



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 4, 2013

The Honorable Christy L. Romero
Special Inspector General
for the Troubled Asset Relief Program
1801 L Street, NW
Fourth Floor
Washington, D.C. 20036

Re: Status Update on Recommendations in the SIGTARP Quarterly Report

Dear Ms. Romero:

This letter responds to your request to describe the actions taken by the U.S. Department of the Treasury (Treasury) in response to the outstanding recommendations to the Office of the Special Master for TARP Executive Compensation (OSM) for companies receiving exceptional assistance under the Troubled Asset Relief Program (TARP) since the Special Inspector General for the Troubled Asset Relief Program's (SIGTARP) Quarterly Report to Congress, dated January 30, 2013. Enclosed please find an update on SIGTARP's recommendations to OSM. We appreciate the recommendations you have made as well as the constructive relationship we have with you and your team. We look forward to continuing to work together as we move forward.

Sincerely,

Patricia Geoghegan
Acting Special Master
for TARP Executive Compensation

Enclosure

The U.S. Department of the Treasury
Office of the Special Master for TARP Executive Compensation
Status Update on SIGTARP's Outstanding Recommendations

April 4, 2013

The Department of the Treasury (Treasury) welcomes the recommendations on the Troubled Asset Relief Program (TARP) from the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). This update serves as a status report on Treasury's response to SIGTARP's open recommendations to the Office of the Special Master for TARP Executive Compensation (OSM) for companies receiving exceptional assistance under TARP.

Treasury has given careful consideration to all of SIGTARP's recommendations. Treasury's policies and programs currently address many of the issues you have raised, and in many cases Treasury has taken specific actions to implement your recommendations. When we determined that a recommendation would not help carry out Treasury's statutory duties under the Emergency Economic Stabilization Act, we developed alternative methods to address SIGTARP's underlying concerns and explained those methods in our summary responses to SIGTARP and to Congress.

As I explained in three previous letters to you, including as recently as January 3, 2013, OSM considers the first two recommendations from your 2012 audit of OSM's determinations implemented and closed. For your third recommendation from that audit, please see below. SIGTARP also made four new recommendations in its audit report of OSM's 2013 determinations. For our responses to those recommendations, please see below.

Specific Recommendations from SIGTARP's Reports

Recommendation: The Office of the Special Master should develop more robust policies, procedures, or guidelines to help ensure that its pay determination process and its decisions are evenhanded. These measures will improve transparency and help the Office of the Special Master consistently apply the Interim Final Rule principles of "appropriate allocation," "performance-based compensation," and "comparable structures and payments."

Treasury agrees that it is important to have policies and procedures in place. OSM has developed and outlined its policies, procedures, and guidelines in its top 25 determination letters and accompanying fact sheets for each of 2009, 2010, 2011, and 2012. Treasury also believes in the importance of open and transparent information. OSM has always made its determination letters, and those policies, procedures, and guidelines, publicly available at www.financialstability.gov. To further develop and articulate its existing policies, procedures, and guidelines, OSM is finalizing its "OSM Determination Letters Policy" and "OSM Determination Letters Procedure." Once finalized, OSM will submit these documents for review and approval through the standard Treasury approval process. OSM will update SIGTARP as to any developments.

Recommendation: Each year, Treasury should reevaluate total compensation for those employees at TARP exceptional assistance companies remaining in the Top 25 from the prior year, including determining whether to reduce total compensation.

OSM believes its existing procedures achieve SIGTARP's recommended objectives. For example, OSM reevaluates total compensation each year and its due diligence process is designed to alert it to any developments that suggest compensation should be reduced. If SIGTARP has additional insights or guidance, OSM would be happy to consider how to update its processes.

Recommendation: To ensure that Treasury effectively applies guidelines aimed at curbing excessive pay and reducing risk taking, Treasury should develop policies, procedures, and criteria for approving pay in excess of Treasury guidelines.

Treasury agrees that it is important to have policies and procedures in place. OSM has developed and outlined its policies, procedures, and guidelines in its top 25 determination letters and accompanying fact sheets for each of 2009, 2010, 2011, and 2012. Treasury also believes in the importance of open and transparent information. OSM has always made its determination letters, and those policies, procedures, and guidelines, publicly available at www.financialstability.gov. OSM will update SIGTARP as to any developments.

Recommendation: Treasury should independently analyze whether good cause exists to award a Top 25 employee a pay raise or a cash salary over \$500,000. To ensure that the Office of the Special Master has sufficient time to conduct this analysis, Treasury should allow OSM to work on setting Top 25 pay prior to OSM's receiving the company pay proposals, which starts the 60-day timeline.

OSM believes its existing procedures are rigorous and address SIGTARP's concerns. Among other things, throughout the year, OSM analyzes each company's public securities law filings; consults with Treasury officials responsible for managing Treasury's investments in the companies; reviews public reports about the companies and their top personnel; and analyzes the companies' established performance goals for their executives. In addition, each company's CEO and CFO certify their pay proposals under penalties of perjury. Nevertheless, we are always thinking of ways to improve our processes, and will update SIGTARP as to any developments.

To be consistent with Treasury's Interim Final Rule that the portion of performance-based compensation compared to total compensation should be greater for positions that exercise higher levels of responsibility, Treasury should return to using long-term restricted stock for employees, particularly senior employees such as CEOs.

While long-term restricted stock continues to be a central element in most compensation packages approved by OSM, there are circumstances that OSM believes warrant exception—typically (1) where the executive is very senior and may retire in the next few years; or (2) where, due to particular circumstances, the executive's position may

disappear in the near future (e.g., the planned disposition of a subsidiary or other corporate changes).

In those limited circumstances, approving pay packages without long-term restricted stock is reasonable and consistent with the Interim Final Rule (IFR). This is because the IFR requires the executive to forfeit the long-term restricted stock if the executive does not continue to provide services for an additional two years after the date of the award—regardless of the reason. So, for executives who may retire, or whose future is uncertain due to corporate changes, any long-term restricted stock awarded to them would have no value and thus would not serve the IFR principle of designing compensation so as to retain talented employees. In fact, OSM has approved a material number of pay packages without long-term restricted stock in 2009 and in each subsequent year. Thus, to the extent this recommendation is that no executive subject to OSM's jurisdiction should receive any exception to OSM's general practice of including long-term restricted stock as a component of total compensation, OSM declines to accept SIGTARP's recommendation. To the extent this recommendation is that OSM should generally include long-term restricted stock as a component of total compensation for the executives subject to OSM review, OSM agrees and will continue to implement this recommendation.