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12-10-2008

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Recommended Citation

Hensarling, Jeb, "Jeb Hensarling on Oversight Concerns Regarding Treasury Conduct of TARP for House Financial Services Committee" (2008). *YPFS Documents*. 3756.

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TESTIMONY OF
THE HONORABLE JEB HENSARLING
AS PREPARED FOR DELIVERY BEFORE THE
HOUSE FINANCIAL SERVICES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

OVERSIGHT CONCERNS REGARDING TREASURY DEPARTMENT
CONDUCT OF THE TROUBLED ASSETS RELIEF PROGRAM

– WEDNESDAY, DECEMBER 10, 2008 –

Chairman Frank, Ranking Member Bachus and fellow members of the committee, I want to thank you for inviting me to testify in this oversight hearing on the Troubled Asset Relief Program and to address the role of the Congressional Oversight Panel (COP). After which I will look forward to reclaiming my seat on the dais, always preferring the role of inquisitor to inquisitee.

First though, I would like to recognize the work of the Congressional Oversight Panel Chairwoman Elizabeth Warren. Faced with a number of challenges and time constraints not of her making, she was able to first produce a report and, secondly, to produce one that raises many legitimate issues and questions for which Treasury must account and about which this committee should care. Although I cannot in good conscience support the report at this time for reasons I will discuss later, I commend her nonetheless.

Rigorous oversight of the Troubled Asset Relief Program is essential. It is essential because to deal with our national economic challenges, Congress, whether members realize it or not, has granted unprecedented power to the Treasury Secretary and has simultaneously created unprecedented taxpayer exposure.

I, along with many of my colleagues on both sides of the aisle, supported alternative plans and opposed the enactment of EESA both times it was considered in the House. I believe many of the criticisms of EESA are better directed at Congress for passing the law in the first place rather than Treasury, although they have much for which to account. Nonetheless, EESA is now law of the land and I, like most of my colleagues, intend to do whatever I can

to ensure that it works. I believe the Congressional Oversight Panel can play a key role in this regard. Only time will tell if it ultimately does.

My goals for oversight are three-fold.

One, I want to ensure that the program actually works. In other words, is Treasury actually exercising its broad authority commensurate with the Act and are its actions effective?

Two, is the decision making process transparent and based on meritorious considerations of what helps the entire American economy?

Last, but certainly not least, is the often forgotten taxpayer protected in this program? Even by Washington standards, \$700 billion is a great deal of money. That translates into roughly \$9,400 per American family when they are struggling to keep their business viable, send their kids to college and pay their mortgages.

Mr. Chairman, we must first ask if TARP is working. Unfortunately, it is probably too early to tell and certainly challenging to tell. One can argue, certainly in the short-run, that Congress may have given Treasury a number of competing goals without guidance on how to weigh them. Furthermore, as we know, and as the panel's report indicated, the Treasury Department under EESA does not act in a bailout vacuum. Treasury's efforts under EESA are dwarfed by those of the FED. Finally, less than 30 percent of the funds Congress made available have physically made it into the marketplace.

Second, with regard to transparency and a meritorious decision making process, many questions remain. Why no monitoring of the activities of those participating in the Capital Purchase Program? Why AIG? Why Citigroup? Why are some Capital Purchase Program applicants "encouraged" to withdraw their applications?

Finally, is the American taxpayer truly being protected? This level of federal intervention is unprecedented and each Treasury action is being paid for by a congressionally-mandated draw-down on future generations. Our nation is on the verge of seeing the largest nominal deficit in its history. The unfunded obligations of the taxpayer have increased over \$2 trillion in the last 2 years to its highest level ever – approximately \$400,000 per family.

Mr. Chairman, I believe the COP has a unique role to play in the accountability of EESA. Time will tell whether or not the panel will prove effective in that role. For a number of reasons, panelists were appointed late in the process with a report looming large for submission today. Due to these and other exigent circumstances, the panel has operated rather informally. Issues of the panel rules, panel process, resource allocation, minority rights and the panel's agenda remain unresolved.

In order to be an effective advocate for the American taxpayer, I have to ensure that every panel member has the resources and rights necessary to conduct effective oversight. I must also ensure that the panel officially adopts a serious agenda that truly brings transparency and accountability to the process. I have raised my concerns but thus far, I assume due to the exigency of the circumstances, they have yet to be addressed.

The report being issued today included many good points and questions that I agree need to be asked of Treasury. I was, however, particularly concerned about language that could be interpreted as a panel expectation that Treasury should make credit more expensive and less available for Americans and could delay the recovery of our housing market at exactly the wrong time in our nation's economic history.

But my prime objections to signing the report, Mr. Chairman, remain concerns I expressed earlier. Until I conclude that these important issues are addressed, that all taxpayers can be sure that their voices are represented, and that the panel represents a serious attempt at bipartisan oversight, I cannot and will not in good conscience approve any reports.