Opening Statement of Sen. Chuck Grassley
Hearing, "The President's Proposed Fee on Financial Institutions Regarding TARP"
Tuesday, April 20, 2010

Mr. Barofsky, I want to welcome you here today. You and I are both big believers in oversight, accountability and transparency. Today we're discussing what the President calls a Financial Crisis Responsibility Fee. However, the Assistant Secretary for Tax Policy told the dozens of people in attendance at a briefing for Senate staff on the President's fiscal year 2011 budget earlier this year that the President's proposed fee is actually an excise tax.

This is similar to the name game that the Administration and Congressional Majority played with the excise taxes in their health care bill. Although they referred to the excise taxes as fees, the legislative text clearly states that they are actually excise taxes. I will refer to it as the TARP tax, and not the bank tax as some call it, because the proposal applies not only to banks, but also to insurance companies, securities brokers, and thrifts, among others.

The statute that created TARP required the President to submit a plan by 2013 to recover any losses under TARP so that the taxpayers are fully repaid for any TARP losses. However, three years before it was required, the President proposed this excise tax—the TARP tax. One problem that surfaced recently is that Congressional Democrats are already reportedly planning ways to spend the money raised by the proposed TARP tax.

One proposal gaining steam among many on the other side lately is to add the TARP tax to the financial regulatory reform bill. The Congressional Majority is so strapped for money to pay for out of control spending that members are looking to the banks and other financial institutions for money. This reminds me of the story about a reporter asking Willie Sutton, a notorious bank robber, why he robbed banks. Sutton allegedly said, "because that's where the money is." I cannot emphasize this next point enough, if Congress decides to pass a TARP tax, that money should only go toward paying down the deficit. Otherwise, the TARP tax wouldn't even pay for losses from TARP, it would just enable more taxing and spending by those who want to spend more.

All economists state that corporate entities don't actually bear the burden of taxes -- people do. I wanted to know which people would bear the burden of the proposed TARP tax. So I wrote a letter asking the nonpartisan experts at the Congressional Budget Office and Joint Committee on Taxation a series of questions.

The CBO responded to my letter by saying that customers would probably pay higher borrowing rates and other charges, employees might bear some of the cost, and investors could bear some of the cost. The CBO also said that the TARP tax "would also probably slightly decrease the availability of credit for small businesses." In addition, the CBO said that, "for the most part, the firms paying the fee would not be those that are directly responsible for loss realized by the TARP."

One other item from the CBO letter worth noting is that the TARP tax would not apply to firms in the automotive industry. That is really odd, since CBO's March 2010 TARP report states that the automotive industry accounts for $34 billion of the program's estimated total cost of $109 billion. Chairman Baucus and I invited GM to testify before our Committee at one of the later hearings, but GM representatives said they didn't want to testify. I believe GM's silence is deafening.

On another TAR-related matter, I want to thank you for investigating the multi-million dollar severance payments that Treasury is allowing TARP recipients like AIG to pay their departing executives. As you know, I have communicated on several occasions with Treasury and the TARP Special Master for Executive Compensation about this troubling issue, and I have run into a stone wall. I am also pleased that you are going to investigate the possible conflicts of interest on the part of key people at Treasury who worked on the TARP executive compensation regulations.

Since those regulations helped executives walk away with huge severance payments, we need to find out if they were drafted by people who used to represent the very executives affected by the regulations. Treasury claims that all the proper recusals were made, but it has provided none of the documentation necessary to verify that claim. I trust that you will be able to get to the bottom of these important questions and report back to the Committee in the near future.