APPENDIX I:

LETTER FROM SECRETARY TIMOTHY GEITHNER TO CHAIR ELIZABETH WARREN, RE: RESPONSE TO QUESTIONS ON EXECUTIVE COMPENSATION, DATED FEBRUARY 16, 2010

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

February 16, 2010

Elizabeth Warren
Chair
Congressional Oversight Panel
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Dear Chair Warren:

Thank you for your letter of December 24, 2009, concerning the executive compensation restrictions of the Emergency Economic Stabilization Act of 2008 (EESA), as amended by the Recovery Act, applicable to recipients of financial assistance under the Troubled Asset Relief Program (TARP). Reforming executive compensation practices, particularly at firms that received financial assistance under EESA, is central to this Administration's efforts to restore trust and confidence in our financial system.

Under EESA, Treasury is charged with setting compensation and corporate governance standards applicable to all TARP recipients. As you noted in your letter, in June 2009 Treasury issued an Interim Final Rule that both implemented the compensation restrictions set forth in EESA and used the discretion granted to Treasury in the statute to add further restrictions and requirements. The Interim Final Rule reflects the Administration's commitment to the process of bringing compensation practices at those financial institutions in line with the interests of shareholders and reinforcing the stability of the financial system.

Among the additional restrictions and requirements Treasury imposed under the Interim Final Rule was the creation, within Treasury's Office of Financial Stability, of the Office of the Special Master for TARP Executive Compensation, headed by Kenneth Feinberg. The Special Master is charged with the review and approval of compensation payments and structures for the top earners at firms receiving exceptional TARP assistance. Mr. Feinberg is empowered to make sure that compensation structures are appropriate in light of the particular circumstances at each firm, and that compensation plans reward performance, maximize taxpayer return, and avoid incentives for excessive risk. Mr. Feinberg's first two rounds of decisions on compensation structures at firms receiving exceptional assistance reflect significant progress toward striking the right balance between incentives and risk-taking – all in the public interest.

Of course, our efforts to reform compensation practices are not limited to the firms that received assistance under EESA. Accordingly, the Interim Final Rule, and Mr. Feinberg's work, must be placed in the broader context of what we are doing to encourage better design of compensation to minimize risks to the system as a whole. The Administration has proposed, and the House has passed, legislation that will give shareholders a "say on pay" and strengthen independence of compensation committees at all U.S. public companies. In addition, new supervisory standards from Federal bank regulators, as well as new SEC rules requiring greater disclosure of the relationship between compensation and risk, will help better align pay practices with long-term value creation and prudent risk management.

Your letter included extensive questions with respect to Treasury's adoption of the Interim Final Rule and the work of the Office of the Special Master. Detailed answers to each of those specific questions, prepared by Treasury legal staff in consultation with Mr. Feinberg, are enclosed. Please let me know if you have additional questions on this matter.

Sincerely,

Timothy F. Geithner

cc: Mr. Paul Atkins
Mr. Mark McWatters
Mr. Richard H. Neiman
Mr. Damon A. Silvers

Written Responses to Letter from Chair Warren Dated December 24, 2009

Staff of the Congressional Oversight Panel met with Treasury staff on November 10, 2009, to discuss the work of the Special Master as well as aspects of the Interim Rule generally. The meeting was informative and helpful, but a number of questions remain:

1. The compensation rules bar payment of any bonus, retention award, or incentive compensation other than through long-term restricted stock that cannot constitute more than one-third of the employee's total compensation and whose full vesting cannot occur when TARP assistance is outstanding (the "bonus restrictions").

a. Some commentators have expressed concern that a substantial portion of the increase in value of the restricted stock issued under the bonus restrictions could result in a windfall to covered individuals, because the stock has been granted at historic lows in each institution's stock price and any rise in that price will derive in part from public investment and the implicit cushion created by a perceived "too-big-to-fail" guarantee by federal authorities.

For example, the closing price of a share of common stock of Bank of America on February 12, 2009, when the Interim Rule went into effect, was $5.84, and the price on December 1, 2009, was $15.89, an increase of 172 percent; for Wells Fargo the respective numbers are $16.70 on February 12, 2009, and $27.99 on December 1, 2009, an increase of 67.6 percent.

Please explain the extent to which Treasury considered this issue in drafting the Interim Rule. If this issue was considered, please explain why Treasury rejected the imposition of some cap on the gain covered individuals could receive from their restricted stock.

Answer: In requiring that incentive compensation for covered employees be paid in stock, the Interim Final Rule (IFR) implements the structure of the Emergency Economic Stabilization Act of 2008 (EESA), as amended by the Recovery Act, which expressly mandated that bonuses for these employees be paid in stock. Since incentive compensation is not paid until the end of the fiscal year, however, this stock was generally not granted at the February 2009 prices described in your question. Rather, incentive compensation was paid at the end of 2009, by which time stock prices had risen considerably, as your question points out. Accordingly, most employees received stock grants pursuant to the IFR at those higher prices. By that time, public investment in several large TARP recipients had already been repaid.

With respect to the broader question of whether there should nonetheless be a "cap" on gains covered employees can receive from this restricted stock – again, awarded not at February 2009 prices but at year-end 2009 prices – Treasury concluded that EESA's requirement that bonuses be paid in stock should be interpreted to give employees incentives aligned with long-term value creation. That interpretation is consistent with the goal of having TARP recipients repay taxpayers as soon as possible and maximizing the value of the equity stake that EESA required Treasury to obtain from TARP recipients. That is why the IFR prohibits the stock from being transferred unless TARP assistance is repaid, and requires the stock to be forfeited unless the

employee continues to work for the TARP recipient. Given that EESA did not include a "cap" on the gains resulting from increases in the long-term value of the TARP recipient, Treasury concluded that the IFR should not require that approach.

1b. Please explain the protections the Interim Rule provides against employment contract "make-up" provisions designed to avoid the effect of the bonus restrictions. During the November 10 meeting, Treasury staff explained that the Interim Rule effectively prohibits such provisions by preventing accrual of benefits to be paid after a TARP recipient exits the TARP. However, under the Financial Accounting Standards Board No. 5 (FASB 5), *Accounting for Contingencies*, in order for a liability to be accrued the amount must be both probable and estimable. Please explain how the provisions of the Interim Rule would apply under FASB 5.

Answer: FASB 5 has no effect on the provisions of the IFR. Rather than adopt the accrual standard set forth in FASB 5, the IFR takes a broader view of an "accrual" of a prohibited payment, to make certain that a TARP recipient cannot "make up" a prohibited bonus, retention award, or incentive payment once the employee is no longer subject to the restrictions. For example, if one of the requirements to receive a payment is that the employee provided services during the period the employee was subject to the restrictions, that payment, whenever it is actually made, will be treated as accrued during that period and thus subject to the restrictions.

1c. Please explain why an economic payment equivalent to that foregone by the bonus restrictions cannot be built into a "golden parachute" payment, by formula or amount, for the period for which the bonus restrictions operate, even if the parachute payments may not be made until the end of the coverage period (or, in the case of any employee other than an SEO and the next five most highly-compensated employees, during the coverage period).

Answer: As noted in our response to your Question 1(b) above, the IFR's prohibition on the accrual of any bonus to a covered employee applies broadly, and generally encompasses any payment for services provided while the employee was subject to the restrictions. Thus, a TARP recipient cannot simply increase a retirement payment or other payment due upon a termination of employment (often called "golden parachute" payment) as a substitute for a prohibited bonus.

1d. For financial institutions that have received at least $25 million in TARP assistance, the number of employees subject to the bonus restrictions is set in the statute, but the statute gives Treasury the general discretion to expand that number in the public interest.

Please explain why Treasury has not made use of that authority (other than to authorize review of the "structure of the compensation" of the next 75 most highly-compensated of the seven institutions), and the standards it has employed in deciding not to do so, in light of the fact that the Interim Rule's definition of "highly-compensated employee" includes individuals, such as traders, who are not executive officers. Has Treasury considered extending compensation restrictions to these very senior executives, notwithstanding the fact that they are not among the very most highly compensated employees in their institutions?

Answer: As noted in your question, Treasury extended compensation restrictions to all of the executive officers of TARP recipients that received exceptional assistance. The IFR requires that each recipient of exceptional financial assistance under the TARP obtain the Special Master's approval for the compensation structures for all executive officers, regardless of whether those executives are among the TARP recipient's most highly compensated employees.

With respect to the application of EESA's compensation restrictions to the "executive officers" of TARP recipients, the IFR implements EESA's statutory design, which identifies the employees subject to the restrictions as the "senior executive officers" and, in some cases, the "most highly compensated employees" of each TARP recipient. Neither EESA nor the IFR separately provide for the restrictions to apply to employees serving as executive officers, except insofar as those officers are covered by virtue of their status as "senior executive officers" or "most highly compensated employees."

1e. Treasury officials explained during the November 10 meeting that the bonus restrictions are not applied to executives hired in 2009 to direct the recovery of the relevant institutions. Please explain the standards Treasury has used in applying this exception, as well as the levels of compensation that executives covered by the exception are allowed to received. Please include in that explanation details reflecting actual compensation paid to a selected group of such employees who have become one of the five SEOs of an institution to which this exception has been applied.

Answer: The IFR does not include an exception for executives hired in 2009 to direct the recovery of TARP recipients. Generally, the executives covered by the IFR are determined by reference to total compensation for the previous fiscal year. However, a newly hired chief executive officer or chief financial officer of a TARP recipient becomes subject to Treasury's regulations on the first day that the executive serves in that role.

For examples of the application of the IFR to executives hired in 2009 to direct the recovery of TARP recipients, the Panel may wish to review determinations of the Special Master related to the newly hired chief executive officers for American International Group, Inc. and General Motors Acceptance Corporation, and the newly hired chief financial officer for General Motors Company. As required by the IFR, those determinations, and detailed information with respect to the compensation structures for those executives, are publicly available on the Internet at http://www.financialstability.gov/about/executivecompensation.html, and also at http://www.financialstability.gov/about/spcMaster.html.

1f. Under the statute, restricted stock, granted under the bonus restrictions, may not fully vest during the coverage period. The Interim Rule interprets this language to permit partial vesting as TARP assistance is repaid and final vesting when TARP assistance is fully repaid. Why was repayment of TARP assistance the only relevant standard used in the Interim Rule, in light of the number of key statutory purposes – for example, increasing lending levels and strengthening banks capital position – for the TARP?

Answer: EESA contains detailed language requiring that any incentive compensation paid to an employee subject to the bonus restrictions may not fully vest until TARP assistance is repaid. Treasury determined that TARP repayment should be a condition of the payment of any bonus, retention award, or incentive compensation paid in the form of long-term restricted stock for all employees subject to the bonus restrictions, and the IFR reflects this determination.

However, repayment of TARP assistance is not the only requirement that must be satisfied for an employee to vest. Treasury used its authority under EESA to promulgate additional restrictions on this stock to also require that this stock be forfeited unless the employee provides at least two years of service to the TARP recipient after the stock is granted.

Both EESA and the IFR give TARP recipients the flexibility to impose additional requirements relating to the vesting or transferability of this stock such as those described in your question. However, Treasury determined that prescribing a single set of vesting or transferability criteria for all TARP recipients would impose a one-size-fits-all solution that would be undesirable in view of the substantial variation among firms.

1g. The nation's largest financial institutions have received hundreds of billions of dollars in taxpayer assistance. The statute requires Treasury to review "bonuses, retention[,] awards, and other compensation" paid on or before February [17], 2009 (the date of the statute's enactment) by any institution that has received TARP assistance to determine "whether any such payments *were inconsistent with the purposes of the statute or the TARP or were otherwise inconsistent with the public interest.*" (Emphasis supplied.)

i. Has Treasury conducted such a "look-back" review? Has it conducted such a review for any institution other than one of the seven institutions? In either case, what standards has it used, or will it use, in such a review, that are more specific than the general discretionary standards outlined in the Interim Rule?

Answer: The Special Master expects to turn to this "look-back" review following the issuance of determinations for 2010 compensation for certain employees at exceptional-assistance firms. The IFR sets forth clear principles that the Special Master must use in making the determination whether a payment is inconsistent with the purposes of EESA or the TARP or are otherwise inconsistent with the public interest. These principles include:

(1) *Risk.* Compensation should avoid incentives that reward employees for short-term or temporary increases in value that may not ultimately result in an increase in the long-term value of the TARP recipient.

(2) *Taxpayer return.* Compensation should reflect the need for the TARP recipient to remain a competitive enterprise and ultimately repay TARP obligations.

(3) *Appropriate allocation.* Compensation should be appropriately allocated among each element of pay (*e.g.*, salary, short- and long-term incentive pay, and current and deferred compensation or retirement pay).

(4) *Performance-based compensation.* Compensation should be performance-based, and determined through tailored metrics that encompass individual performance and/or the performance of the TARP recipient or relevant business unit.

(5) *Comparable payments.* Compensation should be consistent with, and not excessive in comparison to, pay for those in similar roles at similar entities.

(6) *Employee contribution.* Compensation should reflect the current or prospective contributions of the employee to the value of the TARP recipient.

Treasury believes that consistent application of these principles by the Special Master, based upon expertise developed in the review of compensation at recipients of exceptional financial assistance, will best serve the purposes of EESA Section 111(f).

ii. The possibility of compensation restrictions was apparent, based on the original language of section 111 of EESA, before enactment of the statute, and it is likely that protective provisions were placed into employment contracts as a result. If Treasury has not conducted a review of such provisions for any group of relevant institutions, why has it not done so?

iii. If Treasury makes a determination described immediately above for a particular TARP recipient, it must "seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government." Has Treasury done so? Has it done so for any institution other than the seven institutions? If Treasury has not done so, please explain why not. Does Treasury have any plans to do so? If so, when?

Answer: The Special Master is still determining the procedures that will be used in conducting the review of payments under EESA Section 111(f), which must occur before any employment contracts are reviewed or any negotiations commence.

iv. The Interim Rule gives authority to the Special Master to conduct all of the look-back reviews, not just those for the seven institutions. Please explain this expansion of the Special Master's authority beyond the seven institutions.

Answer: As noted in your question, Treasury used its authority under EESA to create the Office of the Special Master, and the IFR gives the Special Master authority to approve compensation at institutions that received exceptional assistance (initially there were seven such institutions; following repayments by Bank of America and Citigroup, there are now five). Section 111(f) of EESA mandates that the review of compensation payments applies to all TARP recipients. Therefore, although the Special Master's jurisdiction is generally limited to institutions that received exceptional assistance, his review of payments under Section 111(f) will, as required by statute, encompass all TARP recipients.

2. The statute requires that the rules promulgated by Treasury bar incentives for SEOs to

take "unnecessary and excessive risks that threaten the value of the [financial institution]."

a. The Interim Rule does not explain the meaning of this requirement generally. Instead it merely restates the language of the statute. Please explain why this is so.

Answer: Because the appropriate approach to balancing the relationship between incentives and risk-taking will differ based on the institution's size, risk profile, and compensation structures, the IFR does include a standard of general applicability drawn from the statutory language. However, the IFR does not simply restate the statutory language. The IFR also requires that the compensation committee of each TARP recipient (which is required, under EESA and the IFR, to be composed solely of independent directors) provide Treasury with a narrative description that explains why pay plans do not encourage unnecessary or excessive risk-taking. Treasury believes that this requirement will encourage financial institutions to pursue the complex analysis necessary to balance incentives and risk-taking.

b. The Interim Rule [. . .] contains an extensive explanation of the meaning and application of [the] prohibition against "unnecessary and excessive risks" for the seven institutions (or for any other institution that seeks an advisory opinion from the Special Master). Please explain this difference in treatment, given that many recipients other than the seven institutions continue to hold large amounts of TARP assistance.

Answer: As noted in your question, the IFR separately describes considerations related to risk that the Special Master must take into account when determining compensation structures at firms receiving exceptional assistance and the risk-related review of compensation plans that all TARP recipients are required to conduct. The Special Master has applied those considerations in determining 2009 compensation at those firms, and Treasury expects that TARP recipients' reviews of compensation plans will be guided by those determinations.

3. The statute requires a "claw-back" of bonus, retention award, or incentive compensation to a covered individual based on financial information or "other criteria" that are "found to be materially misleading."

a. Under the Interim Rule, the claw-back provision applies in two situations:

The first is [the relevant] "employee . . . *knowingly engag[ing]* in providing inaccurate information (including knowingly failing to timely correct inaccurate information) relating to . . . [the institution's] financial statements or performance metrics [on which the employee's bonus compensation is based]." (Emphasis supplied.)

The second is any case in which "a financial statement or performance metric criteri[on] is materially inaccurate [under] *all the facts and circumstances.*" (Emphasis supplied.)

b. What are the ramifications under the federal securities laws of a senior employee's provision of materially inaccurate information for the financial statement of a public company?

Answer: Interpretation and application of the federal securities laws is in the purview of the Securities and Exchange Commission.

Why is it appropriate to provide a definition for operation of the claw-back rule that requires a serious violation of the securities laws before the former comes into operation? The Interim Rule makes use of provisions of the regulations issued under the securities laws in a number of critical places. The Panel requests Treasury's view on this matter.

Answer: The IFR does not limit the "clawback" to situations that give rise to a violation of the securities laws, serious or otherwise. Under the IFR, the "clawback" must apply *whenever* the facts and circumstances show that a bonus is based on materially inaccurate financial statements or performance metric criteria. In addition, the TARP recipient's exercise of its clawback rights is not merely discretionary: the IFR requires a TARP recipient to exercise its rights under the "clawback" unless it demonstrates that to do so would be unreasonable.

c. Except for the situation described immediately above [in Question 3(b)], the Interim Rule states that whether information is materially misleading "depends on all the facts and circumstances." *SEC Staff Accounting Bulletin 99* provides extensive definitions of materiality applicable to the financial disclosure of public companies. Why did Treasury not adopt this guidance as the basis for operation of the claw-back provision, especially in light of the fact that the claw-back rule and *Accounting Bulletin 99* apply to the same set of financial disclosures?

Answer: *SEC Staff Accounting Bulletin 99* is one of many sources of legal authority and guidance as to what materiality means in the context of financial reporting, and is limited by its terms to a particular issue. There is a deep and wide variety of other sources that address the meaning of materiality, including case law, SEC rules, other SEC staff bulletins, the SEC's Division of Corporate Finance Financial Disclosure and Reporting Manual, and the SEC's Division of Corporate Finance Compliance and Disclosure Interpretations. Treasury concluded that the purposes of EESA are best served by not limiting the "clawback" to the meanings set forth in one piece of guidance on a particular issue.

Treasury was particularly reluctant to limit the operation of the "clawback" in this manner because a TARP recipient may determine a bonus on the basis of qualitative performance metric criteria that are not amenable to analysis under standard financial reporting measures. In such a case, a materiality definition limited to the financial reporting context could permit TARP recipients to avoid the "clawback" requirement, on the view that the inaccuracy could not be deemed material under financial reporting guidance.

4. The Interim Rule mainly relies on certifications of the compensation committee of the institutions' board[s] of directors and of the principal executive [officers] and [principal] financial officers of the institution to assure that the terms of the Interim Rule have been observed.

a. Please explain this approach, in light of the fact that many of the compensation arrangements before the financial crisis were themselves approved by such compensation committees, senior executives, or both[.]

Answer: The IFR implements EESA provisions requiring certifications of compliance from the principal executive officer, principal financial officer, and compensation committee of each TARP recipient. These certifications differ substantially from the approval of compensation plans in other contexts. For one thing, the certifications refer to compliance with the specific, extensive compensation requirements of EESA and the IFR. For another, the certifications acknowledge the serious penalties that accompany false statements to a federal agency. Treasury believes that the certification process provides executives and directors with incentives to make certain that each TARP recipient is in compliance with EESA and the IFR.

Treasury does not, however, rely solely on this process to ensure that TARP recipients have complied with EESA and the IFR. As described in further detail in our response to your Question 5 below, Treasury has established the Office of Internal Review within the Office of Financial Stability to, among other things, examine whether TARP recipients are in compliance with the requirements of EESA and the IFR.

b. In the case of the compensation committee, the committee must include the certification in their required annual financial disclosures. In Treasury's view, what would be the consequences of a materially inaccurate certification under the federal securities laws?

c. What are the consequences under the federal securities laws if the certification required of an institution's CEO and CFO is materially inaccurate?

d. Would any of the certifications required by the Interim Rule be subject to audit by a public company's independent public accountants? Would they be subject to the internal control provisions of the Sarbanes-Oxley Act of 2002?

Answer: Interpretation and application of the federal securities laws is in the purview of the Securities and Exchange Commission. However, as noted in our response to your Question 4(a) above, Treasury believes that the certification requirements of the IFR, provide directors and executives with strong incentives to make certain that the TARP recipient is in compliance with the requirements of EESA and the IFR, particularly insofar as misstatements in certifications would have consequences under the federal securities laws or would be subject to audit by a public company's independent public accountants or the internal control provisions of the Sarbanes-Oxley Act of 2002.

5. How will Treasury enforce the terms of the statute and the Interim Rule? What are the consequences for any institution that fails to observe those terms?

Answer: Treasury has established the Office of Internal Review within the Office of Financial Stability. The Office of Internal Review is charged with, among other tasks, reviewing the compliance of TARP recipients with the requirements of EESA and the IFR. To enable the

Office of Internal Review to conduct these reviews, the IFR requires each TARP recipient to maintain compliance records for at least six years. The IFR also requires that TARP recipients promptly furnish to Treasury true, complete, and current copies of those records upon request.

6. The Interim Rule creates the Office of the Special Master for TARP Executive Compensation.

a. Are the Special Master's decisions subject to review by the Assistant Secretary of the Treasury for Financial Stability, or by any other senior official of the Department?

Answer: Pursuant to the Special Master's position description, the Special Master reports to the Assistant Secretary for Financial Stability.[1] In addition, under the IFR, the Special Master serves at the pleasure of the Secretary, and may be removed by the Secretary without notice, without cause, and prior to the naming of any successor Special Master.

The Secretary has delegated responsibility for determinations under the IFR to the Special Master, and the Special Master has reached those determinations by independent application of the principles set forth in the IFR. The Special Master has, however, consulted with senior officials of the Treasury Department in connection with his 2009 compensation determinations, including with the Assistant Secretary for Financial Stability.

b. If not, has authority similar to that given the Special Master (*i.e.*, authority to act without review) been delegated to any other employee of the Treasury?

Answer: Not applicable.

c. What unique authorities has Treasury assigned to the Special Master? To the extent that the Special Master's authorities are unique, what authority does either section 111 or any other provision of EESA provide for this arrangement?

Answer: No "unique" authorities have been assigned to the Special Master; EESA Section 111(b)(2) provides the authority for the Special Master's activities. Pursuant to that section, the Secretary "shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance," in addition to the standards expressly enumerated elsewhere in EESA Section 111. Treasury concluded that, given the federal government's (and the taxpayers') particular financial interest in firms that received exceptional financial assistance under the TARP, the compensation structures for each of the 100 most highly compensated employees and executive officers of each recipient of exceptional assistance should be subject to review and approval by the Special Master.

d. Officials at the November 10 meeting confirmed that the Special Master is an uncompensated special government employee, as defined in 18 U.S.C. § 202. Who

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[1] *See* Department of the Treasury, *Position Description, Special Master, Executive Compensation, GS-0501-15* (June 5, 2009).

determined that such a status was appropriate for the Special Master, and what factors were considered in making that determination?

Answer: Federal law defines a Special Government Employee as "an employee . . . who is retained, designated, appointed, or employed" by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days. The determination whether an employee is a Special Government Employee is made prospectively, at the time the individual is appointed or retained.

When the Special Master was appointed, it was determined that his duties would require him to work for the Treasury Department for no more than 130 days during any period of 365 consecutive days. Consequently, the appointment of the Special Master met the definition of a Special Government Employee.

The Special Master is compensated for his services. The Special Master has advised Treasury that he has chosen to refund to the Federal Government substantially all of his compensation.

What statutory and regulatory ethical provisions and restrictions, that apply to regular Treasury employees – and what additional standards – apply to the Special Master and other special government employees whom he has chosen to assist him?

Answer: Substantially all of the ethics provisions that apply to regular government employees also apply to Special Government Employees. Some provisions are not applicable to Special Government Employees, or are modified in their application.[2] Beyond those that apply to all government employees, there are no additional standards that apply to the Special Master.

What restrictions will apply to the Special Master and such other employees, and any firm with which they are or become affiliated, after they leave the Treasury's employ?

Answer: All Special Government Employees, including the Special Master, are subject to the criminal post-employment statute,[3] which imposes a number of restrictions on the activities of former Government employees. Most of these restrictions apply to Special Government Employees (including, for example, the lifetime prohibition, under 18 U.S.C. § 207(a)(1), on representing others in connection with the same particular matter involving specific parties in which the former employee participated personally and substantially).

Has the Special Master's list of clients in his private law and consulting practice, and those of related persons subject to the ethical provisions that apply to the Special Master, been reviewed by appropriate Treasury officials to determine the absence of any conflicts of interest? If so, what has been the result of that review?

Answer: Yes. The Special Master filed with Treasury financial disclosure forms which require

[2] *See, e.g.*, 18 U.S.C. §§ 203, 205, 207, 209.

[3] *See* 18 U.S.C. § 207.

a listing of clients and employees. Treasury's Designated Agency Ethics Official and his staff reviewed these financial disclosure forms and advised on conflicts, and the Special Master has confirmed to Treasury that all conflicts have been remediated.