

## BANKING LAW

NEWSLETTER OF THE BANKING AND SPECIALTY FINANCE PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

### Update on TARP Activities

[Harold P. Reichwald](#)

While the Treasury's Capital Purchase Program (CPP) has occupied the attention of banks and their leadership since it was announced on October 14, 2008, there are ongoing developments concerning other aspects of the TARP scheme that remain very much in the active planning stage. Interim Assistant Secretary of the Treasury for Financial Stability Neel Kashkari described those developments in his testimony today before the Senate Banking Committee. We summarize those non-CPP developments below.

#### 1. Mortgage-Backed Securities Purchase

With Bank of New York-Mellon selected as the custodian for this program, attention at the Treasury has turned to designing an auction process for these securities, including how best to quickly and effectively identify and attract bidders and effect purchases. Asset managers are expected to be selected shortly.

#### 2. Whole Loan Purchase Program

The Treasury and federal banking regulators are deciding how to identify which loans best fit in this program for its initial stages, how to value them for purchase, and how to pay for those purchases. This suggests that the Treasury wants to make this program as simple as possible so as to best meet the policy objectives set forth in EESA. At the same time, the Treasury is reviewing applications from a large number of asset managers who want to be hired to manage this process, and expects this to be accomplished "very soon."

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### 3. Insurance Program

The Treasury previously published a request for comments as to how best to structure such a program. Responses are due no later than October 28, 2008, after which the Treasury will formulate its plans and then establish this program immediately.

### 4. Systemically Significant Failing Institutions

Recognizing that there will be some institutions that fall into this category, the Treasury recognizes that it may have to provide specialized direct assistance in these cases and that it will have to deal with these situations on a case-by-case basis, consistent with the EESA provisions and recent pronouncements on executive compensation.

### 5. Accountability and Oversight

Separate functions and offices have been established to address (a) transparency of all transactions under TARP, (b) monitoring all TARP programs with the help of the Government Accountability Office, (c) circumstances requiring the involvement of a Special Inspector General, and (d) the proper functioning of the mandated Financial Stability Oversight Board with a staff including an Executive Director, General Counsel, and Secretariat.

We will keep you informed of developments in each of these areas as they occur.

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**Harold P. Reichwald** Mr. Reichwald is a highly experienced banking and finance attorney whose career encompasses domestic and international matters for banks and specialty finance institutions. His experience comprises a broad range of matters including: governance matters, sophisticated financial transactions such as asset securitization, LBOs, project finance, corporate lending and restructuring; representation of a variety of domestic and foreign financial institutions before the FDIC,

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