

U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

July 16, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Frank:

On several occasions, questions have been raised about the disparity of treatment of small domestic banks as compared to large U.S. banks and foreign counter-parties following the extraordinary Federal Government intervention to supply massive taxpayer support to prevent the collapse of American International Group (AIG).

In hearings before the Financial Services Committee, I have questioned Secretary Geithner and AIG management about this issue. Transcript excerpts of some of that questioning are attached. I have also written to Secretary Geithner regarding my concerns over the inequitable treatment of smaller domestic institutions which suffered significant losses from their dealings with AIG while the firm's larger counterparties – many of them headquartered overseas – were made whole.

In public hearings, the response of Secretary Geithner has been that he would review the situation to ensure there was no unfair or disparate treatment. In contrast, his private written responses have relied on legalistic distinctions between loans and counter-party obligations and AIG corporate obligations versus those of its real estate subdivisions.

In order to fully air the appropriateness and fairness of the distribution of U.S. taxpayer money by AIG, I request a hearing dedicated to this issue. The hearing should include representatives of the Treasury Department and AIG management, all with knowledge of the issue and authority to speak about discussions and policy decisions made by their organizations. There should also be representatives of the smaller U.S. banks that have not been paid by AIG and its subsidiaries.

The Committee's agenda is crowded and I realize finding time for the requested hearing will not be easy. Nonetheless, I suggest this is a critical issue and important to promoting public understanding of the interventions of the Federal Government into private businesses and markets. It is essential that there be no question of the fairness and equity of the Government's actions. Therefore, I urge that this hearing be scheduled as soon as possible.

Sincerely



SPENCER BACHUS
Ranking Member

1231 | time and less damaging for the country over time for the
1232 | government to take some risk in preventing greater cost not
1233 | just to the deposit insurance fund, but to the rest of the
1234 | system. That's the balance we have to strike.

1235 | Mr. BACHUS. Well, I'm talking about is there really no
1236 | alternative than saddling future generations of Americans
1237 | with perhaps hundreds of billions of dollars worth of losses
1238 | for the mistakes of a few institutions that grow too large or
1239 | too complex?

1240 | Secretary GEITHNER. What has to guide what we do is how
1241 | do we protect the system at least cost to the taxpayer? And
1242 | in emergencies, in extremis, as we've seen, letting
1243 | institutions fail can cause far greater damage. You know,
1244 | acute, catastrophic damage to the fortunes of all Americans.

1245 | Mr. BACHUS. All right. But--

1246 | Secretary GEITHNER. And so there may be circumstances in
1247 | which with carefully designed constraints that it is more
1248 | effective for the country and for the taxpayer for there to
1249 | be carefully designed emergency authority to step in and
1250 | prevent failure.

1251 | Mr. BACHUS. I'd submit to you that ''such sums as are
1252 | necessary'' is too open-ended, but. Secretary Geithner, in
1253 | my opening statement, I talked about that within hours--you
1254 | said within minutes of the AIG intervention, billions of
1255 | dollars went to the foreign banks.

1256 Secretary GEITHNER. But--can I just clarify that?

1257 Mr. BACHUS. Yes.

1258 Secretary GEITHNER. What I said is, the purpose of the
1259 action was to ensure they can meet their commitments, and
1260 therefore that had impacted immediately--

1261 Mr. BACHUS. AIG?

1262 Secretary GEITHNER. Immediately on their ability to meet
1263 their commitments. I don't actually--didn't mean to say in
1264 minutes they were making payments, but.

1265 Mr. BACHUS. Sure. Okay. Within minutes they were--or,
1266 you know--

1267 Secretary GEITHNER. They were able.

1268 Mr. BACHUS. I mean, I said hours and you said minutes,
1269 but, I mean, you know, even if it was a few days, it was to
1270 allow them to not default on their obligations.

1271 Secretary GEITHNER. That was the purpose of the action.

1272 Mr. BACHUS. Right. Now they have obligations to a lot
1273 of American banks. In fact, you know, I said pensioners and
1274 retirees, you added municipalities and banks. How about the
1275 U.S. banks that their obligation of AIG, they're in default
1276 today, they were in default then?

1277 Secretary GEITHNER. Mr. Bachus, I heard your question,
1278 and I need to understand a little more the precise examples
1279 you're referring to. I would be happy to look at that and
1280 get back to you.

1281 Mr. BACHUS. Sure. Well--

1282 Secretary GEITHNER. I understand if it seems unfair,
1283 we'll have to fix it, but I want to take a more careful look
1284 at what you're suggesting.

1285 Mr. BACHUS. Sure. Sure. And what I'm talking about,
1286 let me tell you. What was paid off dollar for dollar were
1287 these risky credit default swaps agreement in most cases,
1288 which were the financial products subsidiary that wrote
1289 those. That's what you paid off dollar for dollar. What is
1290 still not being paid of is the more traditional loans to AIG
1291 of actual money. And do you not--do you understand my
1292 concern?

1293 Secretary GEITHNER. I completely understand your
1294 concern, but I want to look in more detail at the precise
1295 examples you're speaking of. Because they don't--I need to
1296 understand those better, and I'll give you a thoughtful
1297 response.

1298 Mr. BACHUS. Yes. And I'm talking about U.S. banks,
1299 federally insured U.S. banks, that made secured loans to a
1300 subsidiary of AIG, and they're being told--they're being
1301 offered 20 or 30 cents on the dollar. U.S. companies doing
1302 business in Florida, Alabama, Tennessee.

1303 Secretary GEITHNER. As I said, I'll work with the
1304 chairman. We'll come back to you and give you a detailed
1305 response.

1076 company.

1077 The CHAIRMAN. Thank you.

1078 The gentleman from Alabama.

1079 Mr. BACHUS. Thank you.

1080 Secretary Geithner, on September 14th, you and Secretary
1081 Paulson met with AIG to discuss Lehman's failure and their
1082 worsening condition?

1083 Secretary GEITHNER. We had a series of meetings in the
1084 days preceding the action by the Fed on the 16th--

1085 Mr. BACHUS. On the 16th, okay.

1086 Secretary GEITHNER. --with AIG and a range of other
1087 financial institutions. As the chairman said, you know, the
1088 world is going through a--

1089 Mr. BACHUS. Yeah, I understand that. But you met with
1090 him. And, as a result of that, those meetings, September
1091 16th, there was a government intervention supervised and
1092 coordinated and led by the New York Fed. And you were
1093 president of the New York Fed.

1094 Secretary GEITHNER. I was president of the New York
1095 Fed.

1096 Mr. BACHUS. On September 16th, the government became
1097 the 79.9 percent owner of AIG. Is that correct?

1098 Secretary GEITHNER. That is correct.

1099 Mr. BACHUS. Then there was an \$85 billion government
1100 guarantee that went to AIG, or funds. Is that correct?

1101 Secretary GEITHNER. That is correct.

1102 Mr. BACHUS. Then, on October the 8th, a good amount of
1103 that money was paid to the counterparties. Is that correct?

1104 Secretary GEITHNER. Well, again, the purpose of the
1105 intervention was to prevent default by AIG, because our
1106 judgment was the consequence of default would have been
1107 catastrophic to the American economy.

1108 Mr. BACHUS. Sure, I understand that.

1109 Secretary GEITHNER. So AIG was able to, as a result of
1110 the intervention, to meet a full range of its obligations as
1111 a large, complex financial institution.

1112 Mr. BACHUS. Sure, I understand that. But what I am
1113 saying is that you took over on September 16th, then on
1114 October the 8th began to pay the counterparties off.

1115 Secretary GEITHNER. Well, again, throughout that period
1116 of time--and this was critically important to the stability
1117 of the financial system--we wanted to make sure AIG was able
1118 to meet its commitments.

1119 Mr. BACHUS. I understand that. To pensioners, to
1120 retirees, to--

1121 Secretary GEITHNER. Municipalities.

1122 Mr. BACHUS. Municipalities.

1123 Secretary GEITHNER. Banks.

1124 Mr. BACHUS. But what I am saying is, within about 2
1125 weeks, these payments--or 3 weeks--payments were made to the

1126 | counterparty. I am not--

1127 | Secretary GEITHNER. Well, I think probably within
1128 | hours, technically, within minutes probably.

1129 | Mr. BACHUS. All right, within hours.

1130 | Now, there has been now a total somewhere over \$50
1131 | billion worth of these payments to counterparties. I am very
1132 | interested in that. I mean, these payments to
1133 | counterparties, these were parties that took a risk and
1134 | entered into agreements with AIG, were they not?

1135 | Secretary GEITHNER. Absolutely.

1136 | Mr. BACHUS. Okay. And these were credit default swaps,
1137 | securities lending, things of that nature, which you can lose
1138 | money on.

1139 | Secretary GEITHNER. Well, any insurance contract
1140 | written by AIG poses a risk to the person who bought that
1141 | insurance contract.

1142 | Mr. BACHUS. Sure. And a credit default swap is sort of
1143 | a--I guess you could call it a form of insurance. But what I
1144 | am saying is it was an agreement between two parties. And
1145 | AIG defaulted or was on the verge of defaulting.

1146 | Secretary GEITHNER. Well, AIG was on the verge of
1147 | default. So, again, any of the contracts AIG had with
1148 | millions of people who bought insurance from it--

1149 | Mr. BACHUS. Well, I understand those people and those
1150 | contracts with people, you know, retired teachers, et cetera.

1151 But now I am focusing on the counterparties. They were paid
1152 100 percent of everything AIG owed them. Is that correct?

1153 Secretary GEITHNER. I am not sure if technically that
1154 is right, but, again, the purpose of the intervention was--

1155 Mr. BACHUS. No, I am not talking about the purpose of
1156 the intervention. I am--

1157 Secretary GEITHNER. So the result of the intervention
1158 was AIG was able to meet its obligations under--

1159 Mr. BACHUS. But what I am saying, Mr. Secretary, is
1160 that AIG's counterparties were paid 100 cents on the dollar.

1161 Secretary GEITHNER. The people that had contractual
1162 obligations from AIG, from the person who bought an insurance
1163 protection product or a basic insurance product, were paid--

1164 Mr. BACHUS. Well, we are not talking about insurance
1165 policies here. I am talking about--

1166 Secretary GEITHNER. No, but this is very important.

1167 Mr. BACHUS. I am talking about the foreign banks,
1168 Goldman Sachs. They were paid 100 cents on a dollar, were
1169 they not?

1170 Secretary GEITHNER. Again, that was the purpose and
1171 result of--

1172 Mr. BACHUS. Well, I am not talking about whether--I am
1173 just saying they were paid 100 percent of what they were
1174 owed.

1175 Secretary GEITHNER. AIG was able to meet its

1176 | commitments and met its commitments.

1177 | Mr. BACHUS. At 100 percent.

1178 | Secretary GEITHNER. It fully met its obligation, yes.

1179 | Mr. BACHUS. Sure, fully met its obligation.

1180 | Well, my question to you--and I am not--was there any

1181 | discussion over a haircut or 95 percent, taking 95 percent or

1182 | 90 percent as full payment?

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Chairman
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Dear Chairman Frank:

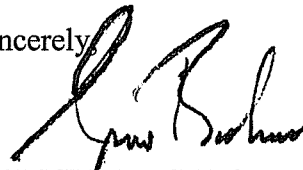
Thank you for your comments on the dais this morning regarding my letter requesting a hearing on the disparity of treatment of domestic regional and community banks as compared to large U.S and foreign financial institutions in the satisfaction of the obligations of American International Group (AIG) using American taxpayers' money. This disparity is striking and demands a full Congressional inquiry and investigation. Your point is well taken, however, when you suggest that this inquiry will require more time than is available before the August recess.

As you said in our conversation, some of these questions can be raised in the regulatory restructuring hearings that are already scheduled. My colleagues and I will certainly avail ourselves of those limited opportunities whenever appropriate witnesses appear on a hit-or-miss basis.

You also indicated you were favorably disposed to a hearing dedicated solely to this matter in September to afford a forum for a thorough examination of the questionable distribution of taxpayer money in the bailout of AIG.

Thank you for your consideration of this request. Working with you to make this possible will be a high priority for me.

Sincerely,

A handwritten signature in black ink, appearing to read "Spencer Bachus", written over a horizontal line.

SPENCER BACHUS
Ranking Member