, which took into account the possibility that the spread would have narrowed without the intervention.[49] We did not attempt to account for all the important factors that might influence the

[49]The model used changes in the TED spread as the dependent variable regressed on a CPP indicator variable, a time trend, lagged values of changes in the S&P 500, the term spread (structure), and the default risk premium, an indicator variable that denoted whether the TED spread exceeded 200 basis points, as well as a counter variable that indicated the number of consecutive days (including the day in question) that the TED spread had taken on an extreme value. However, the results were robust to a number of different econometric specifications, including a two-stage approach that first generated the unexpected value of the TED spread (as well as the other spreads) by extracting the predictable component from the variables using an autoregression model fit to each series. Similar to our primary regressions modeling changes in the TED spread, the CPP indicator variable had a statistically significant impact on the unexpected level of the TED spread, even when we controlled for other potentially confounding factors.

TED spread.[50] Because the TED spread reached extreme values leading up to the CPP announcement (more than 450 basis points), it could have declined even in the absence of CPP, simply because extreme values have a tendency to return to normal levels.[51] Even when we accounted for this possibility and for other factors that might influence the interbank market, we found that the October 14, 2008, announcement of the CPP had a statistically significant impact on changes in the TED spread. Nevertheless, the associated improvement in the TED spread (or LIBOR) cannot be attributed solely to TARP because the October 14, 2008, announcement was a joint announcement that also introduced the Federal Reserve's Commercial Paper Funding Facility program and FDIC's Temporary Liquidity Guarantee Program.

More broadly, the programs established under TARP, if effective, should have jointly resulted in improvements in general credit market conditions, including declining risk premiums and lower borrowing costs for nonbank businesses and consumers. In the month leading up to the CPP announcement, market interest rates and spreads reflected a significant tightening in credit conditions as investors, worried about the health of the economy, became increasingly risk averse. The indicators that we have been monitoring illustrate that since mid-October 2008 the cost of credit and perceptions of risk (measured by premiums over Treasury securities) have declined significantly, not only in interbank markets but also in corporate debt and mortgage markets (see table 6).[52] Recent trends in these measures are consistent with those for other indicators that we and other researchers have monitored. For example, stock market volatility has fallen considerably, and the credit default swap index for the banking

[50]See our June 2009 report (GAO-09-658) for additional information on the model and the limitations.

[51]This phenomenon is often referred to as "regression to the mean" or "regression artifacts." Failure to acknowledge this phenomenon can lead to invalid inferences about a program's impact when analyzing time series data. We found that since 1982 the TED spread had exceeded 200 basis points only 3.2 percent of the time, underscoring the fact that 450 basis points is quite extreme and indicating that significant stress was present in the interbank market at the time of the CPP announcement.

[52]Our December 2008 and January 2009 reports (GAO-09-161 and GAO-09-296) provide a more detailed description of the indicators.

sector has declined significantly since TARP actions began.[53] Even taken collectively, though, changes in these indicators are an imperfect way to measure TARP's impact, as they may also be influenced by general market forces and cannot be exclusively linked to any one program or action.[54]

Table 6: Changes in Select Credit Market Indicators, October 13, 2008, to September 30, 2009

Indicator	Description	Basis point change from October 13, 2008 to September 30, 2009
Credit market rates and spreads		
LIBOR	3-month London interbank offered rate (an average of interest rates offered on dollar-denominated loans)	Down 446
TED spread	Spread between 3-month LIBOR and 3-month Treasury yield	Down 434
Aaa bond rate	Rate on highest-quality corporate bonds	Down 143
Aaa bond spread	Spread between Aaa bond rate and 10-year Treasury yield	Down 85
Baa bond rate	Rate on corporate bonds subject to moderate credit risk	Down 263
Baa bond spread	Spread between Baa bond rate and 10-year Treasury yield	Down 205
Mortgage rates	30-year conforming loans rate	Down 142
Mortgage spread	Spread between 30-year conforming loans rate and 10-year Treasury yield	Down 83

[53]The credit default swap (CDS) index provides an indicator of the credit risk associated with U.S. banks, as judged by the market. Therefore, declines in this index suggest lower perceived risk in the U.S. banking sector. Thomson Reuters Datastream data shows that the 5-year CDS index dropped significantly after the initial passage of the Emergency Economic Stabilization Act and again after the announcement of the CPP before trending up again. However, from the end of March 2009 to September 15, 2009, the bank CDS index fell by roughly 69 percent. Similarly, the Chicago Board of Option Exchange VIX index, which measures expected stock market volatility, has fallen considerably since late November 2008.

[54]For example, a significant drop in mortgage rates occurred shortly after the Federal Reserve's announcement in November 2008 that it would purchase mortgage-backed securities.

Quarterly mortgage volume and defaults		
Indicator	**Description**	**Change from December 31, 2008 to June 30, 2009**
Mortgage originations	New mortgage loans	Up $290 billion to $550 billion
Foreclosure rate	Percentage of homes in foreclosure	Up 100 basis points to 4.30 percent

Source: GAO analysis of data from *Global Insight*, the Federal Reserve, Thomson Reuters Datastream, and *Inside Mortgage Finance*.

Note: Rates and yields are daily except mortgage rates, which are weekly. Higher spreads (measured as premiums over Treasury securities of comparable maturity) represent higher perceived risk in lending to certain borrowers. Higher rates represent increases in the cost of borrowing for relevant borrowers. As a result, "down" suggests improvement in market conditions for credit market rates and spreads. Foreclosure rate and mortgage origination data are quarterly. See GAO-09-161, GAO-09-296, GAO-09-504, and GAO-09-658.

Changes in Capital Ratios and Bank Lending are Consistent with the Intended Effects of TARP but Cannot Be Attributed Solely to TARP Programs

One of the intentions of TARP, and specifically of CPP, was to improve banks' balance sheets, enhance lenders' ability to borrow, raise capital, and lend to creditworthy borrowers. Capital ratios at institutions that received CPP capital in the first quarter of 2009 rose more than capital ratios at non-CPP institutions between December 31, 2008, and March 31, 2009. This difference holds across several measures of capital adequacy (see table 7). Improved confidence in the interbank market may to some degree reflect the increased capital ratios at institutions that received CPP funding, as these ratios are important indicators of solvency—that is, the higher the ratio, the more solvent the institution. As we have discussed in previous reports, tension exists between promoting lending and improving banks' capital position. We noted that some institutions likely would use CPP capital to improve their capital ratios by holding the additional capital as treasuries or other safe assets rather than leveraging it to support additional lending. Using the capital in this manner could allow institutions to absorb losses or write down troubled assets.

Table 7: Increase in Capital Adequacy among CPP Participants and Nonparticipants (in percentage points), Fourth Quarter 2008 to First Quarter 2009

	Increase in capital adequacy, fourth quarter 2008 to first quarter 2009	
Measure of capital adequacy	**Bank holding companies receiving CPP in first quarter 2009**	**Bank holding companies not participating in CPP**
Tier 1 leverage ratio	2.9	0.6
Tier 1 risk-based capital ratio	3	0.4
Total risk-based capital ratio	2.9	0.4

Source: GAO analysis of Federal Reserve data.

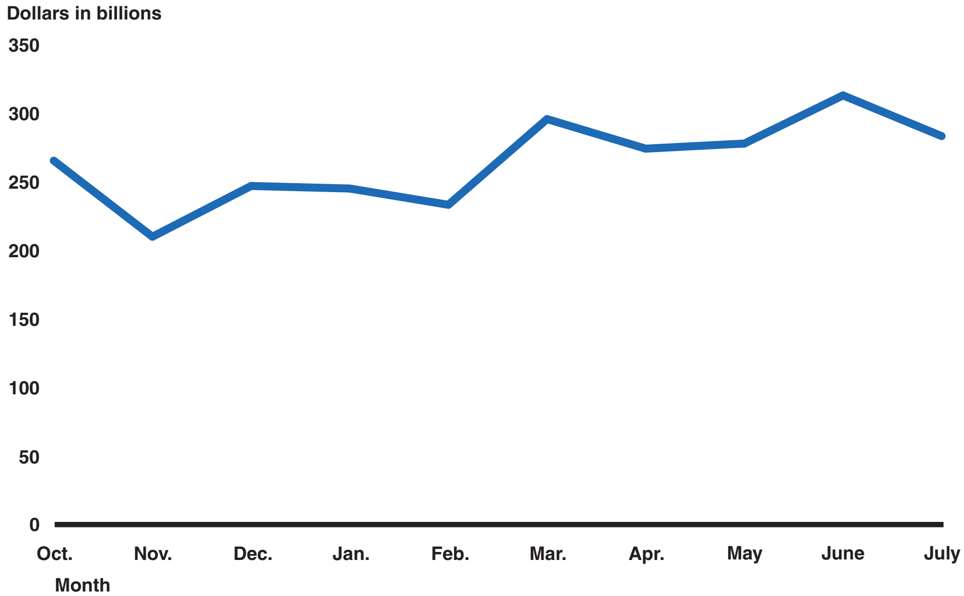
Note: The tier 1 leverage ratio is defined as tier 1 capital—what regulators consider to be the highest-quality capital—over total average on balance sheet assets. The tier 1 risk-based capital ratio is defined as tier 1 capital over risk-weighted assets, where risk-weighted assets is a measure of assets adjusted for risk. The total risk-based capital ratio is defined as total capital (including tier 1 and other sources of capital) over risk-weighted assets.

Recent trends in lending suggest that CPP capital infusions may have made participating banks somewhat more willing and able to increase lending to creditworthy businesses and consumers, although lending standards for consumer and business credit remain tight.[55] Our analysis of Treasury's loan surveys showed that these CPP recipients reported an increase in new lending to consumers and businesses to, on average, $287 billion a month in the second quarter of 2009, up $47 billion from $240 billion a month in the fourth quarter of 2008 (see fig. 4).[56] These findings are consistent with the trends in aggregate mortgage originations, which more than doubled between the fourth quarter of 2008 and the end of the second quarter of 2009 to $550 billion.

[55]According to the Federal Reserve's Senior Loan Officer Survey, commercial bank lending standards for consumer and business loans dramatically tightened in the year leading up to the fourth quarter of 2008. Although the net percentages of banks reporting that they had tightened their business lending policies declined over the first two quarters of 2009, standards remain elevated.

[56]New lending includes new home equity lines of credit; mortgage, credit card, and other consumer originations; new or renewed commercial and industrial loans; and commercial real estate loans, but not other important activities that these institutions may undertake to facilitate credit intermediation, including underwriting and purchasing MBS and ABS. Because the origination data collected by Treasury are unique, we were not able to benchmark the origination levels against historical lending or seasonal patterns at these institutions. New lending in July for the top CPP recipients was similar to the second quarter, at $282 billion.

Figure 4: New Lending at the 21 Largest Recipients of CPP Capital, from October 2008 to July 2009



Source: GAO analysis of Treasury loan survey.

Note: Lending levels may be affected by merger activity. Hartford is not included in the totals because Treasury's loan survey includes data for Hartford starting in April of 2009.

Table 8 documents the total amount of new consumer and business lending for each institution that received CPP funds. Despite tight lending standards and the usual drop in credit flows during recessions, collectively the top 21 institutions participating in CPP have reported extending almost $2.3 trillion in new loans since receiving CPP capital totaling $160 billion. While lending typically falls during a recession, recent research by the Federal Reserve concluded that through the first quarter of 2009, the contraction in commercial mortgages, nonfinancial business credit, and consumer credit did not appear to be particularly severe relative to contractions in these types of lending in other downturns. However, the contraction in residential mortgage lending has exceeded past downturns.

Table 8: New Lending at the 21 Largest Recipients of CPP, as of July 31, 2009

Dollars in billions

Institution	Date of CPP	Size of CPP	New lending since receiving CPP
Citigroup	10/28/2008	$25.0	$173.1
JPMorgan Chase[a]	10/28/2008	25.0	449.9
Wells Fargo Bank	10/28/2008	25.0	502.4
Bank of America	10/28/2008	15.0	579.0
Goldman Sachs[a]	10/28/2008	10.0	20.8
Morgan Stanley[a]	10/28/2008	10.0	32.9
Bank of New York Mellon[a]	10/28/2008	3.0	5.2
State Street[a]	10/28/2008	2.0	9.8
U.S. Bancorp[a]	11/14/2008	6.6	127.4
Capital One[a]	11/14/2008	3.6	18.3
Regions	11/14/2008	3.5	45.6
SunTrust	11/14/2008	3.5	66.1
BB&T[a]	11/14/2008	3.1	54.8
KeyCorp	11/14/2008	2.5	23.6
Comerica	11/14/2008	2.3	23.2
Marshall & Ilsley	11/14/2008	1.7	8.4
Northern Trust[a]	11/14/2008	1.6	12.2
PNC	12/31/2008	7.6	65.8
Fifth Third Bancorp	12/31/2008	3.4	45.1
CIT	12/31/2008	2.3	24.3
American Express[a]	1/9/2009	3.4	6.8
Total		**$160.0**	**$2,294.6**

Source: GAO analysis of Treasury loan survey.

Note: The table features the 21 largest of the 22 recipients of CPP funds as of July 31, 2009. We did not include Hartford, which received CPP funds on June 26, 2009. New lending begins with the month after the institution received CPP capital (e.g., December for institutions receiving CPP on Nov. 14, 2008). As such, the measure is likely to understate the amount of new lending. In addition, lending levels may be affected by merger activity during the time period presented. Date and size of CPP refer to the initial infusion of CPP funds. Citigroup and Bank of America have received additional TARP funds.

[a]These institutions repaid CPP capital on June 17, 2009, but have voluntarily agreed to continue to provide information through the end of 2009.

Data limitations may prevent a reliable comparison of lending volumes across institutions of different sizes and between CPP and non-CPP participants. For the hundreds of smaller financial institutions receiving

CPP funds, the only lending information provided was based on the value of loan balances and thus was not comparable to the more detailed data for large CPP recipients. Similarly, only comparative balance sheet data is available for non-CPP institutions. Although balance sheet data—which is available for all banking institutions—could be useful for comparing capital ratios, our quantitative work suggests that loan balances may not be a good proxy for lending activity, at least for the third quarter of 2008 to the first quarter of 2009. Specifically, we found the correlations between new lending and changes in loan balances to be relatively low over this period.[57] A number of factors can affect loan balances that are unrelated to new lending, including merger activity, changes in the value of existing loans (e.g., realizing losses on a loan portfolio), and loan payoffs as borrowers attempt to reduce debt burdens. Banks could, for example, undertake significant origination activity and still see a drop in the total value of loans that they held. As a result, it is difficult to determine CPP's specific impact on lending activity in a more rigorous way.

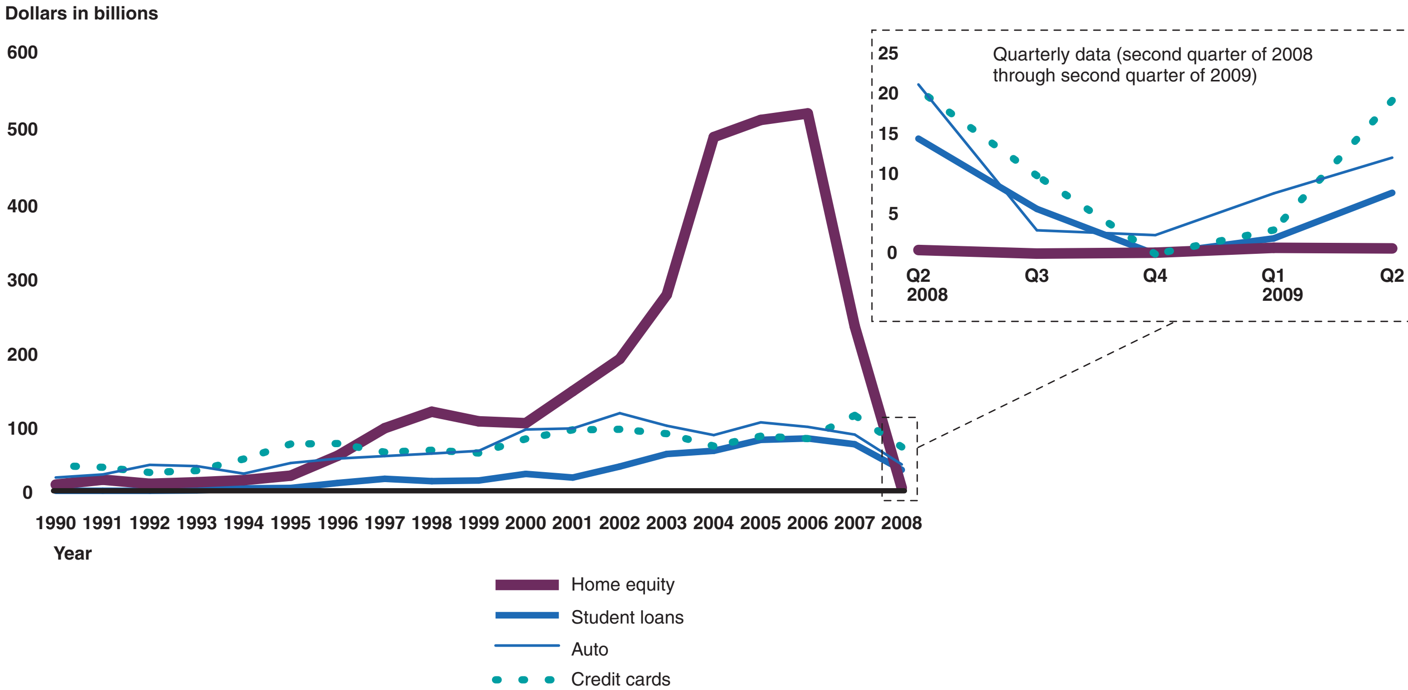
Securitization Markets Have Shown Some Signs of Recovery for TALF-Eligible Securities

The primary goal of TALF, as designed and operated by the Federal Reserve, is to make credit more readily available to households and small businesses by increasing liquidity and improving conditions in ABS markets. Investors requested $51.7 billion in TALF loans between the start of the program in March of 2009 and September 2009. As figure 5 indicates, ABS activity has begun to rebound somewhat after reaching zero for several types of issuances in the fourth quarter of 2008. While aggregate issuance is still down significantly from 2007, non-mortgage-related ABS issuance rose to $47.9 billion in the second quarter of 2009 from $3.3 billion in the fourth quarter of 2008. ABS backed by home equity loans, which are not eligible for TALF assistance, increased to just $71 million from $17 million over the same period, although whether a significant

[57]We collected data on quarterly loan balances for the top 21 CPP recipients from third quarter of 2008 to the first quarter of 2009 and compared it to the data on originations from the Treasury's loan survey. Data on loan balances are from the Consolidated Financial Statements for Bank Holding Companies Y-9C Report Form. We aggregated the monthly loan origination figures up to the quarterly level in order to compare the data to changes in quarterly loan balances for each institution. The correlation between total originations and changes in total loan balances was just 0.14. Across the various disaggregated loan categories, the correlations ranged from 0.29 for mortgages to negative 0.21 for credit cards, suggesting that any attempt to gauge the effectiveness of CPP on lending activity using changes in loan balances would likely lead to invalid conclusions. Correlations are somewhat higher for the change in loan balances for the quarter ending December 31, 2008, to the quarter ending March 31, 2009. Nevertheless, they are still relatively low.

increase would be expected given the turmoil in mortgage markets is not clear.

Figure 5: Annual and Quarterly Asset-Backed Security Issuance



Source: GAO presentation of Securities Industry and Financial Markets Association data.

Note: Annual figures are adjusted for inflation.

As we discussed in previous reports, TALF support to securitization markets should, if effective, increase the availability of new credit to consumers and businesses, lowering rates on credit card, automobile, small business, student, commercial mortgage, and other types of loans traditionally facilitated by securitization. From November 2008 to May 2009, the average rate on automobile loans from finance companies declined significantly (296 basis points) to 3.5 percent, well below the bank rate, which fell only 26 basis points to 6.8 percent.[58] While these declines correlate with the launching of TALF, the federal government's support of GM and Chrysler also likely played a role in alleviating liquidity

[58]The bank rate reflects 48-month loans, while the average maturity for the finance rate was roughly 63 months for November 2008 and May 2009.

constraints at finance companies. Because stand-alone auto finance companies rely more heavily on securitization than commercial banks, the differences in the trends in their automobile loan rates could partially reflect the issues in securitization markets that TALF was intended to address. After initially providing funding to certain holders of AAA-rated ABS backed by newly and recently originated consumer and small business loans, TALF has been expanded to other assets, including commercial MBS. We will continue to monitor ABS activity, interest rates on consumer and business loans and other TALF-eligible securities, as well as ABS spreads.

It Is Too Soon to Expect Results from More Recently Implemented TARP Programs

In future reports, we will address the effectiveness of the more recently initiated financial stability programs, using indicators and auxiliary quantitative work. These programs are intended to address rising foreclosures and the condition of the housing market (HAMP) as well as the legacy loans and securities that are widely held to be the root cause of the deteriorating conditions of many financial institutions (PPIP). Foreclosure data, although also influenced by general market forces such as falling housing prices and unemployment, should provide an indication of the effectiveness of HAMP. Although it is too soon to expect any HAMP-related improvements, because HAMP was only recently implemented, we have monitored foreclosure rates over the past year. While the average foreclosure rate from 1979 to 2006 was less than 1 percent, the percentage of loans in foreclosure reached an unprecedented high of 4.3 percent at the end of the second quarter of 2009, up from 3.3 percent in the fourth quarter of 2008 (see table 6). Over the same period, the foreclosure rate on subprime loans rose to 15.1 percent from 13.7 percent (the rate for adjustable-rate subprime loans is now more than 24 percent).

As discussed in our March 2009 report, Treasury introduced PPIP to facilitate the purchase of legacy loans and securities. PPIP's impact will depend largely on the pricing of the purchased assets. Sufficiently high prices will allow financial institutions to sell assets, deleverage, and improve their capital adequacy, but overpaying for these assets could have negative implications for taxpayers.[59] In addition to providing more transparent pricing for assets, PPIP—if it is effective—should improve solvency at participating institutions and others holding those assets, reduce uncertainty about their balance sheets, and improve investor confidence. If it does, the institutions will be able to borrow and lend at lower rates and raise additional capital from the private sector. But PPIP is in the initial stages of implementation, and it is too early to expect effects on related markets.

Challenges to Assessing TARP's Effect on the Economy Remain

While TARP's activities could improve market confidence in participating banks and have other beneficial effects on credit markets, we have also noted in our previous reports that several factors will complicate efforts to measure any impact. For example, any changes attributed to TARP could well be changes that:

- would have occurred anyway;
- can be attributed to other policy interventions, such as the actions of FDIC, the Federal Reserve, or other financial regulators; or
- were enhanced or counteracted by other market forces, such as the correction in housing markets and revaluation of mortgage-related assets.

Consideration of market forces is particularly important when using bank lending as a measure of CPP's and CAP's success, because it is not clear what would have happened in the absence of TARP. Weaknesses in the balance sheets of financial intermediaries, a decline in the demand for credit, reduced creditworthiness among borrowers, and other market fundamentals suggest lower lending activity than would be expected. Similarly, nonbank financial institutions, which have accounted for a significant portion of lending activity over the last two decades, have been

[59]Prices at or below the values financial institutions are currently assigning to these loans or securities would provide a limited incentive to sell. To the extent that nonrecourse funding and FDIC-guaranteed debt provide an implicit subsidy (e.g., through offering below-market loan terms) to potential buyers of legacy loans and securities, buyers would likely be willing to pay higher prices for these assets. To the extent that markets are underpricing such assets or prices are suppressed due to illiquidity, higher prices may be more reflective of the underlying value or cash flows associated with the assets (and therefore aid in price discovery). However, all other things being equal, higher prices impose certain risks on Treasury, FDIC, and the Federal Reserve if prices paid are too high, as these agencies will absorb losses beyond the equity supplied by investors.

constrained due to weak securitization markets. Lastly, because the extension of credit to less-than-creditworthy borrowers appears to have been an important factor in the current financial crisis, it is not clear that lending should return to precrisis levels. Similar difficulties arise in using foreclosure data as a measure of HAMP's success, especially given the rising unemployment rate and the number of homeowners who may have taken on mortgage-related debt beyond prudent levels.

Treasury Should Consider a Number of Indicators and Measures to Provide a Basis for Future TARP Actions

While Treasury is beginning to establish a case for exiting from some emergency programs and maintaining others, it has not fully established a comprehensive framework that will provide a basis for making transparent decisions about which TARP-specific actions are necessary or how those programs will be evaluated. Treasury's authority to purchase or insure additional troubled assets will expire on December 31, 2009, unless the Secretary submits a written certification to Congress explaining why an extension is necessary and how much it is expected to cost. For this reason, Treasury will need to make decisions about providing new funding and maintaining existing funding for TARP programs in the next few months. It will need to do this in light of current and expected market conditions, and it will need to communicate its determinations to Congress and the American people.

Treasury has recently released a report that begins to discuss the next phase of its stabilization and rehabilitation efforts—a discussion that may be a starting point for deciding whether any further actions are necessary to stabilize financial markets and the first step in establishing a framework for such actions.[60] The report describes the drop in utilization of some programs as financial conditions normalize and confidence in financial markets improves and identifies a number of financial market indicators. Treasury also notes that it will need to ensure the continuation of some policies and programs that it believes are needed for financial and economic recovery. However, Treasury has yet to take all the steps needed to provide a basis for deciding whether or not to provide new funding for TARP. For example, while some rationale is provided for continued HAMP and TALF action, none is provided for PPIP. Without a robust analytic framework, Treasury may be challenged in effectively carrying out the next phase of its programs.

[60]"The Next Phase of Government Financial Stabilization and Rehabilitation Policies," Department of the Treasury (September 2009).

For the decision-making process to be viewed as credible, Treasury will need to document and communicate the basis for its decisions. Although qualitative factors should be given serious consideration, to the extent that Treasury can relate its decision making to a set of quantitative measures or indicators, its case can be more convincing. In addition, Treasury would add further credibility to the process by announcing ahead of time the indicators or measures it plans to use. Doing so would help to disarm potential criticism that it had selectively chosen indicators or measures to justify its decisions after the fact. While indicators of credit market conditions can suggest the extent to which, for example, credit costs and lending have returned to levels consistent with the stability of financial markets, measures of program effectiveness can offer insight into the potential benefits of additional TARP expenditures. The Office of Management and Budget (OMB) guidance for cost-benefit and regulatory analyses suggests, among other things, making assumptions explicit, characterizing the uncertainties involved, varying assumptions to determine the sensitivity of estimated outcomes (sensitivity analysis), and considering alternative approaches.[61] If Treasury adopts a more formal cost-benefit framework, additional principles may also be applicable, including the use of net present value measures, an enumeration of benefits and costs, and the quantifying of benefits and costs whenever possible.

Conclusions and Recommendations

In establishing this new program, Treasury faced a number of operational challenges. Not only did it have to implement the program in the midst of the greatest financial crisis since the Great Depression, but Treasury also had to adjust the program as events continued to unfold. As TARP's focus shifted from making a number of capital purchases as investments in individual institutions to one geared toward restarting securitization markets and preserving homeownership, its management infrastructure had to change as well.

While progress has been made in establishing TARP, much remains uncertain about the program, including whether it will pay for itself or prove to be a cost to the taxpayers. The reasons for the uncertainty include the following:

[61]The Office of Management and Budget (OMB) guidance includes circulars A-4 "Regulatory Analysis" and A-94 "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs."

- Some programs remain in their infancy, while others are winding down. Therefore, determining the overall impact and costs of the programs will take time.

- TARP funds were invested in a variety of institutions, some of which were less risky than others.

- Some TARP programs may generate some returns for Treasury through interest and dividend payments and sales of warrants, while others—such as HAMP—are expenditure programs aimed at helping homeowners modify their mortgages.

To help Treasury meet the challenges associated with implementing a program while concurrently establishing a comprehensive system of internal control, we have made 35 recommendations to Treasury aimed at improving the accountability, integrity, and transparency of TARP. As discussed in appendix I, Treasury has taken action to address most of them. And while much important progress has been made, a number of areas warrant ongoing attention as Treasury moves into the next phase of the program and contemplates a possible extension.

- First, we continue to believe that Treasury should work with the Chairmen of the FDIC and Federal Reserve, the Comptroller of the Currency, and the Acting Director of OTS to help ensure that the primary federal regulators use generally consistent criteria when considering repurchase decisions under TARP. While we understand that the final repurchase decision rests with a participant's primary federal regulator, Treasury has a responsibility to ensure that these regulators are applying generally consistent criteria when reviewing TARP participants' requests to repurchase their preferred shares.

- Second, Treasury has yet to finalize its implementation of an oversight program for asset managers covering CPP and the other capital-based programs, such as TIP and AGP. While Treasury now has asset managers to help manage its equity investments, it must also ensure that the federal government's interests are protected and that the asset managers are performing as agreed.

- Third, Treasury has yet to implement our recommendation aimed at strengthening its efforts to help preserve homeownership and protect home values. As we previously recommended, Treasury should routinely update projections of the number of homeowners who can be helped under HAMP by reviewing key assumptions about the housing market and the behavior of mortgage holders, borrowers, and servicers. In addition, Treasury should develop a means of systematically assessing servicers' capacity to make HAMP modifications and meet program requirements, so that Treasury can understand and address any risks associated with individual servicers' ability to fulfill program requirements.

- Fourth, in the area of management infrastructure, OFS has continued to make progress in establishing a management infrastructure to administer TARP and oversee contractors and financial agents, but some challenges remain. Though OFS now has close to 200 staff, some key senior positions have not been permanently filled, such as the Chief Homeownership Preservation Officer and Chief Investment Officer. Bringing on board permanent staff for these key positions is important in helping Treasury effectively administer TARP activities and ensuring accountability for program outcomes. Treasury has strengthened its management and oversight of contractors as its reliance on them to support TARP has grown over the past year. OFS continues to make progress in developing a comprehensive system of internal control. As we complete our first audit of OFS's annual financial statements for TARP, we will be able to provide a more definitive view of TARP's internal controls over financial reporting.

- Fifth, in the area of communication, the program has evolved and continues to evolve. Treasury viewed its initial shift toward capital investments in the first weeks of the program as a more effective way to stabilize fragile financial markets. This shift in strategy, however, caught Congress and the public by surprise, and has created long-term challenges for the program, and, some would argue, ultimately impacted the effectiveness of the program. Concerns about this shift in structure highlight the communication challenges that continue to confront the program. And as Treasury continues to improve its communication efforts and formalize its communication strategy, Treasury must ensure that its ongoing efforts include keeping Congress adequately informed about TARP and its strategy, including its exit strategy for the various programs created under TARP. Furthermore, formalizing the communication strategy and hiring a communications director will help ensure that communication is given sufficient attention on an ongoing basis.

- Finally, because TARP has been part of a broader effort that has included the Federal Reserve and FDIC, measuring the effectiveness of TARP's programs has been an ongoing challenge. We developed a set of indicators that we used to track conditions of financial markets over the past year. These indicators show that a number of the anticipated effects of TARP have materialized. However, changes in these metrics are an imperfect way to measure TARP's impact, as they may also be influenced by general market forces and cannot be exclusively linked to any one program or action. As a result, isolating and assessing TARP's effect on the economy remains a challenging endeavor.

Treasury has not fully established a comprehensive analytic framework for assessing the need for additional actions and evaluating program results in a transparent manner. In a recent report on the next phase of the federal government's stabilization efforts, Treasury began to lay the foundation for an analytic framework for determining whether to extend TARP and also provided a number of financial indicators. Although TARP expires on December 31, 2009, the Secretary of the Treasury may extend the program to October 3, 2010, and Treasury will need to make a determination regarding such an extension. As Treasury considers whether to extend the program, the Secretary's determination must be made in light of actions taken and planned by the Federal Reserve and FDIC and their winding down of certain programs and continuation of others that were also established to help stabilize markets. In addition, any continued action under TARP should be based in part on quantitative measures of program effectiveness, such as performance indicators, in order to weigh the benefits of TARP programs against the cost of using additional taxpayer resources. However, Treasury has not fully established a comprehensive analytic framework for assessing the future direction of the programs or determining whether additional actions are warranted. Moreover, as it finalizes the next phase of the program, Treasury will need to document its decision-making process and communicate its reasoning to Congress and the American people in order for its decisions to be viewed as credible.

Finally, with the exception of AGP and AIFP, Treasury has not updated its projected use of funds for the TARP programs in light of current market conditions and program participation rates since March 2009. Based on changes in the markets, repurchases, participation levels in certain programs, and the implementation status of others, a thorough review of Treasury's existing estimates of its projected use of TARP funds is warranted in light of the need to make a determination about whether to extend the program. Without more current and meaningful estimates about projected uses of the remaining funds, Treasury's ability to plan for and effectively execute the next phase of the program will be limited.

New Recommendations for Executive Action

As it enters the next phase of the program, Treasury will likely face ongoing challenges. Building on our prior recommendations, we are making three new recommendations aimed at improving Treasury's ability to effectively manage the next phase of the program. Specifically, we recommend that the Secretary of the Treasury

- Consider TARP in a broad market context and as part of determining whether to extend TARP, work with the Chairmen of the Federal Reserve and FDIC to develop a coordinated framework and analytical basis to determine whether an extension is needed. If it is, the Secretary should clearly spell out what the objectives and measures of any extended programs would be, along with anticipated costs and safeguards;

- Document its analytical decision-making process and clearly communicate the results to Congress and the American people for determining whether an extension is needed; and

- Update its projected use of funds and, if the program is extended, continue to re-evaluate them on a periodic basis.

Agency Comments and Our Analysis

We provided a draft of this report to Treasury for its review and comment. We also provided excerpts of the draft report to the Federal Reserve and FDIC for their review. Treasury provided written comments that we have reprinted in appendix XI. Treasury, the Federal Reserve, and FDIC also provided technical comments that have been incorporated as appropriate.

In its comments, Treasury noted that "there is important work ahead" and that our recommendations were constructive as Treasury works to implement its financial stability programs and enhance OFS's performance. In particular, the Assistant Secretary noted in response to our recommendations that the Secretary in deciding whether to extend TARP authority beyond December 31, 2009, "will coordinate with appropriate officials to ensure that the determination is considered in a broad market context that takes account of relevant objectives, costs, and measures" and that Treasury will communicate the reasons for the decision when it is made. Concerning our recommendation that Treasury update its projected use of funds estimates and if the program is extended, regularly re-evaluate them, Treasury commented that it regularly evaluates funding needs for TARP programs and announces revisions as decisions are made. However, with the exception of AGP and AIFP, Treasury had not publicly affirmed its projected use estimates since March 2009. As it continues to evaluate these estimates, Treasury should disclose this information periodically, including reconciling estimates to actual results. For example, in March Treasury estimated that it had $135 billion remaining under TARP. This included $25 billion in estimated repurchases, yet as of September 25, 2009, actual repurchases totaled almost three times that amount.

We are sending copies of this report to the Congressional Oversight Panel, Financial Stability Oversight Board, Special Inspector General for TARP, interested congressional committees and members, Treasury, the federal banking regulators, and others. The report also is available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staffs have any questions about this report, please contact Richard J. Hillman at (202) 512-8678 or hillmanr@gao.gov; Thomas J. McCool at (202) 512-2642 or mccoolt@gao.gov; or Orice Williams Brown at (202) 512-8678 or williamso@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix XII.

Gene L. Dodaro
Acting Comptroller General
of the United States

List of Committees

The Honorable Daniel K. Inouye
Chairman
The Honorable Thad Cochran
Vice Chairman
Committee on Appropriations
United States Senate

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Kent Conrad
Chairman
The Honorable Judd Gregg
Ranking Member
Committee on the Budget
United States Senate

The Honorable Max Baucus
Chairman
The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate

The Honorable David R. Obey
Chairman
The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable John M. Spratt, Jr.
Chairman
The Honorable Paul Ryan
Ranking Member
Committee on the Budget
House of Representatives

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Charles B. Rangel
Chairman
The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
House of Representatives

Appendix I: Status of GAO Recommendations, as of September 25, 2009

GAO recommendations	Status
December 2, 2008, report:	
Work with the bank regulators to establish a systematic means of determining and reporting in a timely manner whether financial institutions' activities are generally consistent with the purposes of Capital Purchase Program (CPP) and help ensure an appropriate level of accountability and transparency.	Implemented
Develop a means to ensure that institutions participating in CPP comply with key program requirements (for example, executive compensation, dividend payments, and the repurchase of stock).	Partially implemented
Formalize the existing communication strategy to ensure that external stakeholders, including Congress, are informed about the program's current strategy and activities and understand the rationale for changes in this strategy to avoid information gaps and surprises.	Partially implemented
Facilitate a smooth transition to the new administration by building on and formalizing ongoing activities, including ensuring that key Office of Financial Stability (OFS) leadership positions are filled during and after the transition.	Implemented
Expedite OFS's hiring efforts to ensure that the Department of the Treasury (Treasury) has the personnel needed to carry out and oversee the Troubled Asset Relief Program (TARP).	Implemented
Ensure that sufficient personnel are assigned and properly trained to oversee the performance of all contractors, especially for contracts priced on a time-and-materials basis, and move toward fixed-price arrangements whenever possible.	Implemented
Continue to develop a comprehensive system of internal control over TARP, including policies, procedures, and guidance that are robust enough to protect taxpayers' interests and ensure that program objectives are being met.	Partially implemented
Issue regulations on conflicts of interest involving Treasury's agents, contractors, and their employees and related entities as expeditiously as possible and review and renegotiate mitigation plans, as necessary, to enhance specificity and compliance with the new regulations once they are issued.	Implemented
Institute a system to effectively manage and monitor the mitigation of conflicts of interest.	Implemented
January 30, 2009, report:	
Expand the scope of planned monthly CPP surveys to include collecting at least some information from all institutions participating in the program.	Implemented
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.	Implemented
Establish a process to ensure compliance with all CPP requirements, including those associated with limitations on dividends and stock repurchase restrictions.	Partially implemented
Communicate a clearly articulated vision for TARP and show how all individual programs are intended to work in concert to achieve that vision. This vision should incorporate actions to preserve homeownership. Once this vision is clearly articulated, Treasury should document needed skills and competencies.	Implemented
Continue to expeditiously hire personnel needed to carry out and oversee TARP.	Implemented
Expedite efforts to ensure that sufficient personnel are assigned and properly trained to oversee the performance of all contractors, especially for contracts priced on a time-and-materials basis, and move toward fixed-price arrangements whenever possible as program requirements are better defined over time.	Implemented
Develop a comprehensive system of internal control over TARP activities, including policies, procedures, and guidance that are robust enough to ensure that the program's objectives and requirements are met.	Partially implemented

GAO recommendations	Status
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.	Implemented
Review and renegotiate existing conflict-of-interest mitigation plans, as necessary, to enhance specificity and conformity with the new interim conflicts-of-interest regulation and take continued steps to manage and monitor conflicts of interest and enforce mitigation plans.	Partially implemented
March 31, 2009, report:	
Develop a communication strategy that includes building an understanding and support for the various components of the program. 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.	Partially implemented
Require that American International Group, Inc. (AIG) seek concessions from stakeholders, such as management, employees, and counterparties, including seeking to renegotiate existing contracts, as appropriate, as it finalizes the agreement for additional assistance.	Closed, not implemented
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.	Partially implemented
Improve transparency pertaining to TARP program activities by reporting publicly the monies, such as dividends, paid to Treasury by TARP participants.	Implemented
Complete the review of, and as necessary renegotiate, the four existing vendor conflicts-of-interest mitigation plans to enhance specificity and conformity with the new interim conflicts-of-interest rule.	Partially implemented
Issue guidance requiring that key communications and decisions concerning potential or actual vendor-related conflicts of interest be documented.	Implemented
June 17, 2009, report:	
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.	Partially implemented
In consultation with the Chairmen of the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, 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.	Not implemented
Fully implement a communication strategy that ensures that all key congressional stakeholders are adequately informed and kept up to date about TARP.	Partially implemented
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.	Implemented
Explore options for providing the public with more detailed information on the costs of TARP contracts and agreements, such as a dollar breakdown of obligations and/or expenses.	Implemented
Finally, to help improve the transparency of Capital Assistance Program (CAP)—in particular the stress tests results—we recommend that the Director of Supervision and Regulation of the Federal Reserve consider periodically disclosing to the public the aggregate performance of the 19 bank holding companies against the more adverse scenario forecast numbers for the duration of the 2-year forecast period and whether or not the scenario needs to be revised. At a minimum, the Federal Reserve should provide the aggregate performance data to OFS program staff for any of the 19 institutions participating in CAP or CPP.	Not implemented

GAO recommendations	Status
July 23, 2009, report:	
Consider methods of (1) monitoring whether borrowers with total household debt of more than 55 percent of their income who have been told that they must obtain HUD-approved housing counseling do so, and (2) assessing how this counseling affects the performance of modified loans to see if the requirement is having its intended effect of limiting redefaults.	(1) Partially implemented (2) Not implemented
Reevaluate the basis and design of Home Price Decline Protection (HPDP) program to ensure that the Home Affordable Modification Program (HAMP) funds are being used efficiently to maximize the number of borrowers who are helped under HAMP and to maximize overall benefits of utilizing taxpayer dollars.	Partially implemented
Institute a system to routinely review and update key assumptions and projections about the housing market and the behavior of mortgage holders, borrowers, and servicers that underlie Treasury's projection of the number of borrowers whose loans are likely to be modified under HAMP and revise the projection as necessary in order to assess the program's effectiveness and structure.	Partially implemented
Place a high priority on fully staffing vacant positions in Homeownership Preservation Office (HPO)—including filling the position of Chief Homeownership Preservation Officer with a permanent placement—and evaluate HPO's staffing levels and competencies to determine whether they are sufficient and appropriate to effectively fulfill its HAMP governance responsibilities.	Partially implemented
Expeditiously finalize a comprehensive system of internal control over HAMP—including policies, procedures, and guidance for program Activities—to ensure that the interests of both the government and taxpayer are protected and that the program objectives and requirements are being met once loan modifications and incentive payments begin.	Partially implemented
Expeditiously develop a means of systematically assessing servicers' capacity to meet program requirements during program admission so that Treasury can understand and address any risks associated with individual servicers' abilities to fulfill program requirements, including those related to data reporting and collection.	Not implemented

Source: GAO and analysis of OFS, Treasury information.

Appendix II: Capital Purchase Program

Program Overview

The Capital Purchase Program (CPP) has been the primary initiative under the Troubled Asset Relief Program (TARP) for stabilizing the financial markets and banking system. The Department of the Treasury (Treasury) created CPP in October 2008 to stabilize the financial system by providing capital to qualifying regulated financial institutions through the purchase of senior preferred shares and subordinated debentures.[1] In return for its investment, Treasury was to receive dividend or interest payments and warrants.[2] Treasury has stated that by building capital, CPP should help increase the flow of financing to U.S. businesses and consumers and support the U.S. economy. At the time of the program's announced establishment, nine major financial institutions—considered by federal banking regulators and Treasury to be essential to the operation of the financial system—agreed to participate in CPP.[3] Together, these institutions held about 55 percent of U.S. banking assets. Banking regulators recommend program participants, which Treasury selects, based on examination ratings and performance and may accept or reject applications based on these factors and on mitigating circumstances, such as confirmed private investment.

Funding

On October 14, 2008, Treasury allocated $250 billion of the almost $700 billion for CPP but adjusted its allocation to $218 billion in March 2009. According to Treasury officials, this downward adjustment reflected the estimated funding needs of the program based on participation to date and the money it expected to receive from participants repurchasing their preferred shares and subordinated debt. As of September 25, 2009, Treasury had disbursed more than $204.6 billion (see table 9) and had received about $70.7 billion from repurchases of preferred shares leaving $84.1 billion available for future CPP funding, according to Tresaury.

[1]For purposes of CPP, qualifying financial institutions generally include stand-alone U.S.-controlled banks and savings associations, as well as bank holding companies and most savings and loan holding companies.

[2]A warrant is an option to buy shares of common stock or preferred stock at a predetermined price on or before a specified date.

[3]The nine major financial institutions were Bank of American Corporation; Citigroup, Inc.; JP Morgan Chase & Co.; Wells Fargo & Company; Morgan Stanley; The Goldman Sachs Group, Inc.; The Bank of New York Mellon Corporation; State Street Corporation; and Merrill Lynch & Co., Inc.

Table 9: Capital Investments Made through the Capital Purchase Program, as of September 25, 2009

Closing date of transaction	Amount of CPP capital investment	Cumulative percentage of allocated funds used for CPP capital investment	Number of qualified financial institutions receiving CPP capital
10/28/2008	$115,000,000,000	52.75%	8
11/14/2008	33,561,409,000	68.15	21
11/21/2008	2,909,754,000	69.48	23
12/5/2008	3,835,635,000	71.24	35
12/12/2008	2,450,054,000	72.37	28
12/19/2008	2,791,950,000	73.65	49
12/23/2008	1,911,751,000	74.52	43
12/31/2008	15,078,947,000	81.44	7
1/9/2009	14,771,598,000	88.22	43
1/16/2009	1,479,938,000	88.89	39
1/23/2009	385,965,000	89.07	23
1/30/2009	1,151,218,000	89.6	42
2/6/2009	238,555,000	89.71	28
2/13/2009	429,069,000	89.91	29
2/20/2009	365,397,000	90.07	23
2/27/2009	394,906,000	90.26	28
3/6/2009	284,675,000	90.39	22
3/13/2009	1,455,160,000	91.05	19
3/20/2009	80,748,000	91.09	10
3/27/2009	192,958,000	91.18	14
4/3/2009	54,826,000	91.2	10
4/10/2009	22,790,000	91.21	5
4/17/2009	40,945,000	91.23	6
4/24/2009	121,846,000	91.29	12
5/1/2009	45,532,000	91.31	7
5/8/2009	42,019,000	91.33	7
5/15/2009	107,623,000	91.38	14
5/22/2009	108,333,000	91.43	12
5/29/2009	89,207,000	91.47	8
6/5/2009	40,269,000	91.49	3
6/12/2009	39,108,000	91.51	7
6/19/2009	84,705,000	91.54	10

Closing date of transaction	Amount of CPP capital investment	Cumulative percentage of allocated funds used for CPP capital investment	Number of qualified financial institutions receiving CPP capital
6/26/2009	3,626,311,000	93.21	16
7/3/2009	0	93.21	0
7/10/2009	963,669,000	93.65	2
7/17/2009	91,600,000	93.69	6
7/24/2009	87,655,000	93.73	4
7/31/2009	10,742,000	93.74	2
8/7/2009	70,236,000	93.77	2
8/14/2009	1,004,000	93.77	1
8/21/2009	9,000,000	93.77	2
8/28/2009	49,657,000	93.8	4
9/4/2009	1,697,000	93.8	1
9/11/2009	74,771,000	93.83	5
9/18/2009	15,976,000	93.84	2
9/25/2009	48,365,320	93.86	6
Total	**$204,617,573,320**	**93.86%**	**685**[a]

Sources: GAO analysis of Treasury and SEC (10Q) data.

[a]The total number of financial institutions was reduced by three because SunTrust Banks, Inc. (SunTrust), Bank of America Corporation, and Yadkin Valley Financial Corporation received two capital investments under CPP. SunTrust received a partial capital investment of $3.5 billion on November 14, 2008, and another of $1.35 billion on December 31, 2008. Bank of America Corporation received $15 billion on October 28, 2008, and, after merging with Merrill Lynch & Co., Inc. on January 1, 2009, an additional $10 billion on January 9, 2008. Yadkin Valley Financial Corporation received $36 million on January 16, 2009, and another $13.3 million on July 24, 2009, after merging with American Community Bancshares, Inc on April 17, 2009.

Status of Efforts

Through CPP, Treasury had provided more than $204 billion in capital to 685 institutions as of September 25, 2009. These purchases ranged from $301,000 to $25 billion per institution and represented about 94 percent of the $218 billion Treasury allocated for CPP. As of September 25, 2009, the types of institutions that received CPP capital varied in size and included 280 publicly held institutions, 337 privately held institutions, 1 mutual institution, 45 S-corporations, and 22 community development financial institutions.[4] These purchases represented investments in state-chartered and national banks and bank holding companies located in the District of Columbia, Puerto Rico, and every state except Montana and Vermont. For a detailed listing of financial institutions that received CPP funds as of September 25, 2009, see GAO-10-24SP.[5] While the last application deadline was May 14, 2009, for mutual institutions, on May 13, 2009, the Secretary of the Treasury extended the CPP program to November 21, 2009, for all types of small banks. The program is starting to wind down, with fewer than 115 applications under consideration by regulators and fewer than 30 applications by Treasury as of September 18, 2009.

Treasury and the federal bank regulators continue to review applications for CPP. According to Treasury, as of September 25, 2009, it had received over 1,300 CPP applications (including approximately 10 under the small bank program) from the banking regulators, with fewer than 30 awaiting decision by OFS's Investment Committee. For many applications in this category, Treasury is awaiting updated information from the regulators before taking the application to the Investment Committee for a vote. The bank regulators also reported that they were reviewing applications of fewer than 115 institutions plus more than 50 under the small bank program that had not yet been forwarded to Treasury. Qualified financial institutions generally have 30 calendar days after Treasury notifies them of preliminary approval for CPP funding to submit investment agreements and related documentation. OFS officials stated that more than 430 financial institutions that received preliminary approval had withdrawn their CPP applications as of September 25, 2009. Institutions withdrew their applications for a variety of reasons, including the uncertainty

[4]An *S-corporation* makes a valid election to be taxed under subchapter S of chapter 1 of the Internal Revenue Code and thus does not pay any income taxes. Instead, the corporation's income or losses are divided among and passed through to its shareholders. A *mutual organization* is a company that is owned by its customers rather than by a separate group of stockholders. Many thrifts and insurance companies (for example, Boston Mutual and New York Life) are mutuals. A Community Development Financial Institutions (CDFI) is a specialized financial institution that works in market niches that are underserved by traditional financial institutions. CDFIs provide a range of financial products and services, such as mortgage financing for low-income and first-time homebuyers and not-for-profit developers; flexible underwriting and risk capital for needed community facilities; and technical assistance, commercial loans, and investments to small start-up or expanding businesses in low-income areas.

[5]GAO, *Troubled Asset Relief Program: Capital Purchase Program Transactions for October 28, 2008, through September 25, 2009, and Information on Financial Agency Agreement, Contract, Blanket Purchase Agreements, and Interagency Agreements Awarded as of September 18, 2009*, GAO-10-24SP (Washington, D.C.: October 8, 2009).

surrounding future program requirements, the legal cost to close transactions (for small institutions), cost of warrants, and improving confidence in the banking system that allowed them to raise capital in the private markets.

In addition to outflows, Treasury had received about $6.7 billion in dividend payments and interest payments from CPP participants as of September 25, 2009. CPP participants repurchased about $70.7 billion in preferred shares and paid another $2.9 billion to repurchase their warrants and preferred stock received through the exercise of warrants.

Key Activities Under CPP

- *October 13, 2008:* Consistent with conditions prescribed by the Emergency Economic Stabilization Act of 2008 (the act), Treasury notifies Congress that Treasury officials have determined that it would be more efficient to purchase preferred shares issued by certain financial institutions instead of purchasing mortgage-related assets.

- *October 14, 2008:* Treasury announces that it will make direct capital investments in a broad array of qualifying financial institutions in exchange for preferred stock and warrants through CPP. Also, Treasury allocates $125 billion in purchases for the first nine financial institutions deemed systemically significant by federal bank regulators and Treasury. The nine large financial institutions agree to participate in CPP, in part, to signal the importance of the program for the system.

- *October 14, 2008:* Treasury provides a description of CPP terms for investments in public financial institutions and issues the term sheet for public institutions. The deadline for public institutions to submit applications to their primary federal bank regulator is November 14, 2008.

- *October 20, 2008:* Treasury published in the Federal Register an interim final rule to provide guidance on the executive compensation provisions applicable to CPP participants.

- *October 20, 2008:* Treasury and the four federal banking agencies—the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation—issue application guidelines, frequently asked questions, and standardized terms for making capital investments in public financial institutions. The deadline for public institutions to submit applications to their primary federal bank regulator is November 14, 2008.

- *October 28, 2008:* Treasury settles the capital purchase transactions with eight of the nine institutions participating in the first round of CPP for a total of $115 billion.[6]

- *November 17, 2008*: Treasury issues standardized terms for making capital investments in privately held financial institutions. December 8, 2008, is the deadline for privately held institution to submit applications to their primary federal bank regulator for CPP funds.

- *January 14, 2009:* Treasury issues standardized terms for making capital investments in S-corporations and answers to frequently asked questions for qualified financial institutions applying to CPP that are S-corporations. The term sheet provides for issuances of debt instead of preferred stock issued by certain other CPP participants. The deadline for S-corporations to submit applications to their primary federal bank regulator is February 17, 2009.

- *February 17, 2009:* Treasury publishes its first Monthly Lending and Intermediation Snapshot with information from the top 21 financial institutions participating in CPP.

- *February 17, 2009:* The American Recovery and Reinvestment Act of 2009 (ARRA) amends the Emergency Economic Stabilization Act of 2008 by allowing financial institutions to repurchase or buy back their preferred shares and warrants from Treasury at any time with the approval of their primary federal regulator. Under the original terms of CPP, financial institutions are prohibited from repurchasing in the first 3 years unless they had completed a qualified equity offering.

- *February 26, 2009:* Treasury publishes frequently asked questions addressing changes to CPP under ARRA.

- *March 31, 2009:* The first financial institutions begin repaying their CPP capital investments (that is, repurchasing preferred shares) after receiving approval from their primary federal banking regulator. Five institutions pay $353 million to Treasury.

- *April 7, 2009:* Treasury issues three term sheets for qualifying financial institutions applying to CPP that are mutual holding companies. The

[6]According to Treasury, the remaining $10 billion would be settled by the end of January 2009, by which time the merger of Bank of America Corporation and Merrill Lynch & Co., Inc. would be complete.

deadline for mutual institutions to submit applications to their primary federal bank regulator is May 7, 2009.

- *April 14, 2009:* Treasury releases term sheet for mutual banks applying to CPP that do not have holding companies. The deadline for mutual institutions to submit applications to their primary federal bank regulator is May 14, 2009.

- *April 22, 2009:* Treasury announces the selection of three firms (AllianceBernstein LP; FSI Group, LLC; and Piedmont Investment Advisors, LLC) to serve as asset managers for CPP and other programs. Treasury officials state that these managers would have a role in helping ensure that institutions are honoring dividend payments and stock repurchases requirements.

- *May 13, 2009:* The Treasury Secretary announces in a speech that Treasury has taken additional actions under CPP to ensure that small community banks and holding companies (qualifying financial institutions with total assets less than $500 million) will have the capital they needed to lend to creditworthy borrowers. Small banks have until November 21, 2009, to apply to CPP under all term sheets.

- *May 14, 2009:* Treasury notifies six insurance companies that they have received preliminary CPP funding approval. All insurance companies complied with the requirements to participate in CPP under existing term sheets, as these companies are organized as bank or thrift holding companies and filed their CPP applications by the deadline date. As of September 25, 2009, two of the six had been funded.

- *June 1, 2009:* Treasury releases its first CPP Monthly Lending Report, which includes information on outstanding balances on consumer loans, commercial loans, and total loans of all CPP participants.

- *June 9, 2009:* Treasury announces that 10 of the largest U.S. financial institutions participating in CPP are eligible to complete the repurchase process and repay about $68 billion, having obtained regulatory consent to their repayment requests.

- *June 10, 2009:* Treasury adopts an interim rule to implement the executive compensation and corporate governance provisions of the act, as amended by ARRA.

- *June 17, 2009:* Ten of the largest U.S. bank holding companies—all but one of which participated in the Supervisory Capital Assessment Program exercise—repay about $68 billion in CPP capital investments to Treasury.

- *June 26, 2009:* Treasury announces its policy with respect to warrant repurchases and the disposition of warrants received in connection with investments made under CPP. Also, frequently asked questions about warrants and CPP are published.

- *August 17, 2009:* Treasury, in conjunction with bank regulators, publishes the first Quarterly Capital Purchase Report of regulatory financial data for CPP and non-CPP banks, thrifts, and bank holding companies. It focuses on three broad categories: on- and off-balance sheet items, performance ratios, and asset quality measures.

- *December 31, 2009:* Deadline for Treasury to end the approval process for the additional funding of institutions under CPP and TARP unless the Treasury Secretary extends it.

GAO's Recommendations and Treasury's Response

Table 10: Treasury's Actions in Response to GAO Recommendations, as of September 25, 2009

GAO recommendations	Treasury actions responding to recommendations	GAO assessment of Treasury's response
Recommendations from the December 2, 2008, report:		
Work with the bank regulators to establish a systematic means of determining and reporting in a timely manner whether financial institutions' activities are generally consistent with the purposes of CPP and help ensure an appropriate level of accountability and transparency.	• Publishes a monthly bank lending survey of the 22 largest CPP institutions to monitor their lending (including small business) and intermediation activities; includes both financial data and commentaries. • In conjunction with federal bank regulators, Treasury publishes a quarterly analysis of regulatory data for banks (call reports), thrifts (thrift financial reports) and bank holding companies (Y-9C) for all CPP reporting institutions. • All federal bank regulators, except the Federal Reserve, have developed examination polices and procedures to monitor CPP participants for compliance with CPP agreements and TARP requirements. • All reports are posted on Treasury's FinancialStability.gov Web site.	Implemented
Develop a means to ensure that institutions participating in CPP comply with key program requirements (e.g., executive compensation, dividend payments, and the repurchase of stock).	• Named a permanent Chief Risk and Compliance Officer and uses information sources such as Bloomberg, Securities and Exchange Commission filings, press releases, and other information sources to monitor dividend payments and stock repurchases. • Hired three asset management firms to provide market advice about investments in financial institutions and corporations participating in TARP programs, and help monitor compliance with limitations on dividend payments and stock repurchases; is also exploring software solutions and other data resources to improve compliance monitoring. • Publishes a monthly dividends and interest report detailing monthly and cumulative dividends and interest payments received on TARP investments, including CPP.	Partially implemented

GAO recommendations	Treasury actions responding to recommendations	GAO assessment of Treasury's response
Recommendations from the January 30, 2009, report:		
Expand the scope of planned monthly CPP surveys to include collecting at least some information from all institutions participating in the program.	• Publishes a monthly survey of lending at all CPP institutions includes data on loans outstanding to consumers and commercial entities and total loans outstanding.	Implemented
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.	See responses above to implemented recommendations.	Implemented
Establish a process to ensure compliance with all CPP requirements, including those associated with limitations on dividends and stock repurchase restrictions.	• Treasury uses its custodian bank—Bank of New York Mellon—to collect information from a variety of informal sources, such as Securities and Exchange Commission filings and press releases, Bloomberg, and information provided by CPP participants and refer instances of noncompliance to the Chief Risk and Compliance Office for action. • New executive compensation rule requires the establishment of the Office of the Special Master for TARP Executive Compensation (Special Master) to review compensation plans for the most highly compensated employees of recipients of exceptional assistance under TARP and review payments of bonuses, retention awards, and other compensation for the senior executive officers and 20 next highly compensated employees of TARP recipients before February 17, 2009, and where applicable, negotiate reimbursements (interim rule). • The interim rule also establishes compliance reporting and record-keeping requirements for executive compensation and corporate governance standards. • All federal bank regulators, except the Federal Reserve, have developed examination polices and procedures to monitor CPP participants for compliance with CPP and TARP requirements.	Partially implemented

GAO recommendations	Treasury actions responding to recommendations	GAO assessment of Treasury's response
Recommendations from June 17, 2009, report:		
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.	Believes it is unable to implement recommendation because Treasury cannot dictate criteria that federal bank regulators should apply in making repurchase decisions under TARP.	Not implemented, we continue to believe that Treasury should work with the Chairmen of the FDIC and Federal Reserve, the Comptroller of the Currency, and the Acting Director of the OTS to ensure consideration of generally consistent criteria by the primary federal regulators when considering repurchase decisions under TARP. While we understand that the final repurchase decision rests with a participant's primary federal regulator, Treasury has a responsibility to ensure that these regulators are applying generally consistent criteria when reviewing TARP participants requests to repurchase their preferred shares. Rather than dictating criteria, we are recommending that Treasury engage in a dialogue to help ensure that the criteria being used are generally consistent.

Source: GAO and analysis of OFS, Treasury, information.

Appendix III: Capital Assistance Program

Program Overview

In February 2009, the Department of the Treasury (Treasury) announced the Financial Stability Plan, which outlined a set of measures to help address the financial crisis and restore confidence in our financial and housing markets by restarting the flow of credit to consumers and businesses, strengthening financial institutions, and providing aid to homeowners and small businesses. The plan announced six key components, one of which was the Capital Assistance Program (CAP). CAP is designed to help ensure that qualified financial institutions have sufficient capital to withstand severe economic challenges. These institutions must meet eligibility requirements that will be substantially similar to those used for Capital Purchase Program (CPP). A key component of CAP is the Supervisory Capital Assessment Program (SCAP), which the 19 largest U.S. bank holding companies (those with risk-weighted assets of $100 billion or more as of December 31, 2008) were required to participate in.[1] Specifically, federal bank regulators, led by the Board of Governors of the Federal Reserve System, conducted capital assessments or "stress tests" to determine whether the largest bank holding companies have enough capital to absorb losses and continue lending even if conditions were worse than expected between December 2008 and December 2010.[2] Institutions deemed not to have sufficient capital were given 6 months to raise private capital or to access capital through CAP. Institutions with less than $100 billion in risk-weighted assets were not required to complete a stress test but are also eligible to obtain capital under CAP. In a process similar to the one used for CPP, institutions interested in CAP must submit applications to their primary federal banking regulators by November 9, 2009.[3] The regulators are to submit recommendations to Treasury regarding an applicant's viability.

In addition, as part of the application process, institutions must submit a plan showing how they intend to use this capital to support their lending activities and how the assistance will impact their lending compared to what would have been possible without it. Participating institutions under

[1] Risk-weighted assets are the total assets and off-balance sheet items held by an institution that are weighted for risk according to Federal Reserve regulations.

[2] Federal bank regulators that conducted the stress test included the Board of Governors of the Federal Reserve System and Federal Reserve Banks (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC).

[3] The application deadline was extended by Treasury from May 25, 2009, to November 9, 2009.

CAP will be required to submit to Treasury monthly reports—similar to those for CPP—on their lending activities.

Funding

To date, Treasury has not allocated any funding to CAP.

Status of Efforts

The Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) conducted the stress test in the spring of 2009. More than 150 examiners, supervisors, accountants, economists, and other specialists from these banking agencies participated in the supervisory process. On May 7, 2009, the Federal Reserve announced the results of SCAP. SCAP results showed that 10 of the 19 bank holding companies needed to raise approximately $75 billion in additional capital. The 10 institutions that needed to raise additional capital filed their capital plans with the Federal Reserve by the June 8, 2009, deadline.

Federal banking regulators said that as of September 18, 2009, they had received 6 CAP applications from institutions wanting to participate in the program. Regulators noted that they had forwarded no applications to Treasury for funding consideration. Therefore, no funds have been disbursed under CAP, according to Treasury officials.

Key Activities under CAP

- *February 10, 2009:* CAP was announced as a key component of Treasury's Financial Stability Plan.
- *February 25, 2009:* Treasury announces the terms and conditions for CAP.
- *February 25, 2009:* Federal bank regulatory agencies announce that they would start conducting forward-looking economic assessments of large U.S. banking holding companies. Also, the three economic assumptions underlying the stress test are published.
- *April 24, 2009:* The Federal Reserve publishes details of the stress test process and methodologies employed by the federal banking supervisors in their forward-looking capital assessment of large U.S. bank holding companies.
- *May 7, 2009:* The Federal Reserve and Treasury announce the results of the stress test under CAP. Also, the Treasury Secretary releases a

statement announcing his hopes that the release of the results will lead to increased bank lending.

- *May 7, 2009:* Treasury publishes frequently asked questions on CPP repayment and CAP.
- *June 1, 2009:* The Federal Reserve announces the criteria it plans to use to evaluate applications to repurchase Treasury's capital investments of the 19 institutions that underwent stress tests.
- *June 8, 2009:* The deadline for bank holding companies that need to raise capital under the stress test to file their capital plan with the Federal Reserve.
- *November 9, 2009:* The deadline for bank holding companies to implement their capital plans and to apply for and fund transactions.

GAO's Recommendation and the Federal Reserve's Response

Table 11: Federal Reserve's Response to GAO's Recommendation, as of September 25, 2009

GAO recommendation	Federal Reserve's response to recommendation	GAO assessment of Federal Reserve's response
Recommendations from June 17, 2009, report:		
To help improve the transparency of CAP—in particular the stress tests results—we recommend that the Director of Supervision and Regulation of the Federal Reserve consider periodically disclosing to the public the aggregate performance of the 19 bank holding companies against the more adverse scenario forecast numbers for the duration of the 2-year forecast period and whether or not the scenario needs to be revised. At a minimum, the Federal Reserve should provide the aggregate performance data to the Office of Financial Stability (OFS) program staff for any of the 19 institutions participating in CAP or CPP.	The Senior Advisor to the Director of the Division of Banking Supervision and Regulation expressed concern that our recommendation to consider periodically disclosing aggregate information to the public on the performance of the 19 U.S. bank holding companies against the more adverse scenario would be operationally difficult and potentially misleading. Specifically, the official said the SCAP loss estimates were developed as aggregate 2-year estimates, without attempting to forecast the quarter-to-quarter path of such losses over the 2009 to 2010 period. Further, the official expressed concern that the size and character of the bank holding companies' on- and off-balance sheet exposures may change materially over the 2-year period and that the Federal Reserve never intended that the one-time SCAP estimates be used as a tool for measuring U.S. bank holding company performance during the 2009 to 2010 period.	Not implemented. We recognize that updating the capital assessment would pose some operational challenges for the Federal Reserve. Nonetheless, given the dynamic economic environment, we see great value in periodically measuring and reporting U.S. bank holding company performance against the adverse scenario and the extent to which actual economic conditions compared to assumptions made under the assessment's "adverse scenario." Although this would periodically require additional calculations, we believe this analysis would provide useful trend information on the aggregate health of these important institutions. As we previously stated, without such analysis, the public will not have reliable information that can be used to gauge the accuracy of the stress test projections on a more detailed basis than what has been disclosed in the SCAP papers. Further, it could counter any adverse affect of any selective reporting by individual institutions. Finally, such periodic reporting would be useful in the measurement of the effectiveness of SCAP and CAP.

Source: GAO and analysis of OFS, Treasury, information.

Appendix IV: Targeted Investment Program

Program Overview

The Targeted Investment Program (TIP) was designed to prevent a loss of confidence in financial institutions that could (1) result in significant market disruptions, (2) threatened the financial strength of similarly situated financial institutions, (3) impair broader financial markets, and (4) undermine the overall economy. The Department of the Treasury (Treasury) determines the forms, terms, and conditions of any investments made under this program and considers institutions for approval on a case-by-case basis based on the threats posed by the potential destabilization of the institution, the risk caused by a loss of confidence in the institutions, and the institution's importance to the nation's economy. Treasury may, on a case-by-case basis, use this program in coordination with a broader guarantee involving other agencies of the federal government. Treasury requires any institution participating in this program to provide Treasury with warrants or alternative considerations, as necessary, to minimize the long-term costs and maximize the benefits to the taxpayers in accordance with the Emergency Economic Stabilization Act of 2008 (the act). Institutions that participate in TIP are subject to stringent regulations regarding executive compensation, lobbying expenses, and other corporate governance requirements. Only two institutions have participated in the TIP program: Bank of America and Citigroup.

Funding

Table 12: Status of TIP Funds as of September 25, 2009

Dollars in billions

Institution	Apportioned	Amount disbursed
Bank of America	$20	$20
Citigroup	20	20
Total	**$40**	**$40**

Source: GAO presentation of OFS, Treasury, data (unaudited).

Status of Efforts

No new applicants have applied for TIP assistance since Bank of America received TIP assistance in early 2009. As of September 25, 2009, Bank of America and Citigroup have not repurchased their preferred shares or warrants. On July 30, 2009, Citigroup exchanged its fixed-rate cumulative perpetual stock ($20 billion) for trust preferred securities. This exchange was part of Citigroup's overall agreement with Treasury to exchange all of Treasury's investments in Citigroup. It included the exchange of the Capital Purchase Program's preferred shares of $25 billion for common stock in Citigroup, which essentially gave Treasury a common equity interest in the bank holding company.

Key Activities

- *December 31, 2008:* Treasury enters into an agreement with Citigroup to purchase $20 billion in Fixed Rate Cumulative Perpetual Preferred Stock and a warrant to purchase common stock.
- *January 15, 2009:* Treasury enters into an agreement with Bank of America Corporation to purchase $20 billion in preferred stock and a warrant to purchase common stock.
- *February 27, 2009:* Citigroup announces plans to undertake a series of transactions, involving the exchange of privately and publicly held preferred securities and trust securities for common stock and the exchange of up to $25 billion of Treasury CPP senior preferred.
- *May 7, 2009:* Citigroup announces that it would expand its planned exchange of preferred securities and trust preferred securities held by public and private investors (other than Treasury) for common stock from $27.5 billon to $33 billion following the results of the stress test.
- *June 9, 2009:* Treasury and Citigroup finalize their exchange agreement and Treasury agree to convert up to $25 billion of the Treasury CPP senior preferred shares for interim securities and warrants and its remaining preferred securities acquired in connection with assistance provided to Citigroup under the TIP and AGP programs for trust preferred securities so that the institution could strengthen its capital structure by increasing tangible common equity.
- *July 23, 2009:* Citigroup announces completion of the exchange of $12.5 billion of the Treasury CPP senior preferred and $12.5 billion of privately held convertible preferred securities for interim securities and warrants.
- *July 30, 2009:* Treasury announces the final results of its offer to exchange publicly held preferred securities and trust securities, as well as the exchange by Treasury of its remaining $12.5 billion of Treasury CPP senior preferred shares outstanding for interim securities and warrants.
- *September 3, 2009:* Citigroup announces the mandatory conservation of the interim securities issued in the exchange offers into common stock, and cancellation of the warrants, in accordance with the terms of the exchange offers.

Appendix V: Systemically Significant Failing Institutions Program

Program Overview

The Systemically Significant Failing Institutions (SSFI) program was established to provide stability and prevent disruptions to financial markets from the failure of institutions that are critical to the functioning of the U.S. financial system.

Funding

Table 13: Status of SSFI Funds, as of September 25, 2009

Dollars in billions

Institution	Apportioned	Amount disbursed
American International Group, Inc.	$70	$43

Source: GAO presentation of OFS, Treasury, data (unaudited).

Status of Efforts

The only participating institution was American International Group, Inc. (AIG). Federal assistance to AIG is a joint effort by the Department of the Treasury (Treasury) and the Board of Governors of the Federal Reserve System and Federal Reserve Banks (Federal Reserve). We recently issued a report on the status of this assistance.[1]

Key Activities under SSFI

- *November 10, 2008:* Treasury announces plans to use its SSFI program to purchase $40 billion in AIG preferred shares.
- *November 25, 2008:* AIG enters into an agreement with Treasury, which agrees to purchase $40 billion of AIG's fixed-rate cumulative perpetual preferred stock (Series D) and a warrant to purchase approximately 2 percent of the then issued shares of AIG's common stock to Treasury.
- *April 17, 2009:* AIG and Treasury enter into an agreement in which Treasury agrees to exchange its $40 billion of AIG's Series D fixed-rate cumulative perpetual preferred stock for $41.6 billion of AIG's Series E fixed-rate noncumulative perpetual preferred shares. Also, Treasury provided a $29.8 billion equity capital facility to AIG, which then issued to Treasury 300,000 shares of fixed-rate noncumulative perpetual preferred stock (Series F) and a warrant to purchase up to 3,000 shares of AIG's common stock.

[1]See GAO, *Troubled Asset Relief Program: Status of Government Assistance to AIG*, GAO-09-975 (Washington, D.C.: Sept. 21, 2009)

GAO's Recommendations and Treasury's Response

Table 14: Treasury's Response to GAO's Recommendation, as of September 25, 2009

GAO recommendation	Treasury's response to recommendation	GAO assessment of Treasury's response
Recommendations from March 31, 2009, report:		
Require that American International Group, Inc. (AIG) seek concessions from stakeholders, such as management, employees, and counterparties, including seeking to renegotiate existing contracts, as appropriate, as it finalizes the agreement for additional assistance.		Closed, not implemented

Source: GAO and analysis of OFS, Treasury, information.

Appendix VI: Asset Guarantee Program

Program Overview

Under the Asset Guarantee Program (AGP), the Department of the Treasury (Treasury) provides federal government assurances for assets held by financial institutions that are deemed critical to the functioning of the U.S. financial system. The goal of AGP is to encourage investors to keep funds in the institutions. According to Treasury, placing guarantees, or assurances, against distressed or illiquid assets was viewed as another way to help stabilize the financial system.

In implementing AGP, Treasury collects a premium, deliverable in a form deemed appropriate by the Treasury Secretary. As required by the statute, an actuarial analysis is used to ensure that the expected value of the premium is no less than the expected value of the losses to TARP from the guarantee. The U.S. government would also provide a set of portfolio management guidelines to which the institution must adhere for the guaranteed portfolio.

Funding

Table15: Status of Asset Guarantee Program Funding, as of September 25, 2009

Institution	Apportioned	Guarantee Limit
Citigroup	n/a	$5 billion

Source: GAO presentation of OFS, Treasury, data (unaudited).

Status of Efforts

The set of insured assets was first designated by Citigroup and submitted to Treasury for approval. In accordance with section 102(a), assets to be guaranteed must have been originated before March 14, 2008. The program is meant only for systemically significant institutions and can be used in coordination with other programs.

Since early 2009, no new participants have applied to the AGP program. Bank of America withdrew from the program and in September 2009 negotiated a termination fee of $425 million that was paid to the Federal Reserve, the Federal Deposit Insurance Corporation, and Treasury. Thus, as of October 1, 2009, Citigroup is the only institution participating in AGP. On January 15, 2009, Citigroup issued preferred shares to the Treasury and the Federal Deposit Insurance Corporation (FDIC), and a warrant to Treasury in exchange for $301 billion of loss protection on a specified pool of Citigroup assets. As a result of receipt of principal repayments and charge-offs, the total asset pool has declined by approximately $35 billion from the original $301 billion to approximately $266.4 billion. As part of a series of exchange offers undertaken by Citigroup in July 2009, the preferred shares issued to Treasury and FDIC for Citigroup's participation in AGP were exchanged for new Citigroup trust preferred securities.

Key Activities under AGP

- *January 15, 2009*: Citigroup enters into an agreement with the Treasury, FDIC and the FRBNY to guarantee losses arising on a $301 billion portfolio of Citigroup assets. As consideration for the loss-sharing agreement, Citigroup issues non-voting perpetual, cumulative preferred stock and a warrant to the Treasury.

- *January 16, 2009:* Bank of America Corporation enters into a term sheet (Term Sheet) with the Treasury, FDIC, and the Board of Governors of the Federal Reserve System, in which the agencies agreed in principle to guarantee losses arising on a $118 billion portfolio of Bank of America Corporation assets.

- *May 6, 2009:* Bank of America Corporation notifies the Treasury, FDIC, and the Federal Reserve of its plan to terminate negotiations with respect to the loss sharing guarantee program.

- *July 30, 2009:* Treasury exchanges all of its Fixed Rate Cumulative Perpetual Stock received as premium under the Citigroup AGP agreement, "dollar for dollar' for Trust Preferred Securities.

September 21, 2009: Bank of America announces that it has reached an agreement to pay a total of $425 million to the USG in connection with the termination of the Term Sheet, which is equal to: (a) the out-of-pocket expenses of the USG in negotiating and entering into the Term Sheet and the negotiations concerning the definitive documentation, consisting of the expenses of its advisors; and (b) the fee that would have been payable under the Term Sheet but pro-rated for the period commencing on January 16, 2009, and ending on May 6, 2009, and adjusted for certain exclusions from the asset pool.

Appendix VII: Consumer and Business Lending Initiative

Program Overview

The Consumer and Business Lending Initiative includes the Department of the Treasury's (Treasury) role in the Board of Governors of the Federal Reserve System's and the Federal Reserve Bank of New York's (Federal Reserve) Term Asset-Backed Securities Loan Facility (TALF) and Treasury's plan to directly purchase securities backed by SBA-guaranteed small business loans.[1] TALF—a Federal Reserve Bank of New York (FRBNY) credit facility supported by a backstop of $20 billion in the Troubled Asset Relief Program (TARP) funds from Treasury—was announced by the Federal Reserve in November 2008.[2] The goal of the program is to provide up to $200 billion in low-cost financing for investors to purchase a variety of consumer, small business, and commercial mortgage securitizations with the goal of unfreezing securitization markets and increasing credit access for consumers and small businesses. [3] Also under the initiative, Treasury anticipates purchasing securities backed by SBA 7(a) guaranteed loans and securities backed by SBA 504 loan guarantees to jumpstart securitization and credit markets for small businesses though it had not purchased any SBA-backed securities as of September 2009.[4]

[1]Treasury folded the SBA securities initiative (formerly known as the Small Business and Community Lending Initiative) into the Consumer and Business Lending Initiative, as originally reported in GAO-09-658.

[2]In February 2009, the Federal Reserve announced that it would consider expanding the size of TALF to as much as $1 trillion. Although Treasury and Federal Reserve officials suggest that such an expansion is unlikely, any expansion of the facility's limits would include an increased commitment from Treasury from the current $20 billion limit to as much as $100 billion.

[3]The Federal Banking Agency Audit Act limits GAO's authority to audit actions taken by the Federal Reserve with respect to TALF. TALF is included in the TARP because Treasury provides $20 billion in support to TALF and, under the new administration, TALF is included in the Consumer and Business Lending Initiative category in Treasury's Financial Stability Plan.

[4]SBA has two principal loan guarantee programs, the 7(a) and 504 programs, which aim to facilitate the accessibility and affordability of financing to small businesses. Under the 7(a) program, SBA generally provides lenders guarantees on up to 85 percent of the value of loans to qualifying small businesses in exchange for fees to help offset the costs of the program. Under the 504 program, which generally applies to small business real estate and other fixed assets, SBA also provides certified development companies with a guarantee on up to 40 percent of the financing of the projects' costs in exchange for fees, while the small business borrowers and other lenders provide the remaining 60 percent of the financing with no guarantee. For additional information, see GAO-09-507R.

Funding

Table 16: Status of TARP Funds for the Consumer and Business Lending Initiative, as of September 25, 2009

Program	Apportioned	Disbursed
TALF	$20.00	$0.10[a]
Small Business 7(a) loans[b]	3.09	0.00
Small Business 504 loans	0	0
Total	**$23.09**	**$0.1**

Source: GAO presentation of OFS, Treasury, data (unaudited).

[a]Initial funding of $100 million on March 25, 2009.

[b]Treasury allocated $15 billion of TARP funds to directly purchase securities based on 7(a) and 504 small business loans guaranteed by SBA.

Status of Efforts

Between March 2009 and September 2009, approximately $51.7 billion in TALF funds were requested. Table 17 provides a summary of monthly loan requests by asset class.

Table 17: Amount of TALF Loans Requested by Asset Class, from March through September 2009

Dollars in millions

Loan Type	March	April	May	June	July	August	September	Total by loan type
Auto	$1,902	$811	$2,185	$3,307	$2,831	$555	$1,160	**$12,751**
Credit card	2,805	897	5,525	6,223	1,459	2,575	4,399	**23,882**
Student loan	0	0	2,347	228	987	2,450	180	**6,192**
Small business	0	0	86	81	102	149	162	**581**
Equipment	0	0	456	591	0	0	111	**1,157**
Insurance premium finance	0	0	0	529	0	0	530	**1,058**
Floorplan	0	0	0	0	0	1,039	0	**1,039**
Servicing advances	0	0	0	495	34	107	0	**636**
Commercial mortgage-backed securities[a]				0	668	2,283	1402	**4,354**
Total	**$4,707**	**$1,708**	**$10,600**	**$11,453**	**$6,081**	**$9,160**	**$7,943**	**$51,652**

Source: GAO analysis of information available on FRBNY's Web site.

Note: Numbers may not add due to rounding.

[a]This total reflects loan requests against legacy CMBS collateral, no newly issued CMBS collateral has yet been pledged.

Key Activities under Consumer and Business Lending Initiative

- *November 25, 2008:* The Federal Reserve announces TALF, agreeing to lend up to $200 billion on a nonrecourse basis to holders of newly issued AAA-rated asset-backed securities (ABS) backed by credit cards, auto loans, student loans, and small business loans guaranteed by the SBA.
- *February 10, 2009:* As part of the Financial Stability Plan, the Federal Reserve, FRBNY, and Treasury announce a willingness to consider expanding the size of the TALF to $1 trillion over the life of the program.
- *March 3, 2009:* The agencies launch the TALF program, and the first subscription occurs.
- *March 19, 2009:* The agencies expand the range of eligible collateral to include asset-backed securities backed by mortgage servicing advances, business equipment loans or leases, floorplan loans, and leases of vehicle fleets. They also announce an intention to expand the list of eligible collateral to include previously issued securities—so called "legacy securities"—as a complement to the Public-Private Investment Program (PPIP).
- *May 1, 2009:* The Federal Reserve announces that two new asset classes are eligible for TALF funding: newly-issued commercial mortgage-backed securities (CMBS) and ABS backed by insurance premium finance loans.
- *May 19, 2009:* The Federal Reserve announces that certain high-quality legacy CMBS are eligible for TALF funding.
- *June 2, 2009:* Aggregate loan requests for the program reach peak levels for consumer and business ABS.
- *July 16, 2009:* The first legacy CMBS loan requests are submitted to TALF.
- *August 17, 2009:* The Federal Reserve and Treasury jointly announce TALF's extension for ABS and legacy CMBS collateral through March 2010, and through June 2010 for newly-issued CMBS collateral. Also, the Federal Reserve states that it does not anticipate further additions to the eligible asset classes.

- *September 1, 2009:* FRBNY approves four non-primary dealers to supplement the 18 primary dealers that interface between FRBNY and TALF borrowers.[5]

[5]The roles and responsibilities of TALF agents are governed by the Master Loan and Security Agreement (MLSA), which is available on the FRBNY Web site.

Appendix VIII: The Public-Private Investment Program

Program Overview

The Department of the Treasury (Treasury)—with assistance from the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York (Federal Reserve) and the Federal Deposit Insurance Corporation (FDIC)—designed the Public-Private Investment Program (PPIP) to lessen the impact of legacy assets on balance sheets and thereby improve consumer and business lending. PPIP has two distinct components: the Legacy Securities Program and the Legacy Loans Program. Under the Legacy Securities Program, commercial mortgage-backed securities and non-agency residential mortgage-backed securities will be purchased and managed by fund managers overseeing public-private investment funds. According to Treasury, in the course of prequalifying nine fund managers, Treasury vetted each of them for their investment strategy—primarily long-term buy and hold. Public-private investment funds will raise equity capital from private sector investors and receive matching equity funds and secured nonrecourse loans from Treasury.[1] The Legacy Loans Program is designed to encourage the purchase of troubled and illiquid loans from FDIC-insured banks and thrifts. FDIC will provide debt guarantees and Treasury will provide equity co-investment to private funds purchasing such loans through an auction. FDIC will oversee the new funds. FDIC held a pilot sale of receivership assets to test the funding mechanism contemplated by the Legacy Loans Program, and continues to develop the program should it be needed in the future.

Funding

PPIP has not disbursed any of its $100 billion TARP allocation as of September 25, 2009, (see table 18).

[1]As we detailed in previous TARP reports, Treasury's Legacy Securities Program debt financing will range from 50 to 100 percent of a fund's total equity capital. The financing will be secured by the eligible assets of the public-private investment funds, and each loan will accrue interest at an annual rate to be determined by Treasury, fully payable at termination. As required by the Emergency Economic Stabilization Act of 2008, Treasury will take warrants, the terms and amounts of which will be determined by the amount of Treasury debt financing. Additionally, fund managers may charge private investor fees at their discretion, and Treasury will accept proposals for fixed management fees to apply as a percentage of equity capital contributions for invested equity capital.

Table 18: Status of TARP Funds, as of September 25, 2009

Dollars in billions

Program	Apportioned	Disbursed
Public-Private Investment Program	$32.0	$0.0
Total	**$32.0**	**$0.0**

Source: GAO presentation of OFS, Treasury, data (unaudited).

Status of Efforts

For the Legacy Securities Program, nine fund managers have been prequalified, and as of October 5, 2009, Treasury officials stated that five fund mangers had raised the requisite capital to receive matching funds and leverage from Treasury—though no investments have yet been made. FDIC recently tested a funding mechanism based on the legacy loan program model, but agency officials are still assessing the outcome. Treasury, in consultation with the Federal Reserve, needs to make a systemic risk determination for the legacy loans program to be implemented, according to FDIC officials.

Key Activities

- *March 23, 2009:* Treasury and FDIC officials release the initial outlines of PPIP.
- *March 26, 2009:* FDIC announces a comment period for the Legacy Loan Program.
- *April 24, 2009:* Private asset managers submit applications to Treasury as part of the Legacy Securities Program selection process.
- *June 3, 2009:* FDIC announces that the Legacy Loan Program is put on hold. FDIC officials state that financial institutions have been able to raise capital without selling troubled assets through the Legacy Loan Program.
- *July 8, 2009:* Treasury preapproves nine fund managers to operate public-private investment funds for the Legacy Securities Program. Fund managers select ten small-, veteran-, minority-, and women-owned businesses as partners.
- *July 31, 2009:* FDIC announces a model funding mechanism based on the Legacy Loan Program for a test sale of receivership assets.
- *September 25, 2009:* Treasury officials state that two of the nine prequalified fund managers have raised at least the required minimum of

$500 million each to begin investing in legacy securities, though no investments have yet been made.

- *October 5, 2009:* Treasury officials state that an additional three of the nine prequalified fund managers have raised at least the required minimum of $500 million each to begin investing in legacy securities, though no investments have yet been made.

Appendix IX: Auto Industry Financing Program

Program Overview

The Department of the Treasury (Treasury) established the Automotive Industry Financing Program (AIFP) in December 2008 to help stabilize the U.S. automotive industry and avoid disruptions that would pose systemic risk to the nation's economy. Under this program, Treasury has authorized a total of about $81.1 billion of Troubled Asset Relief Program (TARP) funds to help support automakers, automotive suppliers, consumers, and automobile finance companies as of September 25, 2009.[1] A sizeable amount of funding has been to support the restructuring of Chrysler Group LLC (Chrysler) and General Motors Company (GM).[2] The AIFP consists of the following four components:

- **Funding to Support Automakers during Restructuring.** Treasury has provided financial assistance to Chrysler and GM to support their restructuring in an attempt to return to profitability. The assistance was provided in loans and equity investments in the companies.

- **Auto Supplier Support Program.** Under this component of the program, Chrysler and GM received funding for the purpose of ensuring payment to suppliers. The program is designed to ensure that automakers receive the parts and components they need to manufacture vehicles and that suppliers have access to credit from lenders. The funding provided to Chrysler and GM in this program is in the form of a debt obligation.

- **Warranty Commitment Program.** The program was designed to mitigate consumer uncertainty about purchasing vehicles from the restructuring automakers by providing funding to guarantee the warranties on new vehicles purchased from participating manufacturers that were undergoing restructuring. The funds provided to the companies ultimately were not needed, because both companies were able to continue to honor consumer warranties.

- **Funding to Support Automotive Finance Companies.** Treasury has provided funding to support Chrysler Financial and GMAC Inc. (GMAC), financial services companies whose business includes providing consumer financing for vehicle purchases and dealer financing for inventory. Treasury provided Chrysler Financial with a term loan to support retail loan originations. Chrysler Financial is essentially winding down its operations, and GMAC has agreed to provide Chrysler customers and dealers with financing for retail and wholesale purchases. Treasury

[1] We reported previously on this program. See GAO-09-553.

[2] Ford Motor Company did not seek assistance from AIFP.

purchased preferred membership stock with warrants and common equity interest in GMAC—which includes funding to help support retail and wholesale purchases for Chrysler. To provide strategic guidance for AIFP and to advise the President and the Secretary of the Treasury on issues impacting the financial health of the industry, the White House established the Presidential Task Force on the Auto Industry. Treasury also hired staff with expertise in the financial industry to help oversee the assistance.

Funding

Table 19: TARP Funding Authorized for the Auto Industry and Payments Made, as of September 25, 2009

Dollars in billions

Company	Description of funding	Authorized amount	Payments	Amount and form of future repayments
Chrysler	Loans to Chrysler for general business purposes	$12.5	$0.055[a]	$7.1 billion will be repaid as a term loan, including $5.1 billion to be repaid within 8 years and $2 billion to be repaid within 2.5 years. Treasury also received a 9.85 percent equity share in the new company.
	Supplier Support Program	1.0	0.002[b]	Amounts provided to Chrysler are due to be repaid by April 2010.
	Warranty Commitment Program	0.3	0.3	All funds have been repaid.
Subtotals		**13.8**	**0.36**	
General Motors	Loans to GM for general business purposes	49.5	0.144[c]	$6.7 will be repaid as a term loan. Treasury also received $2.1 billion in preferred stock, and 61 percent equity in the new company. Treasury also has $986 million debt in the old GM (Motors Liquidation Corp.), which it does not expect to be repaid.
	Supplier Support Program	2.5	0.001[d]	Amounts provided to GM are due to be repaid by April 2010.
	Warranty Commitment Program	0.4	0.4	All funds have been repaid.
	Loan to participate in GMAC rights offering	0.884	0	Treasury exchanged this loan for a portion of GM's equity in GMAC. As a result, Treasury holds a 35.4 percent common equity interest in GMAC. The GM loan was terminated.

Dollars in billions

Company	Description of funding	Authorized amount	Payments	Amount and form of future repayments
Subtotals		**53.3**	**0.55**	
Chrysler Financial	Loan funded through Chrysler LB Receivables Trust	1.5	1.51	Loan repaid in full plus $7.4 million in interest.
GMAC	Preferred stock with exercised warrants	12.5	0.16[e]	Treasury may convert its preferred shares to common shares upon specific events such as public offerings.
Totals		**$81.1**	**$2.57**	

Source: GAO presentation of OFS, Treasury, data (unaudited).

[a]Chrysler has paid $55.2 million in interest on the loans.

[b]Chrysler has paid $2.3 million in interest on the amount it borrowed under the Supplier Support Program.

[c]GM has paid $144 million in interest on the loans.

[d]GM has paid $1 million in interest on the amount it borrowed under the Supplier Support Program.

[e]GMAC has paid $160 million in dividends.

Key Activities under AIFP

Since December 2008, about $81.1 billion in AIFP funds have been authorized.[3] Below are key developments in the program.

- *December 19, 2008:* Treasury announces the creation of AIFP using TARP funds to stabilize the U.S. automotive industry and avoid disruptions that would pose systemic risk to the nation's economy.
- *December 29, 2008:* Treasury purchases $5 billion in preferred stock with exercised warrants in GMAC LLC.
- *December 31, 2008:* Treasury provides a $13.4 billion loan to GM to assist the company's restructuring.
- *January 2, 2009:* Treasury provides a $4 billion loan to Chrysler and a $1.5 billion loan to Chrysler Financial Services Americas LLC.
- *February 17, 2009:* Chrysler and GM submit restructuring plans to Treasury as required by the terms of their loan agreements.

[3]For details on the total funds committed, see table 19.

- *March 19, 2009:* Treasury announces the Auto Supplier Support Program to ensure payments to automotive suppliers.
- *March 30, 2009:* The White House announces that Chrysler and GM's restructuring plans do not establish a credible path to viability or merit additional federal government investment. The companies are given additional time to show greater progress.
- *March 30, 2009:* Treasury announces the Warranty Commitment Program to guarantee the warranties on new vehicles purchased from participating auto manufacturers.
- *April 3, 2009:* GM receives loans of $2.5 billion, under the Auto Supplier Support Program.[4]
- *April 7, 2009:* Chrysler receives loans of $1 billion, under the Auto Supplier Support Program.[5]
- *April 29, 2009:* Treasury commits to providing a loan of up to $500 million to Chrysler under the Warranty Commitment Program.
- *April 30, 2009:* The White House announces it will provide an additional $8.5 billion to support Chrysler's restructuring.
- *May 20, 2009:* Treasury provides GM with an additional $4 billion for restructuring.
- *May 21, 2009:* Treasury purchases $7.5 billion in preferred stock with exercised warrants in GMAC LLC.
- *May 27, 2009:* Treasury provides a $360 million loan for the Warranty Commitment Program.
- *June 1, 2009:* Treasury announces it will provide GM with up to an additional $30.1 billion to support the company's bankruptcy proceeding and transition through restructuring.

After emerging from bankruptcy in June 2009, Chrysler has seen the appointment of several new senior officials, including its chief executive

[4]GM is initially awarded $3.5 billion, but this amount was subsequently reduced.

[5]Chrysler is initially awarded $1.5 billion, but this amount was subsequently reduced.

officer and chief financial officer, as well as a newly constituted board of directors, which Chrysler officials said met for the first time in July 2009.[6] When we met with Chrysler in September 2009, officials told us that the company was focused on developing a new business plan, with assistance from Fiat in the areas of product development, distribution, and sales and marketing.

GM has continued to take steps to restructure, funded by the $30.1 billion in financing that Treasury provided in June. On July 5, 2009, a bankruptcy judge approved GM's motion to sell its assets to a new company in which the federal government would have a majority share. On July 10, 2009, the asset sale was finalized, and Treasury executed a loan agreement with the restructured GM, under which the company is required to repay Treasury $7.1 billion. The remainder of the funding that Treasury provided to GM was converted to 60.8 percent ownership in the new company and $2.1 billion in preferred stock. Other stakeholders also received equity in GM. In consideration of their ownership stakes, GM's shareholders—including Treasury—received the right to appoint directors to GM's board. The new members of GM's board have been appointed, and the board held its first in-person meeting in August.

[6]See GAO-09-658.

Appendix X: Home Affordable Modification Program

Program Overview

The Department of the Treasury's (Treasury) Office of Financial Stability (OFS) developed the Home Affordable Modification Program (HAMP) to address two of the stated purposes of the Emergency Economic Stabilization Act (the act)—preserving homeownership and protecting home values. According to Treasury, HAMP's primary goal is to help up to three to four million borrowers who are struggling to make their mortgage payments by reducing their monthly payments to an affordable level (loan modification), thereby preventing unnecessary foreclosures and helping to stabilize home prices in the neighborhoods hit hardest by foreclosures. To implement the program, Treasury has delegated significant responsibilities to its financial agents, Fannie Mae and Freddie Mac, to act as the program administrator and compliance agent for HAMP, respectively. Under HAMP, Treasury will use Troubled Asset Relief Program (TARP) funds to share the cost of reducing monthly payments on first-lien mortgages with mortgage holders and investors, and provide financial incentives to servicers, borrowers, and mortgage holders and investors for loans modified under the program.[1] Under HAMP, Treasury also plans to (1) provide additional incentives to mortgage holders/investors to modify, rather than foreclose on, loans in areas where home price declines have been most severe; (2) provide incentives to modify or pay off second-lien loans of borrowers whose first mortgages were modified under HAMP; and (3) provide incentives to servicers and borrowers to pursue alternatives to foreclosure (short sales and deeds-in-lieu) to homeowners who do not qualify for a HAMP modification or cannot maintain payments during the trial period or modification. As of September 25, 2009, 63 servicers have signed up to participate in the program, covering approximately 85 percent of U.S. mortgage loans.[2]

Funding

Treasury has announced that up to $50 billion of funds from TARP may be used for HAMP. Most of these funds are directed to the modification of first-lien mortgages held by borrowers in danger of foreclosure (first-lien modification program). To monitor HAMP's funding needs, Treasury has estimated the funding requirements, or caps, for each participating

[1] According to program guidelines, payment of these matching and incentive payments is contingent on completion of a 3-month trial modification period.

[2] Loans covered under HAMP include privately held loans that are serviced by HAMP participating servicers and all loans held by Fannie Mae or Freddie Mac, both government-sponsored enterprises (GSE). For loans held by Fannie Mae and Freddie Mac, the GSEs are expected to provide up to an additional $25 billion to encourage servicers and borrowers to modify eligible loans.

servicer based on the number of modifications they are expected to perform during the entire duration of the program. The caps include maximum payable incentives associated with modifying borrowers' first-lien mortgages, including incentive payments to borrowers, servicers, and mortgage holders and investors. According to Treasury, cap allocations are initially set based on publicly available information and are updated using more complete data on the servicers' mortgage portfolios. Treasury has been reassessing each servicer's cap on a quarterly basis, using data on the actual number of modifications made by the servicer under the program. As of September 25, 2009, Treasury had allocated a total of $22.3 billion through the caps on its 63 participating servicers, of which about $946,000 has been paid out in servicer and investor incentive payments.

Status of Efforts

Most of Treasury's efforts to develop HAMP have been directed to the first-lien modification program. Treasury has designed the first-lien program to target borrowers in default (defined as 60 days or more delinquent on their mortgage payments) or in imminent danger of default (borrowers that are current on their mortgages but facing hardships such as job loss or interest rate increases on their adjustable rate mortgages). Treasury has established several eligibility requirements for borrower participation in HAMP, including that the property be an owner-occupied, single-family residence (one to four units) that is the borrower's primary residence and that the mortgage loan amount not exceed specified dollar thresholds. Additionally, borrowers cannot participate in HAMP if they have non-GSE loans unless their servicers have signed participation agreements with Fannie Mae—Treasury's administrator for the program. According to Treasury, as of September 25, 2009, the following HAMP progress has been made related to loans not owned or guaranteed by Fannie Mae and Freddie Mac:

- 63 servicers had signed participation agreements for the first-lien modification program;
- More than 1.3 million solicitation letters for HAMP loan modifications to borrowers;
- More than 328,000 HAMP trial modification offers to borrowers;
- More than 209,000 HAMP trial modifications had started; and

- 1,080 borrowers had successfully completed the trial period and received HAMP modifications.

Of the three other subprograms that were announced as part of HAMP in the March 4, 2009, program guidelines, Treasury has recently begun to implement the Home Price Decline Prevention (HPDP) program but has not implemented the other two. Treasury issued official guidance on HPDP in late July 2009 and began implementing the program on September 1, 2009. As of that date, the net present value model used to calculate borrowers' eligibility for HAMP took into account the additional incentive payments available through HPDP to investors in areas of the country where price declines had been large. However, the extent to which HPDP will increase the number of modifications made remains unclear. In our July 2009 report, we recommended that Treasury re-evaluate the basis and design of the HPDP program to ensure that HAMP funds are being used effectively.[3] Treasury released detailed guidelines on the second-lien modification component of HAMP on August 13, 2009. However, these guidelines require that servicers sign participation agreements with Fannie Mae on or before December 31, 2009, to be eligible for the program. As of September 25, 2009, no servicers have signed such participation agreements. Finally, Treasury had not released any detailed guidelines on the foreclosure alternatives component of HAMP.

We previously reported that although the central program—the first-lien modification program—had been implemented, many of its administrative processes and its internal control policies and procedures were not yet finalized. Fannie Mae, as HAMP administrator, has mapped operational processes and identified points of control for multiple aspects of HAMP, such as servicer registration and servicer set-up in HAMP's electronic system, servicer data reporting, trial and official modifications, and the steps of the payment process administered by Fannie Mae. Fannie Mae has also drafted procedures to carry out many of these processes and internal controls. According to Fannie Mae, processes, controls and procedures have not been finalized for a planned servicer call center, and the budgeting and billing of Fannie Mae's work under the HAMP financial agent agreement. Processes and controls designed by Fannie Mae to date were to be tested by September 30, 2009, according to Fannie Mae officials. In addition, Freddie Mac, as HAMP compliance agent, has

[3] See GAO-09-837.

mapped out the overall compliance program, working with OFS and PricewaterhouseCoopers LLP, and is developing policies and procedures to carry it out. In a related effort, Freddie Mac has described to us its methods for testing compliance for 233 program requirements. In addition, according to Treasury, Treasury and its financial agents have formalized a charter for a HAMP Compliance Committee. Treasury also noted that the Committee is finalizing a policy for addressing remedies for identified instances of noncompliance among servicers. However, while Treasury has drafted performance measures to evaluate HAMP, these measures have not been fully developed and have yet to be implemented.

On August 4, 2009, Treasury released its first report on the performance of participating servicers under HAMP. The Monthly Servicer Performance Report showed significant variations among the servicers in the percentage of delinquent borrowers in their servicing portfolios that had been offered or received trial modifications. For example, for servicers that had signed up to participate in the program before May 31, 2009, the percentage of delinquent borrowers who had been offered HAMP trial modifications ranged from 0 percent to 45 percent, and the percentage of their delinquent borrowers who had started HAMP trial modifications ranged from 0 percent to 25 percent. Such variations have highlighted potential issues with servicers' capacity to implement HAMP. In our July 2009 report, we expressed concern that Treasury was not fully vetting servicers signing HAMP loan modification participation agreements and recommended that Treasury develop a means of systematically assessing servicers' capacity to meet program requirements during program admission.[4] As compliance agent for HAMP, Freddie Mac has developed several different types of reviews intended to be conducted after a servicer has signed up to participate in the program that touch on issues of servicer capacity. Freddie Mac is currently working with Treasury to refine these procedures, which include:

- "full" on-site reviews, which are 1-week reviews that include a detailed management interview about all HAMP processes, walk-throughs of each of these processes, and file reviews of a sample of the servicer's loan files;

[4] GAO-09-837.

- walk-through reviews, which are 1- to 2-day reviews that can occur sooner than a “full” review and that go into less detail on loss mitigation, collections, and investor accounting processes; and

- “second look” reviews, which are off-site loan file reviews that look for servicer errors in evaluating borrowers for HAMP.

Key activities under HAMP

- *February 18, 2009:* Treasury announced HAMP, a national loan modification program intended to offer assistance to up to three to four million homeowners by reducing monthly payments to sustainable levels.

- *March 4, 2009:* Treasury issued official guidance for loan modifications under HAMP and announced that servicers could begin conducting modifications that conform to the guidelines. These initial guidelines largely focused on the first-lien modification subprogram. Treasury also issued updated guidance on completing first-lien modifications on April 6, 2009.

- *March 19, 2009:* Treasury launched its Making Home Affordable (MHA) Web site for borrowers to provide information on the program, including eligibility requirements and housing counseling options, among other things.

- *April 13, 2009:* The first six servicers signed participation agreements under HAMP.

- *April 15, 2009:* Treasury launched an administrative Web site for mortgage servicers to provide them with the information and tools needed to participate in HAMP.

- *July 28, 2009:* Treasury and the Department of Housing and Urban Development (HUD) officials held a meeting with all participating servicers at which they asked the servicers to ramp up their efforts to increase trial modifications, with a goal of starting 500,000 trial modifications by November 1, 2009.

- *July 31, 2009:* Treasury issued official guidance on the HPDP component of HAMP.

- *August 4, 2009:* Treasury released its first monthly Servicer Performance Report detailing servicers’ progress to date with HAMP. According to Treasury, the purpose of the report is to document the number of struggling homeowners already helped under the program, provide information on servicer performance, and increase the program's transparency.

- *August 13, 2009:* Treasury announced details of the second-lien modification component of HAMP, which allows second liens with corresponding first liens that have been modified under HAMP to be modified or extinguished. While Treasury estimates that between one and one-and-a-half million borrowers may be eligible to receive a second-lien modification, servicer participation in the second-lien modification subprogram is unclear, as servicers who had previously signed participation agreements must sign amended agreements in order to participate in the program. As of September 25, 2009, no servicers had signed participation agreements for the second-lien program.

- *August 27, 2009:* Treasury conducted its first disbursement of $276,000 to one servicer for payment of servicer incentives related to 276 non-GSE loans modified under HAMP. No payments were disbursed for monthly mortgage payment reductions or associated incentive payments to investors or borrowers, and no payments were made to other servicers.

- *September 25, 2009:* Treasury conducted its second disbursement of about $670,000 to three servicers for payment of servicer incentives and investor subsidies.

GAO's Recommendations and Treasury's Response

Table 20: Treasury's Actions in Response to GAO Recommendations

GAO recommendations	Treasury actions responding to recommendations to date	GAO assessment of Treasury's response
Recommendations from the July 23, 2009, report:		
Consider methods of (1) monitoring whether borrowers with total household debt of more than 55 percent of their income who have been told that they must obtain HUD-approved housing counseling do so, and (2) assessing how this counseling affects the performance of modified loans to see if the requirement is having its intended effect of limiting redefaults.	• According to Treasury, it is exploring options for monitoring what proportion of such borrowers is obtaining counseling. • To date, Treasury has not specified if it plans to use information from monitoring borrowers with total household debt of more than 55 percent of their income to assess how required counseling affects the performance of modified loans.	1) Partially implemented 2) Not implemented
Re-evaluate the basis and design of the HPDP program to ensure that HAMP funds are being used efficiently to maximize the number of borrowers who are helped under HAMP and to maximize overall benefits of utilizing taxpayer dollars.	• On July 31, 2009, Treasury announced detailed guidance on HPDP that included changes to the program's design that, according to Treasury, improve the targeting of incentive payments to mortgages that are at greater risk because of home price declines. GAO is in the process of determining if these changes to the program have helped to maximize overall benefits of utilizing taxpayer dollars.	Partially Implemented
Institute a system to routinely review and update key assumptions and projections about the housing market and the behavior of mortgage-holders, borrowers, and servicers that underlie Treasury's projection of the number of borrowers whose loans are likely to be modified under HAMP and revise the projection as necessary in order to assess the program's effectiveness and structure.	• According to Treasury, it plans to actively evaluate the program as it progresses, including testing key assumptions and updating participation estimates. Treasury has not stated, however, when it plans to perform such evaluations or updates to its HAMP participation estimates. • Treasury is gathering data on servicer performance in HAMP and housing market conditions in order to improve and build upon the assumptions underlying projections about mortgage market behavior.	Partially implemented
Place a high priority on fully staffing vacant positions in the Homeownership Preservation Office (HPO)—including filling the position of Chief Homeownership Preservation Officer with a permanent placement—and evaluate HPO's staffing levels and competencies to determine whether they are sufficient and appropriate to effectively fulfill its HAMP governance responsibilities.	• Between July 16, 2009, and September 21, 2009, HPO increased its permanent staff by twelve. According to Treasury, 7 positions remain vacant out of 31. • According to Treasury, it is making progress in filling the position including interviewing prospective candidates. • According to Treasury, it will conduct the first bimonthly workforce needs assessment for HPO at the end of October 2009.	Partially implemented

GAO recommendations	Treasury actions responding to recommendations to date	GAO assessment of Treasury's response
Expeditiously finalize a comprehensive system of internal control over HAMP, including policies, procedures, and guidance for program activities, to ensure that the interests of both the government and taxpayer are protected and that the program objectives and requirements are being met once loan modifications and incentive payments begin.	• Treasury continues to refine the internal control environment for HAMP. Fannie Mae, as HAMP administrator, has mapped operational processes and identified points of control for multiple steps in its HAMP operations, including servicer set-up in HAMP's electronic system, servicer data reporting, trial modification, and the steps of the payment process administered by Fannie Mae. However, controls and procedures have not been completed for all areas of the program. • According to Treasury, it will work with Fannie Mae and Freddie Mac to build and refine the internal controls within these financial agents' operations as new program components are implemented.	Partially implemented
Expeditiously develop a means of systematically assessing servicers' capacity to meet program requirements during program admission so that Treasury can understand and address any risks associated with individual servicers' abilities to fulfill program requirements, including those related to data reporting and collection.	• Treasury has stated that it does not believe that assessments of servicers' capacity need to occur during program admission. According to Treasury, such assessments are unnecessary because, upon admission, a servicer becomes contractually obligated to review a borrower for eligibility for HAMP before beginning any foreclosure actions.	Not implemented

Source: GAO and analysis of OFS, Treasury, information.

Appendix XI: Comments from the Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 5, 2009

Thomas J. McCool
Director, Center for Economics
Applied Research and Methods
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. McCool:

The Treasury Department (Treasury) appreciates the opportunity to review the GAO's latest report on Treasury's Troubled Asset Relief Program (TARP), entitled *One Year Later, Actions Needed to Address Remaining Transparency and Accountability Challenges*. Treasury welcomes the recognition by the GAO that Treasury, through TARP and along with other efforts by the Federal Reserve Board of Governors and the Federal Deposit Insurance Corporation, has "made important contributions to help to stabilize credit markets". There is important work ahead and the GAO's recommendations are constructive as Treasury continues to implement its financial stability programs and enhance the performance of the Office of Financial Stability.

In deciding whether to extend the TARP authority beyond December 31, 2009, the Secretary will coordinate with appropriate officials to ensure that the determination is considered in a broad market context that takes account of relevant objectives, costs and measures. When the decision is made, Treasury will communicate the reasons for the Secretary's decision to Congress and the taxpayers. With respect to your third recommendation, Treasury regularly evaluates funding needs for TARP programs and announces revisions as those decisions are made.

Once again, Treasury appreciates the opportunity to review this report and the GAO's thoughtful recommendations. Treasury appreciates the GAO's close oversight of TARP as Treasury develops and implements its policies to stabilize the financial system. We look forward to demonstrating further progress in your next report.

Sincerely,

Herbert M. Allison, Jr.
Assistant Secretary for Financial Stability

Appendix XII: GAO Contact and Staff Acknowledgments

GAO Contact

Richard J. Hillman, (202) 512-8678 or hillmanr@gao.gov
Thomas J. McCool, (202) 512-2642 or mccoolt@gao.gov
Orice Williams Brown, (202) 512-8678 or williamso@gao.gov

Staff Acknowledgments

In addition to the contacts named above, A. Nicole Clowers, Gary Engel, Mathew Scirè, and William T. Woods (lead Directors); Cheryl Clark, Lawrance Evans Jr., Dan Garcia-Diaz, Carolyn Kirby, Barbara Keller, Kay Kuhlman, Harry Medina, Raymond Sendejas, Karen Tremba (lead Assistant Directors); Judith Ambrose, Timothy Carr, Tania Calhoun, Emily Chalmers, Brent Corby, Rachel DeMarcus, M'Baye Diagne, Nancy Eibeck, Sarah Farkas, Alice Feldesman, Heather Halliwell, Michael Hoffman, Joe Hunter, Tyrone Hutchins, John Karikari, Amber Keyser, Steven Koons, Robert Lee, Sarah McGrath, Joseph O'Neill, Rebecca Riklin, Susan Michal-Smith, Maria Soriano, Cynthia Taylor, Angela D. Thomas, Julie Trinder, Marc Molino, Winnie Tsen , Jim Vitarello, Yun Wang, and Heather Whitehead have made significant contributions to this report.

Related GAO Products

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-1048T. Washington, D.C.: September 24, 2009.

Troubled Asset Relief Program: Status of Government Assistance Provided to AIG. GAO-09-975. Washington, D.C.: September 21, 2009.

Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable. GAO-09-837. Washington, D.C.: July 23, 2009.

Troubled Asset Relief Program: Status of Participants' Dividend Payments and Repurchases of Preferred Stock and Warrants. GAO-09-889T. Washington, D.C.: July 9, 2009.

Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues. GAO-09-658. Washington, D.C.: June 17, 2009.

Troubled Asset Relief Program: Capital Purchase Program Transactions for October 28, 2008, through May 29, 2009, and Information on Financial Agency Agreements, Contracts, Blanket Purchase Agreements, and Interagency Agreements Awarded as of June 1, 2009. GAO-09-707SP. Washington, D.C.: June 17, 2009.

Auto Industry: Summary of Government Efforts and Automakers' Restructuring to Date. GAO-09-553. Washington, D.C.: April 23, 2009.

Small Business Administration's Implementation of Administrative Provisions in the American Recovery and Reinvestment Act. GAO-09-507R. Washington, D.C.: April 16, 2009.

Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues. GAO-09-504. Washington, D.C.: March 31, 2009.

Troubled Asset Relief Program: Capital Purchase Program Transactions for the Period October 28, 2008 through March 20, 2009 and Information on Financial Agency Agreements, Contracts, and Blanket Purchase Agreements Awarded as of March 13, 2009. GAO-09-522SP. Washington, D.C.: March 31, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-539T. Washington, D.C.: March 31, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-484T. Washington, D.C.: March 19, 2009.

Federal Financial Assistance: Preliminary Observations on Assistance Provided to AIG. GAO-09-490T. Washington, D.C.: March 18, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-474T. Washington, D.C.: March, 11, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-417T. Washington, D.C.: February 24, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-359T. Washington, D.C.: February 5, 2009.

Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues. GAO-09-296. Washington, D.C.: January 30, 2009.

High-Risk Series: An Update. GAO-09-271. Washington, D.C.: January 22, 2009.

Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency. GAO-09-266T. Washington, D.C.: December 10, 2008.

Auto Industry: A Framework for Considering Federal Financial Assistance. GAO-09-247T. Washington, D.C.: December, 5, 2008.

Auto Industry: A Framework for Considering Federal Financial Assistance. GAO-09-242T. Washington, D.C.: December 4, 2008.

Troubled Asset Relief Program: Status of Efforts to Address Defaults and Foreclosures on Home Mortgages. GAO-09-231T. Washington, D.C.: December 4, 2008.

Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency. GAO-09-161. Washington, D.C.: December 2, 2008.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, http://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548