



OFFICE OF THE SPECIAL INSPECTOR GENERAL
FOR THE TROUBLED ASSET RELIEF PROGRAM
1801 L STREET, NW
WASHINGTON, D.C. 20220

January 12, 2010

Honorable Darrell E. Issa
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
2347 Rayburn House Office Building
Washington, DC 20515-0549

Dear Representative Issa:

Thank you for your January 7, 2010, letter, regarding Audit Report No. 10-003 (Nov. 17, 2009), entitled "Factors Affecting Efforts to Limit Payments to AIG Counterparties." The Office of Special Inspector General for the Troubled Asset Relief Program ("SIGTARP") appreciates your recognition of the audit report's contribution to the understanding of the Federal Reserve's decision to pay counterparties on certain of AIG's credit default swap contracts effectively at par. Related to the audit, you have requested "communications referring or relating" to that decision. We have reviewed your document request, and our records supporting or relating to the audit ("audit working papers") fall under two different categories.

First, we received the overwhelming majority of the audit working papers from the Federal Reserve. From the onset of our interactions with the Federal Reserve, it has consistently expressed concerns regarding the confidentiality of information that it supplies to us. These concerns culminated in its request for a formal agreement governing SIGTARP's use, storage, and dissemination of its records and information. For independence reasons, SIGTARP refused to execute such an agreement; however, to ensure the Federal Reserve's future cooperation, SIGTARP shared with it our confidentiality protocols and committed to abide by them. These protocols include endeavoring to maintain confidentiality of non-public records, and most significantly in the context of your request, we agreed to refer external requests for information collected from another agency to that agency for a direct response. We have done so with respect to your request, and the Federal Reserve has directed us not to provide you with the documents that it has provided to us, and that it will instead respond to your request directly.

While we regret the Federal Reserve's position in this matter, production of the requested documents absent the consent of the Federal Reserve in these circumstances could severely limit our ability to receive documentation from the Federal Reserve and other agencies in the future. Failure to follow their request might also put SIGTARP in violation of 12 C.F.R. § 261.21(c)(5), which provides that agencies such as SIGTARP that obtain confidential information from the Federal Reserve must commit that "the information requested shall not be disclosed to any person outside the agency without the written permission of the Board or its General Counsel."

Should the Federal Reserve reverse its position, we will comply with your request with respect to these documents, and produce the responsive portions thereof.

Secondly, the remainder of the audit working papers were either obtained from certain financial institutions or were generated by SIGTARP (such as interview memoranda) during the course of the audit. As you are of course aware, SIGTARP has two operational functions, audit and investigation, and many of the remaining audit work papers, which may or may not be responsive to your request, have been transferred to SIGTARP's Investigations Division. The Investigations Division is currently analyzing and using these records in connection with several ongoing investigations. SIGTARP has a strict policy against disclosing documents that are subject to an ongoing criminal or civil investigation, if disclosure of such documents could potentially impact that investigation. We believe that the requested documents in this category could potentially hinder our ongoing investigations. While it is SIGTARP's policy not to publicly comment on non-public, ongoing criminal or civil investigations, at the conclusion of the investigations, the details of our findings will be reported to Congress, as appropriate, either through formal court filings or in the form of Investigative Reports. We are, however, in the process of reviewing the remaining audit working papers and will seek to identify and produce records that are responsive or potentially responsive to your request that are not subject to the ongoing investigations. We hope shortly to conclude this review and production.

Thank you again for your inquiry and, as always, SIGTARP very much appreciates the Committee's continued support of our common mission to promote transparency and accountability in the operation of TARP and TARP-related programs. Please do not hesitate to contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Neil M. Barofsky', written in a cursive style.

NEIL M. BAROFSKY
Special Inspector General