



# SIGTARP

OFFICE OF THE SPECIAL INSPECTOR GENERAL  
FOR THE TROUBLED ASSET RELIEF PROGRAM

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

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Media Inquiries: 202-927-8940

Twitter: @SIGTARP

Web: [www.sig tarp.gov](http://www.sig tarp.gov)

## **\$85 MILLION SETTLEMENT REACHED WITH FIFTH THIRD BANCORP OVER FAILURE TO SELF-REPORT DEFECTIVE MORTGAGE LOANS**

*The TARP Capital Purchase Program (CPP) Participant Made Voluntary Disclosure of  
Self-Reporting Failures, Admitted Violations*

WASHINGTON, DC – Christy Goldsmith Romero, Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and Preet Bharara, United States Attorney for the Southern District of New York, announced today an \$85 million settlement with Fifth Third Bancorp and its subsidiaries (“FTB” or the “Bank”) resolving civil fraud claims arising from FTB’s origination of residential mortgage loans insured by the Federal Housing Administration (“FHA”).

FTB made a voluntary disclosure of approximately 1,400 mortgage loans that the Bank had certified as eligible for FHA insurance, later determined were materially defective and thus ineligible for FHA insurance, but never self-reported to HUD, resulting in millions of dollars in HUD losses. As part of the settlement approved yesterday by United States District Judge Deborah A. Batts, FTB will pay approximately \$85 million to cover federal losses on approximately 500 of the loans that defaulted and for which HUD paid insurance claims, and indemnify HUD for all losses HUD may incur on approximately 900 defective loans that have not yet defaulted. FTB admitted and accepted responsibility for failing to self-report mortgage loans it knew to be defective, contrary to HUD requirements. FTB has also reformed its business practices and terminated the employment of responsible employees.

“Before and during the time Fifth Third was bailed out in TARP, its Quality Control employees made false representations to HUD that residential mortgages the bank originated were of the quality required to be insured by HUD,” said Christy Goldsmith Romero, TARP Special Inspector General. “The bank’s false representations cost HUD millions of dollars to pay insurance claims on 519 of the materially defective loans that later defaulted. Fifth Third’s actions to fire those employees, voluntarily disclose its violations of the False Claims Act and FIRREA to law enforcement, and make corporate changes should stand as an example for others who violated the law. SIGTARP will root out violations of the law related to TARP with our law enforcement partners such as U.S. Attorney Preet Bharara. It is always better to disclose those violations rather than wait for SIGTARP to find them.”

“Federal insurers rely on banks when they promise that the mortgage loans they originate are eligible for that insurance,” said U.S. Attorney Preet Bharara. “When banks discover that some of the loans are lemons and that their promises of quality were false, as Fifth Third Bank did, they must come forward and report it promptly, so that taxpayers don’t get stuck with the bill. With this settlement, Fifth Third Bancorp has admitted to originating about 1,400 materially defective loans that were not eligible to be FHA insured and has taken positive steps to reform its quality control program, including terminating the employees responsible.”

As set forth in the settlement agreement:

HUD offers various mortgage insurance programs through which it insures approved lenders against losses on mortgage loans made to buyers of single-family housing, including FHA’s Direct Endorsement Lender program, which authorizes private-sector mortgage lenders (“Direct Endorsement Lenders”) to underwrite mortgage loans, decide whether the borrower represents an acceptable credit risk for HUD, and certify loans for FHA mortgage insurance without prior HUD review or approval.

Because HUD relies on Direct Endorsement Lenders to determine which loans should be endorsed for FHA insurance, it requires that Direct Endorsement Lenders conduct adequate due diligence on loans before certifying them for FHA insurance. Direct Endorsement Lenders are also required to maintain an adequate quality control program, which includes self-reporting to HUD in writing within 60 days of initial discovery any loans identified during quality reviews that are affected by serious deficiencies, patterns of non-compliance, or fraud.

Direct Endorsement Lenders make a number of certifications to HUD, including annual certifications and individual loan certifications. In the annual certification, the Direct Endorsement Lender represents that it conforms to all HUD-FHA regulations necessary to maintain its HUD-FHA approval, and among the basic requirements necessary to maintain such approval is the implementation of a compliant quality control program, including timely self-reporting to HUD any loans affected by serious deficiencies, patterns of non-compliance, or fraud. In the individual loan certification, the Direct Endorsement Lender represents that each mortgage is eligible for FHA mortgage insurance.

FTB is an Ohio-chartered bank headquartered in Cincinnati, Ohio. FTB has been a Direct Endorsement Lender since at least 2003 and has submitted both annual and individual loan certifications to HUD.

In 2012, FTB made a voluntary disclosure to the Government of certain residential mortgage loans that FTB had originated and certified to HUD as eligible for FHA insurance, but had later found, through post-closing quality reviews, were in fact materially defective and not eligible for FHA insurance. In 2014, FTB made a supplemental voluntary disclosure to the Government identifying additional materially defective mortgage loans that FTB had failed to self-report to HUD. FTB voluntarily disclosed to the Government a total of 1,439 materially defective loans originated from 2003 through 2013. HUD paid insurance claims on 519 of those loans after they defaulted, and no insurance claims have been submitted to HUD for 920 of the loans.

As part of the settlement, the Bank will pay \$84,911,018 to resolve liability under the False Claims Act and the Financial Institutions Reform, Recovery and Enforcement Act arising from the 519 loans for which HUD paid insurance claims. FTB will indemnify HUD for all losses HUD may incur on the 914 loans that have not defaulted. The Bank will also make an administrative payment to HUD of

\$2,044,000 as part of a separate indemnification agreement with HUD.

FTB admitted, acknowledged, and accepted responsibility for its self-reporting violations, including that:

- FTB was required to self-report to HUD any serious deficiencies, patterns of non-compliance, or fraud within 60 days of the initial discovery;
- FTB made annual certifications to HUD that it conformed to all HUD-FHA regulations necessary to maintain its HUD-FHA approval, which included the implementation of a mandatory quality control program by which FTB reported to HUD all serious deficiencies, patterns of non-compliance, or fraud;
- From 2003 through 2013, FTB's quality control program identified through post-closing reviews 1,436 residential mortgage loans that FTB had originated and certified to HUD as eligible for FHA insurance that were materially defective and thus ineligible for FHA insurance; and
- FTB failed timely to self-report these materially defective loans to HUD pursuant to HUD requirements.

FTB has taken steps to reform its quality control program, including terminating the employment of personnel responsible for FTB's failure to self-report materially defective loans to HUD. This matter arose, in part, from the filing of a whistleblower complaint under the False Claims Act. FTB made its voluntary disclosure to the Government without knowledge of the whistleblower complaint filed under seal or the Government's investigation of that complaint. The Government intervened in the whistleblower lawsuit and entered into this settlement resolving the case.

#### **About SIGTARP**

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP. To date, SIGTARP investigations have yielded more than 200 convictions and resulted in the recovery of over \$1.5 billion to the Government.

To report suspected illicit activity involving TARP, dial the **SIGTARP Hotline**: 1-877-SIG-2009 (1-877-744-2009).

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