



# SIGTARP

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

ADVANCING ECONOMIC STABILITY THROUGH TRANSPARENCY, COORDINATED OVERSIGHT AND ROBUST ENFORCEMENT

**FOR IMMEDIATE RELEASE**

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## **FIRST TARP RECIPIENT INSTITUTION INDICTED**

### **Statement of United States Attorney Charles M. Oberly, III, Regarding Indictment of Wilmington Trust Corporation**

WILMINGTON, Del. – Today, a federal grand jury returned a Second Superseding Indictment adding the Wilmington Trust Corporation as a defendant to the indictment already pending against four former senior bank executives, David Gibson, Robert V.A. Harra, William North, and Kevyn Rakowski, for their respective roles in concealing from the Federal Reserve, the Securities and Exchange Commission (SEC) and the investing public the total quantity of past due loans on Wilmington Trust's books from October 2009 through November 2010. The Nineteen-Count Second Superseding Indictment (15-23-RGA) charges defendants with making false statements in securities filings and to agencies of the United States government.

Wilmington Trust was required to report in its quarterly filings with both the SEC and the Federal Reserve the quantity of its loans for which payment was past due for 90 days or more. Investors and banking regulators consider the amount of past due loans at a bank as an important metric in evaluating the health of a bank's loan portfolio. According to the Second Superseding Indictment, Wilmington Trust, through the actions of the charged senior executives, concealed the truth about the health of its loan portfolio from the SEC, the investing public and from Wilmington Trust's regulators. During the course of the alleged conspiracy, in February 2010, Wilmington Trust raised approximately \$273.9 million through a public stock offering.

In November 2010, Wilmington Trust announced an agreement to be acquired by M&T Bank Corporation, at a price of \$3.84 per share, a discount of approximately 46% from the bank's share price the prior trading day, and approximately \$9.41 per share less than at the time of Wilmington Trust's capital raise in February 2010. This decline in price, between February and November 2010, represented a loss of \$204 million in total market value of the shares bought during the capital raise. The acquisition was completed on May 16, 2011, and Wilmington Trust Corporation became a wholly owned subsidiary of M&T Bank, which assumed both its assets and liabilities. The criminal conduct set forth in the Second Superseding Indictment predated M&T Bank's acquisition of Wilmington Trust and related solely to Wilmington Trust's commercial banking operations.

I did not make the decision lightly to seek charges against the Wilmington Trust Corporation. Ultimately, I have determined that bringing the Second Superseding Indictment is necessary to achieve justice and attempt to make whole those members of our community who suffered significant financial harm as a result of the alleged criminal conduct perpetrated by Wilmington Trust Corporation and its multiple

senior bank officers. Wilmington Trust Corporation had an obligation, to its shareholders and to the public, to accurately report the important financial metrics which enable investors to make informed decisions. Difficult financial times may present significant business challenges, but they do not excuse anyone or any entity from complying with the law. Wilmington Trust received \$330 million in TARP funds and is the first TARP recipient institution to be indicted.

I am grateful to the Federal Bureau of Investigation, the Special Inspector General for the Troubled Asset Relief Program, the Internal Revenue Service's Criminal Investigative Division, the Office of Inspector General for the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau for their diligent and thorough investigation of these matters, as well as to the staff of the United States Attorney's Office for their hard work and commitment to achieving justice.

Finally, I remind everyone that, as always, the charges contained in an indictment are merely accusations, and a corporate defendant, like an individual, is presumed innocent unless and until proven guilty.

#### **About SIGTARP**

The Office of the Special Inspector General for the Troubled Asset Relief Program was created as an independent law enforcement agency to investigate fraud, waste, and abuse related to the TARP bailout. To date, SIGTARP investigations have resulted in the recovery of over \$2.48 billion to the Government and 135 defendants sentenced to prison.

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