Project On Government Oversight
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March 12, 2009

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Secretary Timothy F. Geithner
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

VIA FACSIMILE:

Dear Chairman Bernanke and Secretary Geithner,

The Project On Government Oversight (POGO) is an independent nonprofit that investigates corruption and other misconduct in order to achieve a more effective, accountable, open, and honest federal government. POGO believes that increased transparency results in a more responsive and accountable government, and helps to restore confidence in our elected and appointed officials and their actions.

We applaud you both for testifying before Congress recently about the importance of transparency at your respective institutions.[1] However, we are writing to you today to raise concerns about an overall lack of transparency in the measures taken by the federal government to stabilize the nation's financial system.

[1] On February 10th, Chairman Bernanke testified to Congress that "central banks should be as transparent as possible, both for reasons of democratic accountability and because many of our policies are likely to be more effective if they are well understood by the markets and the public." On that same day, Secretary Geithner testified that "It all begins with transparency. We propose to establish a new framework of oversight and governance of all aspects of our Financial Stability Plan. The American people will be able to see where their tax dollars are going and the return on their government's investment." Statement of Ben S. Bernanke before the House Committee on Financial Services. February 10, 2009. http://www.house.gov/apps/list/hearing/financialsvcs_dem/bernanke021009.pdf (Downloaded March 5, 2009); and Statement of Tim Geithner before the Senate Committee on Banking. February 10, 2009. http://treasury.gov/press/releases/tg02102009.htm (Downloaded March 5, 2009)

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Neil Barofsky, the Special Inspector General for the Troubled Asset Relief Program, recently observed that "we stand on the precipice of the largest infusion of Government funds over the shortest period of time in our Nation's history."[2] As was the case during the rapid expenditure of taxpayer funds on hurricane relief and Iraq reconstruction, the availability of trillions of dollars through the government's financial stabilization programs has created a dangerous potential for waste, fraud, and abuse, making the need for transparency all the more urgent.

Unfortunately, the Federal Reserve and Treasury Department have withheld crucial information about the bailout from Congress, the media, and the public, leading many to conclude that key decisions are being unduly influenced by favoritism and conflicts of interest. This tendency toward secrecy and opacity has also eroded public confidence, thereby undermining one of the most important goals of the government's financial stabilization efforts.

In particular, the government's unprecedented effort to rescue the American International Group (AIG) from collapse has been marred by a lack of disclosure and a troubling appearance of favoritism toward Goldman Sachs, one of AIG's most prominent counterparties.

Even the *appearance* of favoritism can significantly damage the public's trust and impair the government's efforts to stabilize financial markets. Therefore, it is important to point out that many of the officials, advisers, and contractors who have or continue to play a central role managing the bailout at the Fed and Treasury also have a history of working or lobbying for Goldman Sachs, or serving on the company's board, including: former Treasury Secretary Henry Paulson,[3] Treasury Interim Assistant Secretary Neil Kashkari,[4] Treasury Chief of Staff Mark Patterson,[5] New York Fed President William Dudley, New York Fed Chair Stephen Friedman, Edward Forst, Kendrick Wilson III, Dan Jester, Steve Shafran, and Robert Steel.[6] Furthermore, in exchange for the government's initial assistance to AIG, Henry Paulson insisted that chief executive Robert Willumstad step aside, only to be replaced by a former director at Goldman Sachs, Edward Liddy.[7]

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[2] Statement of Neil Barofsky, Special Inspector General for the Troubled Asset Relief Program, before the Senate Committee on the Judiciary. February 11, 2009. http://judiciary.senate.gov/hearings/testimony.cfm?id=3651&wit_id=7602 (Downloaded March 11, 2009)

[3] Center for Responsive Politics. "Revolving Door: Henry Paulson Employment Summary." http://www.opensecrets.org/revolving/rev_summary.php?id=70162 (Downloaded March 3, 2009)

[4] Department of the Treasury. "Kashkari Appointed Interim Assistant Secretary for Financial Stability." October 6, 2008. http://www.treas.gov/press/releases/hp1184.htm (Downloaded March 3, 2009)

[5] Center for Responsive Politics. "Revolving Door: Mark A Patterson Employment Summary." http://www.opensecrets.org/revolving/rev_summary.php?id=30193 (Downloaded March 9, 2009)

[6] Julie Creswell and Ben White. "The Guys From 'Government Sachs.'" *The New York Times*. http://www.nytimes.com/2008/10/19/business/19gold.html (Downloaded March 9, 2009)

[7] Matthew Karnitschnig, Deborah Solomon, Liam Pleven and Jon E. Hilsenrath. "U.S. to Take Over AIG in $85 Billion Bailout; Central Banks Inject Cash as Credit Dries Up." *The Wall Street Journal*. September 6, 2008. http://online.wsj.com/article/SB122156561931242905.html (Downloaded March 3, 2009); and Goldman Sachs. "Edward Liddy Resigns from Goldman Sachs Board of Directors." http://www2.goldmansachs.com/our-firm/press/press-releases/archived/2008/edward-liddy-resignation.html (Downloaded March 4, 2009)

Of course, this alone is not proof that Goldman Sachs received an unfair advantage as a result of the AIG bailout. We recognize that many of these officials did not own any shares in Goldman Sachs during their time in office, and that others kept their assets in blind trusts. Nonetheless, the prevalence of Goldman Sachs alumni at the Fed and Treasury creates the appearance of and potential for conflicts of interest. By refusing to reveal how much taxpayer money has gone to Goldman Sachs and other counterparties, the government has only exacerbated this suspicion. It should come as little surprise that the lack of transparency in the AIG bailout has resulted in public speculation about the government giving a "backdoor bailout" to Goldman Sachs and other counterparties.[8]

The potential failure of AIG would have been disastrous for the banks that were holding AIG's debt, and for the financial institutions that had purchased credit default swaps from AIG as insurance against default on assets tied to corporate debt and mortgage-backed securities. In what turned out to be an incredibly risky operation, AIG had provided over $400 billion to insure Wall Street trades involving credit default swaps.[9] As detailed in *The Washington Post*, in the aftermath of the subprime mortgage crisis and the downgrade in AIG's credit rating, the company suddenly realized that it would not be able to meet the terms of these obligations and was forced to post billions in collateral.[10]

Shortly after the Fed's initial $85 billion loan to AIG was announced,[11] the media began to report on the central importance of Goldman Sachs and other counterparties to the AIG deal. *The Washington Post* reported that in February 2008, AIG's Financial Products division faced a growing dispute with Goldman Sachs over the value of AIG's obligation, as AIG's chief financial officer warned of "Goldman's acknowledged desire to obtain as much cash as possible from their collateral calls."[12] *The New York Times* revealed that at a meeting among government regulators to discuss the AIG bailout, the only Wall Street chief executive present was Goldman's CEO and Chairman, Lloyd C. Blankfein. The *Times* also reported that Goldman Sachs was AIG's largest trading partner, and that the firm could have lost $20 billion if AIG collapsed, although spokespeople from Goldman

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[8] Dean Starkman. "Goldman's Backdoor Bailout." *Columbia Journalism Review*. November 4, 2008. http://www.cjr.org/the_audit/goldmans_backdoor_bailout.php (Downloaded March 12, 2009)

[9] Mark Pittman. "Goldman, Merrill Collect Billions After Fed's AIG Bailout Loans." Bloomberg News. September 29, 2008. http://www.bloomberg.com/apps/news?pid=20601087&sid=aTzTYtlNHSG8&refer=home (Downloaded March 4, 2009)

[10] Robert O'Harrow Jr. and Brady Dennis. "Downgrades And Downfall." *The Washington Post*. http://www.washingtonpost.com/wp-dyn/content/article/2008/12/30/AR2008123003431.html (Downloaded March 12, 2009)

[11] Matthew Karnitschnig, Deborah Solomon, Liam Pleven and Jon E. Hilsenrath; and Federal Reserve Board. "Federal Reserve Board, with full support of the Treasury Department, authorizes the Federal Reserve Bank of New York to lend up to $85 billion to the American International Group (AIG)." September 16, 2008. http://www.federalreserve.gov/newsevents/press/other/20080916a.htm (Downloaded March 4, 2009)

[12] Carol D. Leonnig. "Effectiveness of AIG's $143 Billion Rescue Questioned." *The Washington Post*. November 3, 2008. http://www.washingtonpost.com/wp-dyn/content/article/2008/11/02/AR2008110202150.html (Downloaded March 10, 2009); and Minutes of Meeting of the Audit Committee of American International Group, Inc. February 7, 2008. http://oversight.house.gov/documents/20081007101834.pdf (Downloaded March 10, 2009)

Sachs claimed that the company would not have lost anything because it had hedged its exposure.[13]

In just a few short weeks, AIG drew down $61 billion of the Fed's $85 billion loan.[14] On September 29th, Bloomberg News reported that as much as $37 billion of the Fed's loan had gone to Goldman Sachs and other investment banks. Former AIG chief executive Maurice "Hank" Greenberg acknowledged that "no one else benefits," adding that "unless there is immediate change to the structure of the Federal loan, the American taxpayer will likely suffer a significant financial loss."[15] To make matters worse, taxpayers still had no way of tracking where their money was actually going. In a statement that would come to epitomize the Fed's attitude toward transparency and disclosure, a Fed spokesman told Bloomberg News that "what AIG did with its money, you should call AIG. I doubt that we will be talking about AIG's CDO [collateralized debt obligations] portfolio."[16]

Since that time, the Fed and Treasury have assumed an even greater role in the AIG bailout,[17] lending and investing billions of taxpayer dollars while refusing to disclose crucial information about the ultimate recipients of these funds. In recent weeks, both of you have been asked directly by Members of Congress to identify which of AIG's counterparties have benefited as a result of the government's exceptional assistance, yet you have repeatedly failed to provide satisfactory answers to this fundamental question.

For instance, Rep. Mike Castle (R-DE) wrote to the Fed last month expressing his concern about the lack of oversight on the expenditure of trillions of taxpayer dollars. Among other things, he asked you, Chairman Bernanke, to describe the "purpose of the many facilities and other actions taken by the Federal Reserve…to support specific institutions (including Bear Stearns, Citigroup, AIG, Bank of America, and any others)"

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[13] Gretchen Morgenson. "Behind Insurer's Crisis, Blind Eye to a Web of Risk." *The New York Times*. September 27, 2008. http://www.nytimes.com/2008/09/28/business/28melt.html (Downloaded March 4, 2009); and Lisa Kassenaar and Christine Harper. "Goldman Sachs Paydays Suffer on Lost Leverage With Fed Scrutiny." Bloomberg News. October 21, 2008. http://www.bloomberg.com/apps/news?pid=20601109&sid=aA_lSAQLywYs&refer=home (Downloaded March 10, 2009)

[14] Mary Williams Marsh. "A.I.G. Uses $61 Billion of Fed Loan." *The New York Times*. October 3, 2008. http://www.nytimes.com/2008/10/04/business/04insure.html (Downloaded March 10, 2009)

[15] Carol D. Leonnig. November 3, 2008.

[16] Mark Pittman. September 29, 2008.

[17] Federal Reserve Board. "Board authorizes Federal Reserve Bank of New York to borrow securities from certain regulated U.S. insurance subsidiaries of AIG." October 8, 2008. http://www.federalreserve.gov/newsevents/press/other/20081008a.htm (Downloaded March 4, 2009); Federal Reserve Board. "Federal Reserve Board and Treasury Department announce restructuring of financial support to AIG." November 10, 2008. http://www.federalreserve.gov/newsevents/press/other/20081110a.htm (Downloaded March 4, 2009); and Department of the Treasury. "Treasury to Invest in AIG Restructuring Under the Emergency Economic Stabilization Act." http://www.treasury.gov/press/releases/hp1261.htm (Downloaded March 4, 2009); and Federal Reserve Board and Department of the Treasury. "U.S. Treasury and Federal Reserve Board Announce Participation in AIG Restructuring Plan." March 2, 2009. http://www.federalreserve.gov/newsevents/press/other/20090302a.htm and http://www.treasury.gov/press/releases/tg44.htm (Downloaded March 10, 2009)

and to describe "how each institution is spending those funds."[18] We understand that Rep. Castle has yet to receive any response to these questions.

At a hearing on February 10 before the House Financial Services Committee, Rep. Scott Garrett (R-NJ) asked you, Chairman Bernanke, if you would be willing to identify "who the specific counterparties are that specifically benefited from the infusion of cash into AIG." You declined to answer his question, citing "legal, privacy and other concerns."[19]

At a hearing on March 3 before the Senate Budget Committee, Chairman Bernanke, you explained that "under normal conditions, [the counterparties] would have presumption to privacy about their commercial decisions," to which Sen. Ron Wyden (D-OR) replied: "I've asked you what the endgame is. You've said the situation is evolving. I've asked you why we can't disclose the counterparties; could be anybody as far as I can tell in the world. And you're saying you're studying it. I just hope that in the days ahead, the Fed is going to come clean as to why this is so essential."[20]

At a hearing on March 4 before the Senate Finance Committee, Sen. Maria Cantwell (D-WA) asked you, Secretary Geithner, to come forward and identify the "affected counterparties, the people that are most affected by the collapse, so that we know why we are doing this." Instead of even acknowledging her question, however, you decided to explain how AIG's failure would have "caused catastrophic damage to the savings of Americans, to interest rates, to pension values," and to argue that the "most troubling effects...would have been on broader confidence in the financial system."[21]

On that same day, Rep. Carolyn Maloney (D-NY) wrote to you, Chairman Bernanke, reminding you that you had agreed last year to provide the House Financial Services Committee with "information about the counterparty transactions in which the Federal Reserve (or entities set up and funded by the Federal Reserve) purchased from certain counterparties multi-sector collateralized debt obligations (CDOs) on which AIG had written credit default swap (CDS) contracts." In renewing her request for this information, she pointed out that your office "has not provided that information to me nor, as far as I am aware, to the Financial Services Committee."[22]

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[18] Congressman Mike Castle. "Castle Presses Fed About Expenditure of Funds." February 9, 2009. http://www.castle.house.gov/News/DocumentSingle.aspx?DocumentID=110572 (Downloaded March 3, 2009)

[19] House Committee on Financial Services. "An Examination of the Extraordinary Efforts by the Federal Reserve to Provide Liquidity in the Current Financial Crisis." February 10, 2009. http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr021009.shtml (Downloaded March 4, 2009)

[20] Senate Budget Committee. "Economic and Budget Challenges for the Short and Long Term." March 3, 2009. http://www.senate.gov/fplayers/CommPlayer/commFlashPlayer.cfm?fn=budget030309&st=1055 (Downloaded March 10, 2009)

[21] Senate Committee on Finance. "The President's Fiscal Year 2010 Budget Proposal: Part One." March 4, 2009. http://finance.senate.gov/sitepages/hearing030409.htm (Downloaded March 4, 2009)

[22] Congresswoman Carolyn Maloney. "In Letter to Bernanke, JEC Chair Maloney Renews Request for AIG Transparency." March 4, 2009. http://maloney.house.gov/index.php?option=content&task=view&id=1804&Itemid=61 (Downloaded March 10, 2009)

In explaining their decision to withhold information on AIG's counterparties, the Fed and Treasury have repeatedly argued that disclosing this information would dissuade people from doing business with AIG and its counterparties, and would do great harm to the financial system as a whole.[23] Incidentally, the Fed has used a similar argument in refusing to comply with a Freedom Of Information Act request and lawsuit filed by Bloomberg News (the Fed recently stated that it will not disclose additional details on the terms of its 11 lending facilities because it would cast a "stigma" on the recipients of more than $1.9 trillion in emergency loans).[24]

However, as mentioned above, the media has been leaking details about Goldman Sachs and other counterparties for months now. Just this week, *The Wall Street Journal* identified at least two dozen U.S. and foreign financial institutions that have been paid approximately $50 billion as a result of the AIG bailout, citing a confidential document and discussions with insiders. According to the *Journal*, Goldman Sachs received roughly $6 billion in payments between mid-September and December 2008.[25] In addition, *Fortune* has apparently obtained its own list of 15 AIG counterparties. Although dollar amounts are not included, it's worth noting that Goldman Sachs is listed second, perhaps confirming its importance as a counterparty.[26]

To the best of our knowledge, the ongoing discussion in the press about AIG's counterparties has not caused any significant harm to these individual firms or to the financial system as a whole. This would seem to undermine the government's argument that revealing the list of AIG counterparties could have disastrous effects on the company and on public confidence.

In fact, it is the government's stubborn refusal to disclose this information that is eroding public confidence. Now that taxpayers have poured billions of dollars into AIG, it is no longer acceptable to withhold information on where their money is going. We urge you both in the strongest possible terms to identify the full list of AIG's counterparties, and to disclose how much taxpayer assistance these counterparties have received. Doing so would send a strong message to Congress, the media, and the public that you are taking important steps to make your agencies more transparent.

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[23] For instance, Fed Vice Chairman Donald Kohn testified to Congress that "giving the names would undermine the stability of the company and could have a serious knock on effects to the rest of the financial markets and the government's efforts to stabilize them." Senate Committee on Banking, Housing, and Urban Affairs. "American International Group: Examining What Went Wrong, Government Intervention, and Implications for Future Intervention." March 5, 2009.
http://banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=1655fd01-154e-48de-9fd8-2832a68f04d6 (Downloaded March 12, 2009)

[24] Mark Pittman and Craig Torres. "Fed Refuses to Release Bank Data, Insists on Secrecy." Bloomberg News. March 5, 2009.
http://www.bloomberg.com/apps/news?pid=20601087&sid=aG0_2ZIA96TI&refer=home (Downloaded March 10, 2009)

[25] Serena Ng and Carrick Mollenkamp. "Top U.S., European Banks Got $50 Billion in AIG Aid." *The Wall Street Journal*. March 7, 2009.

[26] Carol J. Loomis. "Revealed: 15 AIG bailout counterparties." *Fortune*. March 9, 2009.
http://money.cnn.com/2009/03/07/news/companies/aig.fortune/index.htm?postversion=2009030910 (Downloaded March 10, 2009)

Former Supreme Court Justice Louis Brandeis once famously remarked that "sunlight is said to be the best of disinfectants."[27] In keeping with this sentiment, POGO strongly believes that taxpayers need to be able to examine how their money is being spent so that they can hold officials accountable. By withholding crucial details about Goldman Sachs and the other counterparties to AIG, you have given the public ample reason to question the integrity of the government's decisions related to the bailout. We call on you both to restore public confidence by sharing more information on what the Fed and Treasury are doing to rescue AIG and its many counterparties, and by making the government's initiatives to stabilize the financial system more transparent overall.

We urge you to disclose the list of AIG counterparties without delay. If you have any questions or would like to discuss these issues further, please contact Michael Smallberg or me at (202) 347-1122.

Sincerely,

Danielle Brian
Executive Director

CC: Special Inspector General for the TARP Neil Barofsky
Treasury Inspector General Eric Thorson
Federal Reserve Inspector General Elizabeth Coleman
Congressional Oversight Panel (COP) Chair Elizabeth Warren and COP Members

[27] Louis D. Brandeis. *Other People's Money—and How Bankers Use It.* 1914. http://en.wikiquote.org/wiki/Louis_Brandeis (downloaded March 10, 2009)