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REP. DENNIS MOORE HOLDS A HEARING ON TARP OVERSIGHT: WARRANT  
REPURCHASES AND PROTECTING TAXPAYERS, PANEL 2

July 22, 2009 Wednesday

**EVENT DATE:** July 22, 2009

**TYPE:** COMMITTEE HEARING

**LOCATION:** WASHINGTON, D.C.

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

**SPEAKER:** REP. DENNIS MOORE, CHAIRMAN

**WITNESSES:**

WITNESSES: NEIL BAROFSKY, SPECIAL INSPECTOR GENERAL, TROUBLED ASSET RELIEF PROGRAM  
ELIZABETH WARREN, CHAIRWOMAN, CONGRESSIONAL TARP OVERSIGHT PANEL  
THOMAS J. MCCOOL, DIRECTOR, CENTER FOR ECONOMICS, GOVERNMENT ACCOUNTABILITY OFFICE  
REP. JUDY BIGGERT, R-ILL. RANKING MEMBER 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,  
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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. BARNEY FRANK,  
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**TEXT:**

**D. MOORE:** At this time I invite the second panel to be seated. I'm pleased to introduce a second panel of witnesses for this afternoon's hearing.

For this panel we'll start with and welcome back Mr. Neil Barofsky, the special inspector general of the Troubled Asset Relief Program, better known as SIGTARP. Next, we're glad to have with us again Professor Elizabeth Warren, chair of the Congressional Oversight Panel. And finally, we'll hear testimony from Mr. Tom McCool, director of the Center for Economics at the Government Accountability Office.

Thank you all for being here. And without objection, your written statements will be made a part of the record. You'll each be recognized. And I think votes are just now being called. I think we can again take the first witness. You'll each be recognized for five minutes to summarize your written testimony.

Inspector General Barofsky, you're recognized for five minutes, sir.

**BAROFSKY:** Thank you, Mr. Chairman. It is -- it's an honor to be back before this committee.

**D. MOORE:** Thank you.

**BAROFSKY:** It's also an honor to be sitting next to two of our most important oversight partners -- of course, Professor Warren from the Congressional Oversight Panel and Mr. McCool from -- from GAO.

This week we -- we've introduced and presented our -- our most recent quarterly report and the oversight that we've been conducting over the past quarter, and so much of that oversight is a result of the coordination that we've had with our oversight partners. And one of the things we strive for, of course, is to coordinate the oversight.

With TARP we've gone from a -- a \$700 billion program, which is large enough in its own right, now being expanded with -- with activity with the Federal Reserve and the FDIC into an almost \$3 trillion program, and this is more than any -- any one of the three of us and our organizations could ever cover alone.

And we strive to coordinate that oversight, working with GAO, our important audit partner, trying to cover as much of the terrain is possible, and we recently are -- are putting forward a -- a joint audit project, our -- our first on corporate governance, on utilizing the -- the experience and activity of both of our agencies.

And we recently this month did a coordinated project with Professor Warren and the Congressional Oversight Panel. The first part was -- was their -- I thought their excellent valuation report in their July report and the conclusions there. We're going to be using that as context for an audit that we've launched into the warrant repurchase process.

Basically, in our report that we've -- that we've just delivered this week -- very briefly describe what was contained in there.

In Section II of the report, we do a brief overview of what's happened in the last three months in the TARP. And there's been a lot of activity from the bankruptcy of the auto company, from repurchase of more than \$70 billion of capital -- in the capital purchase program, from reflections of nine asset managers, and the commitment of approximately \$30 billion of taxpayer money in the public-private investment program.

In Section III of our report, we attempt to put that in context by giving detail surrounding approximately 50 other programs. So often a particular TARP recipient not only accesses the TARP, but will access other parts of the financial bailout from the government, whether it's a loan guarantee from the FDIC or borrowing money from the Federal Reserve.

And what we've attempted to do in our report is bring transparency to that by setting up approximately 50 of the program's most significant programs that have been implemented or discussed and described since the onset of this crisis.

In Section V of a report, we did our recommendations. We go over our tax recommendations and have issued several new recommendations. One of them, which was discussed with Mr. Allison, was the -- our continued recommendation that Treasury require TARP recipients to -- to provide information on their use of the funds.

As was also discussed, we recently used our audit, which was completed and made public this Monday, and we've demonstrated that notwithstanding the inherent fungibility of money, banks can and should be required to report on the use of the funds.

Contrary to Mr. Allison's suggestions, we've demonstrated that this is a meaningful path. And when we asked the banks what they did with the money, they were able to tell us.

They were able to tell some of the things that, Ranking Member (inaudible), that you -- you described just moments ago, that -- that they were able to explain how they were able to increase lending, or at least stop the hemorrhaging, avoid further reduction of lending. Banks told us that they would have come to a standstill, if not for -- for these funds.

But they were also able to explain other uses of funds, how they invested in money, how they were able to maintain capital cushions so they could withstand future losses. This is vitally important data from our perspective and vitally important transparency.

I understand the orthodoxy behind the concept of capital accounts, and I understand that perhaps that is why Treasury initially was so reluctant to adopt our recommendation. But now that we have the proof, now that banks -- when asked, the banks themselves have said we can report on how we're using the funds.

We believe that these excuses and explanations for the lack of transparency should no longer be countenanced. We believe that Treasury should and -- and, in order to meet its promised goals of bringing transparency to this program, must adopt this recommendation.

We also make other recommendations in the report relating to other aspects of transparency, including in the public-private investment program, as well as some other transparency recommendations we've been kicking around for some months, including the basic one that Treasury report to the American people what the value of their investment.

Treasury receives monthly reports from its asset managers with estimates of what the value of the TARP portfolio is, and we believe basic transparency would require Treasury to make that information public.

Thank you, Mr. Chairman.

**D. MOORE:** Thank you, Mr. Barofsky.

And we -- votes have been called. There's 10 minutes left for votes. We can hear one more witness.

Professor Warren, I'll ask you to do a five-minute presentation or less, so we can get over and vote. And then we will reconvene and -- and have -- hear from Mr. McCool and then have questions of the witnesses afterwards. Thank you.

**(UNKNOWN):** Actually, Mr. Chairman, we've probably got -- if she takes even six minutes, I think we're in good shape.

**D. MOORE:** Very good. Thank you.

**WARREN:** You know how fast I talk. Thank you very much.

Thank you, Chairman Moore.

Thank you, Ranking Member.

It is an honor to be here again today in front of this committee. I appreciate your inviting us. I want to say, as I always do, unlike the gentlemen to my left and right, I am part of the panel, and so when I'm here I'm not scripted, which means I speak for myself. I will do my best to represent my panel, but I represent only my views when I open my mouth.

Our job is to review the current state of financial markets and the financial regulatory system and to report to Congress every 30 days. So far we have delivered to you eight oversight reports and two special reports on regulatory reform and on farm credit. Those reports were also required by law.

We have also had nine hearings. We've been out in the field on your behalf. We will have our tenth hearing next Monday in Detroit.

Our contribution again, our statutory mandate, is a fact-based analysis designed to raise issues about the operation and direction of TARP and about the broader effort to restore stability to the economic system. We call that asking whether or not TARP is operating to benefit the American family and the American economy.

We sift three repeating themes, and that is the need for transparency, the need for accountability and the need for clearly articulated programs by Treasury. We coordinate closely with the GAO and special inspector general. Mr. Barofsky just identified our coordinated effort, which we were very pleased to participate in. And that is an important part of the report we just issued on warrant valuation.

Member Bachus identified the key to what the warrants are about. We understood what the risks were when Congress allocated the potential \$700 billion to TARP. This is the American taxpayers' one opportunity to participate in the upside.

Our statutory mandate is to look at the choices Treasury's making and that really involves not just our July report but also our June report. Our June report was on stress tests, the question about repayment in the first instance and whether the stress tests were stressful enough.

We then moved to our July report once the decision is made, take money back from these financial institutions, what should be the pricing on the warrant? In order to do the warrant valuation, we thought it would be helpful, in terms of oversight, to do an independent valuation of -- to ask how it is that others might value this. Our own expertise was in the panel.

But also we were aided by Nobel Laureate Robert Merton, Professor Daniel Bergstresser and Professor Victoria Ivashina. All are from the Harvard Business School. All advised us independently without consulting with each other and they helped us review our model, they helped us review our (inaudible).

Ultimately, we did all of the calculations internally to the panel and that's how we came up with the numbers we came up with. Now, our finding was that the price paid in the first warrants that were sold were about 66 percent of what our valuation which was the current market value. If Treasury got only 66 percent of current valuation, as it went forward, that would be a loss to the American taxpayer of about \$2.7 billion.

We are very careful in this report to point out some key features. The first is only a tiny proportion of these warrants have been sold and they are in very small banks and the first sales. We acknowledge there may be differences about what are the appropriate liquidity discounts to put into the valuation. We also acknowledge that there may be considerations other than maximizing the return to the taxpayer, for example, trying to get out of this business of holding warrants as quickly as possible and those could effect the valuation.

I will say, however, that since we issued our report 12 days ago, Chase has decided it wants to go to auction. Goldman Sachs has just struck a deal today which adjusted for the rise in the value of their stock prices over the last 12 days is almost precisely at our estimated valuation. And I heard Treasury announce in this hearing that they will be revealing more information about their negotiations over stock price warrants.

I think that means oversight worked. So I am pleased to be here today to give you our report, to answer your questions in any way that we can and to talk about alternative approaches to valuing these warrants.

Again, appreciate the invitation to be here and I'm glad to take your questions.

**D. MOORE:** And thank you for your testimony, Professor Warren. We are going to stand in recess until after votes. And I would ask members to come back immediately after votes so we can reconvene these hearing and we'll finish up with the testimony of Mr. McCool and then have questions by the members.

Thank you and I apologize for this interruption of our hearing but we do have to have vote. Thank you very much. We'll see you all in a little bit.

(RECESS)

**D. MOORE:** The hearing will reconvene. I thank you for the witnesses for staying around and for the hearing. And we got back here just as quickly as we could.

Mr. McCool, you're recognized, sir, for five minutes.

**MCCOOL:** Thank you, Mr. Chairman.

Chairman Moore, Ranking Member Biggert, and members of the subcommittee, I'm pleased to be here today to discuss our work on the Troubled Asset Relief Program.

The economic -- I'm sorry, the Emergency Economic Stabilization Act that authorized TARP requires GAO to report at least every 60 days on findings resulting from our oversight the status of actions taken under the program.

My statement today is based on our fifth mandated report issued on June 17th, which follows up on our

previous recommendations and covers the actions taken as part of TARP through June 12, 2009.

Oversight work under the act is ongoing, and our next report will be issued in the next few days and will focus on TARP's loan modification program.

Specifically, this -- my statement today focuses on the nature and purposes of activities that have been initiated under TARP, including repurchases of preferred shares and warrants, and Treasury's efforts to establish a management structure for TARP.

As of July 10, 2009, Treasury had disbursed about \$361 billion of the roughly \$700 billion in TARP funds. Most of the funds, \$204 billion, went to purchased preferred shares and subordinated debentures from over -- of over 650 financial institutions under the Capital Purchase Program.

This program continues to be the Office of Financial Stability's primary vehicle for stabilizing the financial markets. At the same time, the Treasury continues to purchase preferred shares. And institutions -- other institutions have paid over \$70 billion to repurchase shares.

As of July 10th, 12 of the 33 financial institutions that repurchased their preferred shares from Treasury had also repurchased their warrants, and three others had repurchased their warrant preferred stock from Treasury at an aggregate return of about \$80 million.

Although the Office of Financial Stability and its regulators have established criteria for accepting and approving CPP applications, the regulators' criteria for determining when institutions can repurchase preferred stock from Treasury lack adequate transparency.

This is an area in which we made a recommendation in our report for the Treasury, in coordination with the primary regulators, to ensure consistent criteria and the consideration of repurchases.

While Treasury has provided some limited information about the warrant evaluation process, it has yet to provide a level of transparency at the transaction level that would address questions about whether the department is getting the best price for taxpayers.

This is another area in which we recommend that Treasury provide such transparency in the process by publicly disclosing more detailed information about warrant prices. I was pleased to hear Mr. Allison suggest earlier that Treasury seems to be moving forward in that effort.

Although it is unclear whether any institutions will choose to participate in the capital assistance plan, the Federal Reserve did conduct stress tests of the largest 19 bank-holding companies to see how well they would withstand more arduous than expected economic conditions.

While the Federal Reserve disclosed the stress test results, it had no plans to disclose information about the institutions going forward. What information, if any, is disclosed we left to the discretion of the affected institutions, raising a number of concerns, including that the institutions could disclose inconsistent or only selected information.

Moreover, the Federal Reserve had not developed a mechanism to share information with the Office of Financial Stability about the ongoing condition of the bank-holding companies that continue to participate in TARP programs.

For this reason, we made a recommendation to the Federal Reserve to disclose to the public information on the companies against the more -- I'm sorry -- adverse scenario on a going forward basis.

While the Office of Financial Stability has made progress in establishing its management infrastructure, continued attention to hiring remains important, especially within the office of the chief risk compliance officer and the

home ownership group. Those are areas where their hiring has not been up to their -- to what they themselves say or their requirements. We still have a number of vacancies, and they need to fill them as rapidly as they can.

Treasury has also continued to build the network of contractors and financial agents to support TARP administration and have not included a breakdown of cost data by each entity. As a result, Treasury has missed an opportunity to provide additional transparency to its TARP operations. That's another area in which we made a recommendation to Treasury to improve transparency.

Mr. Chairman, Ranking Member Biggert, that concludes my statement. I'm happy to answer any questions.

**D. MOORE:** Thank you, Mr. McCool.

At this time, I'll recognize myself for five minutes of questions.

Professor Warren, once people have had a chance to analyze the transaction, do you have any sense that \$1.1 billion paid by Goldman Sachs will be enough for taxpayers? Do you think we could have received more if Goldman went through a public auction? Are there other policy issues that should be considered?

**WARREN:** I think that -- thank you, Chairman. I think it's a good question.

Using the valuation metrics that we laid out in our report, the Goldman price comes in almost precisely at what we had recommended. I believe the Goldman price was \$1.1 billion. And using our valuation, it would have been \$1.08 billion. So we're -- we're within rounding error on that.

And that certainly increases our confidence that Treasury is using a strong valuation approach here. I do want to say, though, that there are these other issues that lurk in the -- in the sales process. And it's hard to find a substitute for the benefit of a public sale.

A public sale reassures everyone that this is the market price. But I -- I certainly understand Congressman Bachus' point. There are times when we decide that we don't want to delay, we want to be able to move faster. These are costs and benefits, and ultimately policy choices not just for Treasury, but for Congress to weigh in on.

We think, as your oversight panel, the best we can do is outline it. We can give you this independent valuation as we've done and put the factors in front of you, which we've tried to do.

**D. MOORE:** Thank you.

Mr. Barofsky, do you have any different thoughts about that or do you agree with what Professor Warren said?

**BAROFSKY:** I definitely defer to Professor Warren. Her report, her study, I think, was comprehensive. I thought it was very instructive. We haven't done a similar effort.

We do have an ongoing audit that will address different issues, but I would certainly defer to Professor Warren and the panel on this.

**D. MOORE:** And, Mr. Barofsky, another question. I noticed that in addition to your quarterly reports you issued this week, you also concluded the use of funds -- quote, "use of funds" audit that you conducted. What did you learn from that audit? And what steps should Treasury take to increase accountability in the TARP program? And I want to ask you that, sir.

**BAROFSKY:** I think the most important thing we learned is, I think we've definitively proved that, despite the inherent fungibility of money, banks can, when asked, report on how they're using their funds and that they can provide a great degree of transparency and answer that question.

We saw that banks did -- although Treasury, as Mr. Allison noted, does provide lending snapshots each month, that's not the only thing that banks do with their TARP funds. According to the banks themselves, they use it to maintain capital cushions, insurance for a rainy day for future losses. They use it to acquire other financial institutions. They use it to invest in securities, you know, all sorts of different things that -- that our survey helped provide a necessary level of transparency. But it's only part of, you know, our survey was a snapshot as of February. We don't have the resources to do this on a regular basis and our survey was voluntary.

So my recommendation is that Treasury finally adopt our recommendation, require financial institutions who are receiving TARP funds to report on a periodic basis on how they're using the money.

**D. MOORE:** Thank you. And Professor Warren, did you find any connections or parallels with the SIGTARP's use of funds audit and what COP learned when reviewing the lending practices and how it affects American families and small businesses.

**WARREN:** Yes, Mr. Chairman, we did. In our field hearings and our earlier reports, we have documented the constriction in small business lending and the inadequacy of the tools that have been used thus far by Treasury to try to simulate small business lending. We think this is entirely consistent, what we have found and reported on with what it is with Mr. Barofsky has found and reported on through a different mechanism.

**D. MOORE:** My time is up and at this time I'll yield to questions from Ms. Biggert, the ranking chair.

**BIGGERT:** Thank you -- thank you, Mr. Chairman. Mr. Barofsky, in talking about the audit of the warrants and valuation in sales, when can we expect to see this audit?

**BAROFSKY:** You know, we're basically evaluating the timing. When we first launched the audit, it was -- it was unclear when sort of the -- the larger institutions were going to be either repurchasing or going through the auction process. Now that we're seeing some of these repurchases, I think we want to take a look and see what the -- the auction process -- or to be the most useful audit, I think we'd like to see that process be used before we -- we project an end date.

**BIGGERT:** OK. And can you ensure that the -- the audit will not compromise the Treasury Department to negotiate the best possible price for taxpayers? Do you think there's any chance of that happening if the audit is out and they're negotiating?

**BAROFSKY:** With everything that we do including this and any of our audits and really with our recommendations, it's inherent upon us; I think it's very important for us to take into consideration the point that you just raised. And we would never make a disclosure midway through a negotiation, anything that could possibly impact in a negative way on -- on the taxpayers' return.

Our job is to protect the taxpayers' interest and we're very, very sensitive to these types of issues and protecting confidential information to the extent it may impact or be a detriment to the taxpayer.

**BIGGERT:** Thank you. And Professor Warren, the July report issued by COP states that the best manner to sell these warrants on the open market; however, and as my colleague, Mr. Hensarling, stated in his additional views to that report, choosing a one-size-fits-all method does not seem to be the most appropriate method to value these warrants.

Given that each repurchase negotiation will have different circumstances, don't we need flexibility in the process to help determine the best value while getting the taxpayers out of the business of owning bank stocks or warrants?

**WARREN:** Congresswoman, I actually think the report says exactly that; that there should be flexibility. We talk about the advantages to an open market process but we acknowledge that there are circumstances that may differ and I



assumed that is part of the reason that Congressman Hensarling voted for that report. We've -- we had a 5-0 vote on the valuation.

**BIGGERT:** The additional -- there's always additional views that...

(CROSSTALK)

**WARREN:** In which I think he cited the report extensively.

**BIGGERT:** Right. Do you, in determining like fair market value do you use, you know, financial models or is it just a one-size-fits- all? I mean, like Black-Scholes, or is that -- do you take that into consideration?

**WARREN:** Of course. Actually, our financial models are laid out in many, many pages in our report. And as I said in my testimony, they were independently reviewed. The models were independently reviewed by three highly renowned specialists in modeling, all from the Harvard Business School.

**BIGGERT:** Three members of the panel, Representative Hensarling and I think Senator Sununu and Richard Neiman, voiced their support for the administration's and Treasury's stated objective to exit warrant holdings as soon as practical after banks repay the preferred stock. It didn't seem like this point was a stress bell (ph) in the July report.

**WARREN:** Well, I think that it's like so many things. It depends on the cost. There is always a judgment to be made and exiting in the fastest possible in return for getting the lowest cost to the taxpayer, may not be ultimately beneficial. On the other hand, I certainly understand the point about not hanging onto the warrants for 10 years and the political as well as economic implications of that.

So I think the main point in the report was that there are advantages and disadvantages to speed and to going to the market in order to try to sell these warrants. Ultimately though, we did emphasize the point that when there is a market-based auction, no taxpayer needs to wonder what happened behind closed doors or whether the...

(CROSSTALK)

**BIGGERT:** I guess my point is that it -- it seemed like that was the majority and it wasn't really stressed in the report what they said. And -- and next, the panel's press release for the July report contained the headline, So Far Treasury Has Sold Warrants Back at 66 Percent of Panel's Best Estimate of Fair Market Value. And I think that the headline kind of seemed misleading since the banks have all redeemed their warrants -- banks that have redeemed their warrants represent less than 1 percent of the values of all the warrants outstanding. It sounded like there were 66 percent...

(CROSSTALK)

**WARREN:** Actually, I believe the press release makes exactly that point. But let's keep in mind, when that press release was issued the immediate response was that Chase said we'll go to a public auction; Goldman, 11 days later said, we'll sell at the panel's recommended price; and Treasury said we will release more information about our sales process.

If the consequence of this report is to encourage those sorts of responses, then I'm -- I'm very happy about that report.

**BIGGERT:** Yield back.

**D. MOORE:** Thank you. And chair will next recognize Congresswoman Jackie Speier, please.

**SPEIER:** Thank you, Mr. Chairman. I want to thank each of you as being true public servants and incredible guardians of the American taxpayer.

Having said that, I find this discussion very interesting because on the one hand some of my colleagues often call upon us to think about small businesses and lending to small businesses and the fact that we haven't had enough lending to small businesses. And yet we can't seem to get access to information from the banks as to whether or not they are lending to small businesses.

And wouldn't we want to know that? Isn't that what our job is really all about? Now I think we've got to be very practical here. This is an arms-length transaction that goes on between these financial institutions and the U.S. government. And these warrants have value.

Now I think timing has everything to do with our success at maximizing the amount of money we get back for the taxpayers. And it's very clear to me that there are some of these arrangements that aren't going to be profitable; AIG comes to mind as one in particular.

So it's important to us, I think, to maximize profits to compensate for the ones that are -- that are clearly going to be under water forever. And I'm hoping that as you continue to evaluate, if you believe we that we should be holding these assets, these warrants, that we should hold those. It's an arms-length transaction.

If the banks are coming to us now and saying we want you to exercise the -- the option on the warrant or to redeem the warrant. They're saying that because they know that they're on the road to recovery and it's only going to increase in value. So it behooves us to be smart investors right now.

And I would like your opinions on whether or not there is something to be gained by holding onto them? Just because they say they want them redeemed doesn't mean we have to act and redeem them. Our first and only goal should be maximizing the profits for the taxpayers. Your comments?

**WARREN:** Congresswoman, I think you put your finger right on the ultimate policy question here. If that is the only goal and that is what Treasury should be doing, then Treasury should act like any other investor and you are exactly right. They should take these to market when it's appropriate to take them to market. When they make the judgment that they would be better off to hold, then they should hold.

There are those who believe there are alternative considerations. There are those who are deeply concerned about the notion that the federal government holds warrants. We -- we ultimately believe that is the policy choice. There's a difference of opinion on which is the right way to go with these warrants.

And my -- my strong view on it is that we laid this out in our report and ultimately, Congress should advise Treasury about what if -- think, is the right way to go here. Think -- we do this, through this, this hearing process? We want to say that if what they're trying to do is maximize value, we can point out ways that we think that is best accomplished.

If they have other considerations, then let me be blunt, then they should articulate what those alternative considerations are and evaluate how much money is left on the table in order to accommodate. Thank you.

**SPEIER:** Thank you. Mr. Barofsky?

**BAROFSKY:** I could not agree with Professor Warren more. I think that -- that's precisely right. I think that the report brought transparency to the issue. A decision needs to be made and I think the really strong point that Professor Warren made that I can't agree with more is that we need to be upfront in articulating what the policy decision is.

Be upfront with the American taxpayer that we think there's good reason to liquidate these warrants now because for whatever the reasons are, for the benefits of the banks, let the financial institutions off the hook, whatever -- whatever the justification is. But be upfront and honest about what's happening. But I agree with Professor Warren on this.

**SPEIER:** Mr. McCool?

**MCCOOL:** Again, I would agree as well. I mean it's -- there are tradeoffs here and I think that as long as you're transparent about the tradeoffs and everybody should be involved thinking about those tradeoffs in the decision-making process, then I think that's the way it should work.

**SPEIER:** Mr. Chairman, I would just like to point out that, you know, there are people who want to see the TARP fail. They want to be able to say, "I told you so." So there are people, I believe, that are going to make us try and take action that are not necessarily in the best interests of the public because they want to be able to say at the of the process that we should never have done it in the first place.

So I hope that we keep our eye on what's most important here and that is the American taxpayer. I yield back.

**D. MOORE:** I thank the gentle lady for her questions and the witnesses for their responses. Now I next recognize the distinguished Ranking Member of the full Committee Mr. Bachus.

**BACHUS:** Thank you. I think -- I think the theme here could be that oversight worked. I mean, it worked very well. And I think that's always true of accountability or transparency. It normally has a very positive approach.

And I think that one of the confirmations we got today I think that the panel can be proud of is -- is the Goldman, the price, it was exactly, you know, as you say. It was actually \$20 million more than you said and so that maybe can pay for the panel.

You know, this is a panel that actually is going to end up making the taxpayer some money. And I -- you know, often the consumer or the taxpayer is not at the table, you know. And I think they were through this panel.

It's interesting the history is that this was originally a three- page bill without any accountability. Then I think the Congress can take a bow because we put that in there, we put that accountability in there, which was the board (ph). And I think it worked very well.

Let's see. You know, one thing that we always have to -- if we could look in the future and see where the markets and the economy are going it'd be pretty easy to make a call on whether we ought to hold it. Although I personally don't think that the U.S. ought to be sort of investing or speculating in the market which to a certain extent, you know, if you can get a good, fair price, you take it.

Now, you know, if the market dropped 600 points tomorrow and 300 the next day, I would say hold onto them probably. But I, you know, and that is a policy decision that I think the administration probably will have to make. And you know, it'll be with -- there'll be, you know, in 10 years we can probably tell what we should've done.

You know, one thing that did strike me and I heard four or five months ago from a banker in Alabama that he went to a seminar in Georgia and there was a bank there in Georgia wanting to buy any -- saying, if you're for sale, we want to buy you, and they were going to do it with their TARP money.

So you did have 4 percent that made acquisitions. You know, it'd be kind of interesting to maybe go back and take a closer look at that.

And, Mr. Barofsky, I think they're going to probably tell you the truth, because you have the right to prosecute. And you have that reputation that you're a very good prosecutor, so I think that -- that -- now, there will be some, I'm sure, in that number that actually will, you know, the FDIC or other people said, "This is a failing bank," and they probably -- I wouldn't assume that that 4 percent was a bad thing in and of itself.

I think the Treasury has to understand what we have to understand as a member of Congress, and that's that this is the people's money. So there needs to be accountability. This wasn't -- you know, this isn't just a private business

where you're wanting to know about some proprietary thing. This was money that was -- that was taxpayer money.

So I think that -- sometimes I think you can't justify, you know, some sorts of getting information, but I think you can here. And I think you've done a great job.

Let me change gears, Professor Warren. I wrote a letter to you on June 24th. I've looked at some of those questions. Some of them, you know, I'm not sure that -- they're a little harder to interpret. Some time maybe in August, if you could kind of respond to some of those, I'd appreciate it. But I'm not even going to ask you about them now.

But the other thing I'd just thought I'd tell you...

(CROSSTALK)

**WARREN:** ... my apology that you don't have a response...

(CROSSTALK)

**(UNKNOWN):** Well, I wouldn't expect it this -- there's too much going on, you know, with us in session, you know...

**WARREN:** Nonetheless, Congressman, please accept my apology. We've...

(CROSSTALK)

**(UNKNOWN):** I actually don't even think they're due...

**WARREN:** Oh, all right.

**(UNKNOWN):** ... because I don't think -- I don't think it's sufficient time for you to have responded, because the questions are really -- you know, they're going to -- they're going to take a little time.

But I just wanted to (inaudible) one thing I wanted to show you and kind of, at some point, you might give an answer. You know, we're talking about one-page disclosures. And this is actually 15 pages on a card agreement. Now, some of these aren't -- you know, they're just part of the page, but that's what the law requires right now.

So you've got -- you've got quite a job, because you're going to have to almost say, you know, well, we're not going to require this anymore, or maybe some of this you're going to decide to put in small print, but it does show you the challenges you'll face if you get your agency through.

So thank you.

**D. MOORE:** Thank you, sir.

Next, the chair recognizes...

**(UNKNOWN):** I usually ask questions. That's very rare for me not to do that. But there were no questions, because I thought the questions were answered.

**D. MOORE:** Thank you.

The chair next recognizes Congressman Kilroy for five minutes.

**KILROY:** Thank you, Mr. Chairman. I appreciate it.

And thanks, all of you, for your work on helping to look out for the taxpayers issue and to make sure that the values of transparency and accountability are the values that we don't forget as we move further away from the initial infusions of the TARP money.

And each one of you have in your testimony emphasized the importance of transparency. And I would certainly agree with you: Sunshine is a great -- great thing to have in the public sector.

But I also think that, in this instance, that transparency can assist the taxpayers in getting maximum value, maximum return on the investments that they made. And I think the congressional oversight panel report backs that up. It says, "Treasury would be more likely to maximize taxpayer returns if it sold the warrants through auctions. The reason is straightforward. An auction would cause the warrants to be allocated to the buyers willing to pay the highest price, and competitive pressures in the bidding process may push bids up."

Do you agree with that, this statement, Professor Warren?

**WARREN:** I do, Congresswoman.

**KILROY:** Well, I -- I certainly do, as well. And I think that the market and public auctions are certainly a very valid way for setting a price.

We've heard today a lot of talk about Goldman and the value that was received through the negotiation process with Goldman. But not to be too pessimistic or too cynical, but, you know, reports today that the initial offer from Goldman was made several weeks ago, and the initial offer was \$650 million. And that was followed up by a counteroffer by Treasury of some \$900 million and the followed up sometime after that by the release of Goldman's statements indicating how much money they had made, certainly, in part, because of the infusion of money the taxpayers gave them.

And as Goldman's stock prices go up, would you agree that the value of those warrants that the taxpayers were holding would also be going up?

**WARREN:** Yes.

**KILROY:** So then it's certainly maybe not surprising that Goldman increased its offer to the taxpayers and offered to pay \$1.1 billion for the warrants? You agree with that?

**WARREN:** Yes.

**KILROY:** But would you also agree that perhaps, if we allowed it to go to market, that others who might see the same reports about Goldman's recent earnings might think that holding Goldman's warrants, which could be used by them to purchase stock over a pretty lengthy period of time, might be to them worth more than \$1.1 billion and they might make a higher offer than that at public auction?

**WARREN:** That is certainly possible, Congresswoman.

**KILROY:** So, you know, would you agree that the market has a great deal of experience in this issue of setting prices and that Treasury has also experience, in terms of conducting public auctions?

**WARREN:** Yes, Congresswoman.

**KILROY:** And, again, going back to all three of you and your statements, with respect to maximizing value for the taxpayer and being transparent, would you agree that a public auction would be an excellent way to combine and achieve those two -- those two goals, maximizing profits and being transparent?

**WARREN:** Yes, Congresswoman.

**KILROY:** Anybody on the panel have a different view, disagree?

**(UNKNOWN):** I think, in particular, it addresses a lot of the transparency concerns and a lot of the allegations that may be made when there -- when it is a closed-door process.

**KILROY:** And that the goal of restoring public confidence in the markets and having public confidence in our government officials is an important and worthwhile goal, as well, I would think.

Thank you. I yield back.

**D. MOORE:** I thank the gentlelady.

The chair now recognizes Mr. McHenry, Congressman McHenry, for five minutes.

**MCHENRY:** Thank you, Mr. Chairman.

Thank you all for testifying, and sorry for the length of the day. It's long for all of us.

Obviously, Mr. Barofsky, I heard from you yesterday in front of the Oversight and Government Reform Committee, which I'm a member of.

Ms. Warren, in terms of your panel, the Congressional Oversight Panel, what's your budget?

**WARREN:** We -- I can tell you how much we've spent. We actually...

(CROSSTALK)

**MCHENRY:** Is there a budget allocation?

**WARREN:** No, we don't have a budget allocation.

**MCHENRY:** How much have you spent?

**WARREN:** We've spent \$2.7 billion -- million, sorry. I'm -- you can tell the world I've been dealing in.

**MCHENRY:** Two-point-seven million. Where did that money come from? Is it out of TARP or is it out of Treasury?

**WARREN:** No. It comes from -- from the Senate and from the House. It comes from you.

**MCHENRY:** OK. How is that allocated?

**WARREN:** I'm -- I'm sorry, Congressman.

**MCHENRY:** Basically, you just spend whatever you want and send the bill to Congress? I mean, that's -- how is that allocated?

**WARREN:** Well, we go through the process, for example, of hiring and getting your approval.

**MCHENRY:** How many people can you hire, are you authorized to hire?

**WARREN:** We -- we can hire as many as we need. We've hired about 20.

**MCHENRY:** OK, that's enough. I think it just shows that we don't have a -- there isn't a clear budget.

**WARREN:** No.

**MCHENRY:** Mr. McCool, is that -- is that a fair assessment, there's not been a -- an appropriations for this committee?

**MCCOOL:** I don't really know, Congressman.

**MCHENRY:** Huh. This is quite a challenge.

Mr. Barofsky?

**BAROFSKY:** Congressman, we've got the TARP to look after. We haven't looked into the funding for the congressional oversight panel.

**MCHENRY:** OK.

**BAROFSKY:** Our funding I certainly could speak on if you'd like.

**MCHENRY:** Oh, absolutely. The inspector general's office is an appropriation, yes.

Mr. McCool, in terms of your panel meetings...

**WARREN:** Sorry.

**MCHENRY:** Sorry. Ms. Warren?

**WARREN:** I just -- I'm sorry. I thought you said Ms. McCool, so I lost who you were talking to. I'm sorry.

**MCHENRY:** It's late in the day. I don't have much time.

So, Ms. Warren -- yes -- all right, is it true you have regular panel meetings?

**WARREN:** Yes, we do, Congressman.

**MCHENRY:** OK. Are those publicly disclosed?

**WARREN:** The fact that we have the meetings? Yes, Congressman.

**MCHENRY:** No, actually, the panel meetings.

**WARREN:** We have -- we have business working meetings that are not public meetings.

**MCHENRY:** So you have the panel of how many members?

**WARREN:** We have -- well, we had a five-member panel. Since Senator Sununu has resigned, we now have a four-member panel.

**MCHENRY:** OK, so...

**WARREN:** I presume it will be five members again...

(CROSSTALK)

**MCHENRY:** ... when you meet in session for the purposes of transacting business, is that open to the public?

**WARREN:** We have working meetings that are not open to the public.

**MCHENRY:** OK. Do you have a transcript or minutes of that meeting?

**WARREN:** I don't have a transcript or minutes. It has -- it has been recorded by...

**MCHENRY:** Is a transcript...

**WARREN:** ... It is recorded by the Senate recording office. But, no, Congressman, I have not seen a transcript.

**MCHENRY:** OK. Is a transcript available of your meetings?

**WARREN:** Publicly?

**MCHENRY:** For members of Congress. Is that available for your meetings?

**WARREN:** It's not available publicly, no, Congressman.

**MCHENRY:** I'm a member of Congress.

**WARREN:** Oh, I'm sorry.

**MCHENRY:** And am I able to get a copy of the transcript of your meetings?

**WARREN:** I believe our transcripts are held in our office. And if you wanted to send someone over to read them...

**MCHENRY:** Would that be available?

**WARREN:** ... I believe you would be able to read them...

**MCHENRY:** OK.

**WARREN:** ... if you wish to do that, Congressman.

**MCHENRY:** So you'll make that available for members?

**WARREN:** If you -- if you wish to come to our offices to read it, we would -- we would supply it for you.

**MCHENRY:** Why are the transcripts not available to the public?

**WARREN:** These are working meetings of the panel. And we discuss a great deal of confidential information, and so they were never public from the beginning.

We do hold -- I should remind you, Congressman -- we do hold public hearings, and those are...

(CROSSTALK)

**MCHENRY:** Is this executive session, which you have these -- this is what's interesting to me. You're an oversight panel...

**WARREN:** Yes.



**MCHENRY:** ... yet you don't disclose your meetings and what happens and what transpires in these meetings and the decisions you make, the votes you take. Are there votes taken at these meetings?

**WARREN:** There are sometimes votes taken.

**MCHENRY:** So we don't even know what the votes are, much less, you know, how this report was created with this panel. So there is no disclosure from the oversight committee.

**WARREN:** Actually...

**MCHENRY:** Do you think that's perplexing or strange?

**WARREN:** Well, we -- we have working meetings where we discuss confidential information. We issue a public report every 30 days, and the report on that vote is made public every 30 days. And each of the members is entitled as part of that process to add additional views if they wish to do so.

**MCHENRY:** I think it's quite perplexing that an oversight panel wouldn't disclose their meetings. Even you can redact confidential information. That's certainly in your capacity, which is done throughout government.

But it seems like this is very removed from the public and -- and -- and pretty -- pretty non-transparent for a board that is demanding transparency from TARP funds and the Treasury in general. Do you find that problematic?

**WARREN:** Well, what I would find...

**MCHENRY:** If you could -- if she would be able to finish.

**WARREN:** I would find it quite problematic if we discussed sensitive information about TARP recipients, about the inquiries and the lines of inquiry that we were pursuing, and that were a matter of public speculation as soon as we finished saying it.

I -- I -- my sense is, we need an opportunity to work together, and that's what we try to do, but we issue public reports every 30 days and hold public hearings at least once a month.

**D. MOORE:** Thank you for the questions, Mr. McHenry.

And, next, the chair will recognize Mr. Christopher Lee for five minutes.

**LEE:** Thank you, Mr. Chairman.

Mr. Barofsky, I'd just like to ask a question. I'm going to yield some of my time. But just to follow up on some of the discussion we had on the first panel with Mr. Allison, it had been mentioned that some companies had been getting mixed signals, mixed answers in terms of what's coming out of Treasury and the requirements for paying back the payments or purchasing the warrants, I guess, what the regulations or stipulations might be for that. There's some frustration.

And the work that your office has done or seen, have you found that the government or Treasury has been very clear in terms of what it's actually demanded for repayment of those funds? Or has it been foggy? Just curious what your perspective might be on that.

**BAROFSKY:** With respect to the warrants, our audit is pending and ongoing, so I'm -- I'm not really prepared at this time to give a -- a -- you know, sort of a conclusion that would come out of that audit. So it's a little bit premature for me to answer that question.

**PAULSEN:** OK. And I -- I also heard from, you know, some of the small business community about the way the stimulus or the TARP funds have been distributed or handled.

You know, the committee had a hearing yesterday on the whole issue of too big to fail -- the full committee -- and one of the things that we think we've missed is part of the whole too small to save or the concept of the small community banks or small business, but the impact has been on them for the majority of those funds have gone to the larger institutions.

But after about six months now, we've seen the administration has started now finally to talk about actually looking at the small business angle and focusing more on that in that direction, which I think is smart and prudent.

And is you know, I think at the first kind of go-around earlier this year, we had an amendment that was before this committee that would have added authorizing legislation that would have required you to report on small business activity as well as a part of, you know, special inspector general's obligations on the next report.

Is that something you think you could look at including in your next report, just kind of including some measures on small business rectification in the TARP or small financial institutions?

**BAROFSKY:** I think it would be -- what we could do is -- is with the information that we already have perhaps from the survey on what banks are doing with respect to small -- what they're -- what they're saying, we don't really have the resources or mechanism to do exactly what you're saying.

It really falls on Treasury. I mean, that is -- that is a basic part of Treasury's, I think, obligations under -- under the -- the concept of transparency. They should be doing that assessment and making that information available.

It really goes to the heart of our transparency recommendation about use of funds. How are -- how are the institutions using the funds with respect to small businesses and reporting on in -- in their transaction report how -- what their steps are that they are taking for small businesses?

I'd be happy to -- to work with you and your staff and have my staff talk to you. If we could think out some other ways where we could contribute to that transparency, we're always open to suggestions and -- and would look forward to following up with you on that.

**PAULSEN:** Well, I appreciate it. And I -- I do want to commend you for your work. And you've been very helpful, I know, to the members on this committee.

And I'd just like to yield the balance of my time, Mr. Chair, if I could, to Mr. McHenry.

**MCHENRY:** Thank you. I thank my colleague from Minnesota for yielding.

Ms. Warren, just to follow up on this again, the fact that there is an unknown budget that hasn't been allocated, and to my knowledge from the legislative branch appropriations, there wasn't a line item for that, and I would ask GAO and I would ask SIGTARP if -- if you all could take a look at that and -- and perhaps answer how that actually works, it's the chair doesn't know.

**MCCOOL:** I'm -- I'm -- I can't...

**MCHENRY:** Additionally, Ms. Warren...

Well, I -- I know you don't have (inaudible). My -- my apologies.

**MCCOOL:** I'm actually prohibited by statute from doing that, so...

**MCHENRY:** OK. Good. Well, it's late in the day, so obviously I'm missing a few things here.

But, Ms. Warren, you've testified before this committee about the Consumer Financial Protection Agency. That's last month, right?

**WARREN:** Yes, Congressman.

**MCHENRY:** OK. And I also saw a YouTube video, and I think a few thousand others saw it as well, and your advocacy for CFPA, right?

**WARREN:** Yes, Congressman.

**MCHENRY:** And is that a part of your official role as head of the Congressional Oversight Panel?

**WARREN:** No, it's part of my role as a professor at Harvard Law School.

**MCHENRY:** OK. So that's done to your official resources at Harvard?

**WARREN:** Yes, it is.

**MCHENRY:** OK.

**WARREN:** And through my personal resources, I should say. I wrote a check for it.

**MCHENRY:** OK. Well, YouTube is actually pretty cheap...

**WARREN:** A personal check.

**MCHENRY:** ... so thankfully.

**WARREN:** No, I mean I wrote a check for the -- for the -- the out-of-pocket expenses to be able to produce the video.

**MCHENRY:** Oh, OK. You got a producer. That's good. No, I understand.

**WARREN:** A person who helps someone.

**MCHENRY:** It's YouTube. I understand. But, you know, and I -- there is a lot of conjecture that you'd be the head of the CFPA if Congress does pass that. But no official resources under the Congressional Oversight Panel or staff has been used in your advocacy?

**WARREN:** No (inaudible).

**MCHENRY:** OK. Good to know. Thank you.

And I yield back.

**D. MOORE:** Thank you.

Next, the chair will recognize Mr. Lee for five minutes.

**LEE:** Thank you.

Before I start, I do want to thank everybody for your -- all three of you for the support and what you're trying to do to protect the taxpayers in the oversight. It's very commendable.

And I'll -- I'll start with the Mr. Barofsky. We've had a chance to meet in the past, and again has been very accessible, and I appreciate what you've been doing.

Again, one thing that does scare me, however, is the fact that over -- or under your oversight at risk I heard numbers anywhere between \$2.3 trillion to \$2.8 trillion and that the total potential support government-wide in response to the crisis since '07 could reach close to \$24 trillion. Are those numbers fairly accurate?

**BAROFSKY:** Yes. I have to explain the -- the \$24 trillion, though, to put it in context. What -- what we did in our report is in -- in Section III we gave a summary of about 50 different support programs outside of the TARP. And for each of those programs we calculated how much is currently outstanding, what the high water mark was since -- since the inception, and then what the maximum amount that the -- the government has said it would commit to each of those programs.

So the amount outstanding is about \$3 trillion. The high water mark was about \$4.7 trillion. And the \$23.7 trillion -- that represents that if everything was maxed out at once. It's -- it's not likely that that would -- that would ever occur, but I just I just want to put that caveat on there.

**LEE:** Not likely, but a scary number altogether.

**BAROFSKY:** But it is absolutely an accurate number of what the government is committed to do to support the financial system.

**LEE:** Well, in -- in June the Congressional Budget Office scored the TARP at a loss of taxpayers to roughly \$160 billion. We're writing off billions in loans to GM, Chrysler, yet it's unclear to me what we are doing with the funds being repaid by TARP recipients.

In letters to the secretary of the treasury and to the president, which to my knowledge have at this point been gone unanswered, many of us on this panel, led by my colleague McCarthy out of California, have advocated for those repayments to be used specifically to reduce the national debt. And others want to recycle these funds and use them for other programs, some of which are brand new.

I'm curious. From your perspective, do you believe it's in the best interest of the taxpayer to take TARP repayments to pay down the debt?

**BAROFSKY:** Our perspective is really a legal one, and I think legally Treasury's treatment of taking any interest or dividend and -- or profit -- direct them to reduction of the national debt is very clearly what's compelled by law under EESA.

The principal repayment the Treasury does -- its position, and we think that is consistent with the law, is to have the option to re-let that money out up to a maximum of \$700 billion as long as TARP is in existence.

**LEE:** Well, it's in your...

**BAROFSKY:** As long as -- as long as EESA is -- permits them to do so, which is right now to the end of the year.

**LEE:** We -- the part that I keep hearing from people -- taxpayers -- that we take the money back, and then we throw it out there, keep adding more risk. And eventually, the -- the debt obligation that we have is -- it's staggering.

I'm just curious. Ms. Warren, from your -- your point, you've also been an advocate on behalf of consumers -- i.e., the taxpayers. I'm curious whether you think the taxpayer is better served by paying down the debt or spending TARP for other purposes.

**WARREN:** Well, I -- I think, Congressman, this is really a policy choice that Congress should be making. And

the legislation is ambiguous on this point, and Treasury has made its position clear that it's going to use the headroom analogy that Mr. Allison talked about.

So if Congress wants something different, then Congress is going to have to pass legislation, I think, to change that.

**LEE:** With that, I'm going to yield back. Thank you.

**D. MOORE:** Ms. Bachmann, you are up for questions, please?

**BACHMANN:** Mr. Chairman, thank you.

And I agree. Thank you all for being here. I agree it's -- it's a long day, but you've all been very responsive, and we appreciate the great information that you've made available to us.

I was curious. I was listening to the previous line of questioning on meetings. And help me. Did I understand correctly? And I guess this would be Ms. Warren.

You had mentioned if a member of Congress requested a transcript of one of the meetings of the panel, we could get it. Is that true? Or maybe I didn't understand.

**WARREN:** You know, Congresswoman, I was surprised by the question, so let me -- let me articulate more clearly. We don't have official transcripts.

Unlike your circumstances where there are published transcripts -- members go back and then correct the language, we identify who spoke and who did not speak -- we have no verified transcript. We have no official transcript.

We have typing that comes back from someone who listened to our tapes, who is not part of our panel, not part of this process, and no one has verified the accuracy of any part of it.

**BACHMANN:** So then the meetings that you have that are not the field hearings, where it's the four -- I guess it's four members now -- it was five members -- when the five members meet or when the four members meet, are those meetings recorded?

**WARREN:** We have working meetings that have been recorded.

**BACHMANN:** So those meetings are recorded. So are they transcribed? Or are they just in recorded form?

**WARREN:** They're -- they're in recorded form. And as I understand, there is a transcription service.

**BACHMANN:** So we can get those transcribed.

**WARREN:** Well...

**BACHMANN:** It's possible for us to have the transcription of those meetings.

**WARREN:** I -- I actually I -- I have not considered this question, because no one had asked. And I am a little hesitant to commit my co-panelists to a process, when these are unverified transcripts. That is, something may be attributed to someone who is not there...

**BACHMANN:** Well, and that I think...

**WARREN:** ... has never been verified, so I assume I would...

**BACHMANN:** I think that's something that I would want to know as a member of Congress. If -- if the panel is meeting as the panel, whether it's the five or the four, and if the meetings are recorded, it seems to me that they could be transcribed. And I don't know what the verification process is.

The reason why I'm asking is because I have learned yesterday that two requests were made to access those transcriptions and that those requests were not honored.

And I -- I have no reason to doubt the calls for transparency and that the Treasury Department wants to be transparent. I have no reason to doubt that at all. But it seems to me that that's in conflict if on the one hand the Treasury Department is saying they want to be transparent.

On the other hand, why can't we as members of Congress at least receive transcribed copies -- or even if we members of Congress can't receive a copy, couldn't the members of the panel that sit on the panel receive the copies of the transcribed -- of the recorded meetings?

**WARREN:** Congresswoman, you may be aware this is a matter of some discussion within the panel, and the panelists themselves have different views on it, and those views are currently under discussion. We have been trying to work out something that is congenial to all of the panelists.

But I have to emphasize these are working meetings, where we discuss lines of inquiry that we are taking oversight.

**BACHMANN:** No, I understand that, and I understand Congressman McHenry said that it's possible to redact material. One thing I had wondered, and I guess this is a little off point, but does the Congressional Oversight Panel have a phone number?

**WARREN:** I -- I believe we do.

**BACHMANN:** You do. OK. Very good. And can we get it?

**WARREN:** I -- certainly.

**BACHMANN:** OK. So then we would be able to call and make that request for the transcript for -- for the recording or the transcription -- potentially.

**WARREN:** As -- as I said to Congressman McHenry, I believe it would be the case. And I -- I really must add the qualification I am, as I said before, I am not the entire panel. I have three co- panelists.

**BACHMANN:** So no decision has been made. No decision has been made about the transparency of those hearings. We know that they aren't put up on the public for record, but no decision has been made? It just seems to me odd that we -- that it's the commitment is transparency, that we wouldn't be able to actually receive those hearings, that votes are made in those hearings.

**WARREN:** As I've said, Congresswoman, these are working meetings. I think perhaps the correct analogy would be a congressional committee.

**BACHMANN:** Well, what's the difference between a working meeting and like a -- and any other meeting? What would be the difference?

**WARREN:** Then there are public meetings, where we do not discuss matters that wouldn't -- that should not be in the public domain.

**BACHMANN:** But aren't these public meetings?

**WARREN:** No, they are not.

**BACHMANN:** They're -- they're meetings of the committee. They're -- they're formal meetings of the committee members, right?

**WARREN:** These are -- these are working meetings. I don't know what formal meetings. These are working meetings...

**BACHMANN:** Well, they're meeting as a committee.

**WARREN:** ... where the panelists...

**D. MOORE:** The gentlewoman's time has expired. And I will advise the members that if they have additional questions or other questions and would like to pursue this, you certainly have a right to submit that in writing.

**MCHENRY:** Mr. Chairman?

**D. MOORE:** Without objection, the hearing record will remain open for 30 days for all members to submit written questions and have the response to any questions put in there.

**MCHENRY:** Mr. Chairman, if I -- if I may just -- I wanted to clarify what the witness said in answer to my question versus Congresswoman Bachmann. And I want to make sure that's -- I have the correct understanding. If...

**D. MOORE:** Sir, we've got another meeting scheduled for this room at 5:30, so I'm going to deny the gentleman's request. And I'll ask...

**MCHENRY:** Well, parliamentary inquiry.

**D. MOORE:** You have a right to submit written questions, and they will be answered within 30 days.

**MCHENRY:** Parliamentary inquiry.

**D. MOORE:** Yes, sir?

**MCHENRY:** Is there a -- at what point will a transcript of this meeting be available?

**D. MOORE:** I don't know that we have a transcript of this meeting.

**FRANK:** Yes, there'll be one. I don't know how long. We (inaudible). We got a pretty hard-working staff here. It seems to me we have a lot of hearings. But I would say this. Rather than wait for a whole transcript, if there's a particular piece that the gentleman's concerned about, we could have the stenographers prepare that piece for him.

**MCHENRY:** Thank you.

**FRANK:** So a whole transcript may -- may take a while, but a particular piece, we could break it out. So if you would designate to the staff what you want to look at so you could formulate your question based on that, you can get it tomorrow.

**MCHENRY:** OK.

Thank you, Mr. Chairman.

Thank you, Mr. Chairman.

**D. MOORE:** And again, I just want to thank all the witnesses for the testimony this afternoon. I think this gives us a better understanding of how the TARP process works. We need to continue to keep pressing for taxpayer protection throughout TARP. And I look forward to both working with Republicans and Democrats -- these issues should not be partisan at all; we're all in this together -- as well as the Treasury Department and TARP oversight organizations to finish this. And I thank again the witnesses. The hearing is concluded.

END

**LOAD-DATE:** August 6, 2009