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*"Rummaging in the government's attic"*

Description of document: Special Inspector General for the Troubled Asset Relief Program (SIGTARP) records provided to Senator Charles E. Grassley and Senator Tom Coburn concerning the independence of the Inspector General necessary to promote efficiency and prevent fraud, waste and abuse in agency programs, in response to the Senators' inquiry, 2011-2012

Requested: 14-April-2012

Released date: 09-September-2014

Posted date: 23-February-2015

Source of document: Freedom of Information Act Request  
Department of the Treasury  
Washington, DC 20220  
<https://www.treasury.gov/foia/pages/gofoia.aspx>

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/6docs/GrassleyCoburn.htm>

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**OFFICE OF THE SPECIAL INSPECTOR GENERAL**  
**FOR THE TROUBLED ASSET RELIEF PROGRAM**  
1801 L STREET, NW  
WASHINGTON, D.C. 20220

Re: FOIA 2014-06-114  
September 9, 2014

This is the final response to your Freedom of Information Act (FOIA) request to the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), dated May 24, 2014. You requested a copy of the "... the list of investigations closed during calendar year 2013." This release also responds to your April 14, 2012 request for "... A copy of each biannual response to Senator(s) Grassley and Coburn regarding their April 8, 2010, request to SIGTARP, to provide a summary of your non-public management advisories and closed investigations."

In response to your request, SIGTARP searched its system(s) of records and identified fifty-six pages of information responsive to your request.<sup>1</sup> This is a full grant of your request and the information is provided without excision. Therefore we are closing your request with this office.

Sincerely,

Michael Bowers  
Government Information Specialist

Enclosures (2):  
Request Dated 05-24-14  
Request Dated 04-14-12

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<sup>1</sup> Please note that the June 26, 2014 letter, while technically outside the scope (date range) of your request, it is included as a proactive disclosure.



OFFICE OF THE SPECIAL INSPECTOR GENERAL

FOR THE TROUBLED ASSET RELIEF PROGRAM

1801 L STREET, NW

WASHINGTON, D.C. 20220

JUN 26 2014

Honorable Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Tom Coburn, Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

Thank you for the opportunity to provide additional information concerning the independence of Inspectors General. This letter provides an update to the information requested in your April 8, 2010, letter as communicated by Chris Lucas to the Council of Counsels to Inspectors General (CCIG). This update covers the period of October 1, 2013 through March 31, 2014. The original letter requests: (1) information regarding "any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;" (2) "biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;" (3) immediate notification "if any federal official threatens and/or otherwise attempts to impede [our] office's ability to communicate with Congress;" and (4) a courtesy copy of our most recent response (June 27, 2013) to the request of Chairman Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all "outstanding recommendations that have not been fully implemented."

Regarding your first request, the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") works with Treasury to resolve any issues that might affect oversight and access. We have resolved any issues we have had and, to date, we have received the information and interviews we have requested. Should the need arise, we have and will continue to raise such issues with the appropriate Congressional oversight committees.

With respect to your second request, following communications with your staff, the Council of the Inspectors General on Integrity and Efficiency ("CIGIE") has advised us that Privacy Act-protected information or specific personal identifiers is not being requested.

Senators Grassley and Coburn  
June 26, 2014  
Page 2

Accordingly, enclosed as Exhibit A is a list of our closed investigations that have not been publicly disclosed.

Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you.

Pursuant to your fourth request, enclosed is a courtesy copy of our most recent response to Chairman Issa's request for information on pending recommendations.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,



CHRISTY L. ROMERO  
Special Inspector General

Enclosures

## **Exhibit A**

1. Case was opened to investigate allegations of a purported mortgage modification scam related to the Home Affordable Modification Program (HAMP).
2. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.
3. Case was opened to investigate allegations that loan recipients purportedly made false statements to a TARP recipient bank.
4. Case was opened to investigate allegations that a company purportedly offering a principal reduction program was falsely touting its involvement in Treasury's Public Private Investment Program (PPIP).
5. Case was opened to investigate allegations that loan recipients purportedly submitted false documents to a consortium of TARP recipient banks.
6. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.
7. Case was opened to investigate allegations that individual was purportedly selling fraudulent mortgages to TARP recipient banks.
8. Case was opened to investigate allegations of purported fraud by an officer of a TARP recipient bank.
9. Case was opened to review allegations of purported loan frauds resulting in losses to a TARP recipient bank.
10. Case was opened to investigate allegations that a company purportedly was fraudulently marketing pools of properties foreclosed by Fannie Mae to investors, obtaining money from several investors for these properties, and falsely claiming to be associated with PPIP.
11. Case was opened to investigate allegations of a purported misappropriation of funds by a contractor retained to provide funding to distressed homeowners pursuant to Treasury's Hardest Hit Fund Program (HHF).
12. Case was opened to investigate allegations that investors were purportedly being defrauded in a Ponzi scheme investment fraud and that a TARP recipient bank suffered a loss as a result of the scheme.

13. Case was opened to investigate allegations that investors were purportedly being defrauded in a Ponzi scheme investment fraud that was financed through a TARP recipient bank.
14. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.
15. Case was opened to investigate allegations that a mortgage company purportedly defrauded Treasury through the PPIP.
16. Case was opened to investigate allegations of purported bank and mortgage fraud victimizing TARP recipient banks.
17. Case was opened to investigate allegations that a law firm purportedly committed fraud during the process of handling loan modifications under HAMP.
18. Case was opened to investigate allegations of purported fraud by an officer of a TARP recipient bank.
19. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.
20. Case was opened to investigate allegations that a firm purportedly lied to investors about the quality of Residential Mortgage Backed Securities causing losses to a TARP recipient.
21. Case was opened to investigate allegations of a purported mortgage modification fraud scam related to HAMP.
22. Case was opened to investigate allegations of purported fraudulent activity by an investment firm in the Term Asset-Backed Securities Loan Facility (TALF).
23. Case was opened to investigate allegations of purported fraud by officers of a TARP recipient bank and officers of a wholesale mortgage lending company doing business with the bank.
24. Case was opened to investigate allegations of purported fraud by a former director of a TARP recipient bank.
25. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.
26. Case was opened to investigate allegations of a purported mortgage modification scam related to HAMP.

27. Case was opened to investigate purported false statements by an interviewee to SIGTARP during the course of a SIGTARP audit.







**OFFICE OF THE SPECIAL INSPECTOR GENERAL**

**FOR THE TROUBLED ASSET RELIEF PROGRAM**

**1801 L STREET, NW**

**WASHINGTON, D.C. 20220**

**FEB 4 2014**

Honorable Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Tom Coburn, Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

Thank you for the opportunity to provide additional information concerning the independence of Inspectors General. This letter provides an update to the information requested in your April 8, 2010, letter as communicated by Chris Lucas to the Council of Counsels to Inspectors General (CCIG). This update covers the period of April 1, 2013 through September 30, 2013. The original letter requests: (1) information regarding “any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;” (2) “biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;” (3) immediate notification “if any federal official threatens and/or otherwise attempts to impede [our] office’s ability to communicate with Congress;” and (4) a courtesy copy of our most recent response (June 27, 2013) to the request of Chairman Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all “outstanding recommendations that have not been fully implemented.”

Regarding your first request, the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”) works with Treasury to resolve any issues that might affect oversight and access. We have resolved any issues we have had and, to date, we have received the information and interviews we have requested. Should the need arise, we have and will continue to raise such issues with the appropriate Congressional oversight committees.

With respect to your second request, the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) advised us that they have been communicating with your staff to

Senators Grassley and Coburn  
February 4, 2014  
Page 2

clarify what was needed. CIGIE further advised that your staff explained that you do not want Privacy Act-protected information or specific personal identifiers, but rather you require only relevant, summary information. Accordingly, enclosed as Exhibit A is a list of our closed investigations that have not been publicly disclosed.

Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you.

Pursuant to your fourth request, enclosed is a courtesy copy of our most recent response to Chairman Issa's request for information on pending recommendations.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,



CHRISTY L. ROMERO  
Special Inspector General

Enclosures

## **Exhibit A**

1. Case was opened to review allegations of improper accounting at a TARP recipient bank causing the seizure of the bank by the FDIC.
2. Case was opened to investigate allegations relating to TARP recipient that certain reinsurance agreements were kickbacks being paid to the banks in exchange for the referral of mortgage insurance business.
3. Case was opened to investigate allegations relating to a TARP recipient that unregistered agents sold deceptive insurance products and made false statements to insurance regulators to avoid scrutiny and avoid payment of extra market charges and taxes.
4. Case was opened to proactively review potential Mortgage Modification Scams.
5. Case was opened to review allegations that an employee of an authorized HAMP modification servicing firm accepted upfront fees and misled homeowners.
6. Case was opened to review allegations that a TARP recipient bank intentionally concealed financial reports from the Treasury Department or bank regulators
7. Case was opened to review allegations that a TARP recipient bank President caused the bank to make loans to straw buyers and failed to report non-conforming loans to the Bank Board.
8. Case was opened to review allegations that a TARP recipient bank's majority stockholders and senior leadership conducted stock offerings, after the receipt of TARP funds, for their own personal financial benefit.
9. Case was opened to review allegations that investors were being defrauded in a Ponzi scheme investment fraud and that a TARP recipient bank suffered a loss as a result of the scheme.
10. Case was opened to review allegations of insider trading on the part of the managing partner of a hedge fund. The trades involved occurred through accounts located in a TARP recipient bank.
11. Case was opened to review allegations that subject operated a Ponzi scheme in which investor funds were transferred for personal use, including the purchase of a vacation home that was financed with a mortgage from a TARP recipient bank.
12. Case was opened to investigate allegations that an investment banking firm made misleading representations in marketing of their residential mortgage backed securities to another firm impacting a TARP recipient.
13. Case was initiated to investigate allegations related to HAMP servicer.





OFFICE OF THE SPECIAL INSPECTOR GENERAL  
FOR THE TROUBLED ASSET RELIEF PROGRAM

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WASHINGTON, D.C. 20220

JUL 19 2013

Honorable Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Tom Coburn, Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

Thank you for the opportunity to provide additional information concerning the independence of Inspectors General. This letter provides an update to the information requested in your April 8, 2010, letter as communicated by Chris Lucas to the Council of Counsels to Inspectors General (CCIG). This update covers the period of October 1, 2012 through March 31, 2013. The original letter requests: (1) information regarding "any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;" (2) "biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;" (3) immediate notification "if any federal official threatens and/or otherwise attempts to impede [our] office's ability to communicate with Congress;" and (4) a courtesy copy of our most recent response to the [April 29, 2011,] request of Chairman Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all "outstanding recommendations that have not been fully implemented."

Regarding your first request, the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") works with Treasury to resolve any issues that might affect oversight and access. Last year, we notified the House Oversight and Government Reform Committee regarding difficulty we were experiencing interviewing former Treasury employees in our audit relating to the Department of the Treasury's role in General Motors decision to "top-up" Delphi Corporation's pension plan for hourly workers. The individuals only agreed to be interviewed by SIGTARP after a Congressional hearing and SIGTARP then conducted the interviews.

Hon. Charles Grassley and Hon. Tom Coburn  
July 19, 2013  
Page 2

Should the need arise, we have and will continue to raise such issues with the appropriate Congressional oversight committees.

With respect to your second request, the Council of the Inspectors General on Integrity and Efficiency ("CIGIE") advised us that they have been communicating with your staff to clarify what was needed. CIGIE further advised that your staff explained that you do not want Privacy Act-protected information or specific personal identifiers, but rather you require only relevant, summary information. Accordingly, attached as Exhibit A is a list of our closed investigations that have not been publicly disclosed.

Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you.

Pursuant to your fourth request, attached is a courtesy copy of our most recent response to Chairman Issa's request for information on pending recommendations.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,



CHRISTY L. ROMERO  
Special Inspector General

Attachments

## **Exhibit A**

### **CPP Fraud**

Case was opened to review an allegation that a bank borrower defrauded a TARP recipient bank by providing fictitious financial statements and false tax returns.

### **Mortgage Modification Fraud**

Case was opened to review an allegation that a company provided false information to clients regarding their affiliation to HAMP.

### **CPP Fraud**

Case was opened to review an allegation that a bank borrower may have defrauded a TARP recipient bank through a short sale scheme and by omitting material financial information on his loan application.

### **Mortgage Modification Fraud**

Case was opened to review an allegation that several mortgage modification related websites were illegally using the Treasury seal and falsely representing affiliation with HAMP.

### **Making Homes Affordable Program Fraud**

Case was opened to review allegations that an authorized HAMP modification servicing firm defrauded and misled homeowners.

### **Mortgage Modification Fraud**

Case was opened to review allegations of improper enrichment from HAMP mortgage modification fees, as well as improperly foreclosing on homeowners.

### **CPP Fraud**

Case was opened to review allegations that there were material changes in a TARP bank's financial condition in the quarters prior to receipt of TARP funds.

### **CPP Fraud**

Case was opened to review alleged concerns related to deterioration in a TARP applicant bank's asset quality.

### **CPP Fraud**

Case was opened to review allegations of possible misrepresentation related to increases in TARP bank's troubled assets beginning in the immediate post-TARP period.

### **PPIP Fraud**

Case was opened to review allegations of potential false statements to Treasury officials/representatives in securing a position as a PPIP manager.

### **CPP Fraud**

Case was opened to investigate allegations that high level bank officials concealed the true troubled condition of the bank from bank regulators in an attempt to obtain TARP funds.

PPIP Fraud

Case was opened to review allegations that a mortgage company may have defrauded Treasury through the PPIP program.

CPP Fraud

Case was opened to investigate allegations that high level bank officials concealed the true troubled condition of the bank from bank regulators to obtain CPP Funds.

CPP Fraud

Case was opened to review allegations that bank personnel intentionally concealed or misrepresented material facts from the Treasury Department or bank regulators in order to obtain TARP funds.

CPP Fraud

Case was opened to review management's handling of the TARP bank's loan portfolio, including on-going loan downgrades, inadequate earnings performance and rapidly deteriorating capital levels.

MHA Fraud

Case was opened to investigate an alleged mortgage modification fraud.

MHA Fraud

Case was opened to investigate an alleged mortgage fraud scheme involving short sales, foreclosures, and bank fraud.

MHA Fraud

Case was opened to investigate an alleged mortgage modification fraud.

CPP Fraud

Case was opened to investigate allegations of executive compensation issues and misrepresentations by the bank.

HHF Fraud

Case was opened to investigate allegations of unlawful, fraudulent and wasteful practices in the Hardest Hit Fund program.

MHA Fraud

Case was opened to review allegations of mortgage modification fraud.

CPP Fraud

Case was opened to review an allegation that loans were improperly made to associates of the majority shareholder of the bank.

CPP Fraud

Case was opened to review allegations regarding the U.S. Government's interest in Chrysler.

MHA Fraud

Case was opened to review allegations of mortgage modification fraud.



**CPP Fraud**

**Case was opened to review allegations that a former TARP bank employee accepted kick-backs from a bank customer to delay collection procedures on a delinquent loan.**





**OFFICE OF THE SPECIAL INSPECTOR GENERAL**

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**1801 L STREET, NW**

**WASHINGTON, D.C. 20220**

**JUL 26 2012**

Honorable Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Tom Coburn, Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
340 Dirksen Senate Office Building  
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Dear Senators Grassley and Coburn:

Thank you for the opportunity to provide additional information concerning the independence of Inspectors General. This letter provides an update to the information requested in your April 8, 2010, letter as communicated by Chris Lucas to the Council of Counsels to Inspectors General (CCIG). This update covers the period of October 1, 2011 through March 31, 2012. The original letter requests: (1) information regarding “any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;” (2) “biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;” (3) immediate notification “if any federal official threatens and/or otherwise attempts to impede [our] office’s ability to communicate with Congress;” and (4) a courtesy copy of our most recent response to the [April 29, 2011,] request of Chairman Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all “outstanding recommendations that have not been fully implemented.”

Regarding your first request, the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”), has experienced minor issues relative to our oversight and requests for access to persons and information. However, SIGTARP has resolved these issues, and, to date, we have received the information and interviews that we have requested.

With respect to your second request, the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) advised us that they communicated with your staff to clarify what was needed. CIGIE further advised that your staff explained that you do not want Privacy Act-protected information or specific personal identifiers, but rather you require only relevant,

Hon. Grassley & Coburn  
July 26, 2012  
Page 2

summary information. Accordingly, attached as Exhibit A is a list of our closed investigations and audits that have not been publicly disclosed.

Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you.

Pursuant to your fourth request, attached is a courtesy copy of our most recent response to Chairman Issa's request for information on pending recommendations.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. L. Romero', with a long horizontal flourish extending to the right.

Christy L. Romero  
Special Inspector General

Attachments

## **Exhibit A**

### Investigations

#### **1. Mortgage Modification Fraud**

Case was opened to review allegations that a series of companies solicited and received funds from customers promising mortgage modifications under HAMP.

#### **2. CPP Fraud**

Case was opened to review the FDIC's closing of a bank that received TARP funds.

#### **3. Mortgage Modification Fraud**

Case was opened to review an allegation that an individual had committed fraud on his HAMP loan application.

#### **4. Mortgage Modification Fraud**

Case was opened upon receipt of an allegation that a company was operating a mortgage modification scheme that negatively impacted TARP-recipient banks.

#### **5. CPP Fraud**

Case was opened to review allegations that a TARP recipient bank failed to recognize potential losses on their financial statements relative to several key loans.

#### **6. Mortgage Modification Fraud**

Case was opened to review an allegation that a law firm committed bankruptcy fraud during the process of handling loan modifications under HAMP.

#### **7. CPP Fraud**

Case was opened to review results of an analysis revealing that a bank's impaired loans increased after the receipt of TARP funds.

#### **8. CPP Fraud**

Case was opened to review a TARP recipient bank that during the application process, potentially failed to properly record loan losses and impaired loans to enhance the bank's potential to receive TARP funds.

#### **9. Fraud**

Case was opened to review allegations that a TARP recipient insurance company (i) diverted funds from its insurance subsidiaries to invest in residential mortgage backed securities (RMBS) without proper notification of its activities and (ii) had more commitments under its credit default swap (CDS) contracts than capital assets available to pay them.

#### **10. CPP Fraud**

Case was opened to determine whether a TARP recipient bank was complying with its agreement with the Federal Reserve Bank (FRB).

**11. CPP Fraud**

Case was opened to review whether a bank potentially submitted a fraudulent TARP application to Treasury in November 2008.

**12. CPP Fraud**

Case was opened to review whether a TARP recipient engaged in fraudulent conduct post TARP funding.

**13. Bank Fraud**

Case was opened to review allegation that a borrower of a TARP recipient bank diverted loan proceeds into non-approved investments without prior permission from the institution.

**14. Fraud**

Case was opened to review an allegation that a group submitted registration forms containing false information to qualify and participate as a servicer in the Home Affordable Modification Program (HAMP), and gain access to a non-public portion of the HAMP website page.

**15. False Information**

Case was opened to review whether a TARP-recipient corporation withheld from public disclosure the existence of payments it made to financial institutions during the onset of the financial crisis.

**16. Loan Modification**

Case was opened to review complaints from homeowners alleging that a loan modification business provided advertisement that they could assist individuals in obtaining a mortgage modification.

**17. Bank Fraud**

Case was opened to review an allegation that the former bank official of a TARP recipient accepted loans from an individual and another entity that were customers and borrowers at the bank.

**18. Bank Fraud and Loan Fraud**

Case was opened to review results of a SIGTARP analysis suggesting that an increase in loans to a bank's insiders followed the bank's receipt of TARP funds.

**19. Perjury and Misrepresentation**

Case was opened to review whether truthful testimony was given in a TARP related congressional hearing.

**20. Misappropriation of Funds**

Case was opened to review a report that a Treasury grant had been misappropriated by a private corporation.

#### 21. Fraud

Case was opened to review allegation that a real estate development company had been involved in a scheme to illegally solicit funds for investments in which TARP recipient banks may have been harmed.

#### 22. Misconduct of former Government Banking Official

Investigation was opened to review stock purchases by a former Government banking official.

#### 23. Misrepresentation, CPP Fraud

Case was opened to review allegations that a TARP recipient had misled investors in securities offering documents relating to the sale of a collateralized debt obligation (CDO).

#### 24. Bank Fraud

Investigation was opened to review allegations that a major borrower of a TARP applicant bank was engaged in fraudulent practices.

#### 25. Bank Fraud

Case was opened to conduct a review of the terms of Treasury's sale of preferred warrants of a TARP recipient bank at a discount.

#### 26. Bank Fraud

Case was opened to review whether a bank may have submitted inflated financials in order to influence regulators to approve the distribution of TARP funds.

#### 27. Bank Fraud

Case was opened to review allegations that bank officials may have submitted inflated financials in order to influence regulators to approve the distribution of TARP funds.

#### 28. Bank Fraud

Case was opened to review allegations that a major bank borrower may have submitted inflated financials in order to influence a TARP recipient bank to make a commercial loan.

#### 29. Mortgage Modification

Case was opened to assist a prosecutor with potential mortgage modification schemes that implicated HAMP and PPIP.

#### Audits/Evaluations

Audit engagement number 016, "Review of the Collateral Monitors' Valuation Results and Subsequent Loans Issued under the Term Asset-Backed Securities Loan Facility Program" was closed by issuing a memorandum dated February 1, 2012, to the Special Counsel, Board of Governors of the Federal Reserve System.







OFFICE OF THE SPECIAL INSPECTOR GENERAL  
FOR THE TROUBLED ASSET RELIEF PROGRAM

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JAN 13 2011

Charles E. Grassley, Ranking Member  
Committee on the Judiciary  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Tom Coburn, Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

This letter responds to the ongoing requests contained in your April 8, 2010, letter concerning Inspector General independence. You have requested: (1) information regarding “any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;” (2) “biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;” and (3) immediate notification “if any federal official threatens and/or otherwise attempts to impede [our] office’s ability to communicate with Congress.”

Regarding your first request, although the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”) has recently experienced some issues relative to our oversight and requests for access to persons and information from Treasury, we have been able to resolve these issues through discussions with Treasury. We are hopeful that we will be able to resolve any new issues as they arise.

With respect to your second request, we have followed the guidance obtained by the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) from your staff that you do not want Privacy Act-protected information or specific personal identifiers, but rather you require only relevant, summary information. Accordingly, attached as Exhibit A is a list of our closed investigations that we have not publicly disclosed. We do not have any non-public audits or evaluations.

Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you.

Senators Grassley and Coburn  
January 13, 2011  
Page 2

Thank you for the opportunity to provide additional information and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil M. Barofsky', written in a cursive style.

NEIL M. BAROFSKY  
Special Inspector General

Attachment:

I-HQ-09-011 TARP Recipients; Tax Liabilities; DC

This investigation concerned allegations received from Rep. Elijah E. Cummings, U.S. House of Representatives that the top 25 original TARP recipients had a combined total of \$200 million in tax liabilities. SIGTARP coordinated with the Internal Revenue Service Criminal Investigation and the Treasury Inspector General for Tax Administration (TIGTA). TIGTA conducted an audit titled "Most Unpaid Taxes of Participants in the Troubled Assets Relief Program Have Been Resolved" that discusses the TARP recipients work with the IRS to comply with their tax obligations.

I-HQ-09-014 Making Home Affordable Program Fraud; FL

Allegations were made that a mortgage servicer participating in the Home Affordable Modification program (HAMP) was restricting borrowers from joining the program, charging fees that were not permissible, and engaging in premature foreclosure of properties. The matter was closed due to findings of initial failures to provide clear programmatic requirements and the inherent growing pains of a new program contributing to the allegations.

P-HQ-09-023 Capital Purchase Program(CPP) Recipient; Executive Compensation; GA

This investigation concerned whether a CPP recipient violated the total executive compensation rules and misrepresented its capitalization. It also included the issue of whether any alleged misrepresentation affected the TARP/CPP application and decision. No violations were found.

P-HQ-09-025 CPP Recipient; False Statements; OH

Complaint was received from a former bank employee alleging that CPP recipient bank was in violation of SEC regulations related to internal controls. The CPP recipient bank repaid its obligation to the Treasury. No violations were found.

I-HQ-09-028 Mortgage Modification Scam; Mail Fraud; FL

The company under investigation purported to offer mortgage modification and foreclosure relief services. Numerous deductions were made from the victims' accounts; up to \$3,000, however no modification services were actually performed and the victims often ended up in foreclosure. The Federal Trade Commission (FTC) took receivership of the business. The investigation found no violations under SIGTARP jurisdiction. A referral was made to the Internal Revenue Service - Criminal Investigation.

P-HQ-09-030 Mortgage Modification Scam; CA

This mortgage fraud, advance fee scheme investigation focused on allegations of violations of the California Business and Professions Code, by charging, receiving, collecting or contracting for the collection of a fee for the performance of loan modification services with the respect to a loan which is secured by a lien on real property. No violations were found.

I-HQ-09-031 Mortgage Modification Scam; CA

This mortgage modification, advance fee scheme investigation focused on allegations that a servicer extracted fees from customers in return for participation in the Making Home

Affordable program. On January 9, 2010, felony theft charges were filed against Christopher Lee Diener, Terrence Green, Sr. and Stefano Joseph Marrero by the Orange County District Attorney's office.

I-HQ-09-054 Mortgage Modification Scam; CA

This advanced fee mortgage modification scheme investigation was initiated based on a request from the Federal Bureau of Investigation (FBI), Los Angeles Field Office. Specifically, it was alleged that a mortgage servicer had misrepresented their affiliation with the Making Home Affordable program and the Obama Plan. The case was ultimately deferred to local jurisdiction, where local police had already conducted an enforcement action.

P-HQ-09-019 Making Home Affordable Program Fraud; NC

Allegations were received that a mortgage servicer participant in the Home Affordable Modification Program (HAMP) was restricting borrowers from joining the program, charging fees that were not permissible, and engaging in premature foreclosure of properties. No violations were found.

I-HQ-09-049 Mortgage Modification Fraud; PA

A mortgage modification complaint was received that alleged an advance fee scheme, charging a fee and performing no work. No violations were found.

G-HQ-09-037 SEC Insider Trading Cases

This was a general case to proactively review possible insider trading cases investigated jointly with the SEC. No violations were found.

I-HQ-09-038 Insider Trading; CA

This investigation concerned various allegations of insider trading and favoritism towards a company by a banking regulator. No violations were found.

P-HQ-09-044 Executive Compensation; MI

This preliminary investigation was opened as a result of allegations of misuse of TARP funds received from a bank employee. No violations were found.

P-HQ-09-050 THEFT; NC

This preliminary investigation was opened to review allegations of theft of a purported multi-million dollar instrument as payment to the benefit of the U.S. Treasury Department. A referral was made to another organization for lack of a TARP nexus that warranted further SIGTARP investigation.

P-HQ-09-051 Insider Trading; TX

This preliminary investigation was conducted to review allegations of individual insider trading. No violations were found.

P-HQ-09-057 Mortgage Modification Scam; CA

This alleged mortgage modification scam was reviewed and no violations were found.

P-HQ-09-058 False Claims; DC

This preliminary contract fraud investigation focused on allegations of double-billing of travel contract fees on some SIGTARP travel vouchers. No violations were found.

P-DC-10-013 Bank Fraud; FL

This preliminary investigation was initiated to review allegations the bank had artificially enhanced its financial condition in order to qualify for the CPP. No violations were found.

P-DC-10-018 Bank Fraud; WA

This preliminary investigation focused on questions surrounding the departure of a senior officer at a TARP recipient bank. No violations were found.

I-DC-10-020 Mortgage Modification Rescue Fraud; FL

This matter involved an advanced fee scheme allegation that was referred to a State Attorney General's office for further investigation.

P-DC-10-021 Mortgage Modification Rescue Fraud, CA

This matter was a preliminary advanced fee scheme allegation coupled with potential preferential treatment allegations. No violations were found.

P-DC-10-023 FHA Mortgage Insurance Fraud; MA

This preliminary investigation focused on allegations that a CPP Recipient Bank had a high rate of defaults related to the FHA mortgage insurance claims. No violations were found.

P-DC-10-024 Mortgage Modification Fraud; MA

This preliminary investigation focused on allegations that a HAMP participant Bank failed to convert a trial mortgage modification into a permanent modification after complainant had done everything requested of them as is required under the HAMP and MHA programs. No violations were found.

P-DC-10-025 Mortgage Modification Fraud; MA

This preliminary investigation focused on allegations that a CPP recipient bank failed to convert a trial modification to a permanent modification under the MHA/HAMP Program after complainant had done everything requested of her. No violations were found.

P-DC-10-030 CPP Fraud; PA

This preliminary investigation focused on allegations of violations of the Flood Act by making loans without requiring that the borrowers had flood insurance. No violations were found.

**P-DC-10-034 Theft of Proprietary Information; DC**

This preliminary investigation focused on allegations that a former GSE employee stole proprietary information for personal fraudulent use. Following a determination that this was outside the purview of SIGTARP, these allegations were forwarded to another OIG for investigation.

**P-DC-10-035 Mortgage Modification Fraud, MD**

This preliminary investigation focused on allegations that a website was marketing an advanced fee scheme. No victims were found and a State Agency issued a Cease & Desist order against the site.

**P-DC-10-048 False Claims; NY**

This preliminary investigation focused on allegations that a contractor bank was overbilled by a temporary staffing agency. The bank itself discovered the overbilling and reported no losses to itself or to the Federal government from the overbilling.

**P-DC-10-050 CPP Fraud; TX**

This preliminary investigation focused on allegations of bank fraud at a CPP applicant bank. Private TRO was determined to have resolved the alleged conduct and the remaining allegations were reported to the bank's regulator for further review.

**I-LA-10-004 CPP Fraud; NE**

This investigation focused on allegations of a ponzi scheme. No violations were found.





**OFFICE OF THE SPECIAL INSPECTOR GENERAL**  
**FOR THE TROUBLED ASSET RELIEF PROGRAM**  
1801 L STREET, NW  
WASHINGTON, D.C. 20220

June 16, 2010

Honorable Charles E. Grassley, Ranking Member  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Tom Coburn, MD  
Ranking Member  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
United States Senate  
340 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senators Grassley and Coburn:

Thank you for your April 8, 2010, letter concerning Inspector General independence. Your letter requests: (1) information regarding “any instances when the Department/Agency resisted and/or objected to oversight activities and/or restricted [our] access to information;” (2) “biannual reports on all closed investigations, evaluations, and audits conducted by [our] office that were not disclosed to the public;” (3) immediate notification “if any federal official threatens and/or otherwise attempts to impede [our] office’s ability to communicate with Congress;” and (4) a courtesy copy of our response to the March 24, 2010, request of Ranking Member Darrell Issa, Committee on Oversight and Government Reform, United States House of Representatives, for all “outstanding recommendations that have not been fully implemented.”

Regarding your first request, the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”), as is normal and to be expected for a law enforcement agency, has experienced minor issues relative to our oversight and requests for access to persons and information. However, SIGTARP has resolved each of these issues, and, to date, we have received all information and interviews that we have requested.

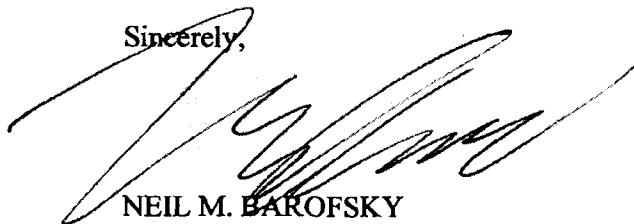
With respect to your second request, the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) has advised us that they have been communicating with your staff to clarify what is needed. CIGIE further advised that your staff explained that you do not want Privacy Act-protected information or specific personal identifiers, but rather you require only relevant, summary information. Accordingly, attached as Exhibit A is a list of our closed investigations that we have not publicly disclosed. We do not have any non-public audits or evaluations.



Regarding your third request, no Federal official has threatened us or impeded our ability to communicate with Congress. In the event that such a threat or impediment arises, we will immediately apprise you. Pursuant to your fourth request, attached as Exhibit B is a courtesy copy of our response to Ranking Member Issa's request for information on pending recommendations.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of Inspector General independence and SIGTARP's mission to promote transparency and accountability in the operation of the TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil M. Barofsky', written in a cursive style.

NEIL M. BAROFSKY  
Special Inspector General

Attachments.

# **Exhibit A**

I-HQ-09-002 Securities Fraud; NY

Case was opened to handle material obtained in a manner that was separate from a parallel case, I-HQ-09-001. As a result of agreement with the prosecuting authority, the case was consolidated into I-HQ-09-001.

Open: 02/09/09 Close: 12/18/09

I-HQ-09-005 Bank Fraud; PA

Case was opened to review allegations that a bank attempted to obtain CPP funds by concealing information or misrepresenting material facts to the Government. A review of the application by SIGTARP and another law enforcement agency revealed insufficient evidence to support the allegations.

Open: 02/20/09 Close: 05/18/09

I-HQ-09-009 False Statements; CA

Case was opened to review allegation that bank management was deliberately manipulating commercial loan risk ratings to assign positive ratings. The bank subsequently applied for CPP funding but withdrew its application at a later date. A review of documents by SIGTARP and other law enforcement agencies revealed no evidence to substantiate the allegation.

Open: 02/24/09 Close: 05/19/09

I-HQ-09-013 False Statements; DC

Case was opened pursuant to a referral from a Member of Congress regarding alleged potential false statements provided by a hearing witness. The case was declined for prosecution by the Department of Justice.

Open: 03/22/09 Close: 10/14/09

P-HQ-09-016 Mail/Wire Fraud; NY

Preliminary case was opened to review material provided by another law enforcement agency regarding collusion between bond traders. A review of material provided to SIGTARP revealed that there was an insufficient nexus to TARP programs to warrant further SIGTARP investigation.

Open: 03/22/09 Close: 06/22/09

P-HQ-09-020 False Statements; NC

Preliminary case was opened to review allegations received by the SIGTARP hotline that a mortgage servicer was impeding a customer's requests to obtain a mortgage modification under HAMP. A review of Treasury documentation revealed that, at the time, the company was not a participant in the HAMP program and that there was no evidence of any criminal violation.

Open: 04/21/09 Close: 05/20/09

P-HQ-09-021 False Statements; VA

Preliminary case was opened to review whether the death of an employee at a financial institution was related to alleged misrepresentations to the Government. A review of applicable materials revealed that there was an insufficient nexus to TARP programs to warrant further SIGTARP investigation.

Open: 04/24/09 Close: 04/29/09

**P-HQ-09-027 Misuse of TARP Funds; NY**

Preliminary case was opened to review general allegations of criminal activity relating to the TARP program. Review of the allegations and follow-up communications with the complainant revealed an absence of first-hand knowledge and specificity to warrant further SIGTARP investigation.

Open: 05/21/09 Close: 02/19/10

**P-HQ-09-029 Mortgage Modification Fraud; CA**

Preliminary case was opened as a result of allegations that a company increased victim's principal balance during the modification of loans. A review of documents revealed that the complainant's balance was not increased illegally but rather was increased because the alleged victim had a negatively amortizing mortgage.

Open: 06/11/09 Close: 03/24/10

**I-HQ-09-042 Mortgage Modification Fraud; TX**

Case was opened as a result of allegation that a TARP recipient employee had abused his position at a mortgage servicer by offering to stop foreclosure proceedings against the alleged victim in return for reduced rent payments. The employee was terminated and the case was declined by the USAO.

Open: 06/29/09 Close: 07/13/09

**P-HQ-09-041 Executive Compensation; NJ**

Review of allegations regarding allegedly improper bonus payments by a TARP recipient. A review of the documents revealed no evidence to support the allegations.

Open: 07/14/09 Close: 02/19/10

**P-HQ-09-044 Executive Compensation; MI**

Preliminary case was opened to review allegations that a bank CEO violated the executive compensation restrictions. A review of applicable documents revealed that the compensation agreement that was allegedly improper was not, in fact, in violation of the executive compensation regulations.

Open: 08/25/09 Close: 03/05/10

**P-HQ-09-046 False Statements; NY**

Preliminary case was opened to review allegations that company improperly used TARP funds to finance its merger with another company. A review of applicable documents indicated that the evidence did not support the allegations.

Open: 08/25/09 Close: 03/05/10

**I-PP-09-001 Unauthorized Disclosure; DC**

Case was opened to resolve allegation that a SIGTARP employee improperly released nonpublic information. The allegation was unfounded.

Open: 09/15/09 Close: 09/16/09

**P-HQ-09-057 Mortgage Modification Fraud; CA**

Preliminary case was opened after receipt of allegation that a company was engaging in a mortgage modification scam. A review indicated that conduct was under review by other law enforcement agencies and that the case was beneath the applicable prosecutorial threshold.

Open: 09/29/09 Close: 04/16/10

**P-HQ-09-059 Mortgage Modification Fraud; CA**

**Preliminary case was opened to review allegation received from another law enforcement agency that the company was engaged in a modification scam. A review of material revealed that there was an insufficient nexus to TARP programs to warrant further SIGTARP investigation.**

**Open: 09/30/09 Close: 03/24/10**

**P-DC-10-010 False Statements; GA**

**A preliminary case was opened to review an allegation that a subsidiary of a TARP recipient had violated Federal and state law by refusing to compromise or forgive an \$18.3 million commercial loan. A review of relevant documents revealed no evidence of any criminal violation.**

**Open: 11/23/09 Close: 03/05/10**

**P-DC-10-012 False Statements; NV**

**A preliminary case was opened to review various allegations about an organization including whether the organization received kickbacks from loan companies for getting citizens into the HAMP program. The HAMP-related allegations were determined to be unfounded.**

**Open: 11/23/09 Close: 03/05/10**

# Exhibit B



**OFFICE OF THE SPECIAL INSPECTOR GENERAL  
FOR THE TROUBLED ASSET RELIEF PROGRAM  
1801 L STREET, NW  
WASHINGTON, D.C. 20220**

April 23, 2010

Honorable Darrell Issa  
Ranking Member  
Committee on Oversight and Government Reform  
United States House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Representative Issa:

Thank you for your March 24, 2010, letter, seeking information regarding open and unimplemented recommendations and requesting legislative suggestions to improve the Inspector General Act of 1978 or the Inspector General Reform Act of 2008. Our responses to your specific questions concerning pending recommendations are set forth below.

**1. Identify the current number of open and unimplemented IG recommendations.**

**Response:**

To date, SIGTARP has made 58 recommendations to the Department of the Treasury ("Treasury") with respect to the implementation of the Troubled Asset Relief Program ("TARP"). Table 4.1 of SIGTARP's Quarterly Report to Congress dated April 21, 2010 (which is attached as Exhibit A for your reference), describes the 44 recommendations made prior to such report and the status of their implementation. Of the 44 recommendations, SIGTARP considers 21 of them to be fully implemented; six to be partially implemented; five to be in process; and nine to be not implemented. Three other recommendations are considered "To Be Determined/Not Applicable" because they have been rendered moot or Treasury's position on them is not known because of subsequent developments to the programs. SIGTARP made 14 additional recommendations in its most recent Quarterly Report to Congress. Section 4 of that report (attached as Exhibit B) describes these recommendations in detail. Treasury has rejected or refused to implement three of them (although, as described below, it subsequently took steps to partially implement one), has agreed to implement five others, and has yet to notify SIGTARP of its decision on six.

**2. For those recommendations that have an estimated cost savings associated with them, identify the recommendation, the date first recommended, and the total estimated cost savings your office believes is obtainable if the recommendation is implemented by agency management.**

**Response:**

SIGTARP's recommendations relate to 13 novel and — often at the time they are made — unimplemented TARP programs. Although we believe that the recommendations that have been adopted have made the TARP programs far less susceptible to losses attributable to abuse, waste and, particularly, fraud, quantifying the cost savings associated with unimplemented recommendations at this point would be highly speculative, and thus far SIGTARP has not made such estimates.

**3. Identify what your office considers to be the three most important open and unimplemented recommendations. For each identify:**

- a. The status of the recommendation, including whether agency management has agreed or disagreed with the recommendation;**
- b. The cost savings associated with the recommendation (if applicable); and**
- c. Whether there are plans to implement the recommendation in the near future.**

**Response:**

SIGTARP considers its three most important open and unimplemented recommendations to be: the imposition of information barriers or “ethical walls” for employees of Public-Private Investment Fund managers (Recommendation 33 of Table 4.1); a full re-examination of the structure of the Home Affordable Modification Program (“HAMP”) to ensure that the risk of re-default is minimized (pages 134 – 135 of SIGTARP’s Quarterly Report to Congress dated April 21, 2010), particularly with respect to high debt-to-income ratios; and the adoption of a uniform appraisal process for all HAMP and HAMP-related short sale and principal reduction programs (pages 138 – 140 of SIGTARP’s Quarterly Report to Congress dated April 21, 2010). Treasury disagrees with the “ethical walls” and HAMP re-examination recommendations (although it subsequently made changes to HAMP that reflect an attempt to address negative equity, one of the strong indicators of re-default), and has not notified SIGTARP of its decision on uniform appraisals. As stated above, SIGTARP has made no costs savings estimates associated with these recommendations. Further, Treasury has no current plans to implement them.



**4. Identify the number of recommendations your office deems accepted and implemented by the agency during the time period January 5, 2009 — the date of the Committee's last report — and the present.**

**Response:**

As noted above and reflected in Section 4 and on Table 4.1 of SIGTARP's Quarterly Report to Congress dated April 21, 2010, SIGTARP deems Treasury to have implemented, partially implemented, to be in the process of implementing, or agreed to implement 37 of the 58 recommendations made.

With respect to your question concerning potential legislative amendments, SIGTARP was established by section 121 of the Emergency Economic Stabilization Act of 2008, which adopts and incorporates portions, but not the entirety, of the Inspector General Act of 1978, as amended. Because some of the provisions of the Acts in question do not apply to our operations and because of the temporary and program-specific nature of our mission, we are reluctant to propose amendments to the Inspector General Act of 1978 and the Inspector General Reform Act of 2008. Accordingly, please allow us to defer to our colleagues on the Council of the Inspectors General on Integrity and Efficiency to propose amendments that they deem appropriate.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates your continued support of our mission to promote transparency and accountability in the operation of TARP. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,



KEVIN R. PUVALOWSKI  
Deputy Special Inspector General

Attachments

# Exhibit A

TABLE 4.1

**SIGTARP RECOMMENDATIONS TABLE**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
1 * Treasury should include language in the automobile industry transaction term sheet acknowledging SIGTARP's oversight role and expressly giving SIGTARP access to relevant documents and personnel.	X					
2 * Treasury should include language in new TARP agreements to facilitate compliance and oversight. Specifically, SIGTARP recommends that each program participant should (1) acknowledge explicitly the jurisdiction and authority of SIGTARP and other oversight bodies, as relevant, to oversee compliance of the conditions contained in the agreement in question, (2) establish internal controls with respect to that condition, (3) report periodically to the Compliance department of the Office of Financial Stability ("OFS-Compliance") regarding the implementation of those controls and its compliance with the condition, and (4) provide a signed certification from an appropriate senior official to OFS-Compliance that such report is accurate.		X				Although Treasury has made substantial efforts to comply with this recommendation in many of its agreements, there have been exceptions, including in its agreements with servicers in MHA. Treasury has further stated that it will continue to implement this recommendation with respect to new TARP programs going forward as it deems "appropriate."
3 * All existing TARP agreements, as well as those governing new transactions, should be posted on the Treasury website as soon as possible.	X					
4 * Treasury requires all TARP recipients to report on the actual use of TARP funds.			X			See discussion in this section.
5 * Treasury quickly determines its going-forward valuation methodology.	X					
6 * Treasury begins to develop an overall investment strategy to address its portfolio of stocks and decide whether it intends to exercise warrants of common stock.	X					
7 * In formulating the structure of TALF, Treasury should consider requiring, before committing TARP funds to the program, that certain minimum underwriting standards and/or other fraud prevention mechanisms be put in place with respect to the ABS and/or the assets underlying the ABS used for collateral.	X					The Federal Reserve has adopted mechanisms that address this recommendation.
8 * Agreements with TALF participants should include an acknowledgment that: (1) they are subject to the oversight of OFS-Compliance and SIGTARP, (2) with respect to any condition imposed as part of TALF, that the party on which the condition is imposed is required to establish internal controls with respect to each condition, report periodically on such compliance, and provide a certification with respect to such compliance.				X		
9 * Treasury should give careful consideration before agreeing to the expansion of TALF to include MBS without a full review of risks that may be involved and without considering certain minimum fraud protections.	X					This recommendation has been implemented with respect to CMBS, and the Federal Reserve has announced that it will not be expanding TALF to RMBS.

Note: \* Indicates that Treasury considers the recommendation closed and will take no further action.

Continued on next page.

**SGTARP RECOMMENDATIONS TABLE (CONTINUED)**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
10 * Treasury should oppose any expansion of TALF to legacy MBS without significant modifications to the program to ensure a full assessment of risks associated with such an expansion.	X					This recommendation has been implemented with respect to CMBS, and the Federal Reserve has announced that it will not be expanding TALF to RMBS.
11 Treasury should formalize its valuation strategy and begin providing values of the TARP investments to the public.	X					Treasury has committed to publish its valuation estimates four times each year.
12 * Treasury and the Federal Reserve should provide to SGTARP, for public disclosure, the identity of the borrowers who surrender collateral in TALF.				X		The Federal Reserve and Treasury continue to oppose this basic aspect of transparency in the TALF program. SGTARP intends to revisit this issue with the Federal Reserve once a collateral surrender takes place.
13 * In TALF, Treasury should dispense with rating agency determinations and require a security-by-security screening for each legacy RMBS. Treasury should refuse to participate if the program is not designed so that RMBS, whether new or legacy, will be rejected as collateral if the loans backing particular RMBS do not meet certain baseline underwriting criteria or are in categories that have been proven to be riddled with fraud, including certain undocumented subprime residential mortgages.					X	The Federal Reserve has announced that RMBS will not be eligible for TALF loans, rendering this recommendation moot.
14 * In TALF, Treasury should require significantly higher haircuts for all MBS, with particularly high haircuts for legacy RMBS, or other equally effective mitigation efforts.	X					This recommendation has been implemented with respect to CMBS, and the Federal Reserve has announced that it will not be expanding TALF to RMBS.
15 * Treasury should require additional anti-fraud and credit protection provisions, specific to all MBS, before participating in an expanded TALF, including minimum underwriting standards and other fraud prevention measures.	X					The Federal Reserve has adopted mechanisms that address this recommendation with respect to CMBS, and has announced that it will not be expanding TALF to RMBS.
16 * Treasury should design a robust compliance protocol with complete access rights to all TALF transaction participants for itself, SGTARP, and other relevant oversight bodies.				X		
17 * Treasury should not allow Legacy Securities PPIFs to invest in TALF unless significant mitigating measures are included to address these dangers.	X					
18 * All TALF modeling and decisions, whether on haircuts or any other credit or fraud loss mechanisms, should account for potential losses to Government interests broadly, including TARP funds, and not just potential losses to the Federal Reserve.	X					

Note: \* indicates that Treasury considers the recommendation closed and will take no further action.

Continued on next page.

**SIGTARP RECOMMENDATIONS TABLE (CONTINUED)**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
19 * Treasury should address the confusion and uncertainty on executive compensation by immediately issuing the required regulations.	X					
20 Treasury should significantly increase the staffing levels of OFS-Compliance and ensure the timely development and implementation of an integrated risk management and compliance program.			X			Treasury has made improvements in this area. SIGTARP will address particular issues regarding OFS staffing levels in upcoming audit reports.
21 * Treasury should require CAP participants to (1) establish an internal control to monitor their actual use of TARP funds, (2) provide periodic reporting on their actual use of TARP funds, (3) certify to OFS-Compliance, under the penalty of criminal sanction, that the report is accurate, that the same criteria of internal controls and regular certified reports should be applied to all conditions imposed on CAP participants, and (4) acknowledge explicitly the jurisdiction and authority of SIGTARP and other oversight bodies, as appropriate, to oversee conditions contained in the agreement.					X	Treasury closed the program with no investments having been made, rendering this recommendation moot.
22 * Treasury should impose strict conflict-of-interest rules upon PPIF managers across all programs that specifically address whether and to what extent the managers can (1) invest PPIF funds in legacy assets that they hold or manage on behalf of themselves or their clients or (2) conduct PPIF transactions with entities in which they have invested on behalf of themselves or others.		X				Treasury has adopted some significant conflict-of-interest rules related to this recommendation, but has failed to impose other significant safeguards.
23 * Treasury should require that all PPIF fund managers (1) have stringent investor-screening procedures, including comprehensive "Know Your Customer" requirements at least as rigorous as that of a commercial bank or retail brokerage operation to prevent money laundering and the participation of actors prone to abusing the system, and (2) be required to provide Treasury with the identities of all of the beneficial owners of the private interests in the fund so that Treasury can do appropriate diligence to ensure that investors in the funds are legitimate.		X				Treasury's agreements with PPIF managers include investor-screening procedures such as "Know Your Customer" requirements. Treasury has agreed that it will have access to any information in a fund manager's possession relating to beneficial owners. However, Treasury is not making an affirmative requirement that managers obtain and maintain beneficial owner information.
24 * Treasury should require most-favored-nation clauses, PPIF managers to acknowledge that they owe Treasury a fiduciary duty, and that each manager adopt a robust ethics policy and compliance apparatus.	X					

Note: \* indicates that Treasury considers the recommendation closed and will take no further action.

Continued on next page.

**SIGTARP RECOMMENDATIONS TABLE (CONTINUED)**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
25 Treasury should require servicers in MHA to submit third-party verified evidence that the applicant is residing in the subject property before funding a mortgage modification.			X			Treasury has decided to adopt this important SIGTARP recommendation and stated that its program administrator Fannie Mae is in the process of hiring a third-party entity to perform a fraud-detection surveillance process to review loan level data to check for owner occupancy and identity of the borrower.
26 * In MHA, Treasury should require a closing-like procedure be conducted that would include (1) a closing warning sheet that would warn the applicant of the consequences of fraud; (2) the notarized signature and thumbprint of each participant; (3) mandatory collection, copying, and retention of copies of identification documents of all participants in the transaction; (4) verbal and written warnings regarding hidden fees and payments so that applicants are made fully aware of them; (5) the benefits to which they are entitled under the program (to prevent a corrupt servicer from collecting payments from the Government and not passing the full amount of the subsidies to the homeowners); and (6) the fact that no fee should be charged for the modification.		X				See discussion in Section 5: "SIGTARP Recommendations" of SIGTARP's October 2009 Quarterly Report.
27 Additional anti-fraud protections should be adopted in MHA to verify the identity of the participants in the transaction and to address the potential for servicers to steal from individuals receiving Government subsidies without applying them for the benefit of the homeowner.			X			Treasury stated that its program administrator Fannie Mae is in the process of hiring a third party entity to perform a fraud detection surveillance process to review loan level data to check for owner occupancy and identity of the borrower.
28 * In MHA, Treasury should require the servicer to compare the income reported on a mortgage modification application with the income reported on the original loan application.				X		Treasury has rejected SIGTARP's recommendation and does not require income reported on the modification application to be compared to income reported on the original loan application.
29 * In MHA, Treasury should require that verifiable, third-party information be obtained to confirm an applicant's income before any modification payments are made.	X					

Note: \* Indicates that Treasury considers the recommendation closed and will take no further action.

Continued on next page.

**SIGTARP RECOMMENDATIONS TABLE (CONTINUED)**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
30 * In MHA, Treasury should defer payment of the \$1,000 incentive to the servicer until after the homeowner has verifiably made a minimum number of payments under the mortgage modification program.				X		Rather than deferring payment of the incentive until after the homeowner has verifiably made a minimum number of payments on its permanent modification, Treasury will pay the incentive after the servicer represents that the homeowner has made three payments during the trial period.
31 * In MHA, Treasury should proactively educate homeowners about the nature of the program, warn them about modification rescue fraudsters, and publicize that no fee is necessary to participate in the program.	X					
32 * In MHA, Treasury should require its agents to keep track of the names and identifying information for each participant in each mortgage modification transaction and to maintain a database of such information.		X				While Treasury's program administrator, Fannie Mae, has developed a HAMP system of record that maintains the servicers' and investors' personally identifiable information, such as names and addresses, the database is not constructed to maintain other information that may assist in detecting insiders who are committing large-scale fraud.
33 * Treasury should require the imposition of strict information barriers or "walls" between the PPIF managers making investment decisions on behalf of the PPIF and those employees of the fund management company who manage non-PPIF funds.				X		Treasury has refused to adopt this significant anti-fraud measure designed to prevent conflicts of interest. This represents a material deficiency in the program.
34 * Treasury should periodically disclose PPIF trading activity and require PPIF managers to disclose to SIGTARP, within seven days of the close of the quarter, all trading activity, holdings, and valuations so that SIGTARP may disclose such information, subject to reasonable protections, in its quarterly reports.				X		Treasury has committed to publish on a quarterly basis certain high-level information about aggregated purchases by the PPIFs, but not within seven days of the close of the quarter. Treasury has not committed to providing full transparency to show where public dollars are invested by requiring periodic disclosure of every trade in the PPIF. SIGTARP is including in the report all transactions conducted by one former fund manager, TCW, and anticipates providing additional detail in our future quarterly reports.

Note: \* Indicates that Treasury considers the recommendation closed and will take no further action.

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**SIGTARP RECOMMENDATIONS TABLE (CONTINUED)**

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/NA	Comments
35 Appropriate metrics be defined and an evaluation system be put in place to monitor the effectiveness of the PPIF managers, both to ensure they are fulfilling the terms of their agreements and to measure performance.			X			Treasury has indicated that it will substantively adopt this recommendation and is developing appropriate metrics as well as internal controls to administer PPIF.
36 * The conditions that give Treasury "cause" to remove a PPIF manager should be expanded to include a manager's performance below a certain standard benchmark, or if Treasury concludes that the manager has materially violated compliance or ethical rules.				X		Treasury has refused to adopt this recommendation relying solely on Treasury's right to end the investment period after 12 months, during which time the PPIF manager's performance may continue to fall below a standard benchmark potentially putting significant Government funds at risk.
37 * Treasury should require PPIF managers to disclose to Treasury, as part of the Watch List process, not only information about holdings in eligible assets but also holdings in related assets or exposures to related liabilities.	X					
38 Treasury should require PPIF managers to obtain and maintain information about the beneficial ownership of all of the private equity interests, and Treasury should have the unilateral ability to prohibit participation of private equity investors.				X		Treasury has agreed that it can have access to any information in a fund manager's possession relating to beneficial owners. However, Treasury is not making an affirmative requirement that managers obtain and maintain beneficial owner information. Treasury will not adopt the recommendation to give itself unilateral ability to deny access to or remove an investor, stating that such a right would deter participation.
39 * Treasury and FRBNY should (1) examine Moody's assertions that some credit rating agencies are using lower standards to give a potential TALF security the necessary AAA rating and (2) develop mechanisms to ensure that acceptance of collateral in TALF is not unduly influenced by the improper incentives to overrate that exist among the credit agencies.	X					Treasury and the Federal Reserve have discussed concerns about potential overrating or rating shopping with the rating agencies, and have agreed to continue to develop and enhance risk management tools and processes, where appropriate.

Note: \* indicates that Treasury considers the recommendation closed and will take no further action.

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## SIGTARP RECOMMENDATIONS TABLE (CONTINUED)

Recommendation	Implemented	Partially Implemented	In Process	Not Implemented	TBD/PIA	Comments
40 * Treasury should more explicitly document the vote of each Investment Committee member for all decisions related to the investment of TARP funds.	X					Treasury's Office of Financial Stability has implemented SIGTARP's recommendation to document each specific vote of individual Investment Committee members when deciding whether to approve or disapprove proposed TARP investments.
41 * Treasury should improve existing control systems to document the occurrence and nature of external phone calls and in-person meetings about actual and potential recipients of funding under the CPP and other similar TARP-assistance programs to which they may be part of the decision making.	X					Treasury adopted SIGTARP's recommendation related to an application for TARP funding.
42 * The Secretary of the Treasury should direct the Special Master to work with FRBNY officials in understanding AIG compensation programs and retention challenges before developing future compensation decisions that may affect both institutions' ability to get repaid by AIG for Federal assistance provided.	X					The Special Master has consulted with FRBNY regarding AIG executive compensation programs.
43 * Treasury should establish policies to guide any similar future decisions to take a substantial ownership position in financial institutions that would require an advance review so that Treasury can be reasonably aware of the obligations and challenges facing such institutions.					X	Although Treasury stated that it does not anticipate taking a substantial percentage ownership position in any other financial institution pursuant to EESA, Treasury also stated that it could use EESA funds if necessary to respond to an immediate and substantial threat to the economy. Treasury stated that it will address the issues raised in the recommendation if it becomes necessary to make an investment.
44 * Treasury should establish policies to guide decision making in determining whether it is appropriate to defer to another agency when making TARP programming decisions where more than one Federal agency is involved.		X				Treasury has agreed to work closely with other Federal agencies that are involved in TARP.

Note: \* indicates that Treasury considers the recommendation closed and will take no further action.

# **Exhibit B**

One of the critical responsibilities of the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") is to provide recommendations to the U.S. Department of the Treasury ("Treasury") and those other Federal agencies managing Troubled Asset Relief Program ("TARP") initiatives so that the various TARP programs can be designed or modified to facilitate transparency and effective oversight and to prevent fraud, waste, and abuse. SIGTARP has made such recommendations in its quarterly reports to Congress and in several of its audit reports. This section discusses developments with respect to SIGTARP's prior recommendations, makes new recommendations concerning newly announced initiatives, and, in the table at the end of this section, summarizes all past SIGTARP recommendations and notes the extent of their implementation. Appendix H: "Correspondence" includes Treasury's written response to this section.

## UPDATE ON TREASURY'S ADOPTION OF SIGTARP'S USE OF FUNDS RECOMMENDATION

From its inception, SIGTARP's most fundamental recommendation with respect to basic transparency in the operation of TARP has been that Treasury should require all TARP recipients to report periodically on their use of TARP funds. The efficacy of this common-sense recommendation — initially made in December 2008 (just eight days into SIGTARP's existence) and later examined through a survey of 364 TARP recipients and supported by an initial audit report issued in July 2009 — was reconfirmed in a further audit report entitled "Additional Insight on Use of Troubled Asset Relief Program Funds," which was released December 10, 2009.

As reported in SIGTARP's Quarterly Report to Congress dated January 30, 2010 (the SIGTARP "January 2010 Quarterly Report"), Treasury finally adopted this recommendation in December 2009 and committed to survey and report upon recipients' use of TARP funds. Specifically, Treasury stated that it will be obtaining and reporting to the public qualitative responses from each TARP recipient on its use of TARP funds, backed by quantitative data obtained from the recipients' regulators and Treasury's own analysis. Since the SIGTARP January 2010 Quarterly Report, Treasury has sent out its survey to TARP recipients. The first responses are due back to Treasury before April 19, 2010. SIGTARP will continue to monitor and report upon Treasury's progress on this front.

## RECOMMENDATIONS FROM SIGTARP'S AUDIT REPORT ON THE IMPLEMENTATION OF THE HOME AFFORDABLE MODIFICATION PROGRAM ("HAMP")

As discussed in Section I: "The Office of the Special Inspector General for the Troubled Asset Relief Program" in this report, in a March 25, 2010, audit report entitled "Factors Affecting the Implementation of the Home Affordable Modification Program" ("SIGTARP's HAMP audit"), SIGTARP examined Treasury's implementation of HAMP.

SIGTARP's HAMP audit questioned Treasury's emphasis on the number of trial modification offers as the program's measure of success — as opposed to how many homeowners were sustainably helped through permanent modification of their mortgages — and observed, among other things, that the rate of permanent modifications had been, in Treasury's own estimation, "disappointing." The audit report noted a number of factors contributing to the low number of permanent modifications, including that:

- Haste in the program's rollout led to frequent revisions that added to confusion, inefficiency, and delay in the program's implementation.
- Treasury's decision to allow the initiation of trial modifications without written documentation was counterproductive and added to the difficulty of identifying eligible borrowers and completing permanent modifications for them.
- There has been insufficient outreach to the American public and eligible borrowers about the features and benefits of HAMP, including no unique television public service advertisements.
- The program lacked features designed to address risk factors for re-default in the HAMP borrower population, including negative equity and high total debt service; these factors could lead to modifications that will not be successful in the long term.

To improve the administration and effectiveness of HAMP, SIGTARP recommended that Treasury:

- rectify the confusion that its own statements have caused for HAMP by prominently disclosing its goals and estimates (updated over time, as necessary) of how many homeowners the program will help through permanent modifications and report monthly on its progress toward meeting that goal
- set other performance benchmarks and publicly report against them to measure over time the implementation and success of HAMP
- undertake a sustained public service campaign as soon as possible, both to reach additional borrowers who could benefit from the program and to arm the public with complete, accurate information — this will help to avoid confusion and delay, and prevent fraud and abuse

- reconsider its policy that allows servicers to substitute alternative forms of income verification based on subjective determinations by the servicer
- re-examine HAMP's structure to ensure that it is adequately minimizing the risk of re-default driven by negative equity, high non-first-mortgage debt service, and other risk factors

Treasury concurred with the first three of SIGTARP's recommendations, but has not yet implemented them. Treasury initially declined to adopt SIGTARP's last two recommendations, claiming that the documentary guidelines were not intended to be a "comprehensive underwriting guide," and that the prospect that "alternative modification structures that could lower re-default rates" would mean either decreasing participation in the program or increasing its cost. As a result, Treasury indicated that it was only considering program adjustments that would "modestly" address unemployed and underwater borrowers. In response, SIGTARP encouraged Treasury to reconsider its refusal to address more deeply the issues that fuel re-default, stressing the importance for the success of the program of putting borrowers into sustainable permanent modifications, and noting that, under then-current Congressional Budget Office estimates, only \$20 billion of the allocated \$50 billion would be spent on permanent modifications.

## RECOMMENDATIONS CONCERNING TREASURY'S NEWLY ANNOUNCED FORECLOSURE MITIGATION INITIATIVES

Within days of the release of SIGTARP's HAMP audit and a related Congressional hearing, Treasury announced its intent to introduce dramatic and substantial revisions to the HAMP program structure that, as announced, would address in part the recommendations in SIGTARP's HAMP audit, including the previously rejected recommendation that Treasury reconsider changes in the program to address re-default caused by, among other things, negative equity. Treasury's new initiatives, as described in greater detail in Section 2: "TARP Overview" in this report include:

- requiring that servicers "consider" principal write-downs at their option as part of the loan modification process when indicated by program guidelines, with increased incentives for successful principal write-downs
- a new program, to be backed by \$14 billion in TARP funds and managed by both Treasury and the Federal Housing Administration ("FHA"), that will enable severely underwater borrowers to refinance their mortgages so that the total amount that they owe on their homes will not exceed 115% of the home's value
- temporary payment reductions for unemployed borrowers for periods from three to six months while they seek new employment

- increased incentives for servicers to provide permanent loan modifications in order to compensate them for costs associated with the revisions to the program, including assistance to unemployed homeowners
- expansion of HAMP to include borrowers with FHA loans and borrowers in active bankruptcy proceedings
- improved requirements for borrower solicitations, stating performance timeframes for all parties and prohibiting new foreclosure referrals during the HAMP modification process
- additional assistance for homeowners who lose their homes through a short sale or deed-in-lieu, including increased financial assistance for moving and incentives to servicers and second-lien holders for use of foreclosure alternatives

SIGTARP appreciates Treasury's willingness to reconsider its opposition and change the program substantially to address these issues. To Treasury's credit, the program changes appear intended to expand HAMP participation and improve the rate of permanent modifications, as well as address the significant re-default risks driven by homeowners' negative equity. The new revisions to HAMP, as a whole, constitute a potentially important step forward for homeowner relief.

However, the program changes, as announced, also raise several issues that could impede HAMP's effectiveness and efficiency and thus warrant several new recommendations. SIGTARP's recommendations are not intended to convey approval or disapproval of Treasury's policy decisions, but instead are intended to ensure that those policy decisions are carried out in a manner that will maximize their effectiveness.

### **The Program Revisions Were Announced Before Being Completely Formulated, Leading to Potential Confusion and a Lack of Transparency**

The newly announced programs lacked detail in certain key aspects, and, in some circumstances, appear to be only partially formed. Although Treasury's sense of urgency and its desire to preview the direction of the program is laudable, it risks contributing to some of the same confusion and inefficiency that was associated with the rollout of HAMP's first-lien modification program. To date, Treasury has not articulated a clear, integrated vision of the number of borrowers it expects to assist in each program, the expected costs of many of the program adjustments, how some of the program components are to work together, or how their form and design optimally address the problems at hand. These circumstances risk creating problems that could affect HAMP's long-term success:

- unclear expectations about the program's eligibility, benefits, and effectiveness, particularly absent well-defined benchmarks for success

- servicers' and borrowers' hesitation to participate until the "kinks are worked out" or because they expect to benefit from a later revision, which results in their not taking advantage of a program whose success depends on widespread participation by eligible parties
- opportunities for fraud created by confusion and ambiguity

Time pressures have led to servicer complaints in the past about unclear and frequently revised HAMP guidelines. Unfortunately, early indications provide cause for concern that the new revisions may aggravate those problems rather than improve them. Loan servicers have already expressed to SIGTARP their concerns about the announced guidelines for the revisions, and some (including one of the largest servicers) have told SIGTARP that they were not consulted about their formulation or implementation. Preliminary feedback obtained by SIGTARP also indicates that some of the servicers anticipate difficulty in implementing the new changes, which have been described as potentially "time consuming" and creating "further lag time," particularly with respect to evolving information technology requirements. Moreover, after the new HAMP revisions were publicly announced, loan servicer participants have reported a surge of borrower phone calls regarding program changes. These reportedly were difficult to answer and process both because the program's elements had not been fully released and because the servicers had little time in advance of the announcement to prepare and train their staffs to respond. One large servicer noted to SIGTARP that the rollout was "anticipated to create borrower confusion and potential borrower reluctance to execute modifications" until the new programs are launched.

Furthermore, the haste in announcing the new programs has led to the dissemination of undeveloped information. For example, one of the key components to the announced principal reduction program included a chart that listed the amounts that lenders would receive in return for forgiving principal based upon the degree to which the loan is underwater. Although the chart indicated an amount that would be paid to investors to forgive principal for loans that had a loan-to-value ratio less than 115%, Treasury officials initially indicated to SIGTARP that they had not yet determined whether they will make *any* payments to investors under the 115% level. Two weeks later, Treasury indicated that, because a Supplemental Directive had not been issued for the principal forgiveness programs, it could not specify details on circumstances in which unpaid principal balance would be forgiven below 115%. These types of changes, along with the other demands on the servicers to implement the programs, will tap available servicer resources and could lead to a repeat of problems that have plagued the HAMP program since inception — a diversion of resources that has contributed to slow conversion rates for permanent modifications.

The resulting lack of clarity, in turn, serves to impair the program's transparency. Treasury has not provided SIGTARP with meaningful estimates of the costs

and benefits of these still-to-be-developed initiatives. Regarding costs, for example, Treasury has repeatedly asserted that HAMP will spend no more than \$50 billion of TARP funds (the amount currently allocated to the program), but has not provided the public with specific breakdowns of estimated costs of the components of many of the new initiatives. Treasury has also indicated to SIGTARP that it intends to increase servicer incentive payments to compensate them for additional costs from the program revisions (specifically including those related to the unemployed borrower forbearance program), which is hard to reconcile, from a transparency perspective, with its public statement that there would be “no cost to government or taxpayers from the forbearance plans.” Moreover, Treasury still has not defined its goals or expectations for permanent modifications, the impact and expectations for each of the new initiatives, or other key indicators of success. Treasury must set clear expectations and goals for each of the programs’ results and costs so that Congress and the American public can measure their success and critically evaluate whether the program’s considerable cost is worthwhile.

**Recommendation:**

- The new initiatives add to the previously discussed imperative that Treasury clearly define meaningful metrics for HAMP’s success, along with well-founded cost estimates, in order to facilitate informed consideration of the program’s value to the American people. SIGTARP recommends that, for each HAMP program and subprogram, Treasury publish the anticipated costs and expected participation in each and that, after each program is launched, it report monthly as to the programs’ performance against these expectations.

In response to this recommendation, Treasury indicated that it will take additional steps to increase transparency, and “will continue to expand the number and depth of reports on program implementation, successes and challenges.” Treasury also committed to “set targets for key program objectives this year.”

**The Program Revisions Might Increase Fraud Vulnerabilities**

Both the lack of clear guidelines and some features of the revised programs themselves leave HAMP vulnerable to fraud. Criminals feed on borrower confusion, and frequent changes to the programs provide opportunities for experienced criminal elements to prey on desperate homeowners who have not been educated as to the risks of fraud. For the existing HAMP program, this has been demonstrated by the high incidence of mortgage modification schemes, where thieves trick borrowers into paying upfront fees for modifications that never materialize. SIGTARP alone has initiated dozens of criminal investigations into these schemes, some of which are described in Section I: “The Office of the Special Inspector General for the Troubled Asset Relief Program” in this report. Although the announcement of the new programs was done with great fanfare, little was done at the time to warn



borrowers about the dangers of potential fraud, which is particularly dangerous given the current ambiguity in many of the programs. As SIGTARP has repeatedly warned, Treasury must take a more proactive role in using its podium not only to highlight and market its new initiatives, which are certainly important exercises, but also to warn of the dangers of fraud. Although Treasury has taken some important steps to advance fraud awareness through its website and at borrower events, it can and should do more to educate a broader audience of the dangers of fraud.

Furthermore, revisions to the Home Affordable Foreclosure Alternatives ("HAFA") program present an increased prospect of potential fraud. As part of the new initiatives, Treasury has announced that additional incentive payments will be paid to borrowers and servicers who participate in its short sale provisions. This also increases the incentives for those participating in criminal short sale scams, and it appears that the program may lack necessary antifraud protections. For example, one prevalent short sale scheme – called "flopping" – centers on home values that are fraudulently deflated for the purpose of decreasing the cost of the short sale to a "straw purchaser." The property is then quickly resold for its true market value, leaving the difference in the crook's pocket. Historically, these schemes often involve the participation of corrupt brokers and servicers. As constituted now, the program permits home valuation, the key vulnerability point for a flopping scheme, without a true appraisal, allowing estimates from brokers or other "independent" providers at the discretion of the servicer, subject to its contractual agreement with the investor.

Similarly, with respect to the principal forgiveness component of HAMP — where there is a similar vulnerability to fraud from underestimating the home's value — Treasury has indicated that this critical parameter will derive from a computer model that will not even require a visual inspection of the home. These less-than-robust valuation methods, along with the increased incentives through Government-funded payouts, leave the program vulnerable to fraud. It also fails to emulate the FHA's more rigorous home valuation protocol that requires use of an FHA-approved appraiser following standard procedures; ironically, the more rigorous procedures will be used in the TARP-funded FHA-refinance program and have been used by the FHA in its own short sale program. No program of this type and scale can be considered well designed without robust protections of taxpayer funds against the predation of criminals, particularly given the inconsistent treatment of home valuation across the different principal forgiveness programs. Taxpayer-assisted short sales and principal forgiveness programs through TARP should have at least the same protections against fraud as those instituted in similar programs by FHA.

**Recommendations:**

- SIGTARP recommends that Treasury launch a broader based information campaign, including public service announcements in target markets that focus on warnings about potential fraud and include conspicuous fraud warnings whenever it makes broad public announcements about the program.
- SIGTARP recommends that Treasury adopt a uniform appraisal process across all HAMP and HAMP-related short sale and principal reduction programs consistent with FHA's procedures.

In response to these recommendations, Treasury agreed that fraud is a serious condition and cited its efforts at educating the public about mortgage fraud through its MHA website, at borrower outreach efforts throughout the country, and in local media. Treasury also indicated that it is about to roll out a public service campaign and is committing to provide fraud warnings to homeowners in the rollout of each new program. Treasury has deferred commenting on SIGTARP's recommendation regarding a uniform appraisal process until 30 days after issuance of this report.

**The Discretionary Nature of Principal Reductions by Servicers Raises Several Concerns That May Undermine the Effectiveness of the Program**

One of the most dramatic changes in the HAMP program is its expansion to address negative equity by mandating consideration of — but not requiring — mortgage principal reductions. The relevant guidelines will require servicers to use an alternative Net Present Value ("NPV") test, similar to the NPV test currently in place, that calculates the value of the modification to the investor taking into account the incentive payments Treasury would pay for forgiving principal as part of the modification. Even if that test demonstrates that a principal reduction modification will yield a greater positive return to the investor than a traditional HAMP modification, however, the guidelines do not *require* the servicer to modify the mortgage with principal reduction. This raises several important concerns as to the potential impact of this program revision and whether it will effectively deal with the re-defaults associated with negative equity.

First, as it stands, the program could create a conflict of interest for the servicers that could result in an incentive for them to avoid principal reduction, even if the NPV test indicates that it will yield a greater return for the investor. As the Congressional Oversight Panel observed in its recent report to Congress, servicers are compensated primarily on the total amount of outstanding principal on the mortgages they service, giving them a disincentive to forgive principal compared to other modifications to the mortgage, such as principal forbearance.<sup>401</sup> While servicers undoubtedly often have an interest in bringing a defaulted mortgage current

through some modification, it is unclear whether the program will provide the necessary servicer incentives to overcome the potential loss of income from choosing a principal reduction modification. In other words, as currently structured, there may be a built-in incentive for servicers to try to bring a mortgage current through a traditional non-principal reducing mortgage modification under HAMP, even when the NPV test indicates that principal forgiveness would be in the best financial interests of both the investor and borrower.

Second, the discretionary nature of principal forgiveness threatens to foster perceptions of unequal treatment and arbitrariness. Under the proposed discretionary system, two neighbors living in identical homes, in the same community, with an identical hardship, income, debt-to-income ratio, and loan-to-value ratio, could end up with dramatically different results from the same Government program based solely on whether their servicer is one that is amenable to principal forgiveness or not. In other words, whether a borrower receives relief on the issue of negative equity (and thus arguably has a higher or lower chance of eventually re-defaulting on his mortgage) will depend not on the borrower's circumstances, but rather on the whims of the borrower's servicer. This kind of arbitrary result should be limited, to the extent possible, in a Government-administered program — a basic fairness concept that Treasury has implicitly recognized by trying to limit arbitrariness in HAMP by both making other aspects of HAMP mandatory and by requiring servicers to attempt to renegotiate their agreements with investors to permit HAMP modification mechanisms if the agreements prohibit them.

Third, giving servicers the discretion to implement principal reduction introduces a questionable inconsistency into the HAMP program and stands in stark contrast to the mandatory nature of the other significant mortgage modification triggers. For example, first lien modifications are mandatory if the original NPV test is positive (subject only to the servicer's contractual agreement with the investors); servicers are similarly required to modify second liens whenever a first lien is modified and the servicer for the second lien is a participant in the HAMP second lien program; and even the newly announced unemployed borrower forbearance program is mandatory for participating servicers. In order to encourage broad application in HAMP, Treasury has made mandatory performance its preferred course.

SIGTARP recognizes that there are critically important policy considerations associated with principal forgiveness, such as moral hazard and unfairness to borrowers who may have acted more responsibly, and takes no position as to whether the newly announced programs appropriately balance those concerns. By introducing the principal forgiveness programs in the manner that it has, however (including allocating more than a quarter of TARP-related HAMP funds to support the FHA-Refinance program, which is intended exclusively to reduce principal balances), Treasury has clearly weighed these costs against the benefits resulting from the reduced risk of re-defaults associated with lower loan-to-value ratios, and it has decided in favor of the latter.

Moral hazard is of particular concern. In the HAMP context, it represents, among other things, the danger that a homeowner who is not eligible for the program will intentionally default on his mortgage in order to receive a principal reduction through HAMP. As the Congressional Oversight Panel recently observed, giving servicers discretion over principal reductions might serve to reduce the incentive for a borrower to attempt to game the system, as the inherent randomness in a discretionary system may deter intentional default.<sup>403</sup> On the other hand, Treasury officials have expressed confidence that their existing protocols for borrower screenings, such as hardship affidavits and third-party income verification, already protect the program from many of the dangers of moral hazard. These mechanisms require a borrower to demonstrate that they have a legitimate financial hardship before they can enter the program, require verifiable third-party information to confirm the hardship, and inform the borrower of the criminal penalties he might face if he attempts to defraud the system. As a result, a borrower who is otherwise unaffected by the financial crisis should be unable to take advantage of the program by intentionally defaulting on his mortgage without criminally defrauding the program by lying about a fictitious hardship and securing fraudulent documentation to support his claim. The program also ameliorates the moral hazard effects because it does not award full principal reduction at the outset of a modification but rather requires the borrower to make three years of modified payments to take advantage of the program fully. In sum, although making principal reduction modifications mandatory could incrementally increase the moral hazard incentives, there are at least mechanisms in place to limit this danger.

Treasury has also informed SIGTARP that it has concerns that servicers may opt out if principal forgiveness is made mandatory, citing concerns in particular about the implication of principal reduction where second liens are present. It is not clear that servicers would necessarily do so, however, and as reported to SIGTARP by several servicers, Treasury did not consult with at least some of them, including one of the larger ones, before the program was announced. Further, there may be other program modifications that could address concerns about second liens, including through the Second Lien Modification Program. Further, this potential fear has not prevented Treasury from repeatedly modifying HAMP guidelines on other important changes to the program, including mandatory forbearance for unemployed borrowers. The agreements themselves explicitly contemplate the servicers going back to the investors to negotiate a change in their agreements when necessary. Moreover, Treasury has expressed confidence that its NPV tests are sound, and, accordingly, principal reduction would only be called for when it would be the most economically advantageous option for the investor.

In sum:

- Although there are important and difficult policy considerations to weigh before principal reduction is utilized as a modification option, now that Treasury has

made a decision to go forward with principal reduction, it should endeavor to implement as effective a program as possible.

- Making principal reduction discretionary may limit HAMP's effectiveness and result in unequal and arbitrary results for similarly situated homeowners.
- Although there are substantial vulnerabilities associated with principal reduction, the program does have barriers designed to minimize moral hazard vulnerabilities.

**Recommendation:**

- SIGTARP recommends that Treasury reevaluate the voluntary nature of its principal reduction program and, irrespective of whether it is discretionary or mandatory, Treasury should consider changes to better maximize its effectiveness, ensure to the greatest extent possible the consistent treatment of similarly situated borrowers, and to address potential conflict of interest issues.

Treasury has deferred commenting on SIGTARP's recommendations on its principal reduction program until 30 days after issuance of this report.

### **The Proposed Unemployed Forbearance May Not Be of Sufficient Duration**

Another aspect of the new initiatives — assistance to unemployed homeowners — may not go far enough to assist the average unemployed homeowner effectively. The unemployment assistance component of the new revisions provides payment forbearance for a minimum of three months, although some borrowers may get relief for up to six months, with the amount forborne added to the balance of the mortgage. One prominent feature of this recession is an unusually high degree of long-term unemployment. According to the Bureau of Labor Statistics, the average length of reported unemployment is 31.2 weeks, the longest recorded since its measurement began in 1948.<sup>43</sup> The median length of unemployment has risen to 21.6 weeks, well above the three-month lower end of the standard assistance period. Indeed, nearly 43% of unemployed workers have been out of work for 27 weeks, a length of time longer than the six-month contemplated maximum for unemployment assistance. To be sure, many homeowners may be unemployed for some period of time before they enter into the program, but unless the long-term unemployment situation radically improves (and it is widely anticipated that it will not do so any time soon), large numbers of unemployed homeowners may still be unemployed at the end of the forbearance period, particularly if servicers elect to forbear only for the three-month minimum. For the fortunate who quickly find jobs, the program may be an important lifeline. But for the rest, the forbearance time period will end before a job is found, their unpaid amount will still be owed, and they will still face an unaffordable mortgage with a principal balance that has been made higher by the unpaid interest amounts during the forbearance period,

potentially eliminating equity for some and plunging others even deeper underwater. In light of this reality, Treasury should consider implementing a program with a longer minimum term and that will have a broader impact. Although no program will assist all unemployed borrowers, Treasury should strive for a program that will at least assist the typical unemployed borrower.

**Recommendation:**

- SIGTARP recommends that Treasury reconsider the length of the minimum term of HAMP's unemployment forbearance program.

Treasury has deferred commenting on SIGTARP's recommendations on its unemployment forbearance program until 30 days after issuance of this report.

**RECOMMENDATIONS RELATING TO THE COMMUNITY DEVELOPMENT CAPITAL INITIATIVE ("CDCI")**

As discussed more extensively in Section 2: "TARP Overview" of this report, Treasury announced CDCI on February 3, 2010. The program will invest capital in Community Development Financial Institutions ("CDFIs"), which work in communities that are underserved by traditional financial institutions and target more than 60% of their small business lending and community development activities in such communities. Under CDCI, qualified CDFIs are eligible for capital investments of up to 5% of their risk-weighted assets. Moreover, when a regulator deems a CDFI insufficiently capitalized to qualify for CDCI funding, the CDFI can raise private capital that Treasury will match dollar for dollar up to the 5% of risk-weighted assets threshold. The announced terms of CDCI provide that Treasury can examine the corporate books of participating institutions as long as Treasury retains at least 10% of its initial investment therein and that the CDFI must submit annually a survey to Treasury describing its use of TARP funds.

**Recommendations:**

The framework for CDCI raises potential oversight issues that Treasury should consider as it further develops the controls for the program, reflected in the following recommendations.

- First, because capitalization is one of the primary measures of a financial institution's health, SIGTARP recommends that Treasury institute careful screening before putting additional capital into an institution with insufficient capital to ensure that the TARP matching funds are not flowing into an institution that is on the verge of failure.
- Second, experience has demonstrated that there must be controls to ensure the legitimacy of any claimed private investments. As noted in Section 1: "The Office of the Special Inspector General for the Troubled Asset Relief Program" in this report, SIGTARP has already secured criminal charges against the former

Chief Executive Officer of The Park Avenue Bank who attempted to defraud TARP through a fraudulent capital raise, and other similar investigations are pending. SIGTARP thus recommends that Treasury develop a robust procedure to audit and verify the *bona fides* of any purported capital raise and to establish adequate controls to verify the source, amount, and closing of all claimed private investments.

- Third, with respect to access to a CDFI's books and records, SIGTARP recommends that Treasury revise CDCI terms to clarify that Treasury's inspection and copy rights continue until the entire CDCI investment is terminated. Additionally, consistent with recommendations made in connection with other TARP programs, the terms should be revised to provide expressly that SIGTARP shall have access to the CDFI's records equal to that of Treasury.
- Finally, to more forcefully encourage CDFIs to increase lending in their underserved communities, SIGTARP recommends that Treasury consider more frequent surveys than annually, as currently contemplated. Quarterly surveys would more effectively emphasize the purpose of the program.

In response to these recommendations, Treasury has indicated that it will address the first two recommendations as it establishes the screening and approval processes for CDCI. Treasury indicated that it will adopt SIGTARP's recommendation that Treasury's inspection rights will continue as long as Treasury holds an interest in the CDFI and will include SIGTARP in those inspection rights. Treasury declined to increase the frequency of the use of funds surveys under the program.

SIGTARP sent a letter to Treasury concerning its recommendations regarding CDCI on March 11, 2010. A copy of that letter is included in Appendix H: "Correspondence."

## TRACKING THE IMPLEMENTATION OF RECOMMENDATIONS IN PREVIOUS REPORTS

SIGTARP has now made dozens of individual recommendations, and updating compliance of each one in narrative form would be impractical. The following table, Table 4.1, summarizes SIGTARP's prior recommendations, gives an indication of SIGTARP's view of the level of implementation to date, and provides a brief explanation for that view where necessary. For more details on the recommendations, readers are directed to SIGTARP's earlier quarterly reports to Congress. Treasury's views on the level of implementation of the recommendations are set forth in Appendix H: "Correspondence."