



**OFFICE OF THE SPECIAL INSPECTOR GENERAL**

FOR THE TROUBLED ASSET RELIEF PROGRAM

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WASHINGTON, D.C. 20220

**FEB 19 2010**

Herbert Allison  
Assistant Secretary  
Office of Financial Stability  
U.S. Department of the Treasury  
Main Treasury Building  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Re: Oversight of Small Business Lending Fund

Dear Mr. Allison:

I was surprised to learn from you Wednesday that Treasury is contemplating excluding SIGTARP from the oversight provisions of its legislative proposal concerning the Small Business Lending Fund (“SBLF”), contrary to what you previously told us. I write to reiterate our view that insulating SBLF from the purview of SIGTARP’s oversight (and, for that matter, the oversight of the other oversight bodies set forth in Emergency Economic Stabilization Act of 2008 (“EESA”)) would be contrary to the best interests of the taxpayer.

Although I recognize that SBLF, as proposed, would not be part of the Troubled Asset Relief Program (“TARP”), as you know, SBLF is in many ways an extension of the TARP’s Capital Purchase Program (“CPP”). Many of the oversight issues inherent in CPP that SIGTARP has been dealing with since its inception will be equally applicable to oversight of SBLF. Even putting aside the congruent stated goals of the two programs (*i.e.*, to increase lending), the mechanics are very similar: the economic structure is basically the same, with Treasury providing capital, just as in CPP, in the form of preferred equity; like CPP, the maximum amount of capital available under SBLF will be a percentage of the bank’s risk-weighted assets; and the initial SBLF dividend rate will be the same as the initial CPP dividend rate. It would also appear that the application and approval process for new participants will be similar and will involve the same primary regulators; the same agency responsible for running CPP and managing the CPP investments will apparently also be running SBLF and managing those investments; and even many of the same banks will be participants — SBLF is expressly being designed so that smaller CPP participants will be able to convert their CPP capital into SBLF capital. Indeed, Treasury has indicated that \$11 billion in CPP capital investments would be eligible for conversion to SBLF, and we estimate that up to *approximately 95%* of the current CPP participants could be

eligible to convert. In sum, the funds being utilized, the core mechanics, the economic terms of the program and even many of the participants all stem from TARP's CPP.

In light of this very substantial overlap between CPP and SBLF, it was not surprising when you and your staff told us — just two weeks ago — that it was your understanding that Treasury's legislative proposal concerning SBLF would provide for the same oversight coverage as TARP, and thus SIGTARP would expressly have oversight jurisdiction over SBLF. For reasons that remain unclear, however, you have now informed us that Treasury's original position has apparently changed and that SIGTARP is not included in the current legislative proposal.

This curious change in course, if reflected in the final legislation, would have the unfortunate effect of insulating Treasury's administration of SBLF from an oversight body that has already spent very substantial time and resources building the expertise and developing the relationships necessary to oversee the inextricably related CPP. SIGTARP has spent more than a year now developing that expertise by receiving regular detailed briefings; making recommendations regarding the structure of CPP; meeting with the individuals at OFS, the bank regulators and the outside contractors administering the program; conducting audits of the CPP, including the same sort of selection process now being contemplated for SBLF; reporting on a quarterly basis on the CPP investments and on lending by CPP participants; by pushing for increased transparency on CPP participants' use of TARP funds; by initiating more than 20 criminal investigations into CPP-related matters, including investigations of banks that may have sought to fraudulently obtain taxpayer funds through the application process; and by contacting literally hundreds of the participants. Disregarding that expertise when developing a program that has the same goals, a very similar basic structure, that is being run by the same people, and that involves many of the same participants (and many of which might remain under SIGTARP's oversight in any event), would, at best, be terribly wasteful and lead to duplicative efforts and, at worst, could lead to significant exposure to waste, fraud and abuse as another oversight body gets up to speed (even assuming that another body could find the resources to do so). Indeed, the very proposed structure of SBLF, which contemplates a reduction in the dividend payments to taxpayers based on representations by the SBLF recipients, is one that leaves it vulnerable to potential fraud and will require vigorous and experienced oversight from the onset of the program.

For all of these reasons, I strongly urge Treasury to reconsider its position with respect to the oversight provisions of SBLF and include express reference to SIGTARP's oversight jurisdiction in the SBLF legislative proposal. Moreover, while I do not speak for any other oversight body, it would appear to make sense to give explicit oversight authority over SBLF to all of the EESA

A/S Herbert Allison  
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oversight bodies, including the Congressional Oversight Panel and the Government Accountability Office.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Neil M. Barofsky".

Neil M. Barofsky  
Special Inspector General

cc: Elizabeth Warren  
(Chair, Congressional Oversight Panel)

Gene Dodaro  
(Acting Comptroller General)