



March 4, 2010

Via Electronic Mail
Mr. David Phelan
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2900
dcphelelan@statestreet.com

Phil Angelides
Chairman

Hon. Bill Thomas
Vice Chairman

Brooksley Born
Commissioner

Byron S. Georgiou
Commissioner

Senator Bob Graham
Commissioner

Keith Hennessey
Commissioner

Douglas Holtz-Eakin
Commissioner

Heather H. Murren, CFA
Commissioner

John W. Thompson
Commissioner

Peter J. Wallison
Commissioner

Re: Treatment of Non-Public Information

Dear Mr. Phelan:

On behalf of the Financial Crisis Inquiry Commission (“the Commission”), I write to confirm our conversations and memorialize our position with respect to the treatment of non-public information¹ provided by State Street Financial Center and its agents (collectively “State Street”) to the Commission and its staff.

Any non-public information that is obtained from State Street will be shared only with employees and agents of the Commission who have a need to know the information in the performance of their official work duties consistent with applicable law. All employees and agents of the Commission with whom non-public information is shared will be advised of and, as condition of receiving non-public information, be bound to comply with the understanding in this letter.

In accordance with its statutory mandate and its duty to the American public, the Commission, if it determines it is in the public interest, may release to the public non-public information obtained from State Street as part of any interim or final report to the President and Congress, or in any public hearings, if the Commission determines to do so by a majority vote, or by the decision of the Chairman and Vice Chairman acting together on behalf of the Commission.

You should also note the FAQs posted on our website:

Will the Commission make the documents it gathers available to the general public?

It is important to the Commission that the American people are able to follow what the Commission is doing. If and when it is appropriate and in the public interest, and when making documents public will not hinder its ongoing investigation, the Commission will make them public. Information important to our conclusions will be referenced in our report and will become part of the Commission's records in accordance with federal archives requirements.

What about the requests for follow-up information that were referenced in the public hearing?

1717 Pennsylvania Avenue, NW, Suite 800 • Washington, DC 20006-4614
202.292.2799 • 202.632.1604 Fax

Thomas Greene
Executive Director


We consider these questions to be similar to requests that are made by the Commission or its staff in the conduct of its investigation. The information that is received in response to these questions may include both confidential and non-confidential information. If and when it is appropriate and in the public interest, and when making documents public will not hinder its ongoing investigation, the Commission will make them public.

Nothing as described in this letter will prevent the Commission or its staff from complying with the terms of Section 5 of the Fraud Enforcement and Recovery Act of 2009 ("FERA"), including the ability to refer to the Attorney General of the United States and any appropriate state attorney general any person that the Commission finds may have violated the laws of the United States in relation to the financial and economic crisis. In addition, nothing will prevent the Commission or its staff from complying with a request or demand from a duly authorized Committee of the United States Congress with authority to require and receive the non-public information, or a legally valid and enforceable subpoena or order by a court of competent jurisdiction for the non-public information or testimony related thereto.

Finally, all information obtained from or relating to State Street will be transmitted to the National Archives and Records Administration (NARA) following the completion of the Commission's work. To the extent permitted by law, the Commission will request that NARA not release to the public the non-public information for an appropriate length of time, likely five years or more. If you have a legal basis to believe that the Commission is not required by law to provide certain State Street information to NARA, please let us know.

If you have any questions or concerns, please do not hesitate to contact me at 202-292-1349 or tkrebs@fcic.gov. Thank you for your continued cooperation.

Sincerely,



Tom Krebs
Assistant Director and Deputy General Counsel

cc: Gary J. Cohen

4824-4429-4661, v. 1

ⁱ For purposes of this letter, "non-public information" means information that State Street has not made, and is not required by law to make, public and which State Street treats as non-public. Non-public information includes both the information itself, in any form (including oral), and any document, written transcript, audiotape, videotape, or other type of transcription, replication, reproduction, or recreation which contains or is derived from such information.