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Hearing on Pulling Back TARP: Oversight of the Financial Rescue Program

Elizabeth Warren

Testimony of Elizabeth Warren

Congressional Oversight Panel

Senate Banking Committee

Hearing on “Pulling Back the TARP: Oversight of the Financial Rescue Program”

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Thank you Chairman Dodd, Ranking Member Shelby, and members of the Committee for inviting me here today to testify on Oversight of the Financial Rescue Program.

My name is Elizabeth Warren, and I am chair of the Congressional Oversight Panel. The Congressional Oversight Panel was created as part of the Emergency Economic Stabilization Act of 2008 and is charged with reviewing the state of the financial markets and regulatory system and submitting regular reports to Congress. Our reports are to include oversight of the Treasury Secretary‘s use of contracting authority and program administration; the impact of TARP purchases on financial markets and financial institutions; transparency; and the effectiveness of foreclosure mitigation efforts and whether the program has minimized long-term costs and maximized benefits to taxpayers.

Although I am chair of the Panel, I would like to note that my testimony today reflects my own views and not necessarily those of the entire panel.

I appreciate the opportunity to testify regarding the Panel's findings as well as my recommendations to improve administration of TARP. I am also here to listen to your comments and oversight suggestions. As the head of a **congressional** entity charged with oversight of the TARP program, your thoughts are especially important to me.

Since its inception, the TARP program has raised questions regarding its goals, methods, and program operations. It is not just Congress and the oversight bodies asking the questions, but also the public. The American people want to know what's going on and they deserve answers.

The Congressional Oversight Panel is determined to find answers to these and many other questions. Our first report, issued on December 10, 2008, identified a series of ten primary questions regarding Treasury's goals and methods. These questions must be answered in order for TARP to be successful:

1. What is Treasury's strategy?
2. Is the strategy working to stabilize markets?
3. Is the strategy helping to reduce foreclosures?
4. What have financial institutions done with the taxpayer's money received so far?
5. Is the public receiving a fair deal?
6. What is Treasury doing to help the American family?

7. Is Treasury imposing reforms on financial institutions that are taking taxpayer money?
8. How is Treasury deciding which institutions receive the money?
9. What is the scope of Treasury's statutory authority?
10. Is Treasury looking ahead?

As a follow up, I sent a letter to then-Treasury Secretary Paulson requesting responses to these questions, along with specific subsidiary questions. I ask to have that letter entered into the Record. An analysis of Treasury's response provided the basis for the Panel's second report, issued on January 9, 2009. Unfortunately, many of Treasury's answers were non-responsive or incomplete. The report found that Treasury particularly needs to provide more information on bank accountability as well as transparency and asset valuation. They also need to provide additional information on foreclosures and articulate a clear strategy, otherwise they are spending billions of dollars on an ad hoc basis.

Congress provided substantial flexibility in the use of funds so Treasury could react to the fluid and changing nature of the financial markets; yet, with these powers goes a deeper responsibility to explain the reasons for the uses made of them. Both Congress and the American people need to understand Treasury's conception of the problems in the economy and its comprehensive strategy to address those problems. Our money—and our economy—are on the line, and we all have a stake in the outcome.

The Panel remains committed to our ongoing oversight role. While we recognize that Treasury is in the midst of a transition of personnel and policies, we believe that our initial questions and areas of concern continue to be important.

On January 28, 2009, I sent a letter to newly sworn-in Treasury Secretary Timothy Geithner requesting more complete answers to the questions on TARP strategy and implementation that we had sent to his predecessor. I have not yet received a response, but I am encouraged by many recently announced initiatives, including efforts to improve transparency, clarify strategy, protect taxpayers, and address executive compensation. We will, of course, share his responses with you and with the public as we continue to monitor the details and implementation of the new initiatives.

As part of our continuing mission to get answers about TARP, the Congressional Oversight Panel examined whether Treasury's injections of cash into financial institutions have resulted in a fair deal for taxpayers. The findings are in our February report, which will formally be submitted to Congress tomorrow. Despite the assurances of then-Secretary Paulson, who said that the transactions were at par—that is, for every $100 injected into the banks the taxpayer received stocks and warrants from the banks worth about $100—the valuation study concludes that Treasury paid substantially more for the assets it purchased under the TARP than their then-current market value. Extrapolating the results of the ten transactions analyzed to all purchases made in 2008 under TARP, Treasury paid $254 billion, for which it received assets worth approximately $176 billion, a shortfall of $78 billion.

At various points Treasury has articulated policy objectives which could result in a program involved in paying substantially more for investments than they appear to have been worth at the time of the transaction. Because Treasury has failed to delineate a clear reason for such an overpayment, however, the panel is unable to determine whether these objectives have been met or whether they justified the large subsidy that was created. Once again, Treasury needs clear goals, methods, and measurements.

I am deeply concerned with the lack of progress by Treasury on foreclosure mitigation. The Emergency Economic Stabilization Act of 2008 aimed to stabilize the economy both through direct support of financial institutions and through encouraging foreclosure mitigation efforts. These two endeavors are intertwined. The credit crisis was triggered by a mortgage foreclosure crisis. While stabilizing the housing market will not solve the economic crisis, the economic crisis cannot be solved without first stabilizing the housing market.

The Panel intends to focus on foreclosure mitigation in our next report. Through an examination of existing foreclosure mitigation efforts, our report will consider key areas including: the need for more detailed and comprehensive information about mortgage loan performance and loss mitigation; the primary drivers in loan default, including affordability, negative equity, and fraud; impediments to successful foreclosure mitigation; and existing foreclosure programs and alternative approaches. Dealing with the foreclosure crisis will help stabilize families and the economy.

As I have noted throughout my testimony with regard to TARP, you can't manage what you can't measure- a philosophy that applies equally well to foreclosure mitigation. A notable dearth of comprehensive or even adequate information on loan performance and loss mitigation makes progress on this point challenging. Developing sound metrics will be a key component for progress in addressing the foreclosure crisis.

I am aware that the Chairman and many Committee members have voiced similar concerns with foreclosure prevention and loss mitigation, and I look forward to working closely with you as we issue our upcoming report.

What have we learned thus far? In the rush to do **something**, it isn't always justified or wise simply to do **anything**. Especially with a program of this magnitude and importance, it is critical for Treasury to articulate clear objectives, develop a precise strategy for reaching those goals, and utilize specific methods to measure progress. Despite the rush to expand both the size and scope of TARP, Treasury must delineate these fundamental points which should have been spelled out at the very beginning of the program. Treasury must also expand its current focus to incorporate its foreclosure mandate.

Thank you for the opportunity to testify today. I appreciate the chance to discuss the Congressional Oversight Panel's findings thus far, as well as my recommendations to improve the administration of TARP. I am especially pleased to be able to testify along with Special Inspector General Barofsky and Acting Comptroller General Dodaro. They have been excellent allies in the effort to provide comprehensive oversight of a large, complex program, and I believe it is noteworthy that our organizations have identified similar major concerns. I look forward to our continued cooperation, as well as working with this Committee to bring accountability to the TARP program.

That concludes my testimony. I will be pleased to answer your questions.