

Testimony of
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STATEMENT OF NEIL BAROFSKY
SPECIAL INSPECTOR GENERAL TROUBLED ASSET RELIEF PROGRAM
BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY
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Chairman Leahy, Ranking Member Specter, and Members of the Committee, it is an honor to appear before you today.

The Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") was created under the Emergency Economic Stabilization Act of 2008 ("EESA"). As was indicated in our initial report to Congress, which was delivered to each member of Congress earlier this week, nearly \$300 billion has already been expended under TARP, and, yesterday, Secretary Geithner outlined his plans for how Treasury will spend the balance of the \$700 billion approved by Congress. In addition to the six programs previously announced, Treasury has announced several new programs that will be implemented in the coming weeks, including aggressive efforts to deal with foreclosure mitigation, additional infusions of capital, and addressing the toxic assets that remain on many financial institutions' books. The total amount of Government money at risk in these programs as well as programs operated by the Federal Reserve, will total in the trillions. These huge investments of taxpayers money, made over a relatively short time period, will require close oversight and will invariably provide an incentive to those seeking to profit criminally.

As described in my report, responding to these challenges has been and will continue to be a focus of my Office. Of the four primary oversight bodies set forth in EESA, SIGTARP stands alone as the sole TARP oversight body charged with criminal law enforcement authority - as the cop on the beat. This is one of our most important functions.

Criminal cases will be housed in our Investigative Division, which currently includes a Deputy Special Inspector General, a Chief Attorney Investigator, and four special agents who have been detailed by the IRS and the FBI. We have additional agents in the pipeline and we look forward to staffing up aggressively in the coming weeks and months. Our Investigations Division will be built around teams of financial and corporate fraud investigators that include not only special agents, but also forensic analysts and attorney advisors, affording it a broad array of expertise and perspective in developing focused complex investigations.

As we expand we have focused on building essential relationships with other law enforcement and prosecutorial agencies. For example, I have joined the President's Corporate Fraud Task Force and have initiated coordinated planning efforts with the FBI, the Department of Justice, the Internal Revenue Service, and several U.S. Attorney's offices throughout the country to best

utilize our collective investigative resources. Through the TARP-IG Council which I have formed and chair, we are also coordinating our efforts with the other Inspectors General who operate in areas relating to the TARP, including the Federal Reserve, FDIC, FHFA, SEC, HUD, Treasury and TIGTA. We have already opened several criminal investigations involving multiple jurisdictions, and we have teamed up with the SEC, providing assistance to them in shutting down a securities fraud scam in Tennessee that had reaped millions in ill gotten gains by illegally trading on the TARP name. We are also closely coordinating our executive compensation oversight efforts with the New York State Attorney General.

We have begun our outreach to potential whistleblowers and those who may have tips about ongoing waste, fraud and abuse. The SIGTARP Hotline is operational and can be accessed through the SIGTARP website at www.SIGTARP.gov, by telephone at (877) SIG-2009, as well as through email. Plans are being formulated to develop a "fraud awareness program" with the objective of informing potential whistleblowers of the many ways available to them to provide key information to SIGTARP on fraud, waste and abuse involving TARP operations and funds, and explaining how they will be protected. Training is being developed to instruct law enforcement at a variety of agencies to assist in the oversight of the TARP.

Among other initiatives in the works, we plan on the following:

- ? Detailing SIGTARP investigators to existing and future multi-agency task force activities at select locations in order to maximize efficiency and achieve timely and substantial investigative results;
- ? Supporting joint criminal intelligence initiatives with the objective of proactively identifying potential areas of exploitation by those who would commit fraud against the TARP;
- ? Utilizing a flexible investigative model in order to achieve the most significant results, by employing a multidisciplinary team of experienced special agents, attorney advisors and analysts; and,
- ? Providing the necessary tools to the investigative team so that it can achieve program objectives in the most efficient and effective manner possible.

The proactive cooperation and coordination that is at the heart of our investigative strategy is resource intensive. Given the dollar amounts at stake, the increasing number of programs and recipients involved, and other large government programs coming on line simultaneously, there is no question that SIGTARP and its sister law enforcement agencies will face analytical and resource allocation challenges going forward. We cannot shoulder this burden alone. We must work closely with our law enforcement partners, particularly the FBI, the SEC and the federal prosecutors that will be prosecuting our cases. Based on my experience as an Assistant United States Attorney in the Southern District of New York from 2000 to 2008, where I prosecuted securities fraud cases and then founded SDNY's Mortgage Fraud Group, I saw, first hand, the understandable shift, since September 11, 2001, in law enforcement resources away from white collar criminal investigation to terrorism. We saw areas of coverage shrink and prosecutorial thresholds rise. The Department of Justice's recent shift of focus to mortgage fraud has left other areas of white collar crime underfunded and under prosecuted.

Now, with \$700 billion going out the door under TARP, additional hundreds of billions (if not trillions) of credit being provided through the Federal Reserve, and additional hundreds of billions through the proposed stimulus bill, we stand on the precipice of the largest infusion of Government funds over the shortest period of time in our Nation's history. Unfortunately, history teaches us that an outlay of so much money in such a short period of time will inevitably draw those seeking to profit criminally. One need not look further than the recent outlay for Hurricane relief, Iraq reconstruction, or the not-so-distant efforts of the RTC as important lessons. To fully address this potential criminal vulnerability, it is essential that the appropriate resources be dedicated to meet the challenges of deterring and prosecuting fraud in connection with these programs. As a taxpayer who is invested in these programs, as a former prosecutor who has a close up view of corporate greed, and, of course, in my current position, I applaud the efforts of this committee to introduce bipartisan legislation, such as the Chairman, Senator Grassley and Senator Kaufman's Fraud Enforcement Recovery Act and Senator Schumer and Senator Shelby's Safe Markets Act, that will help ensure that law enforcement has the necessary resources to meet the daunting challenges that lay ahead. Such measures will greatly assist us and our partners as we engage in this historic effort to deter and prosecute those who seek to criminally profit from a national crisis.

Chairman Leahy, Ranking Member Specter, and Members of the Committee, this concludes my statement and I would be happy to answer any questions you may have.