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REP. MELVIN WATT HOLDS A HEARING ON "A REVIEW OF TARP
OVERSIGHT, ACCOUNTABILITY AND TRANSPARENCY FOR U.S.
TAXPAYERS"

February 24, 2009 Tuesday

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LOCATION: WASHINGTON, D.C.

COMMITTEE: HOUSE FINANCIAL SERVICES COMMITTEE, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

SPEAKER: REP. MELVIN WATT, CHAIRMAN

WITNESSES:

REP. DENNIS MOORE, D-KAN. CHAIRMAN REP. STEPHEN F. LYNCH, D-MASS. REP. RON KLEIN, D-FLA.
REP. JACKIE SPEIER, D-CALIF. REP. GWEN MOORE, D-WIS. REP. JOHN ADLER, D-N.J. REP. MARY JO
KILROY, D-OHIO REP. STEVE DRIEHAUS, D-OHIO REP. ALAN GRAYSON, D-FLA.
REP. JUDY BIGGERT, R-ILL. REP. PATRICK T. MCHENRY, R-N.C. REP. RON PAUL, R-TEXAS REP.
MICHELE BACHMANN, R-MINN. REP. CHRISTOPHER LEE, R-N.Y. REP. ERIK PAULSEN, R-MINN.
WITNESSES: NEIL M. BAROFSKY, SPECIAL INSPECTOR GENERAL, OFFICE OF THE SPECIAL INSPECTOR
GENERAL, TROUBLED ASSET RELIEF PROGRAM
GENE L. DODARO, ACTING COMPTROLLER GENERAL OF THE UNITED STATES, GOVERNMENT
ACCOUNTABILITY OFFICE
ELIZABETH WARREN, CHAIR, CONGRESSIONAL OVERSIGHT PANEL,
REP. DENNIS MOORE, D-KAN. CHAIRMAN REP. STEPHEN F. LYNCH, D-MASS. REP. RON KLEIN, D-FLA.
REP. JACKIE SPEIER, D-CALIF. REP. GWEN MOORE, D-WIS. REP. JOHN ADLER, D-N.J. REP. MARY JO
KILROY, D-OHIO REP. STEVE DRIEHAUS, D-OHIO REP. ALAN GRAYSON, D-FLA.

REP. JUDY BIGGERT, R-ILL. REP. PATRICK T. MCHENRY, R-N.C. REP. RON PAUL, R-TEXAS REP. MICHELE BACHMANN, R-MINN. REP. CHRISTOPHER LEE, R-N.Y. REP. ERIK PAULSEN, R-MINN. REP. DENNIS MOORE, D-KAN. CHAIRMAN REP. STEPHEN F. LYNCH, D-MASS. REP. RON KLEIN, D-FLA. REP. JACKIE SPEIER, D-CALIF. REP. GWEN MOORE, D-WIS. REP. JOHN ADLER, D-N.J. REP. MARY JO KILROY, D-OHIO REP. STEVE DRIEHAUS, D-OHIO REP. ALAN GRAYSON, D-FLA. REP. JUDY BIGGERT, R-ILL. REP. PATRICK T. MCHENRY, R-N.C. REP. RON PAUL, R-TEXAS REP. MICHELE BACHMANN, R-MINN. REP. CHRISTOPHER LEE, R-N.Y. REP. ERIK PAULSEN, R-MINN. REP. DENNIS MOORE, D-KAN. CHAIRMAN REP. STEPHEN F. LYNCH, D-MASS. REP. RON KLEIN, D-FLA. REP. JACKIE SPEIER, D-CALIF. REP. GWEN MOORE, D-WIS. REP. JOHN ADLER, D-N.J. REP. MARY JO KILROY, D-OHIO REP. STEVE DRIEHAUS, D-OHIO REP. ALAN GRAYSON, D-FLA. REP. DENNIS MOORE, D-KAN. CHAIRMAN REP. STEPHEN F. LYNCH, D-MASS. REP. RON KLEIN, D-FLA. REP. JACKIE SPEIER, D-CALIF. REP. GWEN MOORE, D-WIS. REP. JOHN ADLER, D-N.J. REP. MARY JO KILROY, D-OHIO REP. STEVE DRIEHAUS, D-OHIO REP. ALAN GRAYSON, D-FLA.

TEXT:

MOORE: This hearing of the Subcommittee on the Oversight and Investigations of the House Financial Services Committee will come to order.

Our hearing this afternoon is entitled "A Review of TARP Oversight, Accountability and Transparency for U.S. Taxpayers." We'll begin our first subcommittee hearing of the year with members' opening statements up to 10 minutes per side, and then we'll hear testimony from our three witnesses. After that, members will each have up to five minutes to question our witnesses.

Without objection, all members' opening statements will be made part of the record. I now recognize myself for up to five minutes for an opening statement.

Five months ago, some members of Congress were told by former Treasury Secretary Paulson that the financial meltdown was accelerating, and we may not have an economy on Monday if Congress failed to pass the rescue bill.

On September 29th, '08, the House first considered the Emergency Economic Stabilization Act, but the measure failed by a vote of 205 to 228. The Dow lost 777 points after the vote, and we saw a loss of \$1.2 trillion in the stock market.

The Senate later added a number of unrelated tax provisions and approved the bill by a vote of 74 to 25 on October 1st. The House approved the Senate version by a vote of 263 to 171 on October 3rd, and it was signed into law by the President the next day.

We're in a deep and painful economic downturn, the likes of which we have not seen in generations, and the evidence is all around us and very clear. Just last month, our economy lost nearly 600,000 jobs, and that's on top of the 2.6 million jobs we lost in 2008.

But something we should remember: Our financial sector must be stabilized and confidence restored before we see any economic recovery. "Facts are stubborn things," John Adams once said, and there's no way around this fact.

When Congress enacted the Emergency Economic Stabilization Act, the new law not only created the \$700 billion Troubled Assets Relief Program or commonly called TARP. We made sure to include strong oversight protections for United States taxpayers. This included the creation of the Financial Stability Oversight Board, the special inspector general for TARP, the Congressional Oversight Panel and new audit and oversight mandates for the comptroller general of the United States.

I'm pleased today to have three representatives of these TARP oversight bodies to testify. Their work and the work of their staff has contributed to a number of reports totaling over 1,700 pages, all of which are available on the Internet.

In fact, the Congressional Research Service has written a 21-page paper explaining all the accountability reports required by the Emergency Economic Stabilization Act. In the words of the project on government oversight earlier this month, "the world would be a better place if all oversights were this aggressive."

In light of recent announcements by the Obama administration regarding the use of TARP funds and their comprehensive financial stability plan, it's important that Congress ensure oversight organizations understand their respective roles in the oversight process, cooperate with each other and work to avoid repetitive efforts and inefficiencies.

I hope today's hearing will help us identify any gaps, either in statute or regulation, that may exist with respect to the oversight of TARP and how we can better protect U.S. taxpayers in this effort.

For example, the Senate has already approved S-383 to special inspector general for the TARP Act. While this bill primarily deals with the special inspector general's office, the question is, would it improve the overall TARP oversight framework? What's the current status of the organization's hiring efforts and are steps being taken to avoid potential or real conflicts of interest? What oversight work is your organization currently focused on? And finally, does the oversight structure we're putting in place ensure that the use of TARP funds follows the clear principles laid out by Congress?

MOORE: In Section Two of the Economic Stabilization Act, the stated purpose of the new law was to restore liquidity and stability to the financial system as well as ensure these efforts protect home values, college funds, retirement accounts and life savings, preserves ownership and promotes jobs and economic growth, maximizes overall return to the taxpayer, and provides public accountability for the exercise for such authority.

I look forward to hearing your testimony and discussing these important issues. My constituents are anxious and frustrated, and they deserve the strongest oversight restructure that will provide the accountability the law requires, and I think probably every member of this panel feels the same way.

I now recognize for five minutes the ranking member -- the distinguished ranking member of the subcommittee, my colleague from Illinois, Mrs. Biggert.

BIGGERT: Thank you, Chairman Moore, and thank you for holding today's hearing, and I look forward to working with you and all the members of this subcommittee during the 111th Congress.

I welcome today's witnesses and thank them for sharing their expertise with us today. I'm -- I really am disappointed, however, that the Department of Treasury didn't produce a witness for this hearing.

I believe, Mr. Chairman, that we are sending a letter to Secretary Geithner demanding an explanation of why a witness was not produced to testify at this hearing, and we would like other -- our other colleagues to join us.

Treasury has yet to answer critical questions about the trillions of taxpayer dollars being expended through TARP. Showing up with no answers is unacceptable, which has been the case in treasury's most recent appearances before our committee, but not showing up at all is both disrespectful to the American people and an abandonment of duty.

This is lack of communication that has most angered the people who pay the bills, the American taxpayers. Granted, there is plenty of communication out there about the alleged misuse of TARP funds -- lavish parties and corporate jets and expensive retreats -- but what do we hear of TARP -- hear of TARP funds that have been put to good

use? Not enough.

It's no small wonder there's a lack of confidence in the program. American taxpayers trusted federal leaders to ask them to front trillions of dollars to prop up the financial and auto industries on the verge of collapse and homeowners facing foreclosure. But they have questions that deserve answers. What's the strategy, where has the money gone, and is it working. What benchmarks have been set to determine success or failure? Are we throwing good taxpayer dollars after bad in this TARP Program?

It's been five months since the enactment of TARP, and we're still waiting for answers. We still need evidence that TARP excludes unscrupulous lenders and bad actors. We still need to know that TARP funds aren't being sent to the same folks who are engaged in unsound lending practices that were the source of our problems from the beginning.

I hope that today's witnesses can help us better understand what mechanisms treasury needs to put in place to weed out bad actors and not reward bad behavior. My constituents are sick and tired of bailouts. They've paid their mortgages on time. They've saved and invested toward the future. They've worked hard to pay their bills and taxes. Now they want -- now they continue to see federal monies fly out the door, and they want answers.

Granted, we all understand that many people face foreclosures due to traditional reasons -- lost their job, death in the family, medical issues. Some were the unfortunate victims of loose lending standards and predatory lending. But there are many homeowners who overextended themselves, couldn't afford their home even with federal assistance, lied about their income on the loan application, flipped property to property, or were part of a (inaudible) fraud ring.

Is it fair to take money from the -- all the other homeowners and taxpayers to help this latter group of homeowners? I don't think so. It's certainly not fair to all of those Americans who are hard working and working to make ends meet without a break or a bailout.

I hope that today's witnesses can discuss the ways that the administration should follow through with its commitment that TARP funds or any taxpayer funds be used solely for responsible homeowners.

And what's the exit strategy? I don't know about everybody else in this room, but my constituents don't want the federal government, big brother, owning, operating, and footing the bill for banks, auto companies, insurance companies, and everything in between. America is not pro-socialism. We are pro-democracy and pro-free market.

Additionally, our national debt is raising -- is rising at an unprecedented rate, and we cannot afford to pass down this burden to future generations of Americans.

With that, I conclude and look forward to hearing from our witnesses. I yield back.

MOORE: Thank you, Ms. Biggert.

I'm pleased to introduce the witnesses we have for today's hearing.

First, we have Mr. Neil Barofsky, the special inspector general for TARP whom I had the pleasure to meet a few weeks ago. Prior to assuming his new position, he was a federal prosecutor at the United States Attorneys Office for the Southern District of New York for more than eight years and investigated cases of mortgage and securities fraud. Mr. Barofsky also led the investigation that resulted in the indictment of the top 50 leaders of the Revolutionary Armed Forces of Colombia on narcotics charges, a case described by then -- the then attorney general as the biggest narcotic indictment filed in United States history.

Next, we'll hear from Mr. Gene Dodaro, the acting comptroller general of the United States. In a GAO career dating back more than 30 years, he has held a number of key positions at GAO. For the last nine years, Mr. Dodaro has served as the chief operating officer, the number two leadership position in the agency, assisting the comptroller general

and providing leadership and vision for the GAO's diverse, multidisciplinary workforce.

And finally, we're glad to have Professor Elizabeth Warren testifying before our subcommittee. Professor Warren is the chair of the bipartisan Congressional Oversight Panel. She also serves as a law professor at Harvard University and has written eight books and more than a hundred scholarly articles dealing with credit and economic stress.

Without objection, your written statements will be made part of the record, and you'll each be recognized for a five-minute opening statement to summary -- summarizing your testimony.

And we'll start, Mr. Barofsky, with you, sir, for five minutes.

BAROFSKY: Thank you.

Chairman Moore, Ranking Member Biggert, members of the subcommittee, I'm honored to appear before you today as the special inspector general for the Troubled Asset Relief Program, or, as we call it, SIGTARP.

Approximately \$300 billion has already gone out the door, and including the recently announced programs, treasury intends to leverage the total TARP allotment of the Federal Reserve and others to fund at least eight separate programs under the TARP involving more than \$2.8 trillion. These huge investments of taxpayer money will invariably create opportunities for fraud, waste, and abuse and will require strict oversight.

To meet this massive oversight challenge, I have focused SIGTARP on three areas: transparency, coordinated oversight, and enforcement.

Transparency has been an area of focus in my office from day one. The adoption of our early recommendations has resulted in all the TARP agreements -- a commitment from treasury to post all the TARP agreements on to the Internet, and the two largest recipients of TARP funds are being required to report on their use of TARP funds.

We've also initiated four separate audits: first, into TARP recipients' use of funds; second, into executive compensation; third, on the impact of outside influences, such as lobbyists, on the TARP application process; and, fourth, into the circumstances under which Bank of America received \$45 billion in cash and commitments to \$100 billion of asset -- of guarantee of toxic assets under three separate programs -- TARP programs in four separate transactions.

We believe that these audits and these initiatives will shed light into some of the darkest areas of the TARP.

As to coordinated oversight, it is my honor and privilege to appear today with my co-panelists. For the last two months, we have closely worked together to coordinate oversight and to provide maximum oversight coverage of the vast terrain of the TARP. I've also founded and chair the TARP IG Council. Along with GAO, we coordinated oversight among the other inspectors general who cover TARP and TARP- related programs.

We've also tried to have a positive impact on TARP programs before the money goes out the door. Treasury has adopted several of our recommendations for TARP agreements under the Auto Finance, Targeted Investment, and Asset Guarantee programs, and we're actively working with treasury in making similar recommendations with respect to the newly initiated programs that were recently announced.

Our third area of focus is enforcement. Of the four primary oversight bodies set forth in the Stabilization Act, we alone stand as the TARP oversight body charged with criminal law enforcement, as the cop on the beat. To meet this challenge, we have developed key relationships with other law enforcement agencies. We have already opened several criminal investigations, and we've teamed up with the SEC in shutting down a multimillion-dollar securities fraud scam in Tennessee. We're planning to set up regional and program-specific task forces around the country, both

to deter criminal activity before it occurs and to make sure we have the right resources in place to investigate and prosecute any and all who try to criminally profit from this national crisis.

Unfortunately history teaches us that a law enforcement task will not be an easy one. When government offers assistance, whether it was hurricane relief, Iraq reconstruction, the savings and loan meltdown, criminals are drawn like flies to honey. If, by percentage terms, some of the estimates of fraud in those programs are repeated in the TARP, we are looking at literally hundreds of billions of taxpayer money lost in fraud. We must be vigilant.

And while I believe that SIGTARP is effectively establishing a framework to permit us to meet our oversight obligations, we face serious challenges, particularly with respect to identifying and recruiting the highly trained and experienced government investigators and auditors that will be necessary to fulfill our mission.

We desperately need more hiring flexibility, the type of which is contained in S. 383. This bipartisan bill, unanimously approved in the Senate on February 4, will give us a limited version of some of the authorities that other startup inspector generals have told me were absolutely essential in standing up their offices.

The TARP Program has changed significantly since the Stabilization Act was passed last October. Originally intended to purchase and manage \$700 billion of toxic assets, that effort now stands as just a portion of one of the eight programs under the TARP and just 25 percent of the total of \$2.8 trillion that are contemplated to be involved. Quick passage of this important and essential legislation will help me build the necessary core of my office to meet this challenge.

Chairman Moore, Ranking Member Biggert, members of the subcommittee, I commend you for your efforts to ensure proper oversight over the trillions of dollars being expended under the TARP and its related programs. I look forward to answering any questions that you may have.

MOORE: Thank you, Mr. Barofsky.

And next, Mr. Dodaro, you're recognized for five minutes, sir.

DODARO: Good afternoon, Mr. Chairman, Ranking Member Biggert, members of the subcommittee. I'm very pleased to be here today to assist your efforts to provide oversight over the Troubled Asset Relief Program.

GAO has a number of responsibilities under the legislation, the first of which is to report every 60 days to the Congress, on our oversight efforts of treasury's implementation. Since the act was passed on October 3, we've issued two reports to comply with that mandate. Our first report was issued on December the 2nd, and we provided testimony before the full committee on that report back in December. We issued our second report in January 30.

In both of those reports, we focused on a series of recommendations to improve the accountability and the transparency of the TARP Program. Our recommendations fell into three main categories. First -- in our first report, we pointed out that treasury did not have a process in place to monitor and report on the use of the funds under the capital purchase program.

We thought that this needed to be rectified. We made a recommendation. As a result of our recommendation, treasury issued a monthly survey now to the 20 largest institutions receiving funds under the capital purchase program, and the results are starting to come in about their overall lending practices, thereby providing a bit more transparency to the process.

We believe, however, that's not enough. We think that all participating organizations should be reporting on a monthly basis their lending activities and how the funds are being used consistent with the purposes of the legislation.

I would note, in treasury's most recent articulation of their plans going forward, they embodied our

recommendation in there to provide and solicit a plan ahead of time from the agencies that would receive money in the future under the capital assistance program and to provide monthly reports back on lending practices, and we hope that they implement that effectively for the second half of the TARP Program.

A second major area has been communication strategy. Now this program has been plagued with communication problems from the outset. The communications were poor initially in describing the change from the purchase of the toxic assets moving to the capital purchase program. We recommended that treasury improve its communication strategy with the Congress and other stakeholders. They've taken a number of initiatives to do this. Our last report in January, we recommended that they articulate a coherent vision for the TARP Program going forward.

Last -- or earlier this month, the financial stability plan was announced and also the homeowners program was announced in terms of preserving homeownership and stability in that area as well, but there's a lot more details that need to be articulated for people to understand exactly how those programs are going to proceed. I think the idea of doing the stress test at the banks was a good idea, but there's a lot of details both on the financial stability plan as well as the homeownership affordability and stability plan as well. So we plan to continue monitoring treasury's efforts to continue to articulate this strategy.

Last category of recommendations that we had was in treasury's management of the program. In hiring, we suggested they expedite their hiring practices to stand up the program, and they did provide a good transition between the administrations, which was one of our earlier recommendations in December.

DODARO: But they still need to hire and stand up the type of resources that they need, and they really don't have a plan yet on the total amount of resources they need, which is in part due to having a vision of how they're going to implement the program, and we recommended that once that vision is put in place, they have a comprehensive human capital strategy to support that plan and to actually deliver results going forward.

In the contracting area, we suggested that they have the right skills and -- and people needed, provide training to them, move to fixed price contracts where they can, away from that time and materials contract that they invariably had to have upfront going forward.

And we made a number of recommendations for internal controls and other necessary management tools that they need to have in place. Along with Mr. Barofsky and Ms. Warren, you know I would like to compliment both of them publicly for the type of cooperation that has been at play here.

GAO was right there at the beginning in October right after the act was passed, carrying out our responsibilities. As they came on board in November and December, we set up effective coordinating mechanisms, and I believe we're doing what we can to make sure we have adequate coverage, fulfill the responsibilities under the legislation.

And I'd be happy to answer any questions additionally about GAO's own efforts as well some limitations on our authority at the Federal Reserve. So thank you very much.

MOORE: Thank you, Mr. Dodaro.

Ms. Warren?

WARREN: Thank you, Chairman Moore and Ranking Member Biggert and -- and members of the subcommittee. It's a pleasure to be here today.

I am the chair of the congressional oversight panel, but because I am not tightly scripted, I should remind everyone I speak in that sense on my own behalf and not necessarily the views of the panel.

I'm very pleased to be here because of the important responsibility on this subcommittee and to try to help in

any way that we can.

I also want to start by echoing the remarks of Mr. Barofsky and Mr. Dodaro that we are all working together. We are sharing information as much as we can, strategies much as we can. We think there's plenty of work to go around, and we're doing what we can to enhance each other's efforts rather than compete in any way.

I just want to mention about the purpose of the congressional oversight panel. I see our purpose at three levels. We're here to do oversight of the operation of the -- the TARP, but also the direction in which treasury is aiming TARP funds, and then in a larger sense, the broader efforts to restore stability to the financial system.

The congressional oversight panel is charged by statute with responsibility for reporting on the use of treasury's -- treasury's use of the TARP funds, the impact on financial markets, financial institutions and market transparency, whether foreclosure mitigation efforts are successful, and the long-term costs and benefits to the taxpayer.

So far we have issued three oversight reports and, as required by statute, a report on regulatory reform, all of these aimed toward a central question, and that is whether TARP benefits the American family and the economy, and if it does not, why not? And what kind of constructive suggestions can we make? This is what we come to you with.

I want to give you one example of the oversight panel's approach, and that is with our valuation report. In our December 9th oversight report, we asked, among many other questions, whether or not the public, the taxpayer, is getting a fair deal for the money that's being infused into these financial institutions.

On December 30th then Secretary Paulson responded to us by saying, "Yes, these are investments, not subsidies, and they are made at or near par."

We could have stopped there, but we thought it was appropriate to do an independent investigation, pulling together recognized experts to be able to do evaluation of the transactions.

In our February 6th report, we made that report public. And what we discovered is that treasury had substantially subsidized the banks to that point.

They had paid about \$78 billion more than the value of the assets they received at the time of the transaction. This is not about subsequent declines in markets. This is about on the day of the transaction.

In effect for every dollar of taxpayer money put into the financial institutions on that date, we got back about \$.66 in stock and warrants as they were currently valued.

Now, I want to be clear. There may be good policy reasons to subsidize the banks. That is an independent inquiry. But there is no good policy reason not to be honest about that, not to be forthcoming with the American people.

Misdirection undermines the confidence of both the American people and the worldwide economy, so in this report, as in all of our reports, we return to our central themes of transparency, accountability and a clearly articulated plan and strategy for executing that plan.

Just to give you a preview of coming events, our March report will be focused on foreclosure mitigation efforts.

We were very pleased to hear the president announced the homeowner affordability and stability plan last week, principally because it shows the importance of dealing with the mortgage foreclosure problem as a central element in trying to pull this economy out of the ditch and get it -- get us back in an operational mode.

But we are going to make I think two important points as we go forward in our report. The first will focus on the inadequacy of the current data on how little we know in a factual sense about what's going on in the mortgages

themselves and particularly in the loan modifications.

And we want to make the point that if you don't have good data, it's hard both to analyze the problem with any specificity, design a solution that's going to me that problem, and then evaluate whether or not the execution of that solution is really doing something useful.

The second point will be making in our report is that we're going to identify where many of the current obstacles are to reaching economically rational mortgage foreclosure mitigation -- in other words why aren't the workouts happening on their own -- and to use that as a check list for evaluating any proposal to deal with these foreclosures.

It may help us evaluate whether or not those proposals are likely to be useful by -- by zeroing in on where the problems are.

I just want to say by way of conclusion you know with \$350 billion that's already been spent in the five months since TARP was authorized by Congress, the themes that we have returned to time and time again in the congressional oversight panel has been about transparency, accountability and a strategy that comes from clearly articulated goals.

This is the only way that we can maintain public confidence in this program and in our ability to solve our economic problems.

Thank you again for having me here, and I'm here for whatever questions you may want to ask.

MOORE: Thank you, Mrs. Warren.

As we've discussed before, Mr. Barofsky -- excuse me, Barofsky -- I'm very pleased your office has sent use of finest (ph) letters to every TARP recipient, asking them what they've done or plan to do with the taxpayers' funds they've received.

What is the status, sir, of those requests?

BAROFSKY: Our requests had basically a 30-day deadline, so they're due back in early March. We sent them over a course of three days in early February.

So far we've actually had, I was told this morning, 17 responses. My audit sheet describes them as good responses, meaning they have had substantive information. We've had a number of inquiries for clarification.

We're going to be posting something shortly on our Web site, www.SIGTARP.gov, some questions and answers to give guidance and clarification for those requests for those banks that are -- that are in any way confused or seeking such clarification. The ABA reached out to us, asked us to do that. And we' be doing that.

And we look forward to getting what we hope to be a 100 percent response rate in early March.

MOORE: And how many -- how many did you send? Do you know, sir?

BAROFSKY: I forget the -- it was the exact number of TARP recipients as of the day. I think it was a little bit over 350.

MOORE: Thank you.

Second question to you, Mr. Barofsky. As you know the Senate recently approved S. 383, a bill expanding your office's authorities as special inspector general for TARP.

You expressed your support for the bill in your testimony. Would you explain the importance of timing in your work and why the House should act quickly on this bill. Why is that important?

BAROFSKY: We are -- it has been our most significant challenge is hiring, and extending hiring authorities in S. 383 are essential to us as we build our office.

We're a temporary agency. We exist as long as the government holds an asset. And while that may appear right now to be a long time, to attract government -- highly trained government employees, we need government auditors, we need government-trained investigators, we need pretty sophisticated ones at that, who have this type level of experience.

At the bottom line is that the -- those who have that experience, particularly mid-career people, it's very difficult to recruit them into a temporary agency.

I've had folks say to me, "Neil, what happens in 10 years if you're -- if your program is over? What happens to me in my career?" And those are difficult questions to answer.

These hiring authorities help us immediately address those questions -- one, the ability to rehire annuitants. Those are highly experienced auditors, investigators, who are retired and drawing a pension, and normally they come back to government service, they have to have an offset for their pension.

This -- what the legislation does is gives us a waiver so they don't have to do so. This is a -- a method that I -- I talked to some start-up inspector generals -- Iraq reconstruction, director of national intelligence -- and they have told me they had blanket authority under this provision.

And they told me it was absolutely essential for getting people in place, and in place quickly, and where this bill gives is actually a much more modest form of that -- only 25 slots.

And then the second part is under part of the U.S. Code 3161 that enables us to hire people, but they retain the right to return back to their federal agency. So it helps answer those two questions.

We can't hire untrained new entry-level people. We don't have the time or luxury of time. We've got \$2.85 trillion to oversee, and we desperately need to get a core group of investigators and auditors in -- in this as quickly as possible.

MOORE: Thank you, sir.

Mr. Dodaro or Professor Warren, would you care to make any comments on how the bill might positively or negatively affect the broader TARP oversight effort? And do you have any concerns with the bill? We have about a minute and 30 seconds left, so I'm going to the time limits we have, so please, if you would.

WARREN: I'll yield to you, Gene.

DODARO: Yes. Thank you, Elizabeth.

I think I have no concerns with the bill. I think the provisions, especially the personnel provisions, are essential. I have the authority as the comptroller general to wave the annuity offset for retired annuitants.

I've brought back about 80 people over a period of time, not specifically for TARP, but we have brought back one banking specialist for that purpose. And I think those tools are essential, and I think it will help the overall oversight effort.

WARREN: And I should just add we have no concerns either. We support the bill and think it's important, and

important to move it quickly.

MOORE: Thank you, Mrs. Warren.

Last question of mine. We've got about a minute left here.

In your testimony, Mr. Barofsky, you know that with the administration's new financial stability plan, the TARP program expands to eight different programs within exposure of more than \$2.8 trillion.

One concern I have is in the oversight of TARP funds that pass through the Federal Reserve, especially given the independence Congress grants the Fed. For example, the Fed's TALF program we use TARP funds to lend up to \$1 trillion to thaw the consumer lending markets.

Starting with Mr. Dodaro, what oversight power does your organization have over the Federal Reserve? And do you have any concerns about tracking TARP funds passing through the Fed?

DODARO: Actually, at the Federal Reserve that's one of the very few areas that we're statutorily prohibited to look at as it relates to foreign transactions, open market transactions...

MOORE: You said prohibited?

DODARO: We're prohibited. We have the authority, Mr. Chairman, to look at how the Federal Reserve oversees and carries out its supervisory and review functions, but when it comes to monetary policy, particularly the discount window, open market operations, the decisions of the open market committee, and the transactions with foreign banks and foreign governments, GAO is statutorily prohibited from reviewing those activities.

Now, as the TARP...

MOORE: Excuse me, sir. I'm going to -- I'm over my time limit here, and I'm going to adhere to the time limits.

DODARO: I'm sorry.

MOORE: If you would, please, if you have further comments to make, I'd certainly appreciate receiving that in writing. I'll circulate your comments to the other members of the committee as well.

DODARO: Be happy to.

MOORE: Thank you, sir, very much.

And I'm out of time. I'm going to recognize now Mrs. Biggert for her questions.

BIGGERT: My mic -- my mic doesn't seem to be working very well, so I'll use this. Maybe we have some money in the stimulus for updating this room? It could use a little help, I think. Thank you.

Mr. Barofsky, once your office is fully staffed, and -- and maybe you can tell us about how long it's going to take, do you -- do you plan to do an audit of the past recipients of TARP funds, or will you focus on future recipients only?

BAROFSKY: Right now our current audit of -- TARP recipients applies to everyone up until the date that our letters went out, so we are going to be reviewing the use of funds of each and every TARP recipient up through February 4th, 5th and 6th, I believe it...

BIGGERT: So that will go all the way back to -- the -- to the fall of 2008.

BAROFSKY: Back to the first disbursement I think in late October.

BIGGERT: OK. And about how long is it going to take you to -- to staff up?

BAROFSKY: To staff up a lot -- hopefully, if this -- if this bill is quickly passed, that will help us speed our -- our hiring efforts.

BAROFSKY: What we've done -- what I've done basically to date is I focus on the senior executive staff, and I now finally have -- we've identified the right people. I'm very proud of the people that I've identified in the senior positions. Now they're going to be building out their different divisions. I'm hopeful with this expanded authority, we'll be able to move more quickly.

BIGGERT: Thank you.

Mr. Dodaro, in response to a critical report that your office issued in January regarding the Treasury's management of TARP, Treasury developed the financial stability plan that you talked about and conducted a survey of the 20 largest TARP recipients and announced plans to analyze data each quarter from every institution receiving TARP funds.

And in your written testimony, you mentioned that additional action is still needed from Treasury to ensure accountability. What are your recommendations, and have you ever seen the data that they were going to analyze?

DODARO: Yes, we now have the data from the 20 largest institutions, and we're in the process of analyzing that information ourselves and will be providing our analysis on our next report due next month.

What we have suggested, though, is for the other institutions, which are now up to 416 institutions that have received money, is that rather than have the quarterly call report data, which is what they're planning to do, that they have the same monthly type survey and maybe even a subset of information that they can gather each month on the lending activities for those other institutions.

We think that that's important to have timely information from those institutions, and we're very pleased with what we've seen for the monthly survey for the 20 largest banks, that they're actually collecting some information that's not on the quarterly call report data concerning different types of lending activities, so that's what we recommended.

BIGGERT: OK, thank you.

Then Professor Warren, in your best estimate or estimation, why has the Treasury Department either been unwilling or unable to give specific details as to how they manage the TARP program?

WARREN: Congresswoman, I don't know. I wish I had a better answer. I'm sorry.

BIGGERT: You think it's under staffing, inexperience or they don't want to?

WARREN: I have no reason to believe that they don't want to. At least we can say now there has been a shift as we have new leadership in the Treasury. And they have made it clear, at least in their public statements, that accountability and transparency are important. They have made some significant changes on the Web site. They have implemented some of the procedures that the GAO has asked for, so there has been those then. My sense is it's a very difficult time for them.

BIGGERT: You know, in reading all three of your testimony, I think there was something that kind of you all talked about a vision and needed, you know, the communication and the vision. It seems like with all the things that have been done, there's no plan. I mean, it's "Well, we'll do this, and then we're going to do this, and then we'll go back and do this."

And is that a problem or is it maybe due to their sensitivity in the marketplace, and they don't want to bring these out?

BIGGERT: Congresswoman, I actually think it's worse than you've described it. I think it's worse than just that there's been change. Change can be explained as events unfold, and if you discover that moving in this direction is not yielding what you want, you move in another direction.

What we saw, I think, with the valuation report, for example, was a description of a plan to go in one direction and a plan that was never designed to go there, an execution that headed in a very different direction.

And so this suggests a lack of forthcomingness on the part of Treasury, at least in the early months, that's deeply disturbing. And I have to say, it's critically what oversight is about, and we can't execute on oversight if there's not a clear plan to measure against the particular execution. So we're doing our best here, Congresswoman.

BIGGERT: Thank you. I yield back.

WATT: Thank you to the witnesses and to Ms. Biggert. Thank you.

Next, Mr. Lynch, you have five minutes, sir. And I will tap at the end of five minutes so you wind up, if you would please, very quickly.

LYNCH: All right. Thank you, Mr. Chairman.

Look, I want to -- first of all, I want to thank the witnesses for your work. I know this is not easy.

Just for the record, I want to say that I voted against the TARP, and I have not had a moment when I have regretted that decision, unfortunately, because of the way it has been run.

And I would say that how we handle this going forward is not only important because of the huge sums that are at stake here and the trust of the American people that must be regained, but also I'm hearing rumblings that the financial services industry is going to come back on the Hill at some point and look for more help.

And I just need to say that -- and I've talked to a lot of my colleagues although I only speak for myself -- the risk appetite here on the Hill, given the way we've seen this TARP handled so far is very, very low. And you know, there's a whole lot more oversight that needs to happen and protection of the American people and the taxpayer that needs to happen here, work that you're doing, before that will ever get through Congress. As much as it may be needed, I just think that this has been a disaster.

Before I just ask my question, I do want to say that Mr. Barofsky and Mr. Dodaro and Ms. Warren, in talking about the employees that might be needed to really do very good oversight, I know that many of our districts, we have Treasury offices closing, IRS closing. You have investigators. You have accountants. You have, God forbid, attorneys. You've got auditors who are all doing this work, and they are experienced, seasoned employees in many cases, and offices are closing down.

So there's a pool of talent there that I think we could capitalize on. It would be, you know, they would be doing the work that they're doing anyway. Some of them may be a few years from retirement, and we might be able to tap into those resources so that we don't have to go out and try to hire these folks from the private sector, which would be enormously expensive, I think.

Let me ask you this. Normally, Congress wouldn't need to know in great detail the makeup of complex derivatives or exotic derivatives or CDOs or, you know, credit default swaps. But unfortunately, now the taxpayer is a major purchaser of these instruments. They are very complex, and I've been trying on my own and with the help of the committee, you know, to get behind some of these instruments and see, you know, what is actually behind them.

And you did wonderful on the February report. You know, unfortunately, we had bad news that we overpaid, the taxpayer overpaid by \$78 billion for some of these instruments. And are we ever going to get to the point where we're ahead of this process?

And I was happy to receive the report, but it was after the fact. We had already overpaid, you know, 66 cents for every dollar. You know, we got back 66 cents for every dollar spent. Are we ever going to get to the point where we can actually, you know, in real time understand that through transparency that we are paying a fair value for these assets?

Is that a possibility because that's something that I'm trying to grapple with, and there doesn't seem to be a clear answer out there. Some of this is, you know, because of Treasury's lack of cooperation, but it also is a result of the complexity of some of these instruments.

WARREN: Congressman, I'd say three things, I think, about that. The first one is although the report that we issued is entirely retrospective, it talks about transactions that had already occurred, surely that report has been read by the Treasury Department. And if that doesn't sound a warning, then I don't know what possibly could. And that is someone will be watching and reporting on every dollar you spend. And I assume that will have a very sobering effect on a going- forward basis.

LYNCH: You would hope so.

WARREN: I would hope so. The second thing is that this goes to the question of increased transparency, trying to get more of the documents and so on to be transparent so that we can move up in terms of on time on being able to value.

We've now created -- this is the second thing that came out of our report. We now know how to do it. So if you try those transactions again, we're much more geared up in how to evaluate them in something closer to real time.

And then there's a third point on it, and this goes back to the question of articulating clearly what we're trying to accomplish. If we -- if Treasury will be in the business of trying to explain in a clear way what it's trying to accomplish and how this is the strategy to get there, we actually may have a chance to be able to evaluate it in real time.

LYNCH: All right. Thank you very much, Ms. Warren.

WATT: Thank you.

Mr. Lee, five minutes, sir.

LEE: Thank you.

I've got a few different questions because I heard some interesting testimony, and I guess we can throw it up for grabs on who wants to answer some of these questions, but I'll start with one specifically for Mr. Barofsky because during your testimony, you talked about the fact that you have huge investments of taxpayer money done really over a relatively short period of time. And during this period, we're going to see incredible amounts of waste, fraud and abuse, potentially in the tens or hundreds of billions of dollars.

And I, for one, am a new member of Congress, and obviously, I did not vote for the first TARP but the second tranche. I, again, was against the fact, based on what I'd been hearing, that we were in a position where we knew enough to release the second half.

I'm curious in your mind, do you feel it was a prudent course, knowing the fact that we really in my mind don't have enough systems set up in place that it was prudent to release another \$350 billion into the marketplace?

BAROFSKY: Fortunately, among my responsibilities is not making decisions and determinations like that. Our focus, of course, is now that the decision has been made, what can we do to make the right recommendations to avoid the tens or hundreds of billions of dollars of fraud, waste and abuse.

And the way we do that, as I noted, is by trying to work with Treasury, then taking a look at the program and making the necessary recommendations so we can avoid repeating the past problems of history.

LEE: Well, then I'll get to it another way. My concern, obviously, is making sure we do have the right staff. But I came from the private sector, and one of the things that concerns me and alarms me that the only sector in our economy that has grown over the, really over the last decade, is in the federal government, the hiring of new federal employees.

Unless we get the private sector growing, this country is in trouble. It's the potential solution -- I'd like your thoughts -- is you've talked about the challenges of hiring qualified auditors to come in here and immediately have an impact. And I, like you, we've got hundreds of billions of dollars at stake. We've got four of the leading private firms, be it Deloitte, E&Y, KPMG, PricewaterhouseCoopers.

Doesn't make sense because they could be used on a temporary basis to come in, and then they're not government employees, can go back into the private sector, of using them to do some of the auditing for us. I'd like your comments on that or anybody in this room.

BAROFSKY: We are. We have been given the power to contract, and we are exploring those opportunities. We anticipate getting some help on our use of funds survey of contracting private auditing firms to help us.

LEE: You feel you may go in that direction.

BAROFSKY: We most certainly will go in that direction with respect to being able to get this project done. We've also contracted with Deloitte to help us in our program management.

LEE: That's good to hear. One last question whoever wants, again, to tackle this one. The fact that -- I've always found this in its chart. It doesn't matter if it's a government business or a private business, but we've got the bureaucratic overlap with the GAO, the new Office of Financial Stability within the Treasury, the Congressional Oversight Panel, and I believe there are seven other offices of inspector generals in other agencies.

How do you guys mesh together to ensure that you're speaking and, in fact, doing what you were designed to do in the first place?

DODARO: I'll take first shot at this. First of all, there's no overlap between the Office of Financial Stability and the entities that are overseeing their activities, so that's not an issue there because that's the Treasury Department administering the program, and we're overseeing that program.

Now, with regard to coordination, we each have some specialty areas. For example, we're the financial auditor of the Office of Financial Stability at the GAO, and we have these responsibilities to coordinate.

Now, we had the luxury of being an already-existing oversight entity with staff, and we pulled our financial markets experts, our accountants, our lawyers, economists together. And we've had to do relatively little hiring to get on the case right away, and then we've coordinated with them.

As Neil mentioned, Mr. Barofsky, they're focused on the criminal investigative area. Neither one of our entities are doing that. We overlap in some of the areas on implementation of some of the programs that we're working together on coordinated audits, sharing information.

As Ms. Warren mentioned, I'm sure she'll articulate the Congressional Oversight Panel has some broader policy issues that they're looking at that we at the GAO are not.

So I think -- I've been involved in a lot of this cross- government, and I think it's working very well here.

LEE: Thank you.

WATT: Thank you to the witnesses, and thank you, Mr. Lee.

Next, Mr. Klein, if you have questions, sir?

KLEIN: Yes, sir.

WATT: Five minutes.

KLEIN: Thank you, Mr. Chair.

Thank you all for being here and participating and -- and your work in this very important area.

When we passed the bill, the big issues and the big reasons to pass it were expressed as attempt to head off more failures of major financial institutions and also to free up the credit market, and it's very clear, despite what was said by many of the leaders of the major banks that came before us last week or two weeks ago, that despite what they're saying, that they're lending and maybe in large dollars to large Fortune 100s, that -- I went home last week, and I heard over and over and over again from businesses -- small and large -- real estate -- commercial, residential -- this is not translating to our local markets.

So one of the biggest things I keep hearing from people is, "All right. Well, you're talking about the second \$350 billion, and, yes, you're probably going to hopefully" -- and that's part of this conversation -- "is -- put all the necessary trappings in place, oversight, clear direction of what it's supposed to be -- what the money is supposed to be used for," but it -- it takes me back to, well, we're not prepared just to leave that \$350 billion out there on the table without a further interest in making sure that that money gets spent to help ease the credit market, and can you share with us, maybe start with Mr. Barofsky, your thinking on what it is that we can do as it relates in your research and oversight with the current -- and maybe it's a question about policy -- you have to come make some recommendations to us as Congress and we come back, and whether we do it after the fact or we have a lot of interest in these institutions, regulatorily and otherwise, to get them to take necessary steps to ease the credit market.

That is the biggest problem that I heard right now out there. What can you do? These banks that took all this money -- what can you do to get them to start lending to reasonably, you know, underwritten borrowers. We're not talking about making bad loans. We're talking about solid, creditworthy people. Can you share with us some of your thinking on what you're seeing?

BAROFSKY: Our -- I think a theme that -- that all of us keep returning to is transparency and whether it's transparency for treasury or it's transparency for those who've received the funds, and the way we're trying to contribute, to answer your question, is by doing this audit on how are they using the funds, and GAO has recommended and treasury is implementing its survey on lending and the effect -- the impact of TARP on lending, and our survey is -- is a broader one on overall use of funds.

So we hope that by doing that and being able to report back to Congress how the first -- of the first tranche, the first 350 or so entities up to January 31, have spent the money that we can give you that data and give you that answer and, therefore, be able to make recommendations based on that hard data.

KLEIN: Well, I want to just point out transparency is absolutely essential because we want to understand it. But is there a gap here or is there a lack of standards, a lack of expectations, a lack of teeth that is missing from this original bill that said, "You take the money," and the fact that they're going to end up reporting to us what they did or didn't do with it may not solve the problem of how do we get this money to be put into the market for lending.

BAROFSKY: I think the -- the question of what conditions are attached -- it's certainly, you know, a policy-based decision that needs to be -- needs to be addressed to meet your concerns. I think that the administration has indicated in its announcement of the programs that there may be more requirements on how the institutions use the funds. We'll see as this program is rolled out.

DODARO: A couple of points I'd add: First of all, there's about \$50 billion of the first amount of money in the \$350 billion figure that hasn't been allocated yet to the banks. There are still dozens, if not hundreds, of institutions in the pipeline that the regulatory agencies are looking at and making recommendations to the treasury.

A second major point is, you know, we made recommendations that those entities provide monthly reports on their lending activities, and treasury hasn't implemented that recommendation on the first half. They've indicated that they'd look at it for the second half. We still think that needs to be put in place.

KLEIN: And that can be done right now?

DODARO: They'd have to renegotiate the agreements, the ones that they haven't executed yet. They could still do it, and it could be done.

KLEIN: Mr. Chairman, I think that's something we ought to be speaking to treasury about. I mean, if we want transparency, there's no reason we can't go back on the original money that was allocated and get these institutions to participate with us.

MOORE: I agree with you.

WARREN: Yes.

MOORE: Ms. Warren?

WARREN: I would only add to that, Congressman. I think you're exactly right about this, but discuss back not only to transparency, but to about clearly delineated goals. If this is about putting money into the hands of small businesses that have done most of the job creation outside the public sector, then make that part of the terms of taking the money, and if someone doesn't want to do that with the money, then don't let them have the money. It's that straightforward.

KLEIN: And I -- and I know my time is running out, but I -- I think that's a very important point. I know our Small Business Committee, which we're also concerned about, is -- is not getting access to this. Large businesses are in many cases, but, Mr. Chairman, I think we really need to focus on getting some strong criteria. If they receive money, small businesses are given high-level focus.

MOORE: Thank you, Mr. Klein.

And thank you to the witnesses for that -- the questions and answers.

And the last person who's indicated they have questions to ask is Mr. Paulsen.

Sir, if you would?

PAULSEN: Thank you, Mr. Chairman.

And I also want to thank you for taking the time to testify.

I'll just ask a quick question. Mr. Barofsky, I understand your offices are currently held in the Treasury Department, right? And that being the case, you're not technically part of the Treasury Department, obviously, and you

don't ultimately answer to the treasury secretary. You're kind of on your own, but whom exactly do you ultimately answer to just in regard to your findings, your oversight? Is it just reporting back to us? I mean, sort of your authority -- who do you have to go back to and report your findings to?

BAROFSKY: I -- I think you're correct. We answer to you, the Congress.

PAULSEN: OK. And I just want to follow up, Mr. Chairman, too with Ms. Warren. You had mentioned before -- and, you know, both Mr. Dodaro and Ms. Warren had mentioned earlier that your -- the oversight in the reports that have come out have been very critical of the process in terms of re-reporting the same problem over and over again, and so, you know, what sort of hope can you give us, I mean, that you're not going to re-report once again the same exact problem, because I think you're hearing this frustration across the aisle here today, but it's -- as you mentioned before, it's disturbing. There's no clear plan to measure against as the execution goes forward. But, you know, is there hope that we can really buck the trend and do something differently as -- as these monies go out there for the confidence of taxpayers?

DODARO: I think that's a good question to ask the secretary of the treasury and the Treasury Department. I mean, we -- our recommendations are advisory. They only have a force of law if Congress requires them through statute to be implemented. Treasury has been implementing our recommendations at the GAO, but they've not fully implemented most of the recommendations that we've had. So, unfortunately, in these circumstances, unless the agencies fully implement the recommendations, we will be repeating them going forward because we think they're important.

MOORE: Thank you. I was wrong. We do have a couple of other members who would like to ask questions. And, first, Mrs. -- Ms. Speier, please, five minutes.

SPEIER: Thank you, Mr. Chairman and members -- is this on?

(OFF-MIKE)

It's on now, I think.

First of all, let me say to all three of you how important your role is as we move forward on assessing TARP. You are our eyes and ears, and if there's one frustration I think we all have, it's that we don't get the word soon enough when there's trouble to be able to change it midstream. So anything you can do to alert us with your red flags, I hope that you will do that, and we will attempt to act more quickly.

Mr. Barofsky, you said that you've received 70 responses. You've made 350 requests. My understanding is that these are voluntary, so they don't have to return these responses.

BAROFSKY: That's correct.

SPEIER: OK. That is enough to send me into orbit and probably every American taxpayer. What do we have to do to make sure that everyone who's received TARP money is required to respond to you?

BAROFSKY: Well, I think that -- I'm hopeful that we're going to have a full -- full compliance. It's a 30-day deadline, so I was actually surprised that we got responses this early. We obviously -- we do have the power to compel responses, if -- if people choose not to, and I'll talk to my audit staff, and depending on what our level of response rate is, we certainly can consider compelling them through the -- through subpoena...

SPEIER: So you do have the authority to compel them.

I, as one member, would want you to utilize and exercise that authority if they do not, and I would like for you to start posting on your Web site those who have so that we can see who hasn't responded and who has responded as a running total, if you would.

BAROFSKY: I think we -- we're certainly going to post response rates and that information on...

SPEIER: But I'd like to know who hasn't responded as opposed to who has.

BAROFSKY: I'm -- I'm confident that that's part of our audit plan.

SPEIER: All right. Thank you.

Ms. Warren, I've got to tell you I think you're doing an incredible job with a very small staff. So my first question is do you need more support to do your job.

WARREN: Yes, but we're working on it. We are -- we are expanding. We are moving from tiny to small. Well, that's -- that's good. And we're -- we are hiring. I will say -- and I'm -- I say this very tentatively -- we would also be delighted to have the opportunity to hire those who are...

SPEIER: Retired annuitants?

WARREN: ... retired annuitants. I don't want to do anything to slow up the bill that is in progress for the IG. But it would help us as well as we're trying to expand and staff out for our oversight procedures. So I -- I mention that, but I do it with trepidation, not wanting to get into the inspector general's...

SPEIER: All right. We'll see what -- what vehicle we can use to assist you in that.

Your report that basically made the case that we were shortchanged in the original contracts that were made with the banks is pretty astonishing, and when the CEOs of the banks were at a hearing last week, I actually referred to your report and said, "Since you have received the subsidiary from the taxpayers of \$80" -- was it...

WARREN: \$78 billion.

SPEIER: ... "\$78 billion"...

WARREN: More or less.

SPEIER: ... "what would you give back to the taxpayers? Would you reduce your credit card interest rate?" Not one of them said yes. So I guess my question to you is what should we extract from these TARP recipients who have gotten deals that really are too good to be true?

WARREN: Well, Congresswoman, I think this is exactly the right question, and I will say, as Mr. Dodaro did, the right person to put on the stand for that question is the Treasury Department that has the authority to ask for more, indeed to demand more, not only from those who receive money in the future, but from those who have already received taxpayer dollars.

SPEIER: So, in the contracts, have -- you've reviewed them, I gather.

WARREN: Yes, indeed.

SPEIER: Is there the opportunity then to rewrite them to add more provisions? There's nothing that prevents us from going back and creating more?

WARREN: Yes, Congresswoman, that's right.

SPEIER: Now my time has almost expired, but there was a Citigroup contract that was discussed at our hearing that was pretty astonishing. I don't know if you're familiar with it. What -- we basically are committed to over \$300 billion -- over the 10-year period of time of \$306 billion of losses. Do you have any insights on that contract? Are

there more contracts as bad as that contract that we should be aware of and bring to light?

WARREN: Congresswoman, I actually want to start by making a point. When we did the analysis of the value of what the American taxpayer got back in return for the money that it had invested into the banks, we deliberately did not count the guarantees, which means that our \$78 billion is small relative to potential exposure. We might also want to take a look at the Bank of America transaction and some others that are involved with guarantees.

SPEIER: Thank you.

MOORE: Thank you.

And I would -- before we call on the last member to ask questions, I would like to note that Mr. Lynch had to leave for another committee hearing. There are other hearings going on, and members are sometimes -- belong to multiple committees, and I know some other members may be not here for that reason as well. So I just wanted to let the witnesses know that.

And, Ms. Kilroy, you are the last person to ask questions here today.

KILROY: Thank you much -- very much, Chairman Moore.

Thank you, panel, for being here this afternoon. I appreciate all the work that you've been doing in helping us get a handle on this oversight issue.

You know, it seems to me in news reports again today that some of the TARP recipients still haven't got the message that the party's over, and it seems that perhaps the statement that -- that you made, Professor Warren, about making sure that there is a clearly delineated goal -- maybe is some of the responsibility lies in how things have been drafted in the first place in terms of delivering that message in a much stronger fashion than has certainly been received to date.

So I wanted to follow up on what Mr. Klein was asking with respect to, you know, should there be more legislation in TARP? Should that be where we should be coming down harder and making sure that we have the clearly delineated goals? Have we given treasury in the granting of substantial discretion maybe too much discretion in order -- in how to fashion the TARP agreements?

WARREN: I think this is a very tough question, Congresswoman, which -- obviously, it's your job to ask tough questions, but the -- but the point here is that I understand why one might design a system with a lot of flexibility.

WARREN: I know that you -- you don't just stand behind someone putting out a fire and try to -- try to micro manage how that happens. But I also understand that if you're going to give that much discretion that it comes with great responsibility to be forthcoming to Congress and to be forthcoming with the American people about every step of the way, and so I think the real question here is, first, does treasury have the message and, second, do you have real alternatives for how you want to think about the -- the management of this economic crisis, because if treasury is heading in a particular direction, whether they articulated clearly or not, it is only meaningful oversight if you can understand it and say, so what would have all the alternatives have been?

Should we be doing something different with the financial institutions? Should we be doing something different about mortgage foreclosure mitigation?

If there aren't alternatives on the table that you focused on and clearly studied, there really is no alternative. You're legislating in the dark.

In part I see that is the responsibility of the congressional oversight panel. We are here partly to wave the flag when there's a problem to try to -- to document that and show you the seriousness of it, but we are also here to try to

bring you some ideas about alternatives.

Whether we keep that on an informal basis in the sense that we come, we testify, we meet with you, or a more formalized basis that this is the direction that you want to go with -- with reigning in the -- the treasury's ability to decide its own fate as it goes forward and the fate of the economy, that will ultimately be the decision for Congress.

So I -- I think the answer in part -- I hope what I'm trying to say here is we need a lot more intensive conversation about this, and it's a conversation that is informed by the facts of what they've done, by whether or not they are willing right now to articulate the direction they're going in, and our ability to evaluate whether that direction makes any sense.

(UNKNOWN): As you know, the -- the House passed some additional teeth for TARP money that was not taken up by the Senate, and I do hope that despite the fact the Senate didn't take it up, that -- that treasury does take that into account and that we see those standards in the -- any future TARP agreements.

I was also stunned by the -- you know the testimony about the potential for fraud, and I want to follow up with that.

You talked about the need for baseline fraud prevention standards. Are -- are these in existence now in the right places to make sure that you have the framework that then you can go and enforce if -- if there are instances that any number of these whistleblowers might bring to your attention?

DODARO: Well, we are certainly reaching out to -- to whistleblowers. We have our -- our web site is up and running. Our hot line is up and running.

And a lot of what I've been doing in the first two months of our existence is building that framework. And a lot of that is through our relationships, given our relatively small size and obviously the -- the vast amount of money that we're responsible for overseeing.

I've spent a lot of time working with the Department of Justice, with the FBI, state attorney general, the SEC, basically any law enforcement outfit that could potentially assist us in monitoring, deterring and then investigating and prosecuting fraud.

We've been out there, and we're working on those relationships. And I think we're getting the right structure in place, particularly with these programs that are coming out now.

(UNKNOWN): What if the initial framework or TARP documents aren't set up the right way that would...

Thank you, sir.

MOORE: (Inaudible) ... and I would start. I've got a question myself, and we'll just go through very briefly, if that's OK with the witnesses as well.

The TALF -- the Fed's TALF program we use TARP funds to lend up to \$1 trillion to thaw the consumer lending markets.

Starting with Mr. Dodaro, what oversight power does your organization have over the Federal Reserve? Do you have any concerns about tracking TARP funds passing through the Fed?

DODARO: As I was starting to mention before, to the extent that the Federal Reserve is using monetary policy, discount window operations and open market decisions, we are prohibited by law from reviewing those activities now.

So as the TARP program and treasury begin to have these partnerships with the Federal Reserve, there may be

some limitations on our ability to provide that type of oversight. We're studying how best to do that.

This activity, the -- the expansion under the TALF program from the \$20 billion up to \$100 billion of TARP funds to leverage against the trillion is a new development, so we're taking a look at that. The program hasn't started yet. We're trying to figure out how best to do it.

But it's something I'm concerned about, Mr. Chairman, and -- and I will come back to the committee. I was asked when we testified before the full committee you know about this issue.

MOORE: Ms. Warren or Mr. Barofsky, any comments?

WARREN: I'll just point out that because our work is at a much more policy and -- and sort of direction, although we are statutorily authorized and required to see what's happening in the expenditure of the TARP funds, it's not possible to look at that without looking at what the Fed is doing as well.

So we regard that as within the range of the policy questions and issues that we should be looking at.

MOORE: Any comments, Mr. Barofsky?

BAROFSKY: Mr. Chairman, the TALF obviously is -- was the focus of our recommendations in our initial report to Congress. I've continued to be in touch with the Federal Reserve as well as treasury about recommendations we've made regarding the TALF.

I anticipate we are currently putting together a group to make sure they were going to have effective oversight of the TALF, certainly from a -- from a criminal perspective, to make sure that we can deter as well as investigate and prosecute.

MOORE: Thank you. And that's all the questions I have.

Mrs. Biggert, do you have additional questions?

BIGGERT: Thank you.

And actually something along that line, Mr. Barofsky. You talked about the TALF program as -- and in your report on February 6th about using asset--backed securities as -- as collateral. You were concerned about that, and you had recommended that there be minimum underwriting standards and/or fraud mechanisms.

Could you -- what were your recommendations as far as the standards?

BAROFSKY: Well, our -- our initial concern, as the TALF program was first described, the basic fraud prevention was reliance on credit rating agencies and the due diligence of investors.

And I think history -- recent history has demonstrated that we should not be relying on credit rating agencies and private investors.

That is, of course, in a different type of asset-backed security, not what was originally intended for the TALF. And in the mortgage- backed security market, obviously those -- those failed.

So our original recommendations were addressing the program as -- as initially determined, and we suggested increased underwriting baseline as -- as one example of a fraud detection or prevention mechanism.

Since then we've had a number of discussions with the Federal Reserve. They presented to us a number of potential areas they may go when the -- the TALF is rolled out, I think likely this week or next week, based on what

Chairman Bernanke said earlier today. And we're hopeful that there will be vastly improved fraud prevention protections in there.

BIGGERT: I've had an amendment to several of the -- of the TARP bills and probably will try and -- and have another amendment on this bill, and that will be to have more prosecutors and the Department of Justice and more investigators from the FBI for -- for mortgage fraud.

Would -- would you be in favor of that? Is that something that you think we need now, or is it that..?

BAROFSKY: I -- I recently testified in front of the Senate Judiciary Committee on several bills, one by Chairman Leahy, another one by Senator Schumer, addressing specifically increased resources for the FBI, for the U.S. Attorney's Office, and Department of Justice. I think it's absolutely vital with not just the TARP-related programs, but the -- the shift of federal law enforcement resources since September 11th out of white-collar criminal prosecution into terrorism, that there really is a need to -- to restock the FBI.

BIGGERT: Can you outline specific fraud protections that you would recommend?

BAROFSKY: For it really depends on -- on the program. One of the...

BIGGERT: For TALF.

BAROFSKY: For TALF I think the -- the -- one of the key areas that we made recommendations is -- is on the front end, certain requirements and testing of the -- the borrowers and the actual underlying asset -- in other words making sure that the assets, the collateral that backs the asset-backed securities, whether it's an auto loan or a student loan, making sure that they're real, that they're properly underwritten, so we don't get back into the same situation as we did with the mortgage-backed securities.

We've had really difficult troubled assets that back these securities that are not AAA rated, and -- and if the treasury ends up holding these assets, and it finds out that they're -- they're not what appear to be.

And I think one of the things that the Federal Reserve is addressing is very -- is exactly that. It's testing of the assets that back the securities to make sure that they're -- they're real, and they meet the criteria.

BIGGERT: Thank you.

Then just one more small little question, if I might. With the administration changing course yesterday and announcing it would allow financial institutions to sell the government, stock as opposed to preferred stock, does the riskier nature of common stock concern any of you from an oversight standpoint?

WARREN: Common stock is valued differently because of their riskier nature. It also means in the case if we're doing -- we're taking what had been preferred and moving it to common stock, were forfeiting certain payments, a stream of revenues that would have come in under the preferred.

It also means we're moving more into a plan that's hard to describe, because we're not clear what -- what kind of control is going to come with the common stock.

We know how it works and the private market, but when the government is the holder of large portions of -- of the stock, but there are still private holders, this raises a whole new set of questions. We have an animal that would be neither fish nor fowl.

BIGGERT: Absolutely. I agree with you, and I -- I hope that you will make your concerns known to the powers that be.

Thank you. I yield back.

MOORE: Thank you to the witnesses and to Ms. Biggert.

And next, Ms. Speier, if you'd have an additional five minutes in questions?

SPEIER: What percentage of the TARP funds in your review has been loaned out? Do you have a figure?

WARREN: Well, we -- we know that about \$300 billion has gone out the door. And then there are commitments now for 50 of the first 350.

SPEIER: No, I -- my question is of the money that has been received by the banks, do you have any idea what percentage of that money has been loaned out?

WARREN: Congressman -- Congresswoman, if we don't ask, we can't know.

DODARO: That -- that was the essence of our recommendation. That was our very first recommendation. They need the reporting back.

And I think you know Mr. Barofsky's effort's a good effort, but that shouldn't substitute for the responsibilities of the Treasury Department to require that monthly reporting of all institutions receiving the money.

And that's the recommendation we reiterated last month. We're glad they move forward on the 20 largest institutions, but that won't substitute for having information on all the institutions.

That's the only way you're going to get timely information on a recurring basis. You can collect point in time information, but in this case you need it on a -- on a continual basis.

WARREN: And I would only add to that, since we have made the same point in our report, it may be more than just reporting. If this is really what we want to accomplish, then we have to move to make it a requirement.

SPEIER: Is there any concern about these no-bid contracts that have been let by the Treasury Department? And if so, what would be your concerns?

DODARO: On the no-bid contracts, we'd looked at that early on, and we've found that they had followed the federal acquisition regulations.

They had limited numbers of contracts. I think in our last report we said that at the end of the last calendar year, they had about \$8 million in contracts that they've obligated. But we've been looking at every contract once it's done.

Now, what we did say is that they'd been -- while they're following the federal acquisition regulations, they're using time and materials contracts, which are as you know a riskier form of contract.

And as their requirements become better known, they should move to fixed price contracts, which are less risky and a better protection for the taxpayer.

In the meantime they need people, though, to oversee the contracts that they had let, and we had a recommendation that those people would be adequately experienced and trained properly.

SPEIER: So there's time and materials, but no cap.

DODARO: There are some caps, I believe. We -- we list them in our report. I -- I'd be happy to provide that for the record.

SPEIER: All right. Thank you.

How many more tools, or what additional tools do you need, besides the personnel? What -- what kind of authority do you need that you don't have presently that we should be guaranteeing that you get?

DODARO: I think there -- there are two issues from our perspective. One we've mentioned here in terms of the extent to which that the Congress wants oversight from the GAO and the Federal Reserve activities, there would need to be a legislative change.

Historically, the Congress has not done that to protect the independence of the Federal Reserve, and I'm not suggesting that it be changed on an ongoing basis you know for normal circumstances.

We clearly are not in a normal circumstance at this particular point in time, and so to the extent to which the Congress wants to do that, we'd be happy to work on some you know specifically tailored authorities to -- to carry out that responsibility.

Now, we're going to try to work as best we can under the current framework, but there are clear limitations on our ability that need to be changed in the statute.

There's also a bill in the Senate, S. 340, that would provide GAO access to all TARP recipients' funds. And you know while it hasn't been a problem so far, particularly since Mr. Barofsky's organization's getting split up, where the government goes in the future with the second 350, we're not clear about that.

We've been working to try to get our access into agreements. Mr. Barofsky's been very helpful we've -- and to -- to do that -- say, for example, in the automakers, and -- and we're now looking at the automakers' plans.

But in the future it's not really clear who all the recipients would be, so that would be an important safeguard, if that legislation was enacted as well.

SPEIER: Ms. Warren?

WARREN: I would say only two things that you just should be aware of. It -- it is not yet created a problem for us, but our -- we are still developing in what we're doing and asking for.

The first is I know we do not have subpoena power. We are the only one of the three who can hold hearings, but whether or not someone wants to come is entirely up to them.

The second thing I would note is that we have the authority to ask treasury for information, but if treasury has not gathered that information, they can quite truthfully say to us, "We don't know."

We do not have the authority to ask the financial institutions themselves for information, and so these areas in which we may be able to do more, if we had more authority.

MOORE: Thank you.

And I'd like to again thank our witnesses for their testimony today.

And to the members who participated in today's hearing, I appreciate that as well. I -- I think this hearing and hearings like this in the future will be very important, and I look forward to working with the members on both sides of the aisle. We need to do that.

I think today's hearing gives us a better sense of the oversight that's going on regarding the use of TARP funds and how it can be improved to ensure the program is transparent and closely monitored.

I look forward to working with our witnesses and with my Republican and Democratic colleagues to ensure TARP recipients will be held accountable and U.S. taxpayers are protected.

The chair notes that some members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions of these witnesses and to place their responses and the record.

And again, I appreciate everybody's participation. This is very important work, and we will have more hearings like this. Thank you so much.

And the hearing is adjourned.

END

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