

Financial Institutions

E-ALERT

April 23, 2009

SIGTARP Issues Quarterly Report to Congress

In our teleconference discussion last week on enforcement activities and the financial crisis, we discussed the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"). We thought you would be interested to know that, on April 21, 2009, the SIGTARP, Neil M. Barofsky, released his second report to Congress on the status of the various Troubled Asset Relief Program ("TARP") initiatives and the SIGTARP's oversight activities.¹

The report establishes and clarifies the SIGTARP's oversight role in the TARP.² One of SIGTARP's primary roles is to "prevent, detect, and investigate cases of fraud, waste, and abuse of TARP funds and programs." "Through its own audit and investigative resources and through partnership with other relevant law enforcement agencies, SIGTARP is committed to robust criminal and civil enforcement against those, whether inside or outside of Government, who waste, steal, or abuse TARP funds."

The following is a summary of the SIGTARP's oversight activities to date:

- SIGTARP has initiated almost 20 preliminary and full criminal investigations. The cases "vary widely in subject matter and include large corporate and securities fraud matters affecting TARP investments, tax matters, insider trading, public corruption, and mortgage-modification fraud."
- The Audit Division of the SIGTARP launched a survey of the 364 institutions that received TARP funding. As of March 23, 2009, the SIGTARP received responses from all 364 recipients. The SIGTARP will use the survey results to identify potential areas of fraud and to prepare comprehensive reports on the use of TARP funds. The Audit Division is also conducting targeted audits in the following six areas: use of funds, executive compensation compliance, Bank of America's TARP assistance, external influences, executive compensation oversight of the American International Group (AIG) bonuses, and AIG counterparty payments.
- SIGTARP has worked to maintain regular lines of communication with the officials primarily responsible for running the TARP at the Department of the Treasury's Office of Financial Stability and Office of General Counsel, Board of Governors of the Federal Reserve System, and Federal Reserve Bank of New York.

¹ Section 121 of the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343 (enacted Oct. 3, 2008), charges the SIGTARP with conducting, supervising, and coordinating audits and investigations of TARP programs. The SIGTARP is vested with the powers and authorities provided in section 6 of the Inspector General Act of 1978, as well as other information collection powers. Section 121(f) requires the SIGTARP to submit quarterly reports to the Congress containing a summary of the SIGTARP's activities and a detailed statement of purchases, obligations, expenditures, and revenues of all TARP programs.

² The report also contains a helpful description of the various TARP programs, including the Capital Purchase Program (CPP), Capital Assistance Program (CAP), and Term Asset-Backed Securities Loan Facility (TALF). Further, the report offers recommendations for improving the transparency and oversight of these programs.

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- The SIGTARP has coordinated with other Emergency Economic Stabilization Act (“EESA”) oversight bodies such as the Congressional Oversight Panel, Financial Stability Oversight Board, and Government Accountability Office and with other law enforcement agencies such as the Securities and Exchange Commission, Department of Justice, and state Attorneys General.
- SIGTARP created a multi-agency task force to proactively deter, detect, and investigate instances of fraud or abuse in the Term Asset-Backed Securities Loan Facility (TALF).

The SIGTARP has the statutory authorization and the full support of Congress to investigate instances of fraud in the TARP. Institutions that have received or are considering applying for financial assistance under the TARP should adopt comprehensive policies and procedures for TARP funds and activities.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our Financial Institutions, White Collar Defense & Investigations, and Securities Enforcement groups:

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