

U.S. DEPARTMENT OF THE TREASURY

Press Center

Ron Bloom, Senior Advisor at the U.S. Treasury Department Statement before the Congressional Oversight Panel Regarding Treasury's Automotive Industry Financing Program (AIFP)

7/27/2009

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TG-236

Good morning.

Chair Warren, Representative Hensarling and Mr. Nieman, thank you for the opportunity to testify before you today.

On behalf of the Obama Administration and the Auto Task Force, I am here to report on the developments regarding General Motors and Chrysler and the broader state of the American automobile industry.

As you know, the New GM and the New Chrysler have recently completed the purchase of assets through bankruptcy processes and are now operating as independent companies. During the bankruptcy proceedings, every affected stakeholder had a full opportunity to have his or her claim heard and every creditor will almost certainly receive more than they would have had the government not stepped in.

While this has been exceedingly difficult and painful, it has resulted in two great American companies being given a new lease on life and has kept literally hundreds of thousands of Americans working.

I. Goals of the Auto Task Force

Since January, the Obama Administration has been working to manage an historic crisis in the American auto industry. President Obama inherited an auto industry that had lost 50% of its sales volume and over 400,000 jobs in the year before he took office. Two companies – GM and Chrysler – had received substantial loans from the prior Administration and were requesting substantial additional assistance.

Without additional assistance, both companies faced liquidation bankruptcies that would have caused substantial job loss and a ripple effect throughout our entire economy. However, President Obama was unwilling to put additional tax dollars on the line unless these companies and their stakeholders were willing to fundamentally restructure, address prior bad business decisions, and chart a path toward long-term financial viability without ongoing government assistance.

In order to justify an investment of additional taxpayer dollars, the President made two decisions. First, he gave both GM and Chrysler a limited window to work with their stakeholders to secure the sacrifices necessary to make them stronger, leaner, and more competitive. Second, he directed his Auto Task Force to take a commercial approach and refrain from intervening in the day-to-day decisions of these companies. He did this because the companies' long-term viability and ability to repay the taxpayer dollars they were receiving would be seriously undermined if the government became involved in day-to-day business decisions.

In only a few months, both General Motors and Chrysler – working with their stakeholders and the President's Auto Task Force – have achieved things that many thought impossible. The New Chrysler and the New GM have emerged as stronger global companies after proceeding through fair and open bankruptcy processes.

This process required deep and painful sacrifices from all stakeholders – including workers, retirees, suppliers, dealers, creditors, and the countless communities that rely on a vibrant American auto industry. Anytime a company as large and interconnected as GM or Chrysler becomes insolvent, the collateral damage is enormous. However, the steps that the President took not only avoided a potentially catastrophic collapse and brought needed stability to the entire auto industry, but kept hundreds of thousands of Americans working and gave the New GM and New Chrysler have a chance to become viable, competitive American businesses with bright futures.

II. Chrysler

The New Chrysler completed its purchase of assets through the bankruptcy process on June 10, 2009. The Company is now run by its management, under the strong direction of its new Board of Directors, which is composed of a group of nine distinguished, independent

and accomplished individuals. The Board is led by Chairman C. Robert Kidder.

This achievement was the culmination of a series of steps that began with Chrysler submitting a detailed business plan to the U.S. Treasury on February 17, 2009, which the President announced was not viable on March 30th. [1].

However, the President also determined that Chrysler could achieve viability through a partnership with a successful international automobile manufacturer if it was able to meet a set of objectives that the Administration laid out. On April 30th, after Chrysler and its stakeholders made important and meaningful sacrifices that satisfied these tests, the President determined that Chrysler had made sufficient progress to justify an additional investment of U.S. taxpayer resources. In order to effectuate the international partnership and implement the stakeholder concessions, on April 30th Chrysler filed for bankruptcy. Just over one month later on June 10, after a court process that gave all creditors a chance to raise their concerns, the bankruptcy court approved the sale of substantially all of Chrysler's assets to the new Chrysler-Fiat Alliance.

In approving the sale motion, Judge Gonzalez held that the bankruptcy proceedings had been fair and open, "that all relevant standards [had] been established to grant the relief requested" and that "the assets in the Sale Transaction [were] sold free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f)" of the Bankruptcy Code. *In re Chrysler LLC*, 405 B.R. 84, 113 (Bankr. S.D.N.Y. 2009).

While this proceeding received an understandably large amount of public scrutiny, neither the speed nor the substance of the court process was exceptional. As Judge Gonzalez explained, "[t]he sale transaction...is similar to that presented in other cases in which exigent circumstances warrant an expeditious sale of assets prior to confirmation of a plan. The fact that the U.S. government is the primary source of funding does not alter the analysis under bankruptcy law." *In re Chrysler LLC*, 405 B.R. 84, 87 (Bankr. S.D.N.Y. 2009).

On June 5th, this judgment was affirmed unanimously by a three-judge panel of the Second Circuit Court of Appeals. *In re Chrysler LLC*, No. 09-2311 (2d Cir. June 5, 2009). On Tuesday, June 9th the U.S. Supreme Court denied an application to stay the closing of the sales transaction leading to the successful emergence of New Chrysler. *Indiana State Police Pension Trust v. Chrysler LLC*, No. 08A1096, 129 S. Ct. 2275 (June 9, 2009).

Stakeholder participation

Reaching this historic alliance was only possible because of unprecedented sacrifices from Chrysler and all of its key stakeholders:

- *The UAW made important concessions on wages, benefits, and retiree health care.* These concessions brought New Chrysler's compensation in line with that of Toyota and other foreign automotive manufacturers at their US operations. In addition, the UAW retirees exchanged an almost \$8 billion fixed obligation to the Voluntary Employees' Beneficiary Association (VEBA) retiree health trust for a \$4.6 billion unsecured note and stock in New Chrysler. This arrangement shifts substantial risk onto the retiree health care trust and will likely result in meaningful reductions in health care benefits for New Chrysler's 150,000 retirees. The Trust, which is managed by an independent committee of legally bound fiduciaries, will, other than a single seat on the Company's Board of Directors, will have no role in the governance of the Company. However, the ability of the Trust to provide decent benefits over the long-term will require that the Company's stock become valuable, thus significantly aligning the interests of the Company and the VEBA as a key stakeholder.
- *Creditors representing 99% of the Company's \$6.9 billion in secured debt agreed to exchange their claim for \$2 billion in cash.* The Court determined that the \$2 billion was well in excess of the liquidation value of Chrysler [2] and thus found the treatment of secured creditors in the bankruptcy process to be quite normal and conventional. In addition, it was always made clear to the secured lenders that no one contested their right and they were therefore free to take their collateral and do with it as they pleased, including either liquidating the company or operating it. Instead, they made a commercial choice to take their recovery in cash.
- *New Chrysler determined that meaningful actions were required to reduce the overcapacity in both the Company's plant footprint and dealer network.* Therefore New Chrysler's business plan included reductions in plants and dealers across the United States. These decisions, while difficult, are absolutely critical to making New Chrysler competitive and ensuring the success of the Company in the future. Importantly, New Chrysler retained the *overwhelming majority* of dealers from the old company – 87 percent of dealers by volume.
- *Product liability and some workers compensation claimants will not be permitted to carry their claims forward to New Chrysler.* This was a difficult decision, which New Chrysler made on a commercial basis. While everyone involved is certainly sympathetic to the hardships faced by these claimants, the company made a commercial decision quite similar to that of hundreds of other companies going through bankruptcies.

To effectuate this transaction, substantial taxpayer dollars were utilized. The commitment made was for a total of \$8.2 billion in debtor-in-possession and exit financing. Because of the accelerated time frame of the bankruptcy, the proportion of the funding through debtor-in-possession funding was smaller and the exit financing was larger than initially expected. Ultimately, \$1.9 billion of funding was provided in debtor-in-possession loans and \$6.3 billion was provided in exit financing. Added to the exit financing was a \$350 million commitment related to a loss sharing agreement with GMAC that is not expected to be utilized. Also, the governments of Canada and Ontario funded more than \$2.0 billion in debtor-in-possession and exit financing.

The Company's successful emergence, in conjunction with financial support from the U.S. and Canada, has put New Chrysler on a solid footing to succeed and generate jobs well into the 21st century.

III. General Motors

The New General Motors completed its purchase of assets through the bankruptcy process on July 10, 2009. This process also included President Obama's rejection of GM's February 17th business plan. As part of that rejection, on March 30th the President outlined a framework for General Motors to achieve financial viability. After two months of significant work by the company's management and engagement with its stakeholders, GM developed a more robust operating plan. As a result, the President deemed GM's plan viable and on June 1, 2009 committed approximately \$30.1 billion of additional federal assistance from the Troubled Asset Relief Program (TARP) to

support the company's restructuring. [3] To effectuate its plan, General Motors filed for bankruptcy protection and, like Chrysler, utilized Section 363 of the bankruptcy code to conduct a sale of certain of its assets to New GM.

As with New Chrysler, New GM is now being run by its management, under the direction of its new Board of Directors, which is led by Chairman Edward E. Whitacre, Jr.

Stakeholder participation

As with Chrysler, every one of the company's stakeholders made substantial sacrifices. These include:

- *The UAW made significant concessions on compensation that will result in New GM also having wage rates comparable to foreign competitors.* In addition, the GM VEBA retiree health trust exchanged a \$20 billion fixed obligation for a \$2.5 billion note and stock in New GM, in the form of \$6.5 billion in preferred stock, 17.5% in common equity of New GM and warrants to purchase an additional 2.5% in common equity at a \$75 billion strike price. As with New Chrysler, this arrangement shifts substantial risk onto the retiree health care trust and will likely result in meaningful reductions in retiree health care benefits for New GM's approximately 560,000 retirees.
- *Unsecured creditors will receive 10% of the equity of New GM, plus warrants for an additional 15% of the new company.* This settlement makes it highly likely that unsecured creditors will recover far more than they would have if GM had liquidated. As Judge Gerber explained, "the only alternative to an immediate sale [was] liquidation--a disastrous result for GM's creditors, its employees, the suppliers who depend on GM for their own existence, and the communities in which GM operates." *In re General Motors Corp.*, 2009 WL 1959233, at 2 (Bankr. S.D.N.Y. July 5, 2009). And "[i]n the event of a liquidation, creditors now trying to increase their incremental recoveries would get *nothing*." *Id.* (emphasis added). This includes pre-petition product liability claim holders, who will receive their pro-rata share of the disposition of the unsecured creditors' consideration.
- *New GM's plan includes reductions in its workforce -- both hourly and salaried -- and in its plant footprint.* These steps are part of the company's broad effort to right-size the business to reflect current and expected levels of demand. The resulting New GM is now operating with a dramatically improved cost structure. Its breakeven point has been lowered to a 10 million annual unit environment compared to a prior breakeven point of more than 16 million. Because of its reduced debt-load and the elimination of other post-retirement benefit obligations, New GM has credit statistics consistent with its well capitalized peers.
- *New GM is maintaining franchise agreements with the substantial majority of the old company's dealers, and providing a wind-down process for dealers not moving forward.*

IV. Stabilizing the Auto Finance Market

A viable auto industry requires automotive financing for dealers and consumers. The vast majority of automobile purchases in the United States are financed, including an estimated 80%-90% of consumer purchases and substantially all dealer inventory purchases. Given the importance of the availability of financing, a total of \$13.4 billion of TARP funding has been committed to GMAC, \$7.5 billion of which has been funded under the oversight of the Auto Task Force. Also, \$4 billion of this funding is being used by GMAC to support New Chrysler dealers and New Chrysler customers as Chrysler Financial will no longer fulfill that role. Together, these fundings will allow GMAC to meet the needs of a substantial number of dealers and customers for both Chrysler and GM.

Also, the Treasury Department, in conjunction with the Federal Reserve, has continued to expand the Term Asset-Backed Securities Loan Facility (TALF) program to support lending broadly and auto lending in particular. This program has helped automotive finance companies raise over \$26.5 billion through July 2009 to support consumer purchases of vehicles [4]. And, Chrysler Financial recently successfully completed a TALF offering allowing it to repay the \$1.5 billion loan that it previously borrowed from the Treasury Department. With the resolution of the fate of Chrysler and GM and the improvement in the capital markets, the availability of credit to dealers and customers across the automotive industry should continue to improve. Also, as of July 1st, auto, RV and other dealerships can apply for SBA-guaranteed floor plan financing, which will make it easier for these small businesses to borrow against their inventory and increase their cash flow.

V. Stabilizing the Auto Supply Base

Because of the credit crisis and the rapid decline in auto sales, many of the nation's auto parts suppliers have struggled to access credit and have faced uncertainty about the prospects for their businesses. Suppliers that ship parts to auto companies generally receive payment approximately 45-60 days after shipment. In a normal credit environment, suppliers can either sell or borrow against those commitments--so-called "receivables"--in the interim period to pay their workers and fund their ongoing operations. However, due to the uncertainty about the ability of the auto companies to honor their obligations, banks had been unwilling and are still somewhat reluctant to extend credit against these receivables.

On March 19, 2009 the U.S. Treasury announced a \$5 billion Automotive Supplier Support Program to help address this problem. [5] Any eligible domestic auto company may participate. This program has contributed to the stability of the supplier base and the Original Equipment Manufacturers (OEMs) at a critical time. In addition, based on commercial decisions by GM and Chrysler to pay their suppliers through their bankruptcy filings, the supplier industry was provided financial support beyond what occurs in many bankruptcies. This action was taken based on the commercial necessity of ensuring continuity of supply for the manufacturers.

Now with the emergence of New GM and New Chrysler and with the threat of liquidation greatly reduced, there has been some modest opening in credit market access for suppliers. Nonetheless, the Task Force is mindful of the continuing challenges facing auto suppliers and is continuing to actively monitor the health and state of the supply base during this period of industry restructuring.

VI. Auto Warranty Commitment Program

On March 30th, the Auto Task Force implemented a Warranty Program to give confidence to GM's and Chrysler's customers during a period of substantial uncertainty regarding the outlook for the companies. With the successful emergence of the new companies, consumers can now feel assured that the companies have the financial wherewithal to meet their warranty commitments on a continuing basis. As such, the Auto Task Force determined that it was appropriate to end the Warranty Program. I am happy to report that \$641

million invested in the program has been returned to United States Government along with interest payments on the program from New Chrysler. This achievement represented a prudent short-term use of taxpayer funds.

VII. Auto Task Force's Role in Bankruptcy Proceedings

On February 15, 2009 the President appointed an Auto Task Force to oversee his Administration's efforts regarding the industry. The Task Force is co-chaired by Treasury Secretary Timothy Geithner and National Economic Council Director Lawrence Summers, includes representatives from across the executive branch [6], and is staffed by a joint Treasury-NEC team, of which I am now the senior member. This team reports to the Task Force and its co-chairs, who report up to the President.

From the beginning of this process, the President gave the Auto Task Force two clear directions regarding its approach to the auto restructurings. The first was to behave in a commercial manner by ensuring that all stakeholders were treated fairly and received neither more nor less than they would have simply because the government was involved. The second was to refrain from intervening in the day-to-day management of these companies.

As with the funds provided to the auto industry by the prior administration, the funding provided by the Obama Administration was allocated from the TARP as authorized under the Emergency Economic Stabilization Act of 2008 ("EESA"). [7] The terms of the debtor-in-possession (DIP) financing were consistent with EESA requirements and protected the American taxpayer.

Transparency and Accountability

Because the investments made by both the prior and current Administrations to support the auto companies have come from the TARP, the Task Force and its staff's activities have been subject to the full range of disclosure and reporting requirements under the EESA statute. In addition to reporting to this committee, this includes oversight by the GAO, EESA's Financial Stability Oversight Board, the Special Inspector General for TARP or "SIGTARP," and multiple House and Senate committees. Most recently, GAO published a report in June of this year (<http://www.gao.gov/new.items/d09658.pdf>) and the SIGTARP published a report this month (http://www.sig tarp.gov/reports/congress/2009/July2009_Quarterly_Report_to_Congress.pdf). In addition, to date, I have testified before the Senate Banking Committee and the House Judiciary committee as well as held dozens of meetings with Members of Congress and their staff and almost constant telephonic communication. The Auto Task Force will continue to be as responsive as possible to the requests of these entities to ensure thorough transparency and accountability for our actions.

In addition, the Task Force has conducted broad outreach over the past several months to affected stakeholders, industry experts and other constituencies that have requested such meetings.

Role of the Task Force Going Forward

From the beginning of this process, the President clearly directed the Auto Task Force to refrain from intervening in the day-to-day management of GM and Chrysler. Our role has been to act as a potential investor of taxpayer resources, and as such we have not become involved in specific business decisions like where to open a new plant or which dealers to close. This is the job of management and while we have been engaged in dialogue and discussion about their approach, we have not substituted our judgment about specific decisions for theirs. Our goal is to promote strong and viable companies, which can be profitable and contribute to economic growth and jobs without Government support as quickly as possible. Using GM or Chrysler as an instrument of broader government policy is inconsistent with these goals.

Given the emergence of the New GM and the New Chrysler, the involvement of the Auto Task Force with the companies will now change. The companies are being run as commercial enterprises by their management teams, and they will report to new, independent Boards of Directors. The task force was involved in recruiting many of these directors, and I am proud to report that both Boards are filled by men and women of extraordinary distinction, independence and commitment to the obligations that they have accepted. In acting as a lender and investor in New Chrysler and New GM, the Auto Task Force will closely monitor the loans and investments made in both companies going forward.

Safeguarding and Exiting the Taxpayers' Investment

As the President has made clear, The Obama Administration is a reluctant shareholder in New General Motors as well as New Chrysler. We inherited a situation in which GM needed substantial capital. At the same time, GM had been hobbled for years by an unsustainable debt burden. In this context, piling on irresponsible amounts of new debt on top of the new GM would have simply repeated the mistakes of the past. Likewise, giving away the equity stake to which taxpayers were rightly entitled would have been irresponsible.

Therefore, the Administration made the decision to take the equity that taxpayers are entitled to, alongside a firm conviction to manage that investment commercially and exit our position as quickly as is practicable. The Administration has articulated a set of four principles that will govern its approach to managing ownership interests in financial and automotive companies that will apply directly to the government's approach to New Chrysler and New GM:

- *The government has no desire to own equity stakes in companies any longer than necessary, and will seek to dispose of its ownership interests as soon as practicable. Our goal is to establish strong and viable companies that can quickly be profitable and contribute to economic growth and jobs without government involvement.*
- *In exceptional cases where the U.S. government feels it is necessary to respond to a company's request for substantial assistance, the government will reserve the right to set upfront conditions to protect taxpayers, promote financial stability and establish the foundation for future growth. When necessary, these conditions may include new business*

plans similar to those now underway at New Chrysler and New GM as well as changes to ensure a strong board of directors that selects management with a sound long-term vision to restore their companies to profitability and to end the need for government support as quickly as possible.

- *After any up-front conditions are in place, the government will protect the taxpayers' investment by managing its ownership stake in a hands-off, commercial manner.* The government will not interfere with or exert control over day-to-day company operations. No government employees will serve on the boards or be employed by these companies.
- *As a common shareholder, the government will only vote on core governance issues, including the selection of a company's board of directors and major corporate events or transactions.* While protecting taxpayer resources, the government intends to be extremely disciplined as to how it intends to use even these limited rights.

Conclusion

In a better world, the choice to intervene would not have had to be made. But amid the worst economic crisis in three-quarters of a century, the Administration's decisions avoided a devastating liquidation and put a stop to the long practice in the auto industry of kicking hard problems down the road. The Auto Task Force worked quickly to assist GM and Chrysler and did so in a fair and open way. While difficult for all stakeholders involved, these transactions provide New GM and New Chrysler with a new lease on life and with a real chance to succeed.

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[1] The U.S. Treasury Department released an analysis on the Chrysler plan detailing its viability determination, which is available online at: <http://www.financialstability.gov/docs/AIFP/autoFactSheet.pdf>.

[2] \$800 million is on the high end of the range. See *In re Chrysler LLC*, 405 B.R. 84, 97-98 (Bankr. S.D.N.Y. 2009).

[3] In exchange for the total \$49.5 billion of funding (\$30.1 billion to effectuate the bankruptcy process and \$19.4 billion that was provided before the bankruptcy filing), the U.S. Treasury received \$8.8 billion in debt and preferred securities as well as a 60.8% equity stake in New GM (The U.S. Treasury's equity stake is about 50% on a fully diluted basis). The Governments of Canada and Ontario invested \$9.5 billion and received a proportional share of each of these securities.

[4] Figure includes Auto Loan, Auto Lease, and Motorcycle ABS issuance as noted in a report produced by the Markets Group at the Federal Reserve Bank of New York on July 8, 2009.

[5] The Program is implemented through a special purpose vehicle ("SPV") and functions as follows: The OEMs initially identify critical suppliers to participate in the Program. Once included, the OEM submits receivables of the Suppliers eligible for the Program. For those receivables, a participating supplier is entitled to be paid directly from the SPV. Suppliers have the option of receiving payment immediately, in which case they pay a 3% discount, or receiving payment under the supply contract's normal payment terms (usually 45-60 days), in which case the supplier pays a 2% discount. In either scenario, since the supplier receives payment from the SPV, the payment is certain. When the OEM's payment is due to the supplier under the terms of their contract, the OEM makes the payment to the SPV. The SPV thus bears the risk of the OEM's non-payment, and the supplier is secure. Also, New GM and New Chrysler made determinations to reduce their allocated commitments thereby shrinking the size of the program to \$3.5 billion, which they are confident is sufficient to address the needs of the supply base.

[6] The other members of the Task Force are the secretaries of Transportation, Commerce, Labor, and Energy, along with the Chair of the President's Council of Economic Advisers, the Director of the Office of Management and Budget, the EPA Administrator, the Director of the White House Office of Energy and Climate Change and the Chief Economist for the President's Economic Recovery Advisory Board.

[7] As the United States explained at the outset of GM's bankruptcy,

[EESA] created the Troubled Asset Relief Program ("TARP"), which generally authorizes the purchase by the United States of "troubled assets from any financial institution." 12 U.S.C. § 5211. "Troubled assets" are defined to include, among other things, "any . . . financial instrument that the Secretary [of the Treasury], after consultation with the Chairman of the Board of Governors of the Federal Reserve System, determines the purchase of which is necessary to promote financial market stability, but only upon transmittal of such determination, in writing, to the appropriate committees of Congress." 12 U.S.C. § 5202(9)(B). "Financial institution" is broadly defined to include "any institution . . . established and regulated under the laws of the United States or any State, territory, or possession of the United States . . . and having significant operations in the United States . . ." 12 U.S.C. § 5202(5).

The express purposes of EESA are, among other things, to "restore liquidity and stability to the financial system of the United States," and to ensure that expenditure of taxpayer funds "protects home values, college funds, retirement accounts, and life savings," "preserves homeownership and promotes jobs and economic growth," and "maximizes overall returns to the taxpayers of the United States." 12 U.S.C. § 5201.

Consistent with these purposes, and pursuant to section 101(d) of EESA, 12 U.S.C. § 5211(d), the Secretary of the Treasury has promulgated guidelines for allocating resources under TARP to "prevent a significant disruption of the American automotive industry that poses a systemic risk to financial market stability and will have a negative effect on the real economy of the United States." See Guidelines for Automotive Industry Financing Program.

Furthermore, on December 19, 2008, the Secretary of the Treasury issued a written determination, in consultation with the Chairman of the Board of Governors of the Federal Reserve System, that certain holding companies engaged in the manufacturing of automotive vehicles are eligible for funding under the TARP Significant Failing Institutions Program. See Determination of the Secretary of the Treasury, Dec. 19, 2008. By letters dated December 23, 2008, to "the appropriate committees of Congress" – the Senate Committees on Finance; the Budget; Banking, Housing and Urban Affairs; and Appropriations; and the House Committees on Appropriations; the Budget; Financial Services; and Ways and Means – then-Secretary of the Treasury Henry M. Paulson, Jr. delivered a written notification of that determination pursuant to section 3(9)(B) of EESA, 12 U.S.C. § 5202(9)(B). True and correct copies of the Secretary's determination and letters to Congress are attached as Exhibit A.

On April 29, 2009, the Secretary of the Treasury issued a written determination reaffirming that automotive manufacturers are eligible for TARP funding under Treasury's Automotive Industry Financing Program. See Determination of the Secretary of the Treasury, Apr. 29, 2009 (attached hereto as Exhibit B). The April 29th determination has the effect of providing notice that the postpetition financing to be provided by Treasury to GM satisfies the requirements of EESA for use of TARP funds.

There is therefore no legitimate question that Treasury had, and has, ample statutory authority to use TARP funds to provide financial assistance to GM – funds which, as noted above, have already saved GM from an all but certain and calamitous liquidation

Statement of the U.S. upon the Commencement of General Motor Corp. Ch. 11 Case, No. 09-50026, at 9-11, ¶¶17-22 (Bankr. S.D.N.Y. June 1, 2009) (with Troubled Asset Determinations attached).