



## TARP UPDATE: Troubled Assets Will Not be Purchased

In remarks delivered by Treasury Secretary Paulson on November 12, 2008 providing an update on, and discussing the deployment of the remaining funds available under the Treasury's Troubled Asset Relief Program ("TARP"), Mr. Paulson indicated that direct asset purchases under the TARP were unlikely as the Treasury had determined that at this time such purchases were not the most effective use of the remaining funds available under the TARP.

### CaPP Investments

The TARP, established on October 3, 2008, authorized the Treasury to buy or insure troubled assets from financial institutions. The TARP authority was limited to \$700 billion, with \$250 billion approved for immediate deployment. On October 14, 2008, the Treasury announced the Capital Purchase Program ("CaPP"), under which the Treasury would purchase up to \$250 billion of securities from U.S. financial institutions. By October 26, 2008, \$115 billion in preferred securities had been purchased from eight major financial institutions. In his remarks, Secretary Paulson indicated that a significant number of additional applications from banking institutions seeking investments under the CaPP had been approved pending documentation and funding.

### Purchase of Illiquid Mortgage Related Assets Determined Not Most Effective Use of TARP Funds

Secretary Paulson indicated that while the actions taken to date had helped to stabilize the U.S. financial system, the financial system remains fragile and is facing significant challenges associated with the economic downturn both in the U.S. and abroad. Secretary Paulson indicated in his remarks that the Treasury has continued to examine the benefits of directly purchasing illiquid mortgage-related assets and had determined that such purchases were not the most effective use of the remaining funds available under the TARP. However, the Treasury would continue to evaluate whether targeted forms of asset purchases could play a useful role relative to other potential uses of TARP resources. Secretary Paulson outlined three strategies being evaluated for deployment of the remaining TARP funds to strengthen the financial system and support lending while helping to alleviate the pressure associated with illiquid assets.

- *Building capital in financial institutions.* This strategy is based on the assumption that stronger balance sheets would enable financial institutions to better manage and withstand the negative impact of illiquid assets and encourage resumption of lending to consumers. Secretary Paulson indicated that the Treasury is evaluating programs to attract private capital, perhaps through a matching investment program, to leverage the benefit of TARP related investments. In developing a potential matching program, the Treasury is considering whether to broaden access to the CaPP beyond non-bank financial institutions

through a second capital purchase program. However, Secretary Paulson was clear that before a second capital purchase program is launched, the existing program must be completed and assessed to determine the size and focus of the new program in view of economic and market conditions.

- *Support consumer access to credit outside the banking system.* Secretary Paulson identified the asset-backed securitization market and the critical role it has played in financing consumer purchases, including credit cards, student loans and autos. He indicated that the Treasury was working with the Federal Reserve to explore the development of a liquidity facility for highly rated AAA asset-backed securities. Treasury is also looking at ways to use the TARP to encourage private investors to return to this market by providing access to federal financing. Secretary Paulson also indicated that, while this securitization effort would be targeted at consumer financing, this program could also be used to support new commercial and residential mortgage-backed securities lending.
- *Mitigate mortgage foreclosures.* Secretary Paulson indicated that in assembling the financial rescue package, the Treasury and Congress had agreed that the Treasury would use its leverage as a major purchaser of troubled mortgages to work with servicers to achieve more aggressive mortgage modification standards. He noted that, given that the Treasury is not planning to purchase illiquid mortgage assets, another method must be devised to meet that commitment.

Secretary Paulson indicated that ultimately the bulk of the remaining funds under the TARP should be deployed in ways that ensure that the financial system has adequate capital to restart the flow of credit to consumers and business.

For more information, please see our recent Client Alerts and updates on the TARP and other governmental action in response to the current economic crisis at [Financial Crisis Legal Updates and News](#). Please also see our [“Cheat Sheet”](#) on the TARP.

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