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AND GOVERNMENT REFORM SUBCOMMITTEE ON DOMESTIC POLICY

STATEMENT OF NEIL BAROFSKY
SPECIAL INSPECTOR GENERAL
TROUBLED ASSET RELIEF PROGRAM

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON DOMESTIC POLICY

March 11, 2009

Chairman Kucinich, Ranking Member Jordan, and Members of the Subcommittee, I am honored to appear before you today.

The Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”) was created under the Emergency Economic Stabilization Act of 2008 (“EESA”) to conduct, supervise, and coordinate audits and investigations of the purchase, management, guaranty, and sale of assets under the TARP. More than \$300 billion has already been expended, and Secretary Geithner has now outlined his plans for how Treasury will spend the balance of the \$700 billion approved by Congress under EESA.

In addition to the programs previously announced, Treasury has announced several new programs that will be implemented in the coming weeks, including efforts to deal with rampant foreclosures, to provide additional capital to struggling banks, and to address the toxic assets that remain on many financial institutions’ books. As announced, the total amount of money potentially at risk in these programs, including those aspects of the programs that are funded in part by the Federal Reserve and FDIC, is in excess of \$2.9 trillion, and this does not include the \$750 billion that the Administration has noted that it may seek later this year.

To accomplish SIGTARP’s mission to oversee this vast amount of money for the American taxpayer, I have focused on three areas: transparency, coordinated oversight and robust enforcement.

Transparency has been an area of focus for SIGTARP from day one. In late December, I formally recommended that Treasury post all TARP agreements, whether with recipients of TARP funds or with its vendors, on the Treasury website. Shortly after his confirmation, Secretary Geithner adopted this recommendation in full. Similarly, I asked for and obtained oversight language in the Citigroup and Bank of America agreements that require those banks to account for and report on their use of the TARP funds. I was pleased to see that Citigroup reported on its use of funds and its announcement that it was addressing lending with more than \$34 billion in TARP funds .

SIGTARP is also using its audit function to bring increased transparency to the TARP. For example, we sent letter requests to each of the TARP recipients that received TARP funds as of the end of January asking them to report on how they have used TARP funds and how they plan to use the funds that they have received but not yet spent. Responses from recipients have been coming in at a steady pace for the past week and we anticipate that most, if not all will be received within the next few days. We look forward to being able to provide more complete information on the extent of compliance with our request, and start providing initial information concerning the types of responses we have received in the next 30 days. Of course, more complete analysis of the responses will require additional time to complete and likely will require follow-up contact with some recipients before we complete our work. In that same

survey, we also asked TARP fund recipients to provide details on their plans to comply with applicable executive compensation restrictions and how they are complying with those requirements. Overall, we believe that this survey data and associated follow-up work will shed light on an area about which very little information has previously been available: what the banks have done with the TARP money.

We have initiated two other audits that will also bring increased transparency to the TARP. First, we are looking into the impact of outside influences on the TARP application process, and we will report back to Congress on our finding as to what impact, if any, that lobbyists or other outside influences have had. Additionally, if necessary, we will make recommendations on dealing with such outside influences going forward. Second, we have begun an audit into the process under which Bank of America received \$45 billion in capital investment and is to receive a guarantee relating to approximately \$100 billion of toxic assets in four separate TARP transactions under three different TARP programs.

As to coordinated oversight, it has been and will continue to be a privilege and a pleasure to work closely with my co-panelist, Rick Hillman, Managing Director of Financial Markets and Community Investment at GAO. Over the past three months, GAO and SIGTARP have worked effectively to coordinate monitoring efforts to provide maximum oversight coverage while avoiding unnecessary or duplicative burdens on those charged with managing TARP. I have also founded and chair the TARP-IG Council, which has, as its members, GAO and the Inspectors General of the other agencies involved in aspects of the administration of TARP programs: the Inspectors General of the FDIC, SEC, FHFA, Federal Reserve, HUD, Tax Administration and Treasury. Through these and other coordinating efforts, we are establishing protocols and sharing ideas for comprehensive audits and investigations.

In conducting oversight, one focus of SIGTARP has been to attempt to have a positive impact on TARP programs to increase oversight effectiveness and fraud protections as the programs are developed – in other words, *before* the money goes out the door. Because I did not take office until mid-December, I was not able to offer advice with respect to the early TARP transactions. However, we have been active in providing recommendations concerning the programs and contracts that followed. Pursuant to our recommendations, the Auto Industry, Targeted Invested Program and Asset Guarantee Program agreements all contain explicit acknowledgement of SIGTARP's oversight authority to oversee the contracts. Moreover, at my Office's recommendation, for many of the significant conditions imposed by the agreements, the recipients are required to establish internal controls to ensure compliance with those conditions, that they are meet and report on, certifying, under criminal penalty, that the reporting was accurate. Collectively, these agreements – representing approximately \$465 billion of TARP investments and guarantees – are a significant step forward from an oversight perspective as compared to earlier agreements and programs. We have also made a series of recommendations pertaining to the first part of the \$200 billion Term Asset-Backed Securities Loan Facility

("TALF") program, and have met extensively with the Federal Reserve and Treasury to discuss those recommendations. Similar to the recommendations made for the TALF, SIGTARP has provided Treasury with several suggestions as to how to structure the loan modification program to guard against vulnerabilities to fraud, and we look forward to continuing to work with Treasury and the Government Sponsored Entities that will be overseeing the mortgage modification program to make further recommendations to reduce that program's vulnerability to fraud, to set up deterrence mechanisms to prevent bad actors from participating in the program, and fraud detection tools to make sure that we can quickly detect, shut down, and prosecute fraud if and when it occurs.

The scope and variety of the announced TARP programs, now involving eight different programs and nearly \$2.9 trillion, leads to our third area of focus, civil and criminal law enforcement. Of the four primary oversight bodies referenced in EESA, SIGTARP stands as the sole TARP oversight body charged with criminal law enforcement authority: as the cop on the beat. This is obviously one of our most important functions, and we are meeting this unprecedented challenge head on.

Through these relationships, we are exploring task force and similar regional relationships throughout the country to deter criminal activity before it occurs, and to investigate and prosecute any and all who attempt to profit criminally from this National crisis. On that front, I am pleased to announce that we are establishing a multi-agency task force focused on one TARP program, the Term Asset backed securities Loan Facility (TALF), a New York Federal Reserve/Treasury program that has been announced as eventually becoming a trillion dollar program. The TALF Task Force will work collectively to identify fraud vulnerabilities in the TALF program and proactively and aggressively investigate any indications of wrongdoing associated with the program. We believe that this Task Force will serve as a powerful deterrent, and when we detect fraud, rest assured we will promptly investigate the matter and refer it to the relevant and appropriate state or federal prosecutor for quick and effective prosecution.

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we detect fraud, rest assured that we will promptly investigate the matter and refer it to the relevant and appropriate state or federal prosecutor for quick and effective prosecution.

We believe that the TALF Task Force will serve as a model for other multi-agency approaches to TARP programs, and we are already planning a coordinated response to potential fraud in other programs, including the recently announced mortgage modification initiative.

Additionally, we have begun our outreach to potential whistleblowers and those who may have tips about ongoing waste, fraud and abuse in TARP programs. The SIGTARP Hotline is operational and can be accessed through the SIGTARP website at www.SIGTARP.gov, and by telephone at 1 (877) SIG-2009. Plans are being formulated to develop a fraud awareness program with the objective of informing potential whistleblowers of the many ways available to them to provide key information to SIGTARP on fraud, waste and abuse involving TARP operations and funds, and explaining how they will be protected. Training programs are being developed to instruct law enforcement at a variety of agencies to assist in the oversight of the TARP, particularly with respect to the recently announced programs. Indeed, one of the primary functions of the TALF Task Force will be to sensitize law enforcement and prosecutorial offices to the potential for fraud, and to provide an easy referral source should they encounter any indicators of fraud.

We stand on the precipice of the largest infusion of Government funds over the shortest period of time in our Nation's history. History teaches us that an outlay of so much money in such a short period of time will inevitably attract those seeking to profit criminally. If, by percentage terms, some of the estimates of fraud in recent government programs apply to the TARP programs, we are looking at the potential exposure of hundreds of billions of dollars in taxpayer money lost to fraud. The TARP program is too important, and taxpayer funds are too dear, to allow that to happen.

The proactive cooperation and coordination that is at the heart of our investigative strategy is resource intensive. While I believe that SIGTARP is effectively establishing a framework that will permit us to meet our oversight obligations with respect to the nearly \$3 trillion at risk in the TARP programs, we face serious challenges. Most significantly, we have had significant difficulties in meeting our hiring needs. We face many of the same problems faced by Treasury itself as it hires TARP managers, as outlined by GAO's recent report to Congress, including the limitations on pay, the difficulties of hiring into a demanding federal agency, and our conflict of interest rules, which, of course, limit our ability to hire employees who have represented or worked for the entities that we investigate and oversee or have a financial interest in them. We also face additional challenges given our need to identify highly trained and experienced government investigators and auditors and to convince them to join what is, by definition, a temporary agency.

With the passage of the recent stimulus bill, which provides more than \$300 million in new funding to other law enforcement agencies and Inspectors General to provide oversight for programs funded by the bill, we are also facing stiff competition for a limited pool of experienced investigators and auditors as many audit organizations are ramping up to deal not only with audit requirements of the TARP program but also with new audit requirements included in the recently enacted stimulus legislation. Furthermore, the TARP program has changed significantly since EESA was passed last October. Originally intended to purchase and manage \$700 billion of toxic assets, that task is now contemplated to represent just a portion of one of the eight intended programs, and the total number of programs and dollars to be overseen dwarf the original amounts contemplated when Congress created my office. To help us deal with these challenges, I ask for swift approval S. 383, a bill that unanimously passed the Senate on February 4, 2009, and which address some of these hiring hurdles and would provide significant assistance in helping us to meet these challenges.

Chairman Kucinich, Ranking Member Jordan, and Members of the Subcommittee, I commend you for your efforts to insure that the trillions of dollars being expended under TARP-related programs receive close oversight scrutiny. This concludes my statement and I would be happy to answer any questions you may have.

SIGTARP Hotline

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline.

By Online Form: www.SIGTARP.gov

By Phone: Call toll free: (877) SIG-2009

By Fax: (202) 622-4559

By Mail:

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