

PUBLICATION

Update on Treasury Department's Progress in Implementing TARP

October 13, 2008

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, led by members of its Financial Stabilization Task Force and Washington, D.C. Public Policy Advisors, continue to actively monitor the progress of the economic stabilization package and other federal efforts. A team of attorneys, public policy advisors and other professionals were present this morning at the Institute for International Bankers (IIB), where Neel Kashkari, the Interim Assistant Secretary of Treasury for Financial Stability, outlined the U.S. Treasury Department's strategy and implementation of the Troubled Assets Purchase Program (TARP) created on October 3 by the Emergency Economic Stabilization Act (EESA) of 2008 (P.L. 110-343). Highlights of the session are as follows:

Strategy to Include Purchase of Equity - To address the issue of "frozen credit," the U.S. Treasury (Treasury) is adopting a flexible approach that will draw on a variety of tools to restore lending and capital flows in the economy. In particular, Mr. Kashkari indicated that Treasury is designing a standardized program to purchase equity securities in "healthy institutions." Treasury's intention is to encourage private capital to be invested along with public capital in order to fill the capital hole presently being experienced by many financial institutions. Equity securities are one of several types of assets that Treasury can purchase to help restore capital flows and resume bank lending.

Program Implementation - Because of the severity of the current situation and the fact that the TARP formally lapses in 14 months (unless formally extended for one year by Congress), Treasury is moving quickly to establish TARP program logistics and operations. This includes the designation of team leaders, hiring of staff and the selection of several vendors. Seven core policy "teams" have been set up to implement the TARP: The mortgage-backed securities purchase program; the whole loan purchase program; the equity purchase program; the illiquid asset insurance program; homeowner preservation; program compliance; and executive compensation. Five team leaders have been hired to recruit staff and assume operational control of the TARP, including former bank regulatory officials with prior experience in the Resolution Trust Corporation (RTC). Please refer to Mr. Kashkari's remarks linked below for the names of the team leaders.

Guidelines and Protocols Coming Soon - Treasury is trying to accomplish in days what usually takes weeks, months or even years. Mr. Kashkari indicated that the policy teams are presently working on protocols and guidelines to implement the mortgage-backed securities and whole loan purchase programs. These protocols, as well as the program to purchase equity, will be most relevant to institutions interested in participating in the TARP or purchasing securities being offered through the program.

Procurement - Treasury will soon announce a Master Custodian Firm from among three contenders; that firm's responsibility will be to hold and track purchased assets. Ennis Knupp and Associates has been hired as an investment management consultant to review proposals submitted by prospective vendors who will conduct securities and whole loan asset acquisition and sales. Treasury has also hired Simpson Thatcher to provide legal advice on equity program structuring, and two accounting firms will soon be hired to provide auditing services and internal control systems. Subcontracting opportunities will be made available to small businesses, veteran-owned businesses, and minority and women-owned businesses. Treasury has established review committees to ensure that conflicts of interest throughout the procurement process are minimized and mitigated.

