

The Financial Bailout: Your Tax Dollars Gone Missing

As Congress has floundered in its efforts to hold banks accountable for how they have spent the bailout money, Common Cause has been receiving thousands of questions and stories from its members all over the country about their personal experiences during this economic crisis. Many of the stories are perfect illustrations of systemic problems the financial bailout has failed to address so far, like continuing foreclosures.

Individually, each of the stories is a disheartening look at our current national condition, as there are certainly many more like them. When set against the actions of the institutions that received the billions of tax dollars from the financial bailout, they are indicative of a deeper problem: a failure to put the interests of American people first.

Congress is largely to blame for the financial bailout's failures. Each of the institutions that received bailout money acted predictably with the money it received, as there were virtually no restrictions placed on what they should do with it. To date, Congress still has not passed any legislation that would impose restrictions on how bailout recipients should use the money.

The examples below of how the bailout recipients used taxpayers' money should be a wakeup call to Congress. If members of Congress are outraged at bank CEOs and want to help American families like those whose stories are presented here, then they should pass legislation that sets forth specific requirements for the recipients of government bailout money. A number of bills have already been introduced in the House and Senate that would address the different ways the recipients have misused the bailout money, but none have been passed by both chambers.

My husband and I purchased a home in Feb. 2007. We were assured by the offer paperwork and our lender that our rate would be no higher than 8 %. At closing, we learned that our rate would be 10% and adjust in 2 years to gross amounts... Our Mortgage lender advised that we would be able to re-finance with no problem in one year. It has been two years and we still cannot refinance. We are concerned about being able to continue to afford our mortgage payment at the reset date. Countrywide, our lender, will not renegotiate our loan because we are not behind in payments. We are unable to re-finance through our local bank because we now owe more than the home is worth because the market has deteriorated so badly.

Rebecca Graham
Edgecomb, ME

If it is to reform the system so that this does not happen again, Congress must also investigate the underlying reasons for why the financial meltdown occurred in the first place. For both the spending of the bailout money and the reforms of the financial system as a whole, Congress needs to have a complete understanding of how we got here.

Where did all the money go?

While the current economic crisis is not news, the most recent numbers are staggering. Unemployment has reached 7.2 percent and over 1 million jobs were lost between November and December of 2008.¹ One of every five mortgage holders now has a home worth less than the mortgage on it.² There were 2.25 million home foreclosures in 2008.³ Home foreclosures increased more than 71 percent in the third quarter of 2008 compared to the previous year and it is estimated that 8 million homes, representing 16 percent of all mortgages, will be in foreclosure in the next 4 years.⁴

It is also well-known that the government's first response to the crisis was to pass the Emergency Economic Stabilization Act of 2008 (EESA), better known as the "bailout." The act authorized the Treasury Department to spend \$700 billion, in two allocations (the second only if necessary) to stabilize the financial system in a way that would protect homes and family savings, preserve homeownership, and provide public accountability.⁵ The program was called the Troubled Asset Relief Program (TARP) as the Treasury's original strategy was to use that money to buy troubled mortgage-related assets. In the following two months, however, the Department changed course to instead invest the money directly in financial institutions by purchasing preferred stock.⁶ As of January 30, in addition to the \$40 billion granted to AIG and \$20 billion to Citigroup in separate transactions, the Treasury had directed almost \$200 billion to 320 banks.⁷

I am so angry at the banks for not helping the consumer as promised and the government for letting them. As they fly all over the world in their private jets, spending their huge bonus checks, and looking for other banks to buy, I sit and think about the home I built, the wonderful times that I had with my children and family. These appear to be memories that I will never be able to live again. I wish someone could help and stop the greedy from [their] thoughtless way of living and see how many lives are affected by their decisions. This used to be America, the country where helping each other was number one, now I question what this country has become.

Christopher Christensen
Reva, VA

But to what end? Actually, nobody knows. Both the Department of the Treasury and the banks that have taken most advantage of the taxpayers' largesse have been either unable or unwilling to share the most basic of information

about what has been or is being done with the money, whether it is doing anything to help the American people, and how the institutions that are getting the money are being chosen. Treasury has failed to conduct the most minimal oversight and has required next to no information from the banks that would enable them, on the behalf of the public, to monitor the use of public funds. Not surprisingly perhaps from what information can be gleaned, the money is not being used to address the mortgage crisis, the original impetus behind the bailout and the law that underlies it, and is not doing anything measurable to assist American families hardest hit by this economic crisis.

Common Cause has urged Congress to require – in statute – more transparency and accountability of the use of the \$700 billion financial bailout money by passing H.R. 384, the TARP Reform and Accountability Act of 2009, introduced by House Financial Services Committee Chairman Barney Frank (D-MA). The legislation would, among other things, require federal banking regulators to examine annually the use of TARP funds, prohibit the use of TARP funds for mergers or acquisitions, and require recipients to report the amount of any increase or

decrease in new lending. The House passed the TARP Reform and Accountability Act on January 21, but the Senate has yet to take it up.

Does the Treasury Department know?

The EESA also created the Congressional Oversight Panel (COP) as an independent entity to watch over implementation of the bailout. After its initial review, in a December 2008 report the COP made clear its surprise and consternation at how opaque the entire bailout program was. As a result, it demanded answers to certain key questions from the Treasury Department so that they and the American people would be able to assess whether the TARP money was being used wisely.

The questions included the basic one of “What have financial institutions done with the taxpayer money?”⁸ That such a question even needed to be asked – that this was not automatically a matter of public record – was astonishing to many observers. According to the COP, however, the reason why was not so mysterious. It learned through meetings with key players that the TARP program was being administered by Treasury without any attempt to monitor the use of funds by the institutions that received our money.

I lost my home to foreclosure in the summer of 2008. I tried the HOPE program but basically all I got was information to help me contact my lender. I had already been attempting to work with Countrywide for months before I tried HOPE. Every time, I mean EVERY time, I spoke to someone at Countrywide I got a different story. A person even called and told my wife that we had until noon to come up with a \$10,000 payment if we wanted any hope of saving our home. At the last minute before foreclosure I received another call and was told that the sale could be stopped and a mitigation plan agreed to before I had to make any payment. The congratulatory letter I received came after my home had already been sold - without any notification of that action to me.

Anonymous
Fairfield, CA

The COP went on to ask the Treasury if it could identify the specific problem in the financial system it was hoping to remedy. It asked whether Treasury knew if the banks had used the money to increase lending, the original purpose of the program. Did the Treasury have any data that could demonstrate any impact from the program on fixing the troubled economy? What criteria was the Department using when it picked which institutions would get money and which ones would not? In its follow up report a month later, the COP reported that the Treasury Department either could not or would not answer the questions.⁹ The Department did not respond at all to a large number of important questions, ignoring them completely.

Do the companies know?

The General Accounting Office (GAO) reported that six of the eight large institutions that originally received bailout funds indicated no intention of tracking or reporting TARP funds separately from its other resources or viewing them “any differently from any other capital.”¹⁰ In its January 30, 2009 update, the GAO concluded that Treasury still had not made sufficient progress on improving the transparency of the program.¹¹ Given this lack of oversight, it is not entirely surprising, that a series of scandalous revelations and troubling incidents have occurred since the first COP report in December.

The Associated Press followed up on the COP report's queries by contacting 21 banks that received at least \$1 billion in government money and asking four questions: "How much has been spent? What was it spent on? How much is being held in savings, and what's the plan for the rest? None of the banks provided specific answers...Some banks said they simply didn't know where the money was going...Nearly every bank AP questioned – including Citibank and Bank of America, two of the largest recipients of bailout money – responded with general public

My husband and I have not been able to make payments on our house since last year. Countrywide has offered us no hope. When I spoke with them a few months ago they were supposed to send us paperwork because we were a part of the lawsuit in California and there may have been hope. As of today, 1/15/09, I have not received any paperwork from them. We have 3 kids in college. My husband had diabetes and arthritis and I have fibromyalgia, plantar fasciitis, and arthritis in my knee, and we have not been able to keep up with the work on our house. We would love to keep our house, but that does not seem likely.

Maureen Roy
Escondido, CA

relations statements...No bank provided even the most basic accounting for the federal money... Most banks wouldn't say why they were keeping the details secret."¹²

A few weeks after that story was published, it came to light that the amount of lending by the biggest TARP recipients actually declined after they got the money! According to the Federal Reserve, loans from U.S. banks fell by 1 percent in the last three months of 2008, and the decline was more than twice as large among banks that accepted TARP money.¹³ Ten of the biggest beneficiaries of TARP, including Bank of America and Citigroup, "...saw their outstanding loan balances decline by a total of about \$46 billion, or 1.4 percent, between the third and fourth quarters of 2008, according to a *Wall Street Journal* analysis." As the *Journal* noted, "The fact that loan portfolios are shrinking at many of the largest TARP recipients underscores how few strings

Treasury Department officials attached to the infusions. That has made it hard to prevent banks from using the money to pay dividends, make acquisitions, and fund bonuses for top executives."¹⁴

So, where did the money go?

In fact, many of the banks receiving huge amounts of TARP money spent millions of dollars to lobby members of Congress on matters directly related to the bailout and undoubtedly future regulatory reform. In total, companies that received help through the TARP spent more than \$114 million on lobbying and campaign contributions in 2008. The companies paid \$77 million to lobbyists and \$37 million on campaign contributions. Members of the Senate Banking Committee, who oversee these institutions, received \$5.2 million in campaign contributions during the 2008 cycle.

The banks kept spending even after getting the public money. For example, Citigroup received \$45 billion in bailout money. According to the *New York Times*, "While trying to keep a low profile, the company is still fielding an army of Washington lobbyists working on a host of issues, including the bailout. In the fourth quarter, it spent \$1.77 million on lobbying fees."¹⁵ Bank of America, which also received \$45 billion from the American taxpayer, spent \$4.1 million on lobbying in 2008 – a million dollars more than the year before – including \$820,000 in the last few months of the year. Merrill Lynch, which was acquired on January 1 by Bank of America, spent \$4.7 million on lobbying in 2008, up \$280,000. American International Group, which the government took over last fall, spent \$9.5 million on lobbying in 2008, including over \$1 million after the government acquired most of the company.¹⁶ "During the last three months of 2008, at

least seven other firms receiving bailout funds – American Express, Capitol One, Goldman Sachs, KeyCorp, Morgan Stanley, PNC, and Bank of New York Mellon—all lobbied the government about the bailout.”¹⁷ The companies also utilized the less obvious but likely no less effective method of influencing lawmakers by paying for events and charities connected to them. Eight companies that received TARP money spent \$366,000 on such activities.¹⁸

Senators Dianne Feinstein and (D-CA) and Olympia Snowe (R-ME) introduced legislation last year and again this year that would prohibit recipients of bailout money from using the money for lobbying or political contributions. S. 133, the Troubled Asset Relief Program Transparency Reporting Act, is still awaiting a hearing before the Senate Committee on Banking, Housing, and Urban Affairs.

Don't forget the bonuses...

The management of these companies also spent the money paying themselves end-of-the-year bonuses. Financial companies rewarded themselves for their 2008 performances to the tune of \$18.4 billion, the sixth biggest amount in history. Merrill Lynch alone, right before it was acquired by Bank of America distributed between 4 and 5 billion dollars in bonuses, a matter that is now being investigated by the New York State Attorney General.²⁰ Citigroup rewarded its executives with \$4 billion in bonuses, despite the fact that the company lost \$18 billion in 2008 and the government – the American people – had to come to its rescue.²¹ And not only did executives get bonuses despite

the wreckage they had helped create, the average performance-based bonuses for top executives at the biggest companies increased by 14% over the year before to \$265,594.²² In a speech on the Senate floor, Senator Claire McCaskill (D-MO) said an average of \$2.6 million dollars was paid in bonuses to executives from the first 116 banks that got TARP money.²³

As the country sank further into an economic crisis the likes of which has not been seen since the Great Depression, the CEO of Merrill Lynch, John Thain, spent \$1.2 million in company money to redecorate his office. Citigroup arranged to acquire a \$50 million corporate jet, and later balked.²⁴ Wells Fargo, which received \$25 billion in federal funds, was planning a series of “employee recognition outings” in Las Vegas luxury hotels.²⁵

Oct.-Dec. 2008 Lobbying by Bailout Recipients¹⁹

Bailout Recipient	Lobbying Expenses (Oct.-Dec. 2008)	First receipt of bailout funds
American Express Company	\$1,080,000	1/9/09
American International Group	\$1,080,000	10/28/08
Bank of America	\$880,000	10/28/08
Chrysler LLC	\$1,356,589	1/2/09
CIT Group, Inc.	\$80,000	12/31/08
Citigroup	\$1,480,000	10/28/08
General Motors Corporation	\$3,550,000	12/29/08
GMAC LLC	\$1,540,000	12/29/08
Goldman Sachs & Co.	\$720,000	10/28/08
Huntington Bancshares, Inc.	\$43,670	11/14/08
J.P. Morgan Chase Bank	\$1,100,000	10/28/08
Morgan Stanley	\$610,000	10/28/08
PNC Financial Services Group	\$10,000	12/31/08
State Street Corporation	\$210,000	10/28/08
The Bank of New York Mellon	\$330,000	10/28/08
U.S. Bancorp	\$160,000	11/14/08
Wells Fargo & Co.	\$580,000	10/28/08

Source: Sunlight Foundation

And Why Didn't My Bank Get Money?

Transparency issues also arose around how the Treasury was deciding which banks to provide government funding to through the TARP program. As referenced, one of the matters the COP raised with the Department and did not get an adequate answer to was the criteria by which these decisions were being made. Even banks and regulators themselves have complained about the complete secrecy surrounding the process. Inevitably political leverage seems to have trumped merit in some cases. "I think there is a suspicion among a large number of our members that it's who you know rather than the merits of the application," said Camden Fine, chief executive of the Independent Community Bankers of America. "I don't know that to be a fact, but I know there is a strong undercurrent of suspicion among my members that you have to have some sort of connection before you get the golden touch or the blessing from Treasury to get money."²⁶

I have been negotiating a refinance and expansion of my successful 20 year old small business for the last 6 months. Everything was going well until the lender said you'll be fine now because we got our 'share' of the federal stimulus bailout money 4 days ago You will be getting your loan within a week. Then nothing. No word, no calls, nothing. I finally called and was informed that they were 'pulling' out of lending to businesses of my type (a small inn/spa having a wish to expand from 29 to 38 guest rooms). They are hanging onto all those bailout dollars as tightly as they can and in the process they are denying employment for 11 months to builders and permanent employment for an additional 5-10 employees.

Katsilometes
Pocatello, ID

There are indications that Treasury has been influenced by lobbying and personal interference by members of Congress as it has decided which banks to save. "It's totally arbitrary," says South Carolina Governor Mark Sanford. 'If you've got the right lobbyist and the right representative connected to Washington or the right ties to Washington, you get the golden tap on the shoulder,' says Governor Sanford, a Republican."²⁷

Especially shrouded in mystery is the bases upon which Citigroup and Bank of America were given vast additional sums. The Treasury Department publicly stated they were only providing TARP funds to "healthy banks" under the program. In point of fact, both banks were on the point of collapse. So the Treasury, without public explanation, set up new, special programs for these institutions. The Inspector General of the TARP program has started to investigate this. As he said in a recent congressional hearing, the question is, "Were similar banks all treated the same?"²⁸ Community bank executives and industry officials are of the belief that, "while Bank of America and Citigroup executives are able to dial up senior officials at the Treasury and the Federal Reserve and quickly receive tens of billions of dollars in federal aid, the heads of midsize and smaller institutions must wait months."

How the Secrecy and Lack of Oversight Have Hurt American Families

The failure of the Treasury Department to carefully set out public criteria for which institutions would be bailed out and rigorously monitor how they were spending the money is more than a failure of process. It has resulted in the continuing financial suffering of millions of Americans in need of assistance immediately. It is only now that we are learning that the institutions in which we have invested billions of dollars are not using them in ways to help people refinance their

mortgages, lift up communities, and provide lifelines to citizens teetering on the edge. They've been using it in ways that help them, not us. And this could have been avoided with a process that was clear to the stakeholders and the public and overseen by conscientious public officials who would have demanded constant answers from the banks and demonstrations of concrete progress in helping our country climb out of this economic mess.

The result is all too clear in the raw numbers: Unemployment has reached 7.6 percent, over 1 million jobs were lost between November and December of 2008, and another 600,000 were lost in January 2009 alone.²⁹ One of every five mortgage holders now has a home worth less than the mortgage on it.³⁰ There were 2.25 million home foreclosures in 2008.³¹ Home foreclosures increased more than 71 percent in the third quarter of 2008 compared to the previous year and it is estimated that 8 million homes, representing 16 percent of all mortgages, will be in foreclosure in the next 4 years.³²

Going Forward

The Obama Administration has made assurances to Congress and the American people that it intends to overhaul to administration of the bailout program with special emphasis on transparency and accountability for recipients of federal money. For example, the Administration recently announced limits on executive pay for companies that receive future aid from the government under the plan.

Nevertheless, Congress has a role to play with regard to the use of the tax money it has approved for this program. It has been more than four months since the program was originally approved, and there is a wealth of information that banks have not used the bailout money in the ways the program intended. There is a tremendous public outcry about how individuals and families continue to suffer; yet Congress has not responded. Congress should play its necessary oversight role and mandate, in statute, the obvious changes to the bailout program that need to be made. Passage of the Frank and Feinstein bills described above would be important steps in that direction.

In addition to the obvious need for better oversight and control of how tax dollars are being spent by recipients of the bailout money, however, Congress and the Treasury Department need a fuller understanding of the origins of this crisis. While the fallout from the financial collapse pales in comparison to the attacks of September 11 in terms of its human cost, it is certainly on the same order in terms of the financial ruin it has caused. Congress should give as much attention to investigating the causes of the financial meltdown as it has to the failure to prevent the attacks of September 11 or the government's inadequate response to Hurricane Katrina.

Senator Byron Dorgan (D-ND) has introduced S. 195, the Taxpayer Protection Act, which is also awaiting a hearing before the Senate Committee on Banking, Housing, and Urban Affairs. This bill would, among other things, create a Financial Market Investigation and Reform Commission, modeled on the 9/11 Commission, that would investigate the causes of the collapse of the financial system and credit crisis and report to the President and Congress its recommendations for the prevention of a similar financial debacle in the future. Congress needs to move forward with this and other pieces of legislation awaiting a hearing that deal with the abuses described above.

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- ¹ Scott Mayerowitz, “Layoff Nation: Job Losses Keep Coming,” ABC News, January 9, 2009.
- ² Dina El Boghady and Sarah Cohen, “The Growing Foreclosure Crisis,” Washington Post, January 17, 2009.
- ³ Congressional Oversight Panel, “Questions About the \$700 Billion Emergency Economic Stabilization Funds,” December 10, 2009, p. 15.
- ⁴ Rep. Waters Introduces Legislation To Help Homeowners With A Systematic Approach To Foreclosure Prevention, States News Service, January 6, 2009.
- ⁵ Congressional Oversight Panel, “Questions About the \$700 Billion Emergency Economic Stabilization Funds,” December 10, 2009, p.6.
- ⁶ Id at p. 11.
- ⁷ “Participants in Government Investment Plan,” Wall Street Journal, January 30, 2009.
- ⁸ Congressional Oversight Panel, “Questions About the \$700 Billion Emergency Economic Stabilization Funds,” December 10, 2009, p. 9.
- ⁹ Congressional Oversight Panel, “Accountability for the Troubled Asset Relief Program,” January 9, 2009.
- ¹⁰ Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues,” United States Government Accountability Office, January 30, 2009, GAO-09-26, p. 20.
- ¹¹ Id. at 74.
- ¹² Matt Apuzzo, “Where’d the Bailout Money Go? Shhhh, it’s a Secret,” AP News, December 22, 2008. On February 3, 2009, Citigroup finally announced its intentions with respect to the federal money. It said it had approved \$36.5 billion in loans at the end of 2008, including \$25.7 billion in U.S. residential mortgage activities. However, “only \$8.2 million was earmarked for making actual mortgage loans to families and individuals with good credit histories.” See David Ellis, “Citigroup Comes Clean on TARP Spending,” CNNMoney.com, February 3, 2009. Citigroup also pledged that “TARP capital will not be used for compensation and bonuses, dividend payments, lobbying or government relations activities related to advertising and corporate sponsorship.” See Madlen Read, “Citigroup to Deploy \$36.5 Billion to Boost Lending,” Associated Press, February 3, 2009.
- ¹³ Binyamin Appelbaum, “Despite Federal Aid, Many Banks Fail to Revive Lending,” Washington Post, February 3, 2009.
- ¹⁴ David Enrich, “Lending Drops at Big US Banks,” The Wall Street Journal, January 26, 2009.
- ¹⁵ David D. Kirkpatrick and Charlie Savage, “Firms that Got Bailout Money Keep Lobbying,” The New York Times, January 24, 2009.
- ¹⁶ Elizabeth Williamson and Brody Mullins, “Firms Keep Lobbying as They Get TARP Cash,” Wall Street Journal, January 23, 2009. Bank of American says it is no longer lobbying the federal government regarding the bailout specifically. See David D. Kirkpatrick and Charlie Savage, “Firms that Got Bailout Money Keep Lobbying,” The New York Times, January 24, 2009.
- ¹⁷ Id.
- ¹⁸ Silla Brush and Kevin Bogardus, “Bankrolling Charitable Gifts,” The Hill, February 2, 2009.
- ¹⁹ Paul Blumenthal, Bailout Recipients Lobbying,” Sunlight Foundation Blog, January 29, 2009.
- ²⁰ Ben White, “What Red Ink? Wall Street Paid Hefty Bonuses,” The New York Times, January 29, 2009.
- ²¹ Eric Dash and Louise Story, “Getting Theirs Cuts Both Ways on Wall Street,” The New York Times, January 30, 2009.
- ²² Ben White, “What Red Ink? Wall Street Paid Hefty Bonuses,” The New York Times, January 29, 2009.
- ²³ Susan Cornwell, “White House, Senate Take Aim at Wall Street Pay,” Reuters, January 30, 2009.
- ²⁴ Greg Farrell and Francesco Guerrera, “Thain Admits \$1.2 Million Office Refit ‘Mistake,’” Financial Times, January 27, 2009.
- ²⁵ Maureen Dowd, “Well, That Certainly Didn’t Take Long,” The New York Times, February 4, 2009.
- ²⁶ David Cho and Laura Montgomery, “Delays in Bank Aid Spur Frustration,” The Washington Post, January 23, 2009.
- ²⁷ Damian Paletta and David Enrich, “Political Interference Seen in Bank Bailout Decisions,” Wall Street Journal, January 27, 2009. The new Treasury Secretary, Timothy Geithner, has promised to reign in lobbying and political influence over the TARP program. See Charlie Savage, “Geithner Limits Lobbying for Bailout Money,” The New York Times, January 27, 2009. Congressional action is also possible.
- ²⁸ Jeff Grath, Citigroup, Bank of America Bailouts Will Get a Hard Look,” Pro Publica, February 5, 2009.
- ²⁹ Edmund L. Andrews, “598,000 Jobs Lost in January,” The New York Times, February 6, 2009.
- ³⁰ Dina El Boghady and Sarah Cohen, “The Growing Foreclosure Crisis,” Washington Post, January 17, 2009.
- ³¹ Congressional Oversight Panel, “Questions About the \$700 Billion Emergency Economic Stabilization Funds,” December 10, 2009, p. 15.
- ³² Rep. Waters Introduces Legislation To Help Homeowners With A Systematic Approach To Foreclosure Prevention, States News Service, January 6, 2009.