Questions from Senator Grassley – July 23, 2009

Thank you for responding to my questions regarding bonus payments to AIG executives and questions regarding the Treasury Department's response to and treatment of the Special Inspector General for the Troubled Asset Relief Program. I appreciate your attention to these additional questions.

1. A recommendation made by the SIGTARP that is noted in his July 21, 2009, Quarterly Report to Congress as being partially implemented is that "Treasury requires all TARP recipients to report on the actual use of TARP funds." In a response to the SIGTARP dated July 2, 2009, the Treasury Department, regarding the Capital Purchase Program (CPP) says that "we do not believe requiring reports as to how specific funds were spent would be meaningful..." The CPP represents more than $200 billion of TARP funds invested by the Treasury Department in more than 600 financial institutions.

It is my understanding that the current administration did place a funds reporting requirement on American International Group (AIG) and that the previous administration put a funds reporting requirement on Citigroup and Bank of America when those institutions received financial assistance from the government.

If a funds reporting requirement was seen as useful with respects to AIG, Citigroup, and Bank of America, why is the same requirement seen as not meaningful with respects to the more than 600 institutions participating in the CPP? How are these institutions different from AIG, Citigroup, and Bank of American such that the usefulness of a funds reporting requirement is diminished?

After consulting with others at Treasury including the Office of Financial Stability (OFS), I am pleased to provide the following responses to your questions.

Under the Emergency Economic Stabilization Act of 2008 (EESA), Congress directed Treasury to promote financial stability by purchasing or guaranteeing troubled assets of financial institutions. The Capital Purchase Program was designed to help achieve that goal by providing capital infusions to viable financial institutions through the purchase of preferred stock. Treasury has provided capital to cushion against losses, promote lending, and help enable institutions to continue operating in the ordinary course. Funds are meant to be available for general business purposes.

Treasury did not require banks to report on their specific use of TARP funds in the CPP program in light of the foregoing purpose of the program and because of a belief that other types of reporting, as discussed below, are a better way of measuring whether the goals of promoting financial stability are being met. Asking a bank to report on its specific use of the funds may elicit responses that illustrate the broad range of uses to which its capital can be put. However, it does not answer whether, for example, the bank’s lending has increased, which is one important measure of financial stability. Because money is fungible—that is, it cannot be distinguished by source once it has been received by the institution and added to the institution’s general funds—

it is not possible to say that a TARP capital infusion resulted in particular loans, investments or other activities.

Bank of America and Citigroup received capital under the CPP program on the same terms as noted above. They also received additional "exceptional assistance" under Treasury's Targeted Investment Program, which was designed for systemically significant institutions. This was also a capital infusion program which was meant to help stabilize the institutions by providing capital to cushion against losses. The contracts for these investments were drafted after the CPP contracts were written, and in light of a recommendation of SIGTARP, each recipient was required to "use its reasonable best efforts to account for its use of the [TARP funds]" and "report to [Treasury] on a quarterly basis … regarding the use of the [TARP funds]…." Treasury also provided a preferred stock facility to AIG in April of this year under a separate program for systemically significant institutions, and included a similar reporting requirement.

Treasury has now received initial reports from Bank of America and Citigroup on their use of funds pursuant to these requirements. AIG has not yet provided its report. .

While these reports provide very general information about the activities of the banks, Treasury does not believe that the quality of the information is of such value that it would be worth requiring all CPP recipients, after the contracts were entered into, to provide similar reports, especially when contrasted with the other type of reporting that Treasury already receives. Specifically, Treasury has instituted a *Monthly Lending and Intermediation Snapshot* to help measure the lending activities of the largest 21 recipients of funds under the CPP. This report includes information on three categories of lending—consumer, commercial and other activities. It also includes a commentary and qualitative section that allows banks to comment on the lending environment and the host of factors outside a bank's control that affect lending levels, such as loan demand, borrower creditworthiness, capital markets liquidity and the macroeconomic environment.

Treasury produces a summary of the data from all the banks and also posts each bank's individual response on the financialstability.gov website. This reporting complements the detailed quarterly reports provided by banks to regulators on activities and financial condition, which are also publicly available. Although some of the largest recipients of TARP funds have recently repaid the assistance, Treasury has obtained their agreement to continue to provide, on a voluntary basis, such information to Treasury.

In addition to the *Monthly Lending and Intermediation Snapshot*, Treasury provides an expanded *Monthly Lending Report* that includes the monthly outstanding balances of consumer loans and commercial loans and total loans from all CPP participants.

Treasury continues to evaluate what types of reporting are most useful as it seeks to achieve greater transparency and accountability in the financial stability programs. In making this evaluation, Treasury has considered and will continue to consider the recommendations of SIGTARP. I look forward, if confirmed, to assuming the position of General Counsel of the Treasury Department and will take seriously all recommendations of the SIGTARP,

2. It is my understanding that the Treasury Department has not examined the survey documents received by SIGTARP in response to its earlier conducted survey of those who received TARP funds. In addition, a review of the survey results seems to disprove the Treasury Departments contention that it is not possible to determine what TARP finds were used for. A summary prepared by the SIGTARP states that "Over 98% of survey recipients reported their actual uses of TARP funds." The SIGTARP survey was sent to more than 360 financial and other institutions that had completed TARP funding agreements.

Is it true that the Treasury Department prepared its responses to the recommendations set forth by SIGTARP without examining the responses received by SIGTARP to its earlier survey?

If the answer is yes, why has the Treasury Department refused to examine this material prepared at the expense and effort of the SIGTARP? In light of the SIGTARP's finding in this survey, will the Treasury Department agree to review all survey material and if necessary reconsider its recommendations in light of that review? Would you also be willing to reconsider your responses to the Finance Committee?

SIGTARP furnished Treasury with a draft of its report regarding its use of funds survey on July 6, 2009 in preparation for a meeting with SIGTARP staff that occurred on July 8, 2009. Simultaneously, Treasury was reviewing and commenting on a draft of SIGTARP's 257-page quarterly report. The primary purposes of this review process are to identify and correct factual errors in the presentation and to give Treasury an opportunity to provide general responses to the report's conclusions and recommendations for inclusion as an appendix to the report. This is the standard practice that Treasury and SIGTARP have followed with respect to SIGTARP's reports: that is, Treasury is given several days prior to publication to review and respond to a draft report.

In this case, Treasury reviewed the draft use of funds report and Treasury staff then met with SIGTARP staff to discuss the report prior to providing any written response. This discussion covered the methodology of the survey, the findings and the recommendations. In particular, there was discussion concerning exactly what questions were asked (which Treasury reviewed) and the effect that the open ended nature of the questions had on the responses. SIGTARP staff confirmed that there was a wide range of responses and great variation in the detail of the responses. Treasury staff and SIGTARP staff also discussed how SIGTARP categorized the responses, since the five categories presented in the report were not included in the questions presented to respondents, and the effect this has on the presentation and conclusions. Treasury staff had no reason to doubt the representations of the SIGTARP staff as to their methodology or findings, and relied on those representations in preparing Treasury's response to the report.

In the days following issuance of the final report, Treasury personnel in the Office of Financial Stability (OFS) made arrangements with SIGTARP to review the responses to the survey. Treasury continues to make a thorough review of the responses before commenting in more detail. If confirmed, I look forward to working with you and your staff on this issue.