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Op-Eds

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The 'Real' Crime at AIG

Is the outrage over the bonuses given out to executives at American International Group (AIG) masking the 'real' scandal at the world's largest insurance corporation?

Most Americans are enraged by the bonuses given out to executives at AIG last week, and rightly so. Some of the executives receiving the retention bonuses are members of the Financial Products Division, the unit that brought the entire company down. One hundred sixty-five million dollars is a lot of money, but realistically speaking it is only one percent of the 170 billion that AIG has already received from the American people.

Given the fact that taxpayers have, reluctantly, become 80% owners of a giant bankrupt corporation they have every right to be angry—to be furious.

Is it wrong to give bonuses to executives who helped run the company into the ground and probably bankruptcy? In theory, yes! Perception is that the AIG Board is wrongfully rewarding failure and is using taxpayer money to do it. But not all of those receiving bonuses were involved in the meltdown and should still be eligible for and receive a fair bonus.

Congress, with its usual flair and hysterics, has made the bonuses a hot button issue by taking advantage of the public outrage. But is that just a ruse to hide their complicity; their failure to properly regulate the unrestricted usage of bailout funds (taxpayer money) given to shore-up failing private corporations?

Despite their feigned outrage at the hubris and arrogance of AIG there may be a larger, more devastating, and potentially wrongful distribution of TARP funds. That is the payment made by AIG to its counterparties. Many billions of dollars may have been laundered through AIG to large financial institutions, both domestic and foreign, who are listed as counterparties and received the full amounts of their contracts with AIG. The 100% payouts have been described, by Secretary Geithner, as contractual obligations AIG had to meet. Though not exactly the same, it reeks of Enron criminality.

The Justice Department should look into the potentially illegal distributions; sixty-six billion dollars given to five domestic financial institutions and four foreign institutions. Goldman Sachs received 12.9 billion dollars and Société General and Deutsche Bank received 12 billion dollars each. Others receiving significant returns were Merrill Lynch, Bank of America, Citigroup, and Wachovia, Barclays and UBS.

Were the investments made by these counterparties gambles on derivatives or the more damaging Credit Default (not quite insurance) Swaps (unregulated instruments to insure the buyer against loss on assets they did not even own in case of default)? If so, then they assumed risk, purchasing a shadow-market product, and should take a hit like everyone else.

These banks, like many others who invested in AIG, took a gamble and, despite their alleged contracts with AIG, that gamble failed. The American people, defacto owners of the company, deserve full disclosure of the terms of the contracts Goldman Sachs and others struck with AIG. A full accounting of the potentially unlawful repayment must be demanded to identify AIG's fiduciary responsibility and the complicity of the counterparties in the failure and resultant public takeover.

Given the position of AIG at the time they received TARP money, the gamble the counterparties took may be worth mere pennies on the dollar. Had the government allowed AIG to file bankruptcy it would have rendered the counterpartie's contracts moot; a bankruptcy judge could have discharged the debt leaving the banks with zero return on their investment.

Another question the Justice Department must ask during their investigation is if any influence was applied, in any capacity, to make or suggest that AIG pay their counterparties. The repayment of those contracts, like the payment of the bonuses, was amoral at least and reminiscent of Enron and WorldCom a worst. Were the repayments part of the agreement, or part of the reason, to keep AIG in business?

We've been assured that AIG's failure would have had far greater impact on the global financial system than Lehman's failure as justification for providing the first $85 billion. Certainly it would have been tragic if AIG had failed. And the economy would have suffered a huge—possibly catastrophic—blow. But it is even more tragic to the hapless taxpayer whose money Congress continues to give away to incompetents, charlatans, miscreants, and thieves.

The outrage over bonuses is justified. But the absence of revulsion over the more prescient distribution of taxpayer money may cause far greater long term damage. And it could provide wrongful gain for investors in banks that took a chance. They may still be responsible to the taxpayers for the money they received.

In Goldman's case taxpayer's not only ponied up $10 billion from the TARP giveaway, but, by proxy, Goldman appears to have received $12.9 billion more from the taxpayers. If Goldman or Bank of America or Citigroup are considering giving back the TARP money to avoid limits on executive compensation then we must also insist that Goldman return the $12.9 billion diverted to them from AIG. In addition Bank of America must be required to pay back all $54.1 billion (the combined total of funds for both BofA and Merrill from TARP and AIG).

No one knows when this whole bailout fiasco will end or how much more money will be required to prevent the failure of the banking system, but it doesn't appear that anyone is watching out for the taxpayer's interest. Congress is good at outrage after-the-fact, but in their haste seem to lack the vision necessary to protect our investment.

But one thing is true: the American people are becoming enraged at the unrestricted misuse of bailout funds. It is only a matter of time before taxpayers revolt and tell their Representatives and Senators—Enough!

But it may be too late.