Testimony
Of
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"The U.S. Government as Dominant Shareholder: How Should the Taxpayers' Ownership Rights be Exercised?"

Mr. Chairman and members of the Committee, thank you very much for inviting us to testify today.[1]

Today's topic is welcome and vital. Perhaps the most astounding feature of the trillions of dollars in public supports conferred on the financial industry in the past year is the government's failure to demand more than the tiniest forms of reciprocity. Thus we are this week subject to the spectacle of the President cajoling financial industry leaders to lend more or do a better job of modifying mortgages -- with virtually no acknowledgement that the industry continues to exist only because of unprecedented taxpayer supports.

In the cases of the most distraught firms, where loans, guarantees and other supports have been insufficient, the government has acquired equity shares. This position raises the same issues of reciprocity as the other government supports, but puts on the government a more affirmative burden. Shareholding brings with it the obligations and responsibilities of ownership, as well as opportunities. The thesis of our testimony is that, where it is a dominant or controlling shareholder, the government has an obligation not to invest passively. It should use its ownership powers to clean up management. Mindful of its duty to safeguard taxpayer financial interests, it should also pursue statutory public interest mandates in areas such as consumer and environmental protection and financial stability.

In this testimony, we first review the government acquisition of equity in three firms: AIG, Citigroup and General Motors. We then turn to recommendations for

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[1] Ralph Nader is a consumer advocate. Robert Weissman is president of Public Citizen, a nonprofit research, lobbying and litigation public interest organization with 150,000 members and supporters. Based in Washington, D.C. and founded in 1971, Public Citizen accepts no government or corporate funds. Weissman is co-author of a forthcoming paper from Corporate Ethics International that examines options for managing the government investment in Citigroup and from which this testimony draws in part.

how the government should manage equity positions in those firms, and more generally. We conclude by considering the terms on which the government should exit an equity position.

The Government Acquisition of Controlling Stakes in Three Firms

Although the government obtains very substantial powers as a dominant shareholder, it also possesses enormous leverage at the point in which it is considering acquiring an equity position. We here review critically the processes by which the government took a controlling position in AIG, Citigroup and General Motors, in order to draw lessons for the future.

AIG

In the case of AIG, the government acquired a nearly 80 percent share in the company as a condition of a commitment to prevent the company's failure.

The decision to bail out AIG was made very suddenly, amidst market chaos. In addition to the equity stake, the government did condition its support for AIG on removal of the firm's executives.

Most notably in the case of AIG, the government did not condition its bailout and equity infusion on the firm's credit default swap counterparties accepting a haircut. This was not a small oversight; the primary rationale for the AIG bailout was the potential impact on counterparties. Rather than establishing that counterparties would accept a hair cut, they were paid 100 cents on the dollar. In this sense, the AIG bailout is a misnomer; the bailout of AIG has really served as a backdoor bailout of the giant firms on Wall Street, led by Goldman Sachs, and overseas (where AIG sent half of its credit default payments, after being bailed out).

New management is in place at AIG, but even though the government now owns nearly 80 percent of the company, it is not directing operations, though it does appear to be pressuring management to sell off units and take other steps to raise revenues.

Citigroup

The government bailout of Citigroup has proceeded in stages, including two separate infusions of capital, a $290 billion guarantee of Citi's toxic assets negotiated in obscurity, and a conversion of preferred shares into common equity. The government now owns one-third of Citi.

While the initial infusion of capital through the TARP program was rushed and done as part of the initial roll out of the government's bank bailout program, subsequent measures have not been so rushed. This is particularly true of the government's conversion of preferred stock into equity, a deal at least six months in the making. There is little or no evidence that the government demanded reciprocity or conditions from Citi for these deals.

The FDIC has reportedly pressured Citi both to shed assets and shake up internal management, but there are not reports of the government using its one third stake to shape the future of the company.

General Motors

After extending loans to GM in 2008, the government in June 2009 plunged GM into bankruptcy, in a complicated maneuver that ultimately left the government with a 60 percent share in the new GM.

Although it was completed under time pressure, the GM deal by comparison to AIG and the initial TARP bailout was not rushed at all. Over a period of many months, the Obama administration engaged in negotiations with GM, rejecting initial reorganizing plans and ousting the company's CEO. The government only agreed to its GM bailout and equity stake after extracting a reorganization plan that includes eliminating four GM brands, closing GM factories across the country and eliminating hundreds of dealers. Also in stark contrast to AIG, the government negotiated directly with GM's creditors, and insisted they take a massive hit to their interests as a condition of the government cash infusion. These creditors included bond holders who post-bankruptcy were given equity worth perhaps 10 cents on the dollar of the face value of their bondholdings (they received 10 percent of the New GM). Creditors also included unionized auto workers.[2]

The GM deal was negotiated by a secretive White House task force made up of Wall Street expatriates with little or no experience in the auto industry and enormous delegated authority. They clearly drove a hard bargain for the government infusion of capital, but to what end is much less clear. The objective seemed to be to preserve GM as a going entity, but without regard to the reasons

[2] Workers had in recent years exchanged lifetime healthcare guarantees for a Voluntary Employee Benefit Association (VEBA). At the time of negotiation in 2007, GM committed to fund the VEBA at $29.9 billion -- an amount very likely inadequate to satisfy outstanding healthcare obligations to workers and retirees (it represented 63 percent of prior liability). The government's negotiated deal leaves the VEBA with a 17.5 percent share of New GM, $6.5 billion in preferred shares paying 9 percent interest, a promissory note for $2.5 billion, and $9.4 billion that had been previously contributed to the VEBA.

that there was and is a legitimate and important public rationale for preserving GM. Apart from the very significant but neglected procedural questions around the task force's operations, the final closed-door deal raised very important substantive concerns:

- The government maneuver of GM through the bankruptcy process ran roughshod over traditional bankruptcy protections. While some interested parties were able to air their concerns, they were not able to receive proper consideration in the limited time afforded. There is reason to be concerned about the precedent set for this kind of managed and pre-packaged bankruptcy process, including in the future when private parties inevitably aim to emulate the federal government's practice.

- The government required GM and Chrysler to close hundreds of dealerships, estimated to cost 100,000 jobs. No adequate explanation was ever provided for the rationale for these forced closures, particularly given that the independent dealerships imposed no costs on the manufacturers. One reported rationale was to enable remaining dealers to raise consumer prices, but that hardly seems to be reasoning the government should have embraced.[3] Whatever the rationale, it is hard to imagine that the benefit offset the lost 100,000 jobs.

- While there was probably a need to reduce GM's manufacturing capacity, there was no need to cut worker wages and benefits. Auto worker wages contribute less than 10 percent of the cost of a car, so even the most draconian cuts will do little to increase profits. Yet the Obama administration's auto task force helped push the United Auto Workers into further acceptance of a two-tier wage structure that will make new auto jobs paid just a notch above Home Depot jobs. This will drag down pay across the auto industry, with ripple effects throughout the entire manufacturing sector. Stunningly, the Obama administration bragged that "the concessions that the UAW agreed to are more aggressive than what the Bush Administration originally demanded in its loan agreement with GM."[4] This new pay structure for what was once the cutting-edge pathway into modestly comfortable living for working families will have long-lasting and regressive impacts throughout the country.

[3] Peter Whoriskey and Kendra Marr, "Chrysler Pulls Out of Hundreds of Franchises," Washington Post, May 15, 2009

[4] http://www.whitehouse.gov/the_press_office/Fact-Sheet-on-Obama-Administration-Auto-Restructuring-Initiative-for-General-Motors/

- In part because of the secretive and unaccountable nature of the White House task force charged with managing the GM negotiations, there is no satisfactory evidence to justify the decisions about brand elimination and factory shutdowns. Irrespective of whether there was a need for reducing capacity, there is good reason to question the particulars of the decisions and whether excessive closures were mandated. These closures of course increase unemployment and related ills through direct and indirect impacts. They also foreclosed or at least ignored alternative options, namely converting plants to address new transportation needs, a point we discuss further below.

- Because of the discretionary decision to enter GM into bankruptcy, General Motors eliminated its liability to victims of defective products it had sold before the bankruptcy. Victims of accidents that occurred before the bankruptcy had their claims extinguished. The bankruptcy even eliminated claims by victims of accidents that had not yet occurred, if those accidents were due to defects in GM cars sold before the bankruptcy. Under public pressure, New GM agreed to accept liability for new victims. But existing victims are left with no recourse, unless a legislated remedy is provided.

  This is a manifest injustice -- a cruelty -- for identifiable persons. One such real person is Amanda Dinnigan, a 10-year-old girl from Long Island, New York. Amanda was injured by an allegedly faulty seatbelt in a GMC Envoy that snapped her neck in a crash. Her father, an ironworker, estimates her healthcare costs at $500,000 a year. Her lost quality of life will obviously be tragic.

- Among the most worrisome and bizarre components in the restructuring plan is the willingness to sacrifice U.S. manufacturing, and permit GM to increase manufacturing overseas for export back into the United States. News reports indicate that the company will rely increasingly on overseas plants to make cars for sale in the United States, with cars made in low-wage countries like Mexico rising from 15 to 23 percent of GM sales in the United States. For the first time, GM plans emerged to export cars from China to the United States, in what may be a harbinger of the company's future business model; although the company has stated after negative publicity that it will not export from China, there is no evidence that it is abandoning the business model of outsourcing production for the U.S.

market, and questions remain about how binding is the commitment not to export to the United States from China.[5]

Why should a government-owned company be managed in this way, in each instance contrary to overriding public policy objectives?

Government as Controlling Shareholder: Appropriate Policy Objectives

We recognize that the government does not fully own any of the three companies on which we are focusing, and has certain obligations to the other shareholders in those firms. This is particularly true for Citigroup and AIG, which continue to trade on public markets subject to SEC rules and governing law. Nonetheless, the government possesses a controlling interest in each of the three companies and has substantial authority to direct their operations, so long as they do not impair the value of the corporations.

We also acknowledge that Citi has announced its intention to pay back its TARP loans, and that the government has also indicated its plans to sell its one third stake in Citi in the near future. We address government-as-shareholder "exit" issues at the end of this testimony. Here we focus only on what the government could and should do as the dominant shareholder in Citi.

Our starting point is that shareholding comes with obligations, responsibilities and opportunities. The government as shareholder must accept these responsibilities and should capitalize on the opportunities. The government has taken substantial equity positions in these firms precisely because they were mismanaged; it makes no sense for the government then to operate as a passive investor deferring to management. As would any other major shareholder, the government should seek seats on the board of directors proportionate to its equity holding. These directors' duty necessarily runs to the firm, but they should also understand their role as representatives of the government that saved the company.

The operations of any major corporation in which the federal government invests will have major ramifications for the public interest, and will impact numerous areas in which the government has statutory mandates. The government should

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[5] There is as well the less pressing but non-trivial issue of whether U.S. government provided funds are being used to shore up GM's operations overseas, as opposed to investing in the United States. See Jake Tapper and Matthew Jaffe, " Will GM Spend Taxpayer Bailout Money on Overseas Operations?" ABC News, November 16, 2009, available at: < http://abcnews.go.com/Politics/general-motor-spend-taxpayer-bailout-money-overseas-operations/story?id=9091248>

leverage its equity position to advance these public interest objectives, including but not exclusively taxpayer financial interests.

Taking an equity position in a non-governmental corporation is an unusual move for the government. There is a heavy presumption against such actions. That presumption will normally be overcome only for companies in distress. In such cases, there will, typically, necessarily be substantial potential costs to taxpayers -- making it all the more appropriate for the government to leverage its shareholding role both for taxpayer protection and to pursue other statutory public interest objectives.

For the companies in which it takes equity stakes, our view is that the government should consider supporting initiatives specific to the company and its industry, and also presumptively support certain measures for all companies. Here we highlight a range of such proposed rules for Citigroup and AIG and the financial industry more generally; and for General Motors. We then indicate measures that should apply to all companies.

Citigroup and AIG

Consumer Protection

Citi, like other big banks, has engaged in a variety of practices to rip off consumers. Citi is among the big bank perpetrators of overdraft fee abuse. Citi has also long engaged in a wide array of abusive practices involving credit cards. These include inappropriate marketing efforts, especially to students, excessive fees, high interest rates and inappropriate charges. AIG, meanwhile, has long been accused of inappropriate claims denial.[6]

The government should use its ownership stake to ensure that the companies in which it maintains a controlling interest end abusive consumer practices. Surely this is a modest request. There is no taxpayer interest in generating profits by ripping off consumers -- who are, after all, taxpayers. There is also a compelling argument that establishing a reputation as fair-dealing and trustworthy companies will establish attract business and build long-term value for shareholders.

More affirmatively, the government should require the financial service firms in which it owns a stake to offer to consumers the best financial product terms for which they are eligible. They should be mandated to offer "plain vanilla" products -- those without tricky price-gouging features, including hidden fees and

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[6] See Dean Starkman, "AIG's Other Reputation: Some Customers Say the Insurance Giant Is Too Reluctant to Pay Up," Washington Post, August 21, 2005, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2005/08/20/AR2005082000179.html>

adjustable interest rates -- and in appropriate cases mandated to offer plain vanilla products exclusively.

Mortgage Modification

The foreclosure crisis continues to worsen. Goldman Sachs projects the crisis will persist at least until 2014, with well over 10 million families thrown out of homes. Since its bailout, Citi has been among the more engaged banks in mortgage modification programs, but it is not doing nearly enough. The government should leverage its shareholder role so that Citi systematically offers mortgage modifications, including but not exclusively through federal government programs. More important, the government should leverage its shareholder role to ensure Citi adopts a policy of offering any person or family living in a foreclosed house the right to maintain residence as a renter paying a fair market rent. This approach will help preserve home values, avoid needless displacement of families and disruption of communities, and also encourage Citi to renegotiate loan terms, involving not just reductions in monthly payments, but reductions in underlying principal to reflect market values. There is no cure for the foreclosure crisis without reduction in principal.

Escape From Exotic Financial Instruments

The proliferation of exotic financial instruments in the last decade led to massive leveraging and complicated interconnections among top firms that no one could track. While financial derivatives are rationalized as helping economic players hedge against risk, it turns out they are primarily speculative tools used overwhelmingly by a small number of players.

Until its collapse, AIG, of course, was perhaps the leading "insurer" of credit default swaps. AIG had taken on this role through a small London-based division that operated on the premise that there was zero chance of default on the underlying assets it was insuring. Setting aside no collateral, it believed it was taking money for nothing. This proved to be a false assumption. It also emerged after the AIG collapse that the firm did not know all of the credit default swap contracts into which it had entered.

With the government as owner, AIG is now unwinding its derivative positions in its Financial Products division. This is a welcome move. AIG should commit not to invest in exotic derivatives, with the possible exception for cases that relate directly to the firm's own business (e.g., to hedge against foreign currency fluctuation).

The great financial collapse notwithstanding, the concentration of financial industry massive speculative betting continues, with five banks -- including Citi -- owning more than four-fifths of the notional value of all outstanding derivatives in the United States. The notional value of these banks' derivatives exceeded $190 trillion in the first quarter of 2009.

The government should leverage its investment in Citi to eliminate the firm's investment in derivatives (again with the possible exception of legitimately hedging its own risks, such as currency fluctuation). There may be a rationale for Citi's investment banking operations to invest in such instruments, but if so, those operations should be divested.

For now, it appears that Citi is moving in the exactly opposite direction. Business Week reported in August that instead of swearing off risky financial products, big banks including Citigroup have rolled out a variety of "newfangled corporate credit lines tied to complicated and volatile derivatives," linking the credit lines "both to short-term rates and credit default swaps (CDSs), the volatile and complicated derivatives that are supposed to act as 'insurance' by paying off the owners if a company defaults on its debt."

Environment

By virtue of their far-flung operations and global investments, both Citi and AIG have a major environmental footprint. The government should ensure that its investments in the companies advance priority environmental objectives.

Both Citi and AIG should phase out of carbon intensive financing, such as new coal-fired power plants, tar sands development, and increase ecologically friendly lending.

The organization BankTrack has established a useful framework for both mitigating financial sector contributions to climate change and affirmatively supporting investments in efficiency and renewables. Key mitigation measures include:

- Measuring the greenhouse gas pollution component of all financial services:
- Establishing targets to progressively diminish the amount of greenhouse gas contributing projects that are financed;
- Developing management tools for greenhouse gas mitigation.

The inclusion of environmental criteria in service and investment guidelines should direct what the companies do, but need not injure their bottom line.

Avoiding environmentally harmful projects may mean skipping some profitable projects, but there are plenty of profitable alternatives available. Moreover, a focus on environmentally friendly projects is almost certain to be a smart long-term business decision, as the world rapidly shifts to clean energy sources.

In retail banking, Citi could facilitate installation of efficiency and renewable energy technologies. In its shareholder role, the government should ensure that Citi includes financing for retrofitting or solar panel installation along with every home mortgage. The mere act of offering financing, even at market rates, could facilitate a major uptick in retrofitting and massive deployment of solar or similar decentralized technologies. If combined with programs to pay off financing through savings in utility bills -- so that consumers do not need to pay any incrementally upfront cost for their investment in efficiency or renewables -- such an effort could have a dramatic effect on spurring residential (and commercial) installation of efficiency and renewable technologies.

Industry Structure

Both Citi and AIG are undertaking major asset sales, with the goal of raising capital to pay back government obligations. Citi in particular is also selling off assets with the aim of rationalizing its global organization.

Yet there is a public interest in shaping the structure of financial industry firms which is distinct from the narrow firm interest. The financial system will be safer and more robust -- less subject to systemic risk -- if firms are smaller, and if there is a separation between heavily regulated activities like those of insurance companies and depository institutions, on the one hand, and speculative-investment bank activities on the other. The enduring wisdom of Glass-Steagall has been amply demonstrated by the financial crisis.

The government as shareholder should give a hard look not just at spinning off particular divisions but breaking AIG and Citigroup into multiple pieces. Although such a move would be motivated by broad public interest concerns, there is very good reason to believe that such a move would enhance shareholder value.

General Motors

Paying Good Wages and Maintaining Good Jobs

The economic rationale for investing in General Motors as part of a bailout package was to preserve a company that plays such an important role in so many communities across the country, and to prevent the massive ripple effects that would follow from a GM collapse. We believe the GM bailout was justifiable and

necessary. Yet the economic rationale was, to some considerable extent, undermined by the excessive plant and dealer closures referenced previously, as well as by the massive concessions wrung from the unionized workers.

As an investor, just as in its role as an employer, the government must be mindful of guarding taxpayer assets. Yet it should not emulate the most ruthless practices of private employers. The purpose of the GM bailout was not just to save jobs, but to save good-paying jobs. The wage and benefit givebacks demanded of unionized workers undermined this objective.

Absent a compelling showing of need, the government as investor should not demand givebacks from workers. In the case of GM, in an industry where wages make up a small percentage of overall costs (in stark contrast to the financial industry), there was no such compelling need. An aim of the government investment should have been -- and should remain -- to preserve the living wage pay structure of unionized manufacturing workers.

Concessions imposed on GM workers as part of the bailout process should be undone.

It should be self-evident, but apparently is not, that a government investment in a manufacturing corporation should aim, at minimum, to maintain domestic production for the domestic market. U.S. government investments should aim to preserve jobs in the United States. The government as shareholder should insist that GM's reorganization plans be revised to ensure that there is no shift to, or increase in, production overseas for sales in the U.S. market.

Motor Vehicle Safety

The societal costs of injury, death and destruction related to motor vehicle crashes remain immense -- and they are, to a disturbing degree, preventable. For decades, an industry-beholden National Highway Traffic Safety Administration (NHTSA) has failed to realize its statutory mandate to advance safety. The domestic auto companies have preferred to invest in marketing schemes, more powerful engines, stylistic design, overseas markets, financing schemes -- anything but the safety technologies they mistakenly believe impose costs but do not help sales. Numerous innovative technologies remain on the shelf; cutting-edge suppliers are not able to crack the oligopolistic market; and the manufacturers chronically under-invest in new safety technologies while expending very substantial sums to ensure that NHTSA does not force or even nudge them to do so.

There is a generation of backlogged engineering advances well suited for commercial application and widespread diffusion. Today, as was the case 40 years

ago, auto company top management stands in the way of this new age of benign and efficient automotive technology. With few exceptions, a vast wasteland of technological stagnation and junk engineering from domestic automakers destroyed over three decades of opportunities for increasing the health, safety and economic efficiency of the motoring public. This “dark age” of the domestic motor vehicle industry was not the result of a series of omissions. It was the product of a deliberate expansion of the auto giants’ power to block each and every stimulus, every prod and every dynamic process which would have jolted these behemoths out of their complacent, myopic stupor.

The suppressed technologies include everything from windshields with better visibility in the rain to stronger passenger compartment integrity, from more effective seat belts to better headlights, to collision avoidance systems.[7]

The government should leverage its equity position in General Motors to ensure it invests more in safety technology, and rapidly deploys existing technologies. This is a case where a push from the government-as-investor will almost certainly pay off in monetary terms as well as improving safety. Although GM has refused to accept it, safety sells.

Fuel Efficiency and Transformative Technologies

Surveying the manufacturing landscape, one would have a hard time finding an area where technology has stagnated as badly as auto safety. But one area that would surely qualify is auto fuel efficiency. Overall auto fuel efficiency has steadily declined over the last quarter century, as the industry sabotaged efforts to improve regulatory requirements and banked its future on sales of poor-mileage-performing SUVs and minivans.

The Obama administration deserves credit for reversing the decades-long failure to raise fuel efficiency standards. Yet the new fleet fuel efficiency standard of 35.5 miles per gallon by 2016 is short of the existing technological frontier -- and will not force the shift away from gasoline-powered vehicles needed to avert catastrophic climate change.

Technology available at the beginning of this decade could have supported a 46 mpg standard for automobiles and a 40 mpg standard for light trucks, according to

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[7] For a detailed discussion of both suppressed technologies and the industry failure to innovate and deploy safety technologies, often developed by its suppliers, see Rob Cirincione, "Innovation and Stagnation: In Automotive Safety and Fuel Efficiency," Washington, D.C.: Center for Study of Responsive Law, 2004, available at: <http://www.csrl.org/reports/Innovation.pdf>

the American Council for an Energy Efficient Economy.[8] A 50 mpg overall fleet standard is obtainable by the end of the next decade.[9]

While there is an overwhelming case for adopting more robust fuel efficiency standards, the government's controlling ownership stake in the largest U.S. automaker gives it an opportunity to circumvent in part the political difficulty of enacting a new regulatory standard: it can simply direct the company it owns to achieve this standard.

Relatedly, the government as shareholder should insist that GM significantly increase its investments in electric vehicles and other transformative technologies to replace the internal combustion engine.

Investments in Mass Transit Production

There is a separate opportunity, so far completely unexamined, to use the government's ownership stake in GM to increase dramatically the country's commitment to mass transit. Closed GM plants could be put back on line, making light rail cars and natural gas-powered buses -- products that are underproduced or not produced at all in the United States.[10]

Whether such a conversion opportunity is financially feasible of course requires real study. But in offering the possibility of utilizing shuttered manufacturing plants ready to put people back to work and help facilitate the transition to a clean energy future, the idea has evident appeal. It may be outside of the normal business investment framework today (though not outside the framework of GM's past, when it produced mass transit vehicles) -- but then so is a government investment in GM. Our national economic crisis requires that we consider non-traditional approaches to job creation, and the prospect of catastrophic climate change obligates us to escape conventional thinking to protect posterity and our planet. Given these factors -- and the scale of the public investment in GM -- it is dismaying that such issues are not under serious consideration.

Ground rules for the government as shareholder

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[8] J. DeCicco, F. An, and M. Ross, *Technical Options for Improving the Fuel Economy of U.S. Cars and Light Trucks by 2010-2015*, American Council for an Energy Efficient Economy, April 2001.
[9] Schewel, Laura; Lacy, Virginia; Bell, Mathias; Fluhrer, Caroline; Maurer, Eric, "RMI's Top Federal Energy Policy Goals," Snowmass, Colorado: Rocky Mountain Institute, 2009, available at: <http://rmi.org/rmi/Library/2009-01_FederalEnergyPolicyGoals>.
[10] For further elaboration of this idea, see "New Directions for Government Motors: An Interview with Jerry Tucker," Multinational Monitor, May/June 2009, available at: <http://www.multinationalmonitor.org/mm2009/052009/interview-tucker.html>.

Each case of government-as-shareholder presents particular needs and opportunities. But there are some general policies that the government-as-shareholder should presumptively advance in every firm in which it takes a controlling stake.

Executive Pay

Although it is obvious that talented corporate executives must be paid well, there is no evidence that extremely high pay is correlated with excellent performance. Indeed, the Wall Street collapse provides abundant evidence to the contrary -- outrageously compensated executives and employees drove their companies to failure.[11]

"Pay czar" Ken Feinberg has established some reasonable guidelines for pay at firms in which the government has a dominant stake.

Political Influence Peddling

It makes no sense for firms in which the government is a controlling shareholder to spend company assets trying to influence public policy. Yet this is continuing. In the third quarter of 2009, according to its lobby disclosure forms, Citigroup has spent $1.85 million on federal lobbying -- on mortgage modification issues, overdraft protection, patent reform, student lending rules, credit card regulation, derivatives and the overall financial regulatory legislation under consideration in Congress. In the third quarter of 2009, General Motors spent $180,000 on federal lobbying on appropriations issues, climate change legislation, privacy issues, and auto safety, among other issues; GM did file a lobby termination report on July 10, however. AIG has discontinued lobbying on federal issues. But the company has spent more than $2.2 million on lobbying in 2009. In its federal disclosure forms, AIG indicates most of this total has been spent on state-level lobbying.

Firms in which the government has a controlling stake should not engage in lobbying at the federal or state level, and should not make campaign contributions.

Accounting Tricks

[11] See "Rewarding Failure," Public Citizen, December 14, 2009, available at: <https://salsa.democracyinaction.org/o/476/images/Rewarding%20Failure.pdf>.

Government-controlled enterprises should not be engaged in accounting chicanery. Both AIG and Citi have recent histories of such maneuvers, which are often the hallmark of more profound problems in corporate operations.

AIG has on two separate occasions in recent years been fined for accounting misdeeds.

In December 2008, the Government Accounting Office reported that Citigroup had 427 subsidiaries in jurisdictions listed as tax havens or financial privacy jurisdictions (including 90 in the Cayman Islands alone) -- the largest number of any Fortune 100 company. AIG had 18.[12]

The government-as-shareholder should leverage its power to end off-the-books accounting and use of offshore tax havens by the firms in which it exerts control.

Union Neutrality

The government-as-shareholder should leverage its power to ensure that firms in which it has a dominant share adopt a neutral posture to any efforts by workers to organize into unions.

Compliance Programs

Particularly because firms in which the government takes a controlling stake will typically have had severe problems, and because mismanagement is often associated with lax respect for regulatory requirements, the government should ensure that these firms adopt best practices for robust regulatory compliance programs, including creation of external monitors and protections for whistle-blowing employees.

Consumer Empowerment

Poorly run firms view customer service as a burden. Well run -- and profitable -- firms view customer service as an obligation and opportunity, and welcome consumer empowerment.

The government should ensure that firms in which it has a controlling stake eliminate abusive practices, such as including small-print mandatory arbitration provisions in standard form contracts. Such provisions deprive consumers of their

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[12] "Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions," Washington, DC: GAO, December 2008.

day in court for redress against product flaws and other claims against a manufacturer or service provider.

More affirmatively, the government should ensure that the firms in which it has a controlling stake invite consumers to join independent, democratically controlled consumer organizations. Depending on the nature of the company, such invitations can be extended at point of sale and/or through regular billing inserts. Such independent consumer organizations would be able to monitor company performance and advocate for improvements.

Exiting the Shareholder Role

Corporations generally do not welcome government investment, precisely because they fear that strings will be attached. But when government investment is necessitated, it *should* come with strings. The government has multiple missions and objectives. It is illogical for a firm in which the government maintains a controlling stake to undermine public mandates and missions; nor is there any reason why the government should shy away from pressing these firms to advance statutory public objectives in areas including consumer protection, financial stability, vehicle safety, fuel efficiency and emissions controls -- particularly in the many cases where such efforts are compatible with profitable pursuits.

Right now, Citigroup is aiming to exit the TARP program, and have the government sell its shares in the company. It is widely understood that Citi's aim is to escape executive and highly compensated employee pay restrictions. Citi's rush to escape the government's embrace is selective; it aims to pay back TARP and have the government sell shares, but it continues to benefit from strings-free government guarantees and a host of other benefits and programs conferred on the financial sector.

Even looking at the issue from narrow financial terms, it is not at all obvious that Citigroup is healthy enough to pay back the government, or that it is in the public interest for the firm to do so. The money it will raise to pay the government will come with higher interest rates than the government loans, and is capital that the firm will not have available for lending. These issues merit more Congressional oversight and scrutiny.

But what if Citi while under government control had been required to adhere to some of the concepts we outline here? And what if the firm had indeed returned to financial health?

A corporation should not be able to rent a government equity investment. A loan can be paid back, according to its terms. But once the government is an owner, it

is an owner. Proportionate to the government's stake, the firm belongs to the government; apart from other valid stakeholder concerns, firm management does not have legitimate interests distinct from its shareholder-owners. Thus it must be the government, not the firm, that sets the terms and timing of exit. This is a matter about which public comment should be sought. The government in its investor role should consider how the timing of its exit may affect its financial returns. And a government that properly seeks to advance public policy objectives in its role as controlling shareholder should ensure that those objectives will continue to be achieved before it divests itself of its controlling position.

Thank you very much.