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What the Financial Crisis Commission Should Ask

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Questions anyone?

On Wednesday, the first hearing of the Financial Crisis Inquiry Commission — what many are calling this century's equivalent of a Pecora-style investigation that scrutinized the market crash of 1929 — will take place in Washington.

Wall Street's top brass are planning to be there (and yes, they are flying down the night before so they don't miss it): Lloyd C. Blankfein of Goldman Sachs, Jamie Dimon of JPMorgan Chase, John J. Mack of Morgan Stanley and Brian T. Moynihan of Bank of America.

The hearing, of course, will partly be political theater. There will be finger-pointing. But if the committee uses its inquiry for its stated purpose — "hearing testimony on the causes and current state of the crisis" — it may help direct the national conversation and steer the current reform efforts.

In the spirit of trying to help start some lively discussions, here are some questions they might consider asking:

Mr. Blankfein, your firm, and others, created and sold bundles of mortgages known as collateralized debt obligations that it simultaneously sold short, or bet against. These C.D.O.'s turned out to be bad investments for the people who bought them, but your short bets paid off for Goldman Sachs.

In the process of selling them to institutional investors, however, your firm lobbied ratings agencies to assign them high ratings as solid bets — even as your firm planned on shorting them.

Could you explain how Goldman bet against these C.D.O.'s while simultaneously trying to persuade ratings agencies and investors that they were good investments? Were they designed from the outset to be shorted by Goldman and possibly select clients? And were those clients involved in helping design these transactions? What explicit disclosures did you make to Standard & Poor's and Moody's about your plans to short these instruments? And should we continue to allow transactions in which you're betting against what you're also selling?

Mr. Dimon, during the final week before Lehman Brothers collapsed, your firm asked Lehman to post billions of dollars in collateral and threatened to stop clearing Lehman's trades if it didn't do so. That demand had the effect of depleting Lehman's capital base, just when it desperately needed that capital to return funds to investors who were asking for their money back.

JPMorgan clearly was trying to protect itself. But could you explain what impact you believe that “collateral call” had on Lehman’s failure and the ensuing market crisis?

This one is for the entire group. All of your firms are involved in some form of proprietary trading, or using your own capital to make financial bets, not unlike hedge funds and other private investors. As the recent crisis has shown, these bets can go catastrophically wrong and endanger the global financial system.

Given that the government sent a clear signal in the crisis that it would not let the biggest firms fail, why should taxpayers guarantee this sort of trading? Why should the government backstop what amounts to giant hedge funds inside the walls of your firms? How is such trading helpful to the broader financial system?

A question for all the executives about bonuses: We keep hearing that you plan to pay out billions in bonuses this year. Given that they come out of profits that, to a large degree, seem to be the result of government programs to prop up and stimulate the banking sector, do you think they are deserved, even if they are in stock? And, while we’re on the topic, given the market crisis of 2008, were you all overpaid in 2007?

Again, for the group: Over the last year, your firms have actively used the Federal Reserve’s discount window to exchange various investments (including C.D.O.’s) for cash. You probably have a better idea than most about what those assets now sitting on the Fed’s balance sheet are worth.

Given the growing calls for regular audits of the Fed (an idea being resisted by the likes of the chairman, Ben Bernanke), do you think the demands for such audits are warranted?

This question is for Mr. Mack. In November, in a surprisingly candid moment, you publicly declared, “Regulators have to be much more involved.” You then added, “We cannot control ourselves.” Can you elaborate on those comments? Is Wall Street inherently incapable of policing itself — a view contrary to what most of your peers have argued?

Mr. Blankfein. Your firm, like other banks on this panel, was paid in full by the American International Group on various financial contracts, thanks to the government’s bailout. You can understand how this has whipped up no small amount of fury and questions over why A.I.G. and the government did not try to renegotiate those contracts.

Because your firm was the largest beneficiary of the government’s decision, did you or any of your employees lobby the Fed, Treasury or any other government agency for this “100 cents on a dollar” payout? If so, enlighten us about those conversations.

This is for Mr. Moynihan. Please explain — and no jargon, please — why your firm believed it didn't have to disclose mounting losses at Merrill Lynch ahead of a shareholder vote in December 2008. After all, investigations into the matter suggest company executives knew of the $4.5 billion loss Merrill suffered in October before that vote.

And why, just a week or so after you became general counsel, did Bank of America decide to tell the government about those same losses that it chose not to tell shareholders about?

To Mr. Dimon and Mr. Moynihan: Your industry has vigorously opposed creating a consumer protection agency. But it's clear that your millions of retail customers weren't adequately protected, leading to hardship and heartbreak across the nation. Because you oppose creating such a regulator, what should be done to ensure these problems don't happen again?