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Financial Markets Regulation Wire

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REP. JOHN LEWIS HOLDS A HEARING ON THE TROUBLED ASSET RELIEF
PROGRAM: OVERSIGHT OF FEDERAL BORROWING AND THE USE OF
FEDERAL MONIES

March 19, 2009 Thursday

EVENT DATE: March 19, 2009

TYPE: COMMITTEE HEARING

LOCATION: WASHINGTON, D.C.

COMMITTEE: HOUSE COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON OVERSIGHT

SPEAKER: REP. JOHN LEWIS, CHAIRMAN

WITNESSES:

REP. JOHN LEWIS, D-GA. CHAIRMAN REP. XAVIER BECERRA, D-CALIF. REP. RON KIND, D-WIS. REP. BILL PASCRELL JR., D-N.J. REP. JOHN B. LARSON, D-CONN. REP. ARTUR DAVIS, D-ALA. REP. DANNY K. DAVIS, D-ILL. REP. BOB ETHERIDGE, D-N.C. REP. BRIAN HIGGINS, D-N.Y. REP. CHARLES B. RANGEL, D-N.Y. EX OFFICIO

REP. CHARLES BOUSTANY JR., R-LA. RANKING MEMBER REP. DAVE REICHERT, R-WASH. REP. PETER ROSKAM, R-ILL. REP. PAUL D. RYAN, R-WIS. REP. JOHN LINDER, R-GA. REP. DAVE CAMP, R-MICH. EX OFFICIO

WITNESSES: NEIL BAROFSKY, SPECIAL INSPECTOR GENERAL, TARP

GENERAL GENE DODARO, ACTING U.S. COMPTROLLER, GOVERNMENT ACCOUNTABILITY OFFICE
REP. JOHN LEWIS, D-GA. CHAIRMAN REP. XAVIER BECERRA, D-CALIF. REP. RON KIND, D-WIS. REP. BILL PASCRELL JR., D-N.J. REP. JOHN B. LARSON, D-CONN. REP. ARTUR DAVIS, D-ALA. REP. DANNY K. DAVIS, D-ILL. REP. BOB ETHERIDGE, D-N.C. REP. BRIAN HIGGINS, D-N.Y. REP. CHARLES B. RANGEL, D-N.Y. EX OFFICIO

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TEXT:

LEWIS: Good morning. The hearing at this time is called to order. This is a hearing of the Oversight Committee of the Ways and Means Committee. Before we begin, I would like to express my condolences to our ranking member, Dr. Boustany, on the passing of his father.

I would like to thank Mr. Reichert and his colleague for agreeing to hold this hearing with us this morning. I would like for us to take a brief moment to remember Dr. Boustany and his father.

Thank you.

To date, the Troubled Asset Relief Program has given more than \$300 billion to private companies and there are plans to give billions more. Taxpayers have no sense that there is any control over this money. They have no idea what -- if anything, they will get in return.

This entire program is based on trust. Trust in the giver and trust in the takers. At this point, there is no trust.

To get money from the Treasurer, the banks and others must sign a contract that states they have no unpaid federal taxes. The Treasurer did not ask these banks and companies to turn over their tax receipts.

The Treasurer relied on the signed statement, when it agreed to invest billions of taxpayer's dollars. When you or I go out to the bank -- to take out a mortgage -- to buy a house, we're asked for our tax return. They're not going to just take our word for it, and we are asking not for millions of dollars.

The Subcommittee looked at the top 23 recipients. We found that 13 of them owed more than \$220 million in unpaid federal taxes. Two companies owed over \$100 million each. How can this be? If we look at all 470 recipients, how much would they owe?

Are they signing contracts knowing that they owe taxes, but thinking they will not get caught? Did then Secretary Paulson turn a blind eye? Either way, this is shameful, it is a disgrace. The American people are fed up and they are fired up and they are not going to take it anymore.

As members of Congress, we shouldn't take it anymore either. We want to get to the bottom of what is going on here. The taxpayers deserve nothing less than the truth. The oversight work that our witnesses are doing is so important. I look forward to hearing from our witnesses on their oversight efforts and more importantly, what Treasurer needs to do to restore the public trust in their top program.

Thank you all of the members for being here today. Without an objection, I would like to enter the report from the IRS to the Subcommittee into the record. Now I am pleased to recognize Congressman Reichert for his opening statement.

REICHERT: Thank you, Mr. Chairman. Also thank you so much and I appreciate your recognizing taking a moment of silence for the Boustany family in their loss. His father passed away this week as you know, and our thoughts and our prayers are with him and all of his family members.

The Troubled Asset Relief Program or TARP was intended to open up credit for families and businesses, but it was also supposed to restore confidence in the market, yet every week brings new questions and new concerns about how these tax dollars are spent, from the millions of AIG bonuses and spa retreats to the billions that simply went missing.

Worse, TARP continues to change and multiply before our very eyes. From buying toxic assets to buying stakes in banks, there is no clear plan and no consistent application of the program. Those involved have no idea if, how or when TARP will change or change again.

One particularly troubling change is the apparent transfer of authority from Treasury to the Federal Reserve without any new congressional oversight. The complete lack of transparency in TARP has produced a credibility crisis that undermines the very confidence it was meant to restore.

Without transparency, investors have little reason to participate in a program that changes faster than the Dow. Without transparency, we are left with outrageous abuses, like bailout bonuses for companies surviving on the backs of taxpayers alone.

To restore confidence two things must be made very clear. One, exactly how TARP money is being spent and two, what specific metric or metrics are used by Treasury that will measure the effectiveness of this program. Taxpayers have every right to be angry as the Chairman said that the results of the \$700 billion bailout are as blank as the check that authorized it.

REICHERT: We have an obligation to them to find answers, to collect facts and data and to hold accountable the policies and people that led to the abuses like those at AIG. We can all agree that TARP money has been misspent.

Our options are to stay mad at wrongdoers, or to identify how the wrongdoing occurred and find solutions so that it never happens again. We must also remember that the lack of transparency and accountability and to identify how the wrongdoing occurred and find solutions so that it never happens again. We must also remember that the lack of transparency and accountability in TARP happened in the first place because Congress acted on a raw emotion before looking at all of the facts.

We acted too fast. That's one of the many reasons why I opposed that bill. We must be careful not to let our collective outrage prevail over good judgment and common sense. After all, we all know the mistakes that can happen when government panics and rushes to act, rather than working to get the action right.

This is not the time, to again, shoot first and ask questions later. I hope that we can work together, Democrats and Republicans, to get to the bottom of this, to get to the real answers and to stop the abuses. The American taxpayer deserves no less.

Mr. Chairman, I yield back the balance of my time.

LEWIS: Thank you very much for your statement.

And now we will hear from our witnesses. I ask that you limit your testimony to five minutes, without objection your entire statement will be included in the record. It is now my pleasure to introduce the special inspector general for his testimony. Welcome.

BAROFSKY: Thank you, Mr. Chairman, ranking member, members of the subcommittee, I'm honored to appear before you today as the Special Inspector General for the Troubled Asset Relief Program, or as we call it, SIGTARP.

Originally described as a planned buy \$700 billion in toxic assets, the TARP has changed significantly. Treasury has announced nine different programs through which TARP will cover \$2.9 trillion.

And this does not include the \$750 billion the administration has put aside in its budget and noted that it may seek later this year. To accomplish SIGTARP's mission to oversee this vast amount of money for the American taxpayer, I focus on three different areas, transparency, oversight and enforcement.

Transparency has been an area of focus for my office since day one. In late December, I recommended that Treasury put all TARP agreements up on its Web site. In late January, Treasury agreed and earlier this morning they finally posted the top 20 TARP agreements on its Web site.

I've also used my audit division to advance transparency where necessary. For example, after Treasury made clear to me that they would not require the banks to report on how they're using TARP money, I sent letter requests to each TARP recipient asking them to report on how they've used the money that they've received, how they plan on using unspent money and how they plan to comply with the executive compensation requirements.

I'm pleased to report that as of today, we've had 100 percent compliance with our survey request. As to coordinated oversight, it has been and will continue to be, it will be my privilege and pleasure to share oversight responsibility with my co-panelist Gene Dodaro.

He and his team at GAO and us have been working together for more than three months now to insure maximum coverage and to reduce any unnecessary duplication of effort. I've also founded and chair the TARP-IG Council which included as its members GAO, as well as the other inspector generals who are agencies who are also touched by the TARP and responsible for its oversight.

In conducting oversight one focus of SIGTARP has been to attempt to have a positive impact on TARP programs before the money goes out the door by making recommendations to limit fraud and to increase oversight;

because I did not take office until mid-December, I was not able to offer advice with respect to early TARP agreements such as the AIG agreement.

However, we've been active in providing recommendations concerning the programs and the contracts ever since. We are also focused on enforcement. Of the four primary oversight bodies referenced in the Stabilization Act, SIGTARP stands alone as the TARP oversight body charged with criminal law enforcement authority as the cop on the beat.

This is one of our most important functions and we are meeting this unprecedented challenge head-on. We're leveraging our resources with other agencies, exploring task force and similar regional relationships throughout the country.

For example, last week we formed a multi-agency law enforcement task force focused on the \$1 trillion OPT (ph) program. We believe that this task force has already served as a powerful deterrent and when we detect fraud, rest assured we'll investigate the matter and bring any fraudster to justice.

Additionally we have begun our outreach to potential whistleblowers and those who may have tips about ongoing fraud in TARP programs. The SIGTARP OPT (ph) hotline is operational to be accessed through our Web site www.sig tarp.gov or through our telephone hotline 877-SIG-2009.

The hotline has already yielded results and we've recently opened a criminal investigation based on a whistleblower complaint. Finally, we've been active in our response to the recent bonus payments to AIG.

Both in my role as special inspector general and as an individual taxpayer, I too am frustrated with these very substantial bonuses which appear to have been made to those who were responsible for AIG's meltdown.

First, we're launching an audit that is part of a larger review of executive compensation practices. We'll include a thorough review of the process through which Treasury decided to authorize and approve such payments, including who knew what, how, when and why, both at the time the Treasury entered into its agreement with AIG last November which included specific reference and contemplated retention payments all the way up through the events of this week.

Second, we're working closely with the New York state attorney general's investigation into these payments. Third, we're initiating our own investigation. And finally, we're coordinating with the Department of Justice in its examination of options that may be available to recover taxpayer money.

Mr. Chairman, ranking member, members of the subcommittee, I thank you and commend you for your efforts to help oversee these trillions of dollars that are being expended under the TARP and I look forward to answering any questions that you may have.

LEWIS: Thank you very much, Mr. Inspector General. It is now my pleasure to introduce the acting comptroller for his testimony. Welcome.

DODARO: Thank you very much, Mr. Chairman. Good morning to you, Ranking Member Reichert and members of the subcommittee. I'm very pleased to be here today to assist your deliberations and oversight over the Troubled Asset Relief Program.

When the program was first created in the Economic Stabilization Act back in October 3, GAO was charged with providing oversight over Treasury's implementation and reporting every 60 days to the Congress.

And we're also charged with providing an annual financial audit of the Troubled Asset Relief Program that is being managed by the office of Financial Stability in the Treasury Department. Faithful to the mandates in the legislation, we issued our first 60-day report in December the 2nd and our second 60-day report toward the end of

January.

In both of those reports, we made a series of recommendations that were very important to increasing the accountability and transparency of this very important program. And those recommendations fell into three categories.

First, monitoring and tracking the use of the money and making sure Treasury had an oversight process in place to monitor compliance with the legislative provisions. These were among our top recommendations.

DODARO: At that time in December, Treasury did not have plans to obtain any information back from the organizations receiving money under the Capital Purchase program. Our recommendation was they needed to do so.

And as a result of that, they initially started collecting monthly survey information on the aggregate lending activity of the top 20 institutions receiving the TARP money. In January we said, "That's not enough. We believe you ought to have data collected on a monthly basis for any institution receiving troubled asset relief programs," and they're beginning to now recently move in that direction.

So we're pleased with that, but they still need to stand up fully their oversight monitoring program to insure compliance with the act's provisions.

The second category of our recommendations dealt with a communications strategy. This is a program that's been plagued with communications problems from day one in making the shift between purchasing the troubled assets to the capital injections in the program.

In December we recommended that their communication strategy be improved, both with the Congress and other stakeholders. And in January we added to that recommendation by stating that we believe they need to have a clearly articulated vision of the entire TARP program and it needs to be coherent and understandable so that people have confidence that they understand how the different parts are working together.

They made some headway in that area with the announcement last month of the financial stability plan and the homeowner affordability plan but there's a lot of details that need to be worked out yet.

I think the stress test concept was a good one but it remains to be seen what the results of that will be and what actions the Treasury will take through their capital acquisition program to provide assistance in the future. So, the plan needs to be worked out.

The last category recommendations were how the program's being managed. They needed to have additional people on board to be hired, to be trained, to make sure they had their right compliment of people to do the program, to make sure they had enough people to oversee the contracts that were being let, to make sure there were no conflict of interests in the programs and they had the proper internal controls in place to adequately manage the program.

So we had a series of recommendations in that regard. Now those recommendations have not yet all been fully implemented so we're staying atop of Treasury's efforts to move forward in those areas and we believe it's very important for them to fully implement our recommendations to ensure that they strengthen accountability and transparency for this program going forward.

Now last week as chairman in closing, I was asked also to provide some information about the amount of lending that's been required broadly speaking. From the end of fiscal 2007 to February 2009, the amount of payments in terms of debt held by the public has increased \$1.4 trillion.

Now one of the big challenges going forward is based upon our review of Treasury's records in this year, they're going to have to roll over about \$2.5 trillion in that as well so that will be a challenge. We have an ongoing monitoring activity looking at the Treasury's process and we'll be happy to keep the committee apprised of our efforts.

Thank you very much again for being here and we look forward to assisting this committee in its oversight.

LEWIS: Thank you very much, Mr. Comptroller. At this time, I will open the hearing for questions. I ask that each member follow the five-minute rule. If the witnesses will respond with short answers, all members should have an opportunity to ask questions.

Mr. Inspector General, general members of the committee, are you familiar with the extended contracts that are used to give money under this program and the terms of those contracts?

BAROFSKY: I am generally aware of those contracts and its terms.

LEWIS: Do you care to elaborate on the content of those contracts?

BAROFSKY: Sure. I mean the contract contains various provisions, a lot of legal standard representations and warranties and as you mentioned in your opening statement, provisions regarding tax compliance.

LEWIS: Well, that's what I want to get to. I really do, Mr. Inspector General. Do the contracts state that the recipients are not aware of any material unpaid taxes? If the contracts contain disclose for their recipient with outstanding federal taxes, and what can be done to collect the unpaid taxes?

BAROFSKY: Well, I think Mr. Chairman, yes the agreements state that in Section 2.20 of the Standard Capital Purchase Program Agreement does have that provision. And it does, as you correctly noted, that they represent warranted at the time they sign this contract, that there are no material outstanding tax obligations.

I think it falls primarily on the Office of Financial Instabilities compliance department to be monitoring the compliance with these provisions of this agreement. I am aware today of, thanks to the subcommittee, that there are several recipients that do appear to have large unpaid tax amounts and I certainly plan on discussing this with the OFS compliance to remedy this situation. It's obviously a very serious one.

LEWIS: Mr. Comptroller, what are the options for recovering unpaid taxes?

DODARO: IRS has various tools available to it such as liens on property, levies on bank accounts or other assets that might be available. They can also levy penalties on the organizations, and also charge the individuals that are accountable at the bank, you know, individually with some of these penalties.

So the IRS has ample tools available to it to enforce compliance under current law.

LEWIS: So are either of you prepared to make recommendations to the IRS, to Treasury, what they should do or who can the government collect from when a company has unpaid payroll taxes?

DODARO: They can collect from the company itself and the officers, or the responsible officials in the company. So that -- I mean, that's pretty much standard practice at the IRS.

Now we've noted over time that their enforcement efforts, particularly for unpaid payroll taxes, aren't very timely. It will take many weeks for them to move toward a decision and then to levy the penalties and then to proceed toward collection.

And their collection record isn't that terrific in a number of these areas. We do an annual financial audit of the IRS and so we look at this every year when we do that. We've made some recommendations to them to increase their activities to move forward on these areas and to collect more funds.

I'd be happy to provide our recommendations that we've made to the IRS for the record, Mr. Chairman. I'd also be happy, too if, you know, for GAO to get access to taxpayer data requires the consent of this committee or the Joint

Committee on Taxation or Senate Finance Committee. And if we received that approval from the committee to get the data, we could go behind the information and take a closer look at what you're revealing today.

LEWIS: How do we recover unpaid taxes from federal contractors?

DODARO: There's a number of ways that are done, I mean there's a -- if the dispersing system for the contractors can be run through a system over at the Treasury Department and they can screen then against whether that contractor has any unpaid federal taxes and the payment stream to the contractors can be offset to recoup the amount of money that's available there.

And also, back on your other question, one other tool IRS has, they can also offset refunds that are made to individuals on the corporations that might be charged with particular problems as well.

Now we rate recommendations that more dispersing systems than the federal government be coordinated with this Treasury program to provide additional safeguards in that process. And so there's more ability to collect the money.

LEWIS: Thank you very much, thanks the two of you. I yield to Mr. Watkins of his questions.

WATKINS: Thank you Mr. Chairman. Thank you both for being here I don't envy your jobs at this time but happy to have you here and the American people certainly are looking forward to your answers, and glad that you're watching out for their tax dollars.

I just want to congratulate you both first of all for talking about transparency and oversight and enforcement, monitoring, tracking, all those things that you both mentioned in your open statements, but I kind of want to go over some of the things that you've already mentioned, just to highlight them.

You know, the people are real concerned, they know that they've heard a lot of figures tossed around; \$700 billion is the authorized amount but the total tax payer exposure, as you mentioned in your open statement, is quite a bit more and just how much really are the tax payers on the hook for? Either one of you could answer that question.

BAROFSKY: I think that with the TARP related programs as they've been described and announced by the secretary, when you add up all the commitments when leveraged with money from the Federal Reserve, the TARP related programs are approximately \$2.9 trillion.

WATKINS: OK, so just so the American people understand we're not talking about \$700 billion we're talking about almost \$3 trillion.

DODARO: Yes, there's a couple of different aspects and I think, you know, what Mr. Barofsky's saying that's absolutely accurate in the aggregate but some of the different programs have different characteristics.

The capital purchase program, for example, companies are required to pay dividends back and so far there's been about \$2.4 billion and it could be, I think with the recent information I received, about \$2.8 billion in dividend payments that have been paid back on the preferred stock.

So there is some ability to recoup some of this money, but you're exactly right, the potential risk long-term on some of these other programs is very significant.

WATKINS: So how can we -- we're spending a lot of tax payer dollars here, we're talking about \$3 trillion potentially on the hook here for the tax payers, how can the Treasury establish meaningful metrics to determine whether or not the TARP assistant system program is really providing any sort of access to credit -- improving access to credit. Are you able to answer that question?

DODARO: Yes, that's one of our first recommendations, was to collect information from the institutions receiving

assistance about their lending activities to be able to determine whether or not they were actually increasing their lending activities or mortgage mitigation efforts to help, you know, home owners that needed to readjust their mortgages.

WATKINS: What did you find out?

DODARO: Well, we found out, first of all, that the Treasury hadn't planned to do that and as a result of our recommendation they started collecting that information and that the top 20 banks that reported the aggregate lending activity for their first report through the end of the year had decreased a bit in November and had gone back up in the aggregate in December but not back up to the October date.

Now this money was distributed through a period of time so they need to continue to collect that data, we are in a process of analyzing the most recent information and will be providing assistance.

We also have developed in our reports a series of indicators to determine in the aggregate whether lending is going up. Like for example, the inner bank lending rates.

WATKINS: The troubling part in this though is that we knew we were spending a lot of tax payer dollars and there was no plan in the beginning.

DODARO: That concerned us, and that's why we made our recommendations in our very first report, Congressman.

WATKINS: Next topic here, I'm an original cosponsor of a bill that a number of members have supported. It would force the Treasury to reveal certain records of its dealing with AIG.

Some of the questions that we want answered of course, as you've probably already heard, did the Treasury Secretary, Mr. Geithner, know or should he have known about these bonuses prior to offering AIG an addition \$30 billion earlier this month? Did he know or should he have known?

BAROFSKY: The audit that I announce in my opening statement will have the answer to that question, as whether or not he knew. Not just him of course, but throughout the Treasury Department, who knew what, when, how, and why. And we'll answer that question in our audit.

WATKINS: When is that due?

BAROFSKY: We are just getting it off the ground right now and I can't give you a precise answer we are...

WATKINS: Neither of you can answer that question today?

DODARO: No.

BAROFSKY: I can not answer that question.

WATKINS: Mr. Chairman I yield back my time is expired.

LEWIS: Thank you sir. Now I turn to Mr. Becerra for questions.

BECERRA: Thank you Mr. Chairman and thank you for holding this hearing which I suspect is the first of several hearings to conduct the oversight responsibility that this committee has over these issues involving the TARP funding.

And I want to thank the two gentlemen that are before us for their overall work that they've done for the people of this country in trying to help us provide the information and oversight that's important for us to conduct our business.

First question is you've mentioned, gentlemen, that you've had conversations with obviously the folks at Treasury, probably the Fed and some of the recipients of the TARP money directly as well.

My first question is are you receiving all of the support and cooperation that you need to conduct your oversight responsibilities and enforcement responsibilities from the Department of Treasury and its personnel?

BAROFSKY: So far we have.

DODARO: We have been given a great deal of cooperation from the Treasury Department. One thing I do want to mention since you mentioned the Federal Reserve is that GAO is statutorily prohibited from reviewing certain activities of the Federal Reserve and discount window operations, open market committee transactions. I'm becoming very concerned as TARP money is being used.

The leverage Federal Reserve activities that we will have -- what currently we have a problem in reviewing that in the future, so I think that the Congress should consider removing those restrictions for the GAO to provide additional oversight. And I wanted to make that point clear this morning. Thank you.

WATKINS: Thank you, Mr. Dodaro. I hope, Mr. Chairman, we are able to continue conversations with Mr. Dodaro and his staff to find out if there are some ways we can help make sure that the transparency and accountability that you're charged to help us obtain is something we end up securing. So, thank you, for that information.

On the issue of unpaid income taxes by some of these TARP recipients, my understanding is that there is more than one TARP recipient that has unpaid income taxes totaling \$100 million dollars to the federal Treasury. Is that correct?

BAROFSKY: Based on the information that was provided to us by Subcommittee, it does indicate that.

WATKINS: OK. And there are ways for Treasury to collect this money from those TARP recipients, specifically the contracts these recipients signed with the government in order to obtain taxpayer-funded TARP dollars. Is that correct?

BAROFSKY: That is correct.

DODARO: That's correct.

WATKINS: Does the Treasury have the tools in place today to be able to secure those uncollected income taxes from these TARP recipients?

DODARO: IRS has the tools available to do it. I mean, this goes to the recommendation we had made about Treasury really monitoring compliance with this Act and they really haven't had their program up and running yet.

WATKINS: Right. Mr. Dodaro, Mr. Barofsky are you aware if the IRS is taking steps to collect those uncollected income taxes from those recipients of billions of dollars of TARP taxpayer money.

DODARO: I don't know that today, but we can find out.

WATKINS: Would you please find out. I suspect we will try to find out as well. And if you can report back to us, if IRS is taking steps to collect money that is owed by banks and financial institutions that have received billions of dollars from the taxpayers.

It just seems anomalous that given that they signed a contract that said that will be up-to-date on their taxes that they owe to get this taxpayer bailout money, they would pay their taxes. And so, I hope that you'll help us quickly determine what's being done to make sure that these companies are up-to-date the way we expect every other working

American to be up-to-date in his or her taxes.

BAROFSKY: Yes, sir, and to be clear if an executive knowingly signed this agreement, knowing that a representation in that was false, that would also potentially be a crime. So we are going to look very heavily into this issue as part of our responsibility for enforcement to see if any such crime was committed.

WATKINS: Please let us know if we could be helpful to you as you conduct that examination.

DODARO: The one thing that we'll need Congressman is approval from this Committee to get access to the taxpayer information.

WATKINS: All right. Well, to the degree that we can help, I'm certain, Mr. Chairman, that we will do everything we can at the congressional level to try to help you have that information at your disposal.

A question regarding Treasury's authority over TARP. Can Treasury limit executive compensation based on these TARP agreements that were signed by these financial institutions that requested taxpayer bailout money?

BAROFSKY: Yes, it can do so through regulation.

WATKINS: Can it require recipients of TARP money to get Treasury approval before paying out bonuses?

BAROFSKY: It does have the ability to do so.

WATKINS: Can the Treasury limit recipients of taxpayer money, TARP money, from using TARP monies in particular ways?

BAROFSKY: It can and has put some restrictions already in its agreements.

WATKINS: So, it's yes, we can place restrictions on how recipients use TARP money.

BAROFSKY: Yes.

WATKINS: Thank you, Mr. Chairman. Maybe if we have a second round of questions, I'll have an opportunity to continue, but thank you very much. I yield back.

LEWIS: Thank you. Mr. Roskam is recognized for questions.

ROSKAM: Thank you, Mr. Chairman. I just want to take a step back and go back to the fall when this whole adventure began. And essentially, I think there wasn't a serious person in Congress that didn't realize that the credit markets were seizing up and there was near unanimity that Congress needed to act, but the question is how does Congress act?

And there was a drumbeat that started, right, and it became more and more intense over the course of several days to the point that it almost had a panic feel to it around here, and as a result, there was a proposal that was put forth by the Administration at the time.

And the communication was essentially sign this, vote for this, don't ask too many questions and if you are asking questions, you're either naive, uninformed, or you're an obstructionist. That was the subtext.

Well, the Monday that the first TARP vote failed, I personally heard an open outcry on the floor of the House of Representatives where a member shouted out, "The market has dropped 600 points," as if that was the driving factor in Congress making its determination. And you know how the adventure went on. So, on Friday, it comes back and it's passed into law.

It seems to me ironic that here we are, this Congress, we gave away tremendous authority in the TARP legislation. Didn't do the due diligence in my view at the time, and now we're at a position where, yes, this is changing and it's very, very difficult.

I have analogized this. I think it was the financial equivalent of the Gulf of Tonkin resolution, where Congress basically gets rolled and gives away tremendous authority.

So, it started out badly and it got worse because the administration came out of the huddle, so to speak, and they were going to do their call and looked at the line of scrimmage in a football analogy and said, you know what, we came out and we were going to toxic assets. No, no, no, new play, capital injections.

And it's been one adventure after another and I think getting to your testimony, there is a lack of predictability on how this is playing out. What is the metric? How are decisions being made? And I think that, while you're hearing from wound-up members of Congress, who are rightfully wound-up about this, our opportunity was to cast this well when the bill was originally passed.

And now, reluctantly, we're dealing with a situation my predecessor was Henry Hyde and Henry Hyde had a great expression. He said there's one thing worse than gridlock. The worse thing than gridlock is the greased chute of government. And that's exactly what we're dealing with right now.

Now, Mr. Barofsky, you mentioned something that I found interesting and that is the recommendations that you're making as it relates to this whole program. Are those recommendations are you memorializing those? In other words, are those recommendations in writing that we can get the benefit of on future oversight hearings and future conversations, or are they just sort of, not memorialized and just sort of, conversational recommendations? Could you speak to that?

BAROFSKY: We memorialize our recommendations. The first round of recommendations were gathered and included in our first report to Congress on February 6th. Since then, we've made a series of recommendations. We do do those in writing and will be including those in our next report, which I believe will be delivered to Congress on April 20th.

ROSKAM: You mentioned the online aspect of the disclosure of the TARP agreements. Would those online disclosures, as they're currently exercised by Treasury, would they have revealed the AIG problem?

BAROFSKY: They would have revealed that any AIG agreement with Treasury that retention payments were explicitly contemplated. It didn't list the contract. It didn't list the amount, but in the executive compensation provision there is an explicit reference to retention payments in calculating the total amount of payment a senior executive could receive.

So that issue was, in fact, in those agreements.

ROSKAM: So is it fair to say that if they had been online that issue would have been red-flagged and certainly drawn attention in advance to the problem?

BAROFSKY: Potentially, I'm sure the exact date the AIG agreement did go up on the Internet. Our recommendation was sort of adopted and waived after it was made in late December. It is now being fully complied with, but I'm not sure of the exact date the AIG agreement went up.

ROSKAM: I understand. Thank you. I yield back.

LEWIS: Thank you. Now I turn to Mr. Kind for his questions.

KIND: Thank you, Mr. Chairman, and thank you for holding this very, very important and timely hearing. And I

want to thank our witnesses for your testimony and your access to us as we have ongoing questions about the oversight and the implementation of TARP.

Let me just quickly ask you both whether you feel that your respective agencies have the resources, the tools, the personnel that you need to effectively conduct oversight with the implementation of TARP.

Mr. Barofsky?

BAROFSKY: We're building -- we don't have the necessary resources yet. Pending right now in the House is H.R. 1341, which would give us some expanded hiring authority which will help us. Right now, we're about 30 strong. We're building to about 120 to 125.

We've had some serious challenges. We've had the same challenges that TARP has as Mr. Dodaro has indicated in his report. I'm hopeful with the passage of this vitally important bill for us that we'll be on the road to getting the necessary resources.

KIND: Thank you. Mr. Dodaro?

DODARO: I believe, you know, we have the necessary expertise in GAO since we were a pre-existing organization. We've collectively pulled the resources and we're augmenting those resources with some hires.

I have two concerns. My biggest concern is what I mentioned before about our limitations at the Federal Reserve. I think unless that's dealt with we're not going to be able to provide the type of oversight that the Congress would expect and I believe, deserve during these extraordinary times.

So that needs to be dealt with. There's also a potential safeguard that could be in place to give us access to the books and records of any recipient of the TARP money. We currently do not have that and would -- there's been a bill introduced in the Senate, which I can provide this committee, by Senators Baccus and Grassley to do that.

Right now it's not a problem, but given the unpredictability of how this process is going to unfold, I think it would be a good safeguard.

KIND: Listen, I appreciate your concern about the federal oversight. We've had conversation previously about that. It gets a little tricky though and I think we're going to have to engage in further exploration of what type of statutory authority you need because obviously the Fed has always been set up as an independent entity so it's not subjected to the political whims of Congress or any other outside influence.

So if there's a way we can massage that authority that you need, I think we need to -- it's an unprecedented intervention by the Fed, the capitalization that's taking place there. And I think more oversight is certainly necessary.

DODARO: Congressman, I am very respectful for the need for the Fed's independence, and I believe whatever legislation is passed could be carefully crafted and even temporary in nature. I'm not trying to seek any permanent authority here, but I do know what is being expected.

KIND: Let me ask you both then about coordinated oversight functions because it's just for my quick calculations here, you know, we've got the IG office, the GAO obviously involved in oversight.

We've got the Financial Stability Oversight board that was created with the passage of TARP. We've got Treasury involvement. The Fed involvement with oversight, our involvement in oversight, you might as well throw in the national media's involvement in oversight.

Do you feel that there's sufficient coordination so we don't have overlap and redundancy and duplication occurring with oversight?

BAROFSKY: I do, I think that is one of our most important roles is to making sure that's the case, to make sure the TARP is such a vast terrain and it's growing and changing every day. And if Gene and I and our organizations didn't work closely as well with the Congressional Oversight Panel, I have my own council of the various inspector generals that includes representatives from GAO.

If we weren't coordinating, one, we wouldn't have a shot at covering this whole terrain. And second, we would be wasting our time by duplication of resources. And we have worked really hard, GAO and I...

KIND: Let me also ask you both this though -- the first line of defense is responsible behavior of the banks receiving these funds right now. And unfortunately, the track record hasn't been very good so far; especially with AIG story this week and the anger that has engendered.

But do the banks themselves have internal control systems being established in the appropriate use of the TARP funds from what you've been able to see?

BAROFSKY: One of our recommendations that we've made to Treasury was that Treasury require an agreement be established with internal controls, at least with respect to those conditions that are imposed upon them.

They've adopted that with respect to some of their agreements, such as Citigroup and Bank of America, as well as the auto industry. And we hope that they include, continue to impose those internal controls. We think that they're vital.

DODARO: I think a real important point here for the Congress, too, as these next set of programs are authorized there is a real opportunity here to build in some better controls up front than were originally built in into the program.

And I would encourage the Congress to have oversight hearings with the Treasury Department to really focus on what their plans are.

KIND: Well, listen I would like to and I see my time is expiring, but just to follow up with you two gentlemen in regards to what type of additional oversight we need to provide through statutes, what type of questions do we need as a body to be asking Treasury in regards to their oversight function as well?

And so there's still a lot of work to be done, but I thank you two and your agencies for the job that you're performing on behalf of the American taxpayer. Thank you.

DODARO: Thank you.

LEWIS: Thank you very much. And now I turn to Mr. Linder for his questions.

LINDER: Thank you, Mr. Chairman. Mr. Barofsky, of the companies that are owing taxes to the government, who signed those contracts, are any of those companies delinquent today?

BAROFSKY: I don't know the names of the companies. The information that was provided me today has the companies identified by number or letter, so I can't answer your question.

LINDER: You can't also answer whether those companies signed contracts before or after January?

BAROFSKY: I'm just, I, because I don't know who, the identity, I'm sorry, Congressman, but I hope to work with the subcommittee and find out and be able to answer that question.

LINDER: Mr. Dodaro, are the limitations of the Fed's statutory?

DODARO: Yes, there are, Congressman. Yes, it's in the Bank Auditing Act and it's one of the few instances

where GAO's statutorily prohibited.

LINDER: OK. Do either of your organizations have any anticipatory examination powers when you, could you have got into the TARP when it was just being anticipated and looked at it and made recommendations?

BAROFSKY: I'm sorry I don't quite understand your question. We didn't exist when the TARP was being formed. We were created -- my office was -- I was sworn in on December 15th so I would not have been able to do that.

LINDER: Could you do it with respect to TALF?

BAROFSKY: With the TALF what we've been attempting to do is make a series of recommendations, and continue to make recommendations, of the formation of that program. We are very concerned about the fraud vulnerability in the TALF and we made recommendations in our February report. We continue to engage in the dialogue with the Federal Reserve as well as the Treasury and we're trying to do our best to make the necessary recommendations to protect taxpayer money.

We've also formed a TALF Task Force to try to send a powerful deterrent message to those who would abuse the program. And I think that deterrent effective is beginning to have some traction.

LINDER: Does that mean people are going to refuse to participate in it?

BAROFSKY: I hope that anyone who is planning on stealing from the program, I hope they refuse to participate. I hope we deter them.

LINDER: Do you know more -- do you know much else than we do?

BAROFSKY: I know a lot of details about TALF. I'm not sure...

LINDER: Are you sure about this? Because I have no idea what they're finally going to do.

BAROFSKY: It's an extremely complicated program and it changes. That's one of -- been one of our great concerns. Just last week, a lot of the conditions that they gave us -- some greater comfort about the fraud protection, the program was changed. And it continues to change.

We, in our report, we detailed some information on the TALF as it existed at that time. Federal Reserve does have information, questions, and answers on its Web site. It is complicated. And we're going to in our next report give a comprehensive description of the program like we did in our last report and in an easy to understand main street terms.

LINDER: Do you have any idea when their timeframe is?

BAROFSKY: The first disbursements on the TALF are supposed to occur next week.

LINDER: Do you know how much they're looking at?

BAROFSKY: I don't know think the numbers have been disclosed. The total TALF program has -- currently has potential \$200 billion worth of lending. I'm not sure what they expect. I don't think they know until the applications come in what the amounts will be.

LINDER: What do you know about the Fed's insinuation in commercial paper markets?

BAROFSKY: That is not really part of the TARP related program so I really...

LINDER: Do you know, Mr. Dodaro?

DODARO: No.

LINDER: Could you look into that?

DODARO: Well, that's one area that I think we've -- yes, that's one of the areas we would not be able to look into because there's limitation cautions.

LINDER: In the last couple of days you may have noticed a big amount of interest in the bonuses that AIG paid out. That language was -- it was put into the bill, the stimulus package, wasn't it? When did you first know the language was there?

BAROFSKY: I first saw the language -- I think the bill passed on a Friday. I think I saw later that day.

LINDER: But the language was in the bill then.

BAROFSKY: I saw the -- when I saw the bill after it had been passed and had language that exempted the contract...

LINDER: Prior to February 11th?

BAROFSKY: Yes.

LINDER: Which was about a month ago?

BAROFSKY: Yes.

LINDER: Did you raise an issue then? Did you raise any issues about the bonuses going to AIG -- potential bonuses going to AIG?

BAROFSKY: I became aware of these particular set of bonuses after they had already been paid. That's when Treasury notified me of them.

LINDER: Thank you, both. Mr. Chairman, are you back?

CHAIRMAN: Thank you very much. Mr. Pascrell is recognized for a question.

PASCRELL: Mr. Chairman, let me start with my conclusion. The Treasury doesn't want financial institutions to fail. We -- none of us do. Those institutions will fail if the Treasury puts everything on the table so let's not put everything on the table for there are some things the public and the Congress need not know.

So if they know, the public will further lose confidence. That's my conclusion. The -- I understand that this administration has tried to dig itself out of the deep hole that it found itself in. I understand that very clearly, that in early October of 2008, Congress passed and President Bush signed Emergency Economic Stabilization Act of 2008, creating the Troubled Assets Relief Program.

At that time, the TARP's primary focus was expected to be the purchase of troubled assets such as mortgages and mortgage-backed securities. However, we know what happened after two weeks after the enactment -- someone changed their minds. Not the Congress.

The past administration and specifically former Secretary Paulson implemented TARP in ways that have been radically different than what was widely envisioned when Congress passed the Emergency Economic Stabilization Act.

I consider this a fraud, perpetuated by the last administration when it promised one course of action and delivered another. But I'm deeply disappointed that the Treasury secretary right now, Mr. Geithner, has not taken a

more aggressive approach to remedy the mismanagement of these TARP funds by the last administration.

And I'm stunned by the current Treasury and I'm offended by their obstinacy and the fact that they're not here today when they were requested to be here three times. Three different Treasury offices, the Office of Financial Stability, the Office of Tax Policy, the Office of Public Debt and Borrowing were contacted about testifying at the hearing -- all three refused.

The Treasury, regardless of the administration, must be accountable for their actions, for their mismanagement, and the mismanagement of the TARP fund specifically.

Now, Mr. Dodaro, it's been nearly six months since AIG received its first government bailout and by the way, the interim final rule still includes limits on executive compensation. That's still there as I understand it.

DODARO: Yes until they revise it to make it consistent with the new legislation.

PASCARELL: Thank you. They have given a total of \$170 billion, 1000 times the cost of these executive bonuses, yet no progress has been made in consolidating AIG and no progress has been made in selling off its assets.

Now my question is this. I wish the Treasury was present because they're the folks I should be asking the question to, so you'll have to substitute for them like you've been doing. But you've done a fantastic job, both of you.

It's specifically, what the plan is for consolidating AIG and can any of you here today give some insight into the matter. And then I have a follow-up question. Mr. Dodaro?

DODARO: If I might, Congressman Pascrell, I have the person that's doing this work for us here, Miss Ores Williams (ph), and she could give you...

PASCARELL: With your permission, Mr. Chairman.

DODARO: Was that fine?

LEWIS: That's fine for me. Thank you for being here.

WILLIAMS (ph): No problem. In terms of AIG, the Fed initially provided assistance to AIG. Treasury, through TARP, provided assistance through the systemically significant failing institution program. That money was paid directly to the Feds to pay down the original credit revolving facility.

The Fed has been responsible for the day to day oversight of AIG and its plan to unwind the institution. And I testified yesterday that in terms of where they are in the process, it's still very much ongoing. They've been unable to sell major assets out of the organization. So they have not had great success in unwinding the organization to this point.

They've been able to terminate their securities lending facility that had created a lot of problems for AIG. And they also have been able to move off a significant amount of their most complicated CDS portfolio.

PASCARELL: Well then let me if I may, Mr. Chairman, in the last six months our infusion of a lot of capital -- if it has been -- if there's been no progress in addressing the larger problems at AIG, do you still believe that AIG should receive more TARP money in the future?

WILLIAMS (ph): This goes to kind of the Fed's goal in assisting AIG and that had to do with preventing systemic risks to the system and from the either credit down grade of AIG or a rapid bankruptcy of the organization. So the two areas that were creating the largest problems for AIG were addressed.

And that's the securities lending program and dealing with their CDS portfolio. And most of that -- these were

moved into two vehicles created by the Fed, Maiden Lane I and Maiden Lane II to purchase the securities that AIG had invested in.

PASCARELL: Thank you very much. Thank you I'll yield back.

LEWIS: Mr. Davis of Kentucky is recognized for his question.

DAVIS: Thank you Mr. Chairman. I'd like to go off on something that Mr. Pascrell had mentioned -- really a follow up to the joint discussion that we had in the library earlier in the week.

One point that I think is important to clarify, the way that the record came out. It wasn't just members of the past administration who were party to framing this problem. I sat in the hearings in the Financial Services Committee.

And actually watched the majority chairman the Democratic chairman of the House Financial Services Committee and then the chairman of the Banking Committee agree and in fact ignore the warnings of many members on both sides of the aisle who were attempting to prescribe the use of these funds, because the very thing that has happened is really no surprise.

I find it a little disingenuous that the secretary in fact is reacting to this based on the fact that he was governor of the New York Fed that was intimately involved in setting up the contractual relationships of how this went.

And I want to come back to I think a bigger picture. And this really was the thrust of my question before. Not so much a party issue and I truly believe at the root of problems like this, it's not a Democrat or Republican issue but we have a flawed process issue in how the agencies are functioning.

First of all, we have this unprecedented transfer of unaccountable power to the executive to place tax payer money into the private sector. And I may over simplify this and where we go with it, but I guess the concern I have is that we've had this change that's taken place -- is there a bigger constitutional question here.

Do you believe that we need to have the ability to dive in and see what was done with those assets specifically? And where I would go into a parallel before I follow on with a couple of sub parts of the question, if I owned 80 percent of a corporation I know for a fact that I could see every aspect of the books for that corporation if I so desired by simply calling in an emergency board meeting and determining that I would be given that access.

Why can't we do that here and see this, because I expect there'll be more culpability in the details when we get down there, if you were to have access especially in the chairman and ranking member.

BAROFSKY: I do believe certainly the Fed and Treasury do have that degree of access.

DAVIS: And I'm saying for you personally, because they're obviously not sharing this information.

BAROFSKY: Right, right.

DODARO: The only thing we've been given from the Federal Reserve is information that's available to the public. And unless the laws changed removing our restrictions, we're not going to be able to do what you're suggesting. But I do think it needs to be done.

DAVIS: OK, the following on that do you believe that the way that the original law was structured out of the Congress was flawed?

DODARO: Basically I guess my view on it would be is that given the original explanation of what it was to be used for and I'm just speaking from GAO's standpoint in terms of what our authority would have been.

I think we would have been fine if they would have purchased the toxic assets. Since they shifted the plans first to the capital purchase program that created a little bit of a dilemma for us, but when they started using TARP money to leverage Federal Reserve activities that created a bigger problem.

So as the program has evolved it's -- we haven't been able to adapt because of these restrictions the type of accountability and transparency that the Congress expects of us.

DAVIS: I think this goes back to the cautions that many of us were raising in the run up to the legislation last year. Was the way the title was originally put into the housing bail out bill that would have been oriented in that direction was a simple blank statement that the secretary was basically being given unlimited authority?

And the only real question in the votes last fall was raising the debt ceiling rather than actually the mechanics of how it would be done. And seeing it seem Secretary Geithner seems to be carrying on the same desire for, the same responsibilities that Paulson had asked when the previous administration, I would really question the competence of how this is being carried out.

So you agree that we have to have some type of and audit mechanism to see that. And hopefully we award from this committee to bring that forward. Just as an aside the President made a comment this past week that Secretary Geithner was making all the right moves.

Do you agree with that statement? Just from a forensic audit standpoint. You don't have the information that's available. We have numbers instead of names for people. I mean this would be an outrage in the private sector if the owners of a business and certainly we as tax payers own it now. How do you feel about that?

DODARO: Basically, you know, what I would say as it relates to the recommendations that GAO has made about how to improve the program that they're making progress but they're not there yet. So from the stand point of fully implementing our recommendations I would say they need to take additional steps in order to do that.

BAROFSKY: And I would say the exact same whether I recommend it.

DAVIS: OK, we'll try to work closely with you and try to follow on from the discussion earlier in the week and the chairman of the committee to address that blank spot. Thank you very much. I yield back.

LEWIS: Thank you very much Mr. Etheridge is now recognized.

ETHERIDGE: Thank you Mr. Chairman let me thank you for holding this hearing. You know, a lot of hearings going on, on the hill right now. And all of important as this here because American people are concerned and it didn't just start with the bonuses paid at AIG, as all of us know.

ETHERIDGE: They started last year when we had serious concerns about the economy and then the funds moving into that area. And I think it has culminated and erupted with what's happened over the last several days.

So -- let me ask you, I think all of us are concerned so let me ask you a couple of questions because and I appreciate your service. I appreciate the job you're doing -- both of you and GAO has a rich history, but as we look at these and as we deal with the focal points of where we are I think we have to acknowledge that. Too many people talk around it but just won't acknowledge it and put it on the table.

The people are just furious and certainly in my district in North Carolina where people are about to lose their homes, we've got farmers who are in jeopardy of losing their farms, and then they see their tax money rolling to Wall Street and I think that's what's bubbling over the top.

And the very people that got us in this problem are the very folks that they feel that we are rewarding. So as we move to fix the problem my question is as we deal with that and your testimony you mentioned the following: Plans to

launch and audit examining Federal monitoring and enforcement of executive compensation restrictions imposed as a condition of Federal financial assistance.

Can you tell me and those others in this panel about this audit, what it will entail and what can be done in the future to prevent these kinds of excesses? Do you think that's what the American people want to do? American people want the things fixed but they want it to be done right. And they're just tired of gaps being put in place that people slip through.

BAROFSKY: I think there are several aspects to this audit. First and foremost it's to make sure we're, or to report on what the status of Treasury's responsibility and it's compliance to set up the right procedures to ensure that the recipients of TARP funds are complying with the executive compensation requirements.

This is something that GAO has identified I think in its very first report, and we're picking up on that to have a comprehensive audit of what's going on. Second it's looking very specifically at the AIG process.

The process for this particular example of executive compensation, how it came to be that these payments were made, when Treasury knew about it, who at Treasury knew about it, what legal analysis was done to provide that type of transparency, because ultimately that type of transparency and reporting on what the efforts have been in making recommendations on how to fix it are how I think we are best able to address these problems.

ETHERIDGE: Let me -- you covered this a little bit earlier and I think that it's important enough to be touched on again. We keep talking about transparency; we talk about timelines, if you would repeat again when we expect to have the transparency up so the American people can see it online. Number two, when the audit will be completed and I assume that will online.

BAROFSKY: Yes.

ETHERIDGE: Because these are the kinds of things that people hear it they expect to see it and all of a sudden, you know, they see more hearings and nothing's happening and they're absolutely frustrated and confused. Can you cover that one more time?

BAROFSKY: Sure, on our use of funds, in our overall use of funds we just received our last response yesterday, late yesterday. And we are now in the process of gathering that information. I think within the next 30 days we're going to release some preliminary information.

We're shooting for...

ETHERIDGE: You're saying by April 15th?

BAROFSKY: Yes, some of the responses and anecdotal descriptions to responses we're looking for -- late spring to have the first wave of the report.

ETHERIDGE: When is late spring?

BAROFSKY: May, June is the timeframe. But one of the problems we have congressman as I told you that we're starting up, we've actually hired a contractor to help us with this because we do think...

ETHERIDGE: You can't fault me for trying to tie you down those dates?

BAROFSKY: Right. We want to get it out as soon as possible and that's why we actually why we hired a contractor and not doing it entirely in house to speed this up because when I heard the first time estimate, and then ultimately which will be an intermediate report and ultimately if H.R.1341 does pass that requires us on by September 1st to get a comprehensive report on how TARP funds have been spent.

So we'll certainly have a final, final, final by that date. But we plan to release the information and provide transparency in stages of making sure that we have a complete yellow book standard audit report when we provide our final product to the Congress and the American...

ETHERIDGE: I think that would be of great importance. Thank you Mr. Chairman, I yield back.

CHAIRMAN: I just want to announce to the members that we're going to have a series of votes coming up and we're going to try to rush to get everyone in. Mr. Higgins is now recognized for questions.

HIGGINS: Thank you Mr. Chairman. I just wanted to stay on this issue of executive compensation and the problem with AIG. I mean unfortunately this troubled asset relief program will always be synonymous with the mess that's been created with respect to AIG.

AIG shouldn't be paying out bonuses, they should be paying restitution. They should be fined. This is a gross breach of their responsibility and AIG was essentially running an unregulated hedge fund within the context of a AAA rated insurance company.

AIG was selling a product that didn't exist, issuing phony insurance policies against the default of bundled subprime mortgages. Insurance that didn't have any capital behind it so it was like a hedge fund without the hedge.

Now when you get into this whole issue of bonuses, call them performance bonuses or retention bonuses, you know, the bottom line is a bonus is a form of compensation for rewarding good work. I don't think anybody agrees that AIG was doing good work.

In fact, I think that they were corrupt in what it is that they were doing which has undermined the confidence of the American people relative to the financial markets in the overall economy. So let's call them retention bonuses as AIG has called them.

The problem is they paid this out to 54 people who are no longer with AIG. You know, when this whole thing started people were suggesting that these financial institutions were too big to fail because they were highly integrated.

They were associated with banks and governments and those institutions, those secondary institutions would fail if we allowed these big companies to fail. Well, they're failing, they're failing.

You know, we were rolled as somebody else said by approving the troubled asset relief program which is no longer a troubled asset relief program and we continue to call it a troubled asset relief program. The chairman earlier talked about trust and the fact that no trust exists and once you lose trust it's very difficult to get it back.

HIGGINS: So the Congressional response and the administrative response to a massive financial problem has morphed into another massive financial problem. I'm concerned that, you know, whatever audits are done aren't going to give us the kind of conclusions that are necessary to fix this thing in time. You're both talking about, you know, staffing up, starting up, getting your personnel, numbers and expertise in order in order to properly monitor these programs.

And the program continues with the disbursement of funds. It seems as though there's very, very little oversight. Look, I'm not suggesting that anybody's doing this deliberately, but I can't see how it could be much worse than what it is today.

The American people are very, very angry. Members of Congress are very, very angry for good reasons. And I think the frustration is fueled by a lack of clear, concise answers to a problem that is contributing to the continual contraction of this economy, so, just your thoughts on that.

BAROFSKY: Let me give you an example of how much worse it could be. The original TALF program, which is

now projected to be a trillion dollars of government money, the original fraud protections when we were first briefed up on the program was that they were going to rely on two things.

They were going to rely on AAA rating by credit agencies and the due diligences of investors. That of course was the exact same protections that got us into the entire mortgage meltdown, mortgage back security meltdown and we came out strong. We came out with strong recommendations and the fraud prevention of that program is better.

They haven't adopted all of our recommendations, it's not perfect, but third party asset stations, launching of our task force is going to reduce the amount of fraud. It's not going to reduce it to zero, but that's an example of where we provided oversight, we provided recommendations so that it's maybe not as bad as it may have been.

HIGGINS: Right and credit rating agencies were bought off. Credit rating agencies weren't doing an objective analysis of the credit worthiness of these instruments. They were extracting huge fees for giving phony high credit rating agencies which bamboozled, you know, the American people, and investors and clients.

BAROFSKY: And that's why we came out with the strong recommendation that would not be sufficient.

DODARO: Yes I'd just make three quick points. One, if it wasn't for our recommendations you wouldn't have any information out available about how the lending practices have changed for the institutions receiving the money.

Number two, we are staffed up but we're hampered by access to certain information which I've pointed out. And number three, we've issued a report and put designated as a high risk area and the need to modernize the financial regulatory system to close some of these gaps and to deal, you know, basically the regulators were unable and struggled and were unable to mitigate the systemic risks of some of these large financial conglomerates.

And unless the Congress revamps that whole financial regulatory system going forward, that is as important, in my opinion, as fixing some of these intermediate activities.

HIGGINS: Thank you Mr. Chairman, I yield back.

LEWIS: Thank you very much, Mr. Comptroller if you're going to be able to do your job as an official GAO you need the capacity, you need the ability to get all of the information. And I think this committee should give seriously careful consideration to making a recommendation to the full committee that we change the law. It doesn't make sense.

DODARO: Yes.

LEWIS: It doesn't make sense.

DODARO: It makes sense in a carefully crafted manner. I'd be happy to have our counsel work with you counsel to see if we can develop some legislation the respects the, you know, independence and some of the issues of reserve but gives us the authority we need to provide Congress with proper oversight.

LEWIS: We should do just that.

BAROFSKY: And for what its worth, with GAO being such an important oversight partner for us, giving them type of access will only enhance the overall oversight of this program.

LEWIS: Thank you. We're prepared and ready to work with you. On that note we will recognize Mr. Davis of Alabama for his questions.

DAVIS: Thank you Mr. Chairman. Let me react, if I can Mr. Dodaro, Mr. Barofsky, to several things that struck me about your testimony in this hearing today. I remember an exchange between you and one of the Republican members about the various privacy provisions, I suppose, that prevent us from identifying these 13 companies that owe

massive amounts of money to the Federal Government in the form of taxes, but signed a contract saying they had no tax liability.

And I was thinking about the fact in my home town of Montgomery, Alabama if you write a large number of bad checks they stick your picture on a big billboard and they put it on the most well traveled interstate in town and whatever privacy you thought you had kind of goes out the window.

And I'm wondering how many people listening to this hearing are sitting here wondering why there seems to be one set of rules for them and their families and there seems to be another set of rules for these enormously large companies that employ all these so called geniuses that are so smart that they figured out how to ruin a company in a way that almost ruined an economy.

As I was listening to the testimony, for example I heard you talk about the requirements that they had to make a signed statement that they did not owe any tax liability and I thought about Sarbanes-Oxley, which requires chief financial officers to sign a statement attesting that statement and when they sign a financial statement, that signature is an attestation that all the contents are accurate and people get prosecuted and go to jail if they knowingly sign a false Sarbanes-Oxley statement.

I was a prosecutor for a little while at the federal level, and I prosecuted people who got loans from the SBA and represented to the federal government that they did not owe any outstanding taxes, it turned out they did and they went to jail.

And there are prosecutors all over the country are going to have to bring cases like that. I'm wondering what those prosecutors will say to juries when they're sitting here wondering why are we being asked to find this person criminally liable when I'm turning on my TV in the middle of the day and hearing about large companies getting taxpayer dollars, making false representations, and we can't even name them, much less make them pay the money back, much less prosecute them.

And finally, I'm thinking about people in my state who have invested an affordable college plan, get a letter from the state Treasury a few weeks ago that tells them their plan's about to run out of money, hear that their hard earned investments may go for not, may have to tell their kids to lay off a semester to go to college.

And then they pick up the newspaper and hear this week about, again, these geniuses who work for AIG who were so smart they figured out how to wreck an economy and not just a company, but yet its so important to retain them and keep them doing what their doing but we've got to pay them millions and millions of dollars.

DAVIS: And I just wonder, we are eroding confidence in the way that our legal system works, we're eroding confidence in the way taxpayer dollars are managed and spent and the cost of that, it's going to make it harder than ever for us to do the things that must be done to get this economy moving forward.

This is a massive breach of accountability and public trust. It goes way across party lines. It is damaging and imperiling everything we think about the public trust and about government and now how about a brief response from you all.

BAROFSKY: Right. Well, to be very clear, I have not invoked or set forth any type of privacy claims with respect to this information. I just received this list today indicated by number and I look forward to finding out who those financial institutions are.

DAVIS: So, I guess they're on a billboard, hopefully.

BAROFSKY: Absolutely. With regard to Sarbanes-Oxley, I was the federal prosecutor for eight years before I took this job, and one of the things I've done is bring in Sarbanes-Oxley certifications into the TARP program. It's

part of my standard recommendation for every condition that's imposed that a senior executive officer has to certify under a 1,001, with criminal penalty that their company is in compliance with each of the TARP conditions.

On my survey that I sent out to each of the financial institutions requiring them to report on how they use the funds, I included 1,001 Sarbanes-Oxley type...

DAVIS: Do you agree that some of these people need to be prosecuted for lying to the federal government about their tax liability?

BAROFSKY: One of my core responsibilities is to investigate anyone that makes a material lie to the TARP to get money and that would include this. If it's a material lie, absolutely they need to be prosecuted.

CHAIRMAN: Thank you very much and now I recognize Mr. Larson for his questions.

LARSON: Thank you, very much, Mr. Chairman. I thank our witnesses as well, especially for your testimony today, but also your ongoing work. I'm interested in the testimony you were talking about that you go back to September in terms of taking a look at how this whole thing came to be with respect to TARP. Are either of you familiar with the Pecora Commission?

BAROFSKY: No.

DODARO: No, sir.

LARSON: Pecora, in 1929 was called up by the Banking Committee to come forward and take a look at how this whole thing came to be. It seems to me we've had three major economic bubbles and then burst. And I realize that that's not your specific oversight responsibility, but I am interested in someone's -- both of you who are getting to take a look at this, about the need for us to do a systemic, long-term look not unlike Pecora did who probably was a then modern-day inspector general.

With respect to inspector generals you have independent oversight. Correct? You are not the employee of the Treasury Department. You have independent responsibility.

BAROFSKY: I'm within the Treasury Department but I have complete independence.

LARSON: Do you think that inspector generals should have independent responsibility? Should they be appointed by the president, approved by the Senate, and have complete independent oversight?

BAROFSKY: It's the only thing I know since I'm new to the inspector general community and I certainly fell in all of those categories.

LARSON: Should the CFTC and the SEC have independent oversight?

BAROFSKY: It certainly seems to work on the TARP.

LARSON: So, I would conclude from that that you would say that they should. It surprises me to know that they don't. It surprises me to know that where there's independent inspector generals that there are 435 investigations and audits, and where there are not independent, meaning they are not nominated by the president and ratified by the Senate, that there's 11 independent audits and investigations that go on.

Does it seem to you, Mr. Dodaro, that we should have a long-term look back, in fact, something like the Pecora Commission to take a look systemically at what's happening not just since September...

DODARO: Right.

LARSON: ... but what has happened, a lot of legislation over a long period of time has transpired, not just the last eight years or the last 16 years, but perhaps the last 20 or 28 years and I think there's a real need for that. I'd be interested in your response, either of you.

DODARO: Well, I not only agreed with you, but I initiated such an effort at the GAO. We issued a report in January where we traced the evolution of the financial regulatory structure over the last 150 years. We talked about the last major market developments in the last 20-25 years that have outpaced the ability of the regulatory system to manage it, and we outlined a list of nine characteristics that we think Congress can use in crafting and evaluating legislative proposals to modernize the system.

The system we have now is outdated. It's fragmented and ill suited to meet our needs going forward and we've designated it a high- risk area. Now, you know, I don't admit we've done all the research comprehensively and it could be added to, but I felt very strongly about that and that's why I initiated the...

LARSON: So of those nine characteristics, what would be the top three things that the Congress should be doing immediately that would assist in this area?

DODARO: Number one is there are no systemic regulators, no one regulator charged with monitoring systemic risks across the system. That's a big problem. It needs to be fixed. There are a lot of gaps in institutions that aren't covered or products that aren't covered. They need to be closed and the taxpayers need to be protected.

The system has to be revamped in a way that not only gives additional protections to investors and the public, but also give some of the regulators more independence as well., so, those are the key things going and I'll be happy to provide a report to you.

LARSON: I would be glad to receive that and sit down with your staff and work with you on that. You mentioned, I think, to a question with regard with Ron Kind as do you have the appropriate monies. You said you were in the process of still building up and gearing up in that.

But it seems to me that, especially given these times, and as it was pointed out by Mr. Davis, the special need to restore confidence in the American public, if you could tell us, to the extent that you need more money or additional tools, et cetera or elaborate on that we would be interested to know as well.

BAROFSKY: Oh, I absolutely will. I mean we have -- the Stabilization Act carved out \$50 million for my office and we're not -- we'll come back to Congress when we see that we need additional funds. Right now, that's more than covering our expenses, but we certainly will let you know once we...

LARSON: Well, I thank Chairman Lewis and I would love to pursue talking with you about inspector generals and the kind of authority and independent nature of their authority that they should have given your vast experience.

DODARO: Yes. We've also studied that issue across the federal government and I'd be happy to provide some bar reports and talk to you about that as well.

LARSON: Thank you, very much.

CHAIRMAN: Thank you, Mr. Meeks is recognized for his questions.

MEEKS: Thank you, so very much, Mr. Chairman. I'm glad inspector general is here, and the comptroller is here. Inspector general, I know that it was several weeks after we passed the TARP program where you were appointed. Am I correct?

BAROFSKY: A couple of months actually. It wasn't...

MEEKS: A couple of months. That's...

BAROFSKY: September 15th.

MEEKS: A couple months, several weeks. I remember, because it was right before a Senate hearing asking about TARP that you were appointed almost the day before the hearing.

And I want to make sure that the members are fully aware of that and the American people are aware of that because, Mr. Chairman, we were in -- and ranking member, we were in a very precarious situation when it came down to passing this TARP legislation.

It's almost like putting the dollars out there and not having the overseer or the police officer out there to enforce our original intent to be able to bring the price of money down. I just want to point the committee to what happened.

On January 22 of '08 the Federal Reserve cut rates by 3.5 percent, the largest cut in 25 years. March 7th, the Federal Reserve makes \$200 billion in funds available to banks and other institutions. This is without Congressional intervention.

Then we turn around and find that Freddie and Fannie have problems or goes into problems and enter into an agreement with the federal government on September the 7th. I skipped over a lot, Mr. Chairman.

And we kept moving down, kept moving down and as I look at this chart here and this is a CBO report showing the price of money and how it was spiking and how small businesses were closing because they couldn't meet payroll.

I'm saying all of that, to say that I think in a time such as this we do know that we could not afford for our financial institutions to fall, at that time, because it would have been a bigger problem than what we're facing now.

Now we know we had to act under pressure. We do know that there are some issues that are unaddressed that should be addressed immediately. Just yesterday, I'm looking at, not yesterday, a couple of days ago, the president shared with the American people -- and this is on March 18th -- yes, that was yesterday.

Time is flying here, where he's saying that he's asking for the same authority that FDIC has over banks to be able to consolidate some sort of oversight of this TARP program and this is something that he said yesterday.

And I think that it's important. He identified AIG as an insurance company but has a hedge fund over it. I think that it's important that we look at how the administration can move. You mentioned earlier, I believe, if I'm misquoting you, inspector general, you mentioned bill 1341?

BAROFSKY: I believe that's the number, right, 1341.

MEEKS: OK, and that is to give you additional authority or staff or oversight to be able to follow up on many of these leads that you're getting over the hotline and that your staff is uncovering?

BAROFSKY: It's a number of different provisions. The ones I was referring to would give me some greater hiring flexibility but there are also portions of the bill that clarify my overall authority as well.

MEEKS: Can this be achieved through an executive order or some sort of flexibility that the president and Treasury has now? I know that you're kind of the overseer and, can that be accomplished through administrative actions since the administration has a great deal of flexibility that the Congress has given it to carry out this program?

BAROFSKY: I think some of the hiring flexibility they could. Some of it they couldn't. I think the expansion of authority, although I think it's more of a clarification of our authority is something that Congress would need to do since we are ultimately a creation of Congress.

MEEKS: OK, well, but what the administration can do, I would love to talk to the appropriate staff person, we're going to have to run out here for votes very shortly, of being able to follow up because I want to write a letter to the administration.

I'm hoping that we could do it as a committee of saying these are things that you need right now, I mean yesterday, so that we can be able to follow up on it. I think the American people know that we had to respond, which we did, under President Bush and now under Barack Obama.

But I think that it's important that we don't allow the same situation to continue because it's not being, no one is paying attention day-by-day of the details. And I think when we look at this whole AIG situation, the details I don't think \$30 billion would have gone out the door.

I don't think Mr. Geithner would have been able to sit where you're sitting right now just a week ago if we would have had any idea of what was going on as it relates to this bonus situation.

We know that we're a country of laws and also contracts and we realize that. But when you have the American people around here, their hours are being reduced, they're losing their jobs and businesses are closing. Meanwhile back in New York or where have you, you have individuals that are pulling down \$1 million and we're saying that we need them.

We're all outraged, but where do we stop the bleeding? And I think we have to stop it by doing things that we can do through the executive power and also this committee pushing legislation as though it was imperative, which it is, to get it done ASAP.

I commend you both, comptroller. I'm glad that you all are doing what you're doing. You're shedding light on this. You're looking at the details as we try to govern because, Mr. Chairman, all of us are public servants.

We all signed up to serve the people of the United States of America. I don't think anyone set out to be able to waste taxpayer dollars, but we must make sure that these, the comptroller and the inspector general have time to catch up on what we did in a very fast way to make sure that we shore up the financial institutions so that small businesses don't have to close and so we won't see the job losses that we would have seen if we did not respond to the crisis.

So thank you, Mr. Chairman, I look forward to working with the subcommittee.

LEWIS: Mr. Pomeroy is recognized for questions.

POMEROY: Mr. Chairman, I know we have to go. I'll be very quick and actually you can submit it in writing to me later.

I'm concerned and of course when you look at the AIG situation, the uglier it gets, especially the prospect that there has been very little effort made by people in the financial products division to get best deals possible as they unwind the many commitments of that division and these credit default swaps.

Obviously, under the circumstances, I believe it would only be a responsible business proposition to demand a haircut in settling of the many obligations entered into between the company and indeed, today's Washington Post reports that instead there has been subtle pressure from the government to settle liberally because the receiving firms probably need the money.

This is not good stewardship of taxpayer dollars. In light of the extraordinary stake we now have in AIG, is this the matter you are looking at? And I think we need and request more information on this issue.

DODARO: Yes, basically, since the Federal Reserve is managing this area, this is one reason I cite that we have statutory prohibitions at looking at this issue, so unless the laws change, we wouldn't be able to do so.

POMEROY: That's important information for us to consider, Mr. Chairman. We're going to want to get to the bottom of that. I thank you and I yield back my time.

CHAIRMAN: Thank you. Let me take an opportunity on behalf of the ranking member and all of the members, thank you two for being here. Thank you for your testimony. I'm sure we will be calling up on you again as we move down this road. It's a very long road. Thank you so much, you've been very helpful.

DODARO: Thank you very much, Mr. Chairman.

BAROFSKY: Thank you, Mr. Chairman.

CHAIRMAN: The hearing is adjourned.

END

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