



December 17, 2008

Chairman Chris Dodd
Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Richard Shelby
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Dodd and Ranking Member:

The Project On Government Oversight (POGO) is a non-partisan, non-profit government watchdog that works to achieve a federal government that is effective, accountable, open, and honest. In our continuing scrutiny of the Troubled Asset Relief Program's (TARP) implementation, we have identified a disturbing trend.

As you know, the TARP was created for the express purpose of buttressing the financial system by assisting institutions in danger of going under. In the language of the statute, the TARP was meant to "provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers."¹ However, we are concerned that some institutions are taking advantage of the law, assuming the trappings of failure in order to feed at the TARP trough.

It has come to our attention that a number of insurance companies are attempting to qualify for TARP funds by purchasing banks.² We found eight financial institutions engaging in such practices:

¹ The Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343 (October 3, 2008), hereinafter "EESA," preamble.

² Ram, Vidya, "Aegon Hopes to Tap into TARP," *Forbes.com*, November 18, 2008, www.forbes.com/2008/11/18/aegon-bailout-buy-markets-equity-cx_vr_1118markets18.html, downloaded December 10, 2008.

- Lincoln National Corporation is in the process of acquiring Newton County Loan and Savings, an Indiana bank.³
- Hartford Financial is acquiring Federal Trust Corporation, the parent company of Federal Trust Bank in Florida.⁴
- Genworth Financial is purchasing InterBank FSB in Minnesota.⁵
- CIT Group has converted its Utah Industrial Bank to a Utah State Bank.⁶
- Morgan Stanley was approved as a Bank Holding Company on September 21, 2008.⁷
- GMAC Financial Services has opened GMAC Bank, a Utah chartered Federal Reserve Bank member bank.⁸
- American Express was approved as a Bank Holding Company on November 10, 2008. The company owns American Express Centurion Bank, an industrial loan bank, and American Express Bank FSB, a federal savings bank in Utah.⁹
- Goldman Sachs was approved as a Bank Holding Company in mid-September and opened Goldman Sachs Bank USA in Salt Lake City.¹⁰

These insurance companies, investment banks, and credit agencies seem to be straying from their business models to become traditional banks. Lincoln, Genworth, and Hartford are attempting to become Federal savings and loan holders through the Office of Thrift Supervision. Should they be approved, they would then theoretically qualify for the Capital Purchase Program (CPP) under the TARP. The others have added Bank Holding Company to their lists of services by opening branches in Utah and receiving approval from the Federal Reserve Board of Governors. They too would apparently be eligible for CPP once approved.

³ Lincoln Financial Corporation, *Lincoln Financial Group Applies to Become Savings and Loan Holding Company*, November 17, 2008, www.lfg.com/LincolnPageServer?KPage_PageID=LFG_Page&LFGPage=%2FIfg%2FIfgclient%2Fabt%2Fnews%2F2008%2Findex.html&KURL=%2FIfg%2FIfgclient%2Fabt%2Fnews%2F2008%2F20081117%2Fcontent.xml, downloaded December 9, 2008.

⁴ The Hartford, *The Hartford Announces Agreement To Acquire Federal Trust Bank And Application To U.S. Treasury Capital Purchase Program*, November 14, 2008, <http://ir.thehartford.com/releasedetail.cfm?ReleaseID=347832>, downloaded December 9, 2008.

⁵ Genworth Financial, *Genworth Announces Filing for Savings and Loan Holding Company Status*, November 16, 2008, http://phx.corporate-ir.net/phoenix.zhtml?c=175970&p=irol-newsArticle_Print&ID=1226911&highlight=, downloaded December 9, 2008.

⁶ CIT Group, *CIT Applies to Become a Bank Holding Company*, November 13, 2008, www.cit.com/media-room/press-releases/index.htm, downloaded December 9, 2008.

⁷ Morgan Stanley, *Morgan Stanley Granted Federal Bank Holding Company Status By U.S. Federal Reserve Board of Governors*, September 21, 2008, www.morganstanley.com/about/press/articles/6933.html, downloaded December 9, 2008.

⁸ GMAC Financial Services, *GMAC Files Application With Federal Reserve to Become Bank Holding Company*, November 20, 2008, <http://media.gmacfs.com/index.php?s=43&item=288>, downloaded December 9, 2008.

⁹ American Express, *American Express Granted Bank Holding Company Status*, November 10, 2008, <http://home3.americanexpress.com/corp/pc/2008/bhc.asp>, downloaded December 9, 2008.

¹⁰ Goldman Sachs, *Goldman Sachs To Become The Fourth Largest Bank Holding Company*, September 21, 2008, www2.goldmansachs.com/our-firm/press/press-releases/current/bank-holding-co.html, downloaded December 9, 2008.

In response to a question from Rep. Tom Price about insurance companies' purchasing of banks to access TARP funds before the House Financial Services Committee, Secretary Paulson said that he did not think this was "a successful strategy. . . . We are going to look only at applications that we think make sense. . . . It may make sense to put capital into those institutions that are playing a vital role in lending and keeping our economy going."¹¹ We have found no other explicit reference by a member of the government to these companies' attempts to access TARP funds.

We do not accuse these companies of wrongdoing in acquiring other financial institutions. However, at least four of the eight institutions claimed to be economically stable one day¹² and then reorganized dramatically when presented with the prospect of government handouts another.

Kenneth Chenault, American Express's CEO, asserted that the company's "business model is well positioned to generate earnings and excess capital even in an economic environment that is likely to be among the weakest in many years"¹³ less than a month before becoming a Bank Holding Company and, presumably, applying for TARP funds.

Again, the TARP was created to "purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers."¹⁴ We think that these companies' back-door efforts to access TARP funds is a violation of the spirit, if not the letter, of the Act and does not comport with the real interests of the taxpayer.

¹¹ See web archive of hearing at <http://financialserv.edgeboss.net/wmedia/financialserv/hearing111808.wvx> (video file). The relevant question is found at 2:26:40.

¹² Lincoln Financial Corporation, *Lincoln Financial Group Announces Preliminary Third Quarter 2008 Results*, October 10, 2008, www.lfg.com/LincolnPageServer?KPage_PageID=LFG_Page&LFGPage=%2Fflg%2Fflgclient%2Fabt%2Fnews%2F2008%2Findex.html&KURL=%2Fflg%2Fflgclient%2Fabt%2Fnews%2F2008%2F20081010%2Fcontent.xml, downloaded December 9, 2008.

The Hartford, *The Hartford Comments On Its Highly Rated Commercial Mortgage-Backed Securities Portfolio*, November 20, 2008, <http://ir.thehartford.com/releasedetail.cfm?ReleaseID=349929>, downloaded December 9, 2008.

CIT Group, *CIT Reports Third Quarter Results; Continued Progress on Liquidity Initiatives*, October 16, 2008, www.cit.com/media-room/press-releases/index.htm, downloaded December 9, 2008.

American Express, *American Express Third Quarter Revenues Rise Earnings Decline On Increased Credit Provisions*, October 20, 2008, <http://home3.americanexpress.com/corp/pc/2008/3q08.asp>, downloaded December 9, 2008.

There are other expressions of these companies financial well being in their press release archives.

¹³ American Express, *American Express Third Quarter Revenues Rise Earnings Decline On Increased Credit Provisions*, October 20, 2008, <http://home3.americanexpress.com/corp/pc/2008/3q08.asp>, downloaded December 9, 2008. The press release announcing American Express's status as a Bank Holding Company was released on November 10, 2008.

¹⁴ EESA, preamble.

Members of Congress involved in oversight of the bailout should be aware of this practice and determine whether it has a place under the bailout's ever-expanding umbrella. If you have any questions or need any further information, please contact us at (202) 347-1122.

Sincerely,

Danielle Brian
Executive Director

cc: Special Inspector General Neil Barofsky
Inspector General Eric Thorson
Members of the Congressional Oversight Panel
Chairs and Ranking Members of:
Senate Finance Committee
Senate Homeland Security and Government Affairs Committee
House Financial Services Committee
House Oversight and Government Reform Committee