U.S. TREASURY DEPARTMENT

FACT SHEET: OSM UPDATE ON TARP EXECUTIVE COMPENSATION

SEPTEMBER 10, 2014

Seven companies received "exceptional assistance" under the Troubled Asset Relief Program (TARP). Pay packages for the top 25 employees at each of those companies are restricted so long as the company remains in TARP. Since 2009, the Office of the Special Master for TARP Executive Compensation (OSM) has had responsibility for reviewing—and either approving or modifying—those annual pay packages proposed by the companies to be paid by the companies.

While the companies remained in TARP and subject to the OSM's review, compensation for the top 25 employees has been primarily stock based so that the ultimate value of most top executive pay depends on the future performance of the company. CEO compensation did not increase during their respective tenures while the companies remained in TARP, and OSM cut average compensation for top 25 employees when the companies became subject to OSM's jurisdiction. TARP investments are nearly wound down – and the work of OSM is almost complete.[i]

- **<u>Recovery of TARP assistance.</u>** Taken together, the original seven companies under the jurisdiction of OSM have returned the $352 billion in total assistance provided, plus an additional positive return to date of more than $25.5 billion.[ii] Of the initial seven recipients of exceptional assistance, six —AIG, Bank of America, Chrysler, Chrysler Financial, Citigroup and GM—have exited TARP and OSM is no longer responsible for reviewing the pay packages at those companies. The only exceptional assistance company remaining is Ally Financial (formerly GMAC).

  To date, Treasury has recovered approximately $650 million more from its investment in Ally Financial than the $17.2 billion provided by taxpayers to the company. In addition, as of June 30, 2014, Treasury's remaining shares of Ally Financial (constituting approximately 16 percent of the company's outstanding shares) were valued at almost $1.8 billion.[iii] Treasury recently announced that it would sell additional shares of common stock through a pre-defined written trading plan.

- **<u>Work of the Office of the Special Master.</u>** The Office of the Special Master has sought to achieve a balance between limiting compensation payable by exceptional assistance companies, while at the same time permitting them to pay compensation at levels that enable them to remain competitive and repay TARP assistance. Beginning with the initial determinations in 2009, OSM has reviewed compensation proposed to be paid by the companies with the aim that:

    - Pay generally should not exceed the levels paid for similar positions at similar companies, and;

    - Pay packages should consist mostly of stock (rather than cash) so that compensation is tied to the long-term performance of the company and executives are not focused on short-term results or encouraged to take excessive risks.

- **<u>Specific steps in restructuring compensation.</u>** The regulations that established OSM require it to consider six principles in making its determinations: 1. avoid incentives to take excessive risk; 2. maximize the company's ability to be competitive, retain and recruit employees, and repay taxpayers; 3. appropriately allocate the components of compensation; 4. use performance-based compensation; 5. employ pay structures and amounts that are consistent with—and not excessive taking into account—those for similar positions at similar companies; and, 6. base pay on the employee's contribution to the value of the company.[iv] In its first determinations in 2009, OSM:

    - Cut average cash pay for the top 25 employees at the seven exceptional assistance companies by more than 90 percent.

    - Cut average total pay for those top 25 employees by more than 50 percent.

    - Restructured the top 25 pay packages so that most are primarily stock-based (generally including stock salary that vests immediately but is payable over time), with a relatively small percentage of cash pay (in most cases not exceeding $500,000). This means that the ultimate value of most top executive pay depends on the future performance of the company, generally over a three-year period.

    - Provided that, when a pay package includes incentive compensation, it is in the form of long-term restricted stock awarded upon the achievement of pre-established performance metrics and paid out generally over a three-year period.

    - Significantly limited executive perquisites.

The guidelines established in 2009 continue to be followed by OSM.

- **<u>Notable statistics from recent top 25 determinations.</u>**

- **2014 determinations (Ally Financial):**

  - On average, the Ally Financial top 25 compensation packages are 17 percent cash and 83 percent stock, whereas the market median for similar positions at similar companies is 51 percent cash and 49 percent stock.
  - Ally Financial's average top 25 pay packages are closer to the median compensation for persons in similar positions at similar companies than in previous years,[v] and the total direct compensation for the executives covered by the 2014 determinations is more than seven percent lower than the total for the executives covered by the 2013 determinations.
  - Cash compensation for Ally Financial's top 25 employees is on average 62 percent below the median cash compensation for similar positions at similar companies.
  - For the group of Ally Financial employees in the top 25 in both 2013 and 2014, cash compensation remained the same and total direct compensation increased 0.27 percent. For the group of Ally Financial employees new to the top 25 for 2014, cash compensation decreased 58.1 percent as compared to 2013, and total direct compensation decreased 24.8 percent as compared to 2013.

- **2013 determinations (Ally Financial and GM):**

  - For the two companies, on average, 81 percent of pay is in the form of stock compensation (rather than cash).
  - GM's average pay packages for its top 25 employees do not exceed the 50th percentile compared to similar positions at similar companies.
  - Ally Financial's average pay packages for its top 25 employees are mid-way between the 50th and the 75th percentiles compared to similar positions at similar companies.
  - Cash compensation for the top 25 employees at the two companies as a group is on average 56 percent below the median cash compensation for similar positions at similar companies.

- **2012 determinations (Ally Financial, GM and AIG):**

  - For the three companies, on average, 83 percent of pay is in the form of stock compensation (rather than cash).
  - AIG's average pay packages for its top 25 employees are at the 48th percentile (that is, slightly below median) as compared to similar positions at similar companies.
  - GM's average pay packages for its top 25 employees do not exceed the 50th percentile compared to similar positions at similar companies.
  - Ally Financial's average pay packages for its top 25 employees are mid-way between the 50th and the 75th percentiles compared to similar positions at similar companies.[vi]

    - Cash compensation for the top 25 employees at the three companies as a group is on average 63 percent below the median cash compensation for similar positions at similar companies.
    - Ninety-four percent of the top 25 pay packages contain a majority of stock compensation (rather than cash), up from 74 percent in 2010.

  - **CEO compensation:**

    - The Ally Financial, GM and AIG CEOs covered by the recent determinations were all hired to lead the companies after the companies received taxpayer assistance. None of the three CEOs had any pay increase during their respective tenures while the companies remained in TARP.

- **<u>How OSM determinations fared under Dodd-Frank shareholder say-on-pay votes.</u>**[vii] As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act enacted in 2010, public companies are required to hold shareholder say-on-pay votes on top executive compensation. Of the three companies that remained subject to OSM's jurisdiction after 2011, AIG was required to hold a shareholder say-on-pay vote on its previous year's top executive compensation in 2012 and 2013,[viii] GM in 2012, 2013 and 2014, and Ally Financial in 2014.[ix] In all these shareholder say-on-pay votes, the three exceptional assistance companies received shareholder approval percentages that were both very high in absolute terms and very high relative to the percentages received by their peer group companies.[x]

  - AIG's 99.2 percent say-on-pay approval rate in May 2012 was higher than any of the 2012 approval rates achieved by the 24 companies in its peer group, which ranged from 45.2 percent to 98.3 percent. AIG's 98.2 percent say-on-pay approval rate in May 2013 was tied for second place compared to the 2013 approval rates achieved by the 24 companies in its peer group, which ranged from 77.8 percent to 98.9 percent.[xi]

  - GM's 98.8 percent say-on-pay approval rate in June 2012 was also higher than any of the 2012 approval rates achieved by the 18 companies in its peer group, which ranged from 56.8 percent to 97.1 percent. GM's 98.7 percent say-on-pay approval rate in June 2013 was once again higher than any of the 2013 approval rates achieved by the 18 companies in its peer group, which ranged from 75.0 percent to 96.4 percent. GM's 96.9 percent shareholder say-on-pay approval rate in June 2014 was higher than all but one of the 2014 approval rates achieved by 17 of its 18 peer group companies, which ranged from 75.1 percent to 97.6 percent (one of GM's peer companies has not yet held its 2014 annual shareholder meeting).

  - Ally Financial's first shareholder say-on-pay vote took place on July 17, 2014. Ally Financial achieved a 99.7 percent shareholder say-on-pay approval rate, which was higher than any of the 2014 shareholder say-on-pay approval rates achieved by the ten companies in its peer group, which ranged from 87.6 percent to 97.9 percent.

- These shareholder say-on-pay votes show that the shareholders of AIG, GM, and Ally Financial were more satisfied regarding the soundness and appropriateness of the compensation of their top executives than were the shareholders of companies in their respective peer groups in virtually all cases. The Office of the Special Master believes that these shareholder approval votes underscore the effectiveness of the TARP compensation regulations and the work of the Office.

The TARP compensation regulations and all determination letters issued by the Office of the Special Master are available at www.financialstability.gov (click on "Executive Compensation").

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[i] This fact sheet supplements the Final Report of Special Master Kenneth R. Feinberg dated September 10, 2010. Mr. Feinberg was succeeded on that date by Acting Special Master Patricia Geoghegan. The Final Report, the TARP compensation regulations (TARP Standards for Compensation and Corporate Governance, 31 C.F.R. Part 30, June 15, 2009), and all fact sheets and determination letters issued by the Office of the Special Master (OSM) are available at www.financialstability.gov (click on "Executive Compensation"). The Final Report provides an overview of OSM's work, including a description of the applicable statute and regulations, an overview of the organization and administration of OSM, and a description of the process for issuing determination letters each year with respect to the compensation structure and amounts payable by the seven exceptional assistance companies to their top 25 employees. The annual top 25 determination letters, and accompanying fact sheets, contain additional information and statistics with respect to the determinations and the determination process. The 2012, 2013 and 2014 top 25 determination letters also contain an overview of the market data related to the determinations.

[ii] The $352 billion total for the seven companies includes commitments to AIG of $69.8 billion by Treasury and $112 billion by the Federal Reserve Bank of New York for a total of approximately $182 billion to AIG.

[iii] Shortly after OSM issued its April 2, 2014 top 25 determination letter to Ally Financial, the company completed its initial public offering. As a result, during April and May 2014 Treasury reduced its ownership of Ally Financial shares from approximately 37 percent to approximately 16 percent, and received proceeds from the sale of those shares of more than $2.5 billion.

[iv] 31 C.F.R. §30.16(b)(1).

[v] Specifically, the average pay package for the top 25 Ally Financial employees is at a level that is 28 percent of the difference between the 50th and the 75th percentiles of compensation for persons in similar positions at similar companies – thus the average Ally Financial pay package is closer to median in 2014 than in 2013 and 2012.

[vi] These comparison results are consistent with the benchmarks OSM has historically used for the three companies. At each company, some pay packages are above the benchmark average and some pay packages are at or below the benchmark average, depending on individual facts and circumstances. For additional statistics, see the annual top 25 determination letters and accompanying fact sheets at www.financialstability.gov (click on "Executive Compensation").

[vii] Source for the shareholder say-on-pay vote percentages: Equilar.com.

[viii] AIG also received approval in its shareholder say-on-pay vote in May 2014. As AIG had exited TARP in December 2012, however, its 2014 shareholder say-on-pay vote did not cover compensation subject to OSM's jurisdiction.

[ix] Before 2014, Ally Financial did not have any publicly held equity and, therefore, was not required to hold a shareholder say-on-pay vote.

[x] For a list of AIG's, GM's and Ally Financial's peer group companies, see their 2012 or 2013 top 25 determination letters at www.financialstability.gov (click on "Executive Compensation"). For the companies' perspectives on OSM-approved pay packages and restrictions for top executives, see the executive compensation section of the proxy materials filed with the SEC by the companies in connection with their annual shareholder meetings (available at www.sec.gov and at the investor relations page of the companies' websites).

[xi] Note that the shareholder say-on-pay vote results were not skewed by reason of Treasury's then stock ownership in AIG, GM or Ally Financial; Treasury casts its say-on-pay votes in proportion to the "for" or "against" votes cast by the other shareholders. Also, at the time of the 2013 AIG vote and the 2014 GM vote, Treasury no longer held any AIG or GM stock, respectively. In addition, the executive compensation disclosure approved by AIG shareholders in 2013 and by GM shareholders in 2014 included both TARP period pay and post-TARP period pay for top executives.