[DISCUSSION DRAFT]

SEPTEMBER 28, 2008

110TH CONGRESS
2D Session

H. R.

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Introduced the following bill; which was referred to the Committee on

A BILL

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, and for other purposes.

1 Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the


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(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

Sec. 101. Purchases of troubled assets.
Sec. 102. Insurance of troubled assets.
Sec. 103. Considerations.
Sec. 104. Financial Stability Oversight Board.
Sec. 105. Reports.
Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
Sec. 107. Contracting procedures.
Sec. 108. Conflicts of interest.
Sec. 109. Foreclosure mitigation efforts.
Sec. 110. Assistance to homeowners and localities.
Sec. 111. Executive compensation and corporate governance.
Sec. 112. Coordination with foreign authorities and central banks.
Sec. 113. Minimization of long-term costs and maximization of benefits for taxpayers.
Sec. 114. Market transparency.
Sec. 115. Graduated authorization to purchase.
Sec. 116. Oversight and audits.
Sec. 117. Study and report on margin authority.
Sec. 118. Funding.
Sec. 119. Judicial review and related matters.
Sec. 120. Termination of authority.
Sec. 121. Special Inspector General For The Troubled Asset Relief Program.
Sec. 122. Increase in statutory limit on the public debt.
Sec. 123. Credit reform.
Sec. 124. HOPE for Homeowners amendments.
Sec. 125. Congressional Oversight Panel.
Sec. 126. FDIC enforcement enhancement.
Sec. 127. Cooperation with the FBI.
Sec. 128. Acceleration of effective date.
Sec. 129. Disclosures on exercise of loan authority.
Sec. 130. Technical corrections.
Sec. 131. Exchange Stabilization Fund reimbursement.
Sec. 132. Suspension of mark-to-market accounting.
Sec. 133. Study on mark-to-market accounting.
Sec. 134. Recoupment.
Sec. 135. Preservation of authority.

TITLE II—BUDGET-RELATED PROVISIONS

Sec. 201. Information for congressional support agencies.
Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.
Sec. 203. Analysis in President’s Budget.

TITLE III—TAX PROVISIONS
Sec. 301. Gain or loss from sale or exchange of certain preferred stock.
Sec. 302. Extension of exclusion of income from discharge of qualified principal residence indebtedness.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States; and

(2) to ensure that such authority and such facilities are used in a manner that—

(A) protects home values, college funds, retirement accounts, and life savings;

(B) preserves homeownership and promotes jobs and economic growth;

(C) maximizes overall returns to the taxpayers of the United States; and

(D) provides public accountability for the exercise of such authority.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance,
and the Committee on the Budget of the Senate; and

(B) the Committee on Financial Services, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

(3) CONGRESSIONAL SUPPORT AGENCIES.—The term “congressional support agencies” means the Congressional Budget Office and the Joint Committee on Taxation.

(4) CORPORATION.—The term “Corporation” means the Federal Deposit Insurance Corporation.

(5) FINANCIAL INSTITUTION.—The term “financial institution” means any institution, including, but not limited to, any bank, savings association, credit union, security broker or dealer, or insurance company, organized and regulated under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands, and having significant operations in the United States, but exclud-
ing any central bank of, or institution owned by, a foreign government.]

(6) FUND.—The term “Fund” means the Troubled Assets Insurance Fund established under section 102.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(8) TARP.—The term “TARP” means the troubled asset relief program established under section 101.

(9) TROUBLED ASSETS.—The term “troubled assets” means—

(A) residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before March 14, 2008, the purchase of which the Secretary determines promotes financial market stability; and

(B) any other financial instrument that the Secretary, after consultation with the Chairman of the Board of Governors of the Federal Reserve System, determines the purchase of which is necessary to promote financial market stability, but only upon transmittal of such de-
termination, in writing, to the appropriate com-
mittees of Congress].

**TITLE I—TROUBLED ASSETS RELIEF PROGRAM**

**SEC. 101. PURCHASES OF TROUBLED ASSETS.**

(a) Offices; Authority.—

[(1) A UTHORITY.—The Secretary is authorized
to establish a troubled asset relief program (or
“TARP”) to purchase, and to make and fund com-
mitments to purchase, troubled assets from any fi-
nancial institution, on such terms and conditions as
are determined by the Secretary, and in accordance
with this Act and the policies and procedures devel-
oped and published by the Secretary.]

(2) Establishment of Treasury office.—

(A) In General.—The Secretary shall im-
plement any program under paragraph (1)
through an Office of Financial Stability, estab-
lished for such purpose within the Office of Do-
mestic Finance of the Department of the Treas-
ury, which office shall be headed by an Assist-
ant Secretary of the Treasury, appointed by the
President, by and with the advice and consent
of the Senate.
(B) Clerical Amendment.—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury, by striking “(9)” and inserting “(10)”.  

(b) Consultation.—In exercising the authority under this section, the Secretary shall consult with the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Secretary of Housing and Urban Development.  

(c) Necessary Actions.—The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this Act, including, without limitation, the following:  

(1) The Secretary shall have direct hiring authority with respect to the appointment of employees to administer this Act.  

(2) Entering into contracts, including contracts for services authorized by section 3109 of title 5, United States Code.  

(3) Designating financial institutions as financial agents of the Federal Government, and such institutions shall perform all such reasonable duties
related to this Act as financial agents of the Federal Government as may be required.

(4) In order to provide the Secretary with the flexibility to manage troubled assets in a manner designed to minimize cost to the taxpayers, establishing vehicles that are authorized, subject to supervision by the Secretary, to purchase troubled assets and issue obligations.

(5) Issuing such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this Act.

(d) PROGRAM GUIDELINES.—Before the earlier of the end of the 2-business-day period beginning on the date of the first purchase of troubled assets pursuant to the authority under this section or the end of the 45-day period beginning on the date of enactment of this Act, the Secretary shall publish program guidelines, including the following:

(1) Mechanisms for purchasing troubled assets.

(2) Methods for pricing and valuing troubled assets.

(3) Procedures for selecting asset managers.

(4) Criteria for identifying troubled assets for purchase.
(e) Preventing Unjust Enrichment.—In making purchases under the authority of this Act, the Secretary shall take such steps as may be necessary to prevent unjust enrichment of financial institutions participating in a program established under this section, including by preventing the resale of a troubled asset to the Secretary at a higher price than what the seller paid to purchase the asset. This subsection does not apply to troubled assets acquired in a merger or acquisition, or a purchase of assets from a financial institution in conservatorship or receivership, or that has initiated bankruptcy proceedings under title 11, United States Code.

SEC. 102. INSURANCE OF TROUBLED ASSETS.

(a) Authority.—

(1) In general.—If the Secretary establishes the program authorized under section 101, then the Secretary shall establish a program to guarantee troubled assets, including mortgage-backed securities issued prior to March 18, 2008.

(2) Guarantees.—In establishing any program under this subsection, the Secretary may develop guarantees of troubled assets and the associated premiums for such guarantees. Such guarantees and premiums shall be determined by category or class of the securities to be guaranteed.
(3) **EXTENT OF GUARANTEE.**—Upon request of a financial institution, the Secretary may guarantee the timely payment of principal of, and interest on, troubled assets in amounts not to exceed 100 percent of such payments. Such guarantee may be on such terms and conditions as are determined by the Secretary, provided that such terms and conditions are consistent with the purposes of this Act.

(b) **REPORTS.**—The Secretary shall report to the appropriate committees of Congress on the program established under subsection (a). Such report shall be submitted prior to any increase in the authority to purchase troubled assets in accordance with section 115.

c) **PREMIUMS.**—

(1) **IN GENERAL.**—The Secretary shall collect premiums from any financial institution participating in the program established under subsection (a). Such premiums may be in amount that the Secretary determines necessary to meet the purposes of this Act and to provide sufficient reserves pursuant to paragraph (3).

(2) **AUTHORITY TO BASE PREMIUMS ON PRODUCT RISK.**—In establishing any premium under paragraph (1), the Secretary may provide for variations in such rates according to the credit risk as-
sociated with the particular troubled asset that is being guaranteed. The Secretary shall publish the methodology for setting the premium for a class of troubled assets, such that the premium is consistent with paragraph (3), together with an explanation of the appropriateness of the class of assets that may participate in the program established under this section.

(3) **MINIMUM LEVEL**.—The premiums referred to in paragraph (1) shall be set by the Secretary at a level necessary to create reserves sufficient to meet anticipated claims, based on an actuarial analysis and to ensure that taxpayers are fully protected.

(4) **OFFSET**.—The amount of premiums collected under this subsection shall offset the amount authorized to be purchased under section 115.

(d) **TROUBLED ASSETS INSURANCE FUND**.—

(1) **DEPOSITS**.—The Secretary shall deposit fees collected under this section into the Troubled Assets Insurance Fund established under paragraph (2).

(2) **ESTABLISHMENT**.—There is established a Troubled Assets Insurance Fund that shall consist of the amounts collected pursuant to paragraph (1), and any balance ins such fund shall be invested by
the Secretary in United States Treasury securities, or kept in cash on hand or on deposit, as necessary.

(3) Payments from Fund.—The Secretary shall make payments from amounts deposited in the Troubled Assets Insurance Fund to fulfill obligations of the guarantees provided to financial institutions under subsection (a).

SEC. 103. CONSIDERATIONS.

In exercising the authorities granted in this Act, the Secretary shall take into consideration—

(1) protecting the interests of taxpayers by maximizing overall returns and minimizing the impact to the national debt;

(2) providing stability and preventing disruption to financial markets in order to limit the impact on the economy;

(3) the need to help families keep their homes and to stabilize communities;

(4) in determining whether to engage in a direct purchase from an individual financial institution, the long-term viability of the financial institution in determining whether the purchase represents the most efficient use of funds under this Act;

(5) ensuring that all financial institutions are eligible to participate in the program, without dis-
crimination based on size, geography, form of organization, or the size, type, and number of assets eligible for purchase under this Act;

(6) providing assistance to financial institutions, including those serving low- and moderate-income populations and other underserved communities, and that have assets less than $1,000,000,000, that were well or adequately capitalized as of June 30, 2008, and that as a result of the devaluation of the preferred government-sponsored enterprises stock will drop one or more capital levels, in a manner sufficient to restore the financial institutions to at least an adequately capitalized level;

(7) the need to ensure stability for United States public instrumentalities, such as counties and cities, that may have suffered significant increased costs or losses in the current market turmoil;

[(8) that nothing in this Act prevents the Secretary from protecting the retirement security of Americans by purchasing troubled assets held by or on behalf of an eligible retirement plan other than a plan described in section 409A of the Internal Revenue Code of 1986; and]
(9) the utility of purchasing other real estate
owned and instruments backed by mortgages on
multifamily properties.

SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.

(a) ESTABLISHMENT.—There is established the Fi-
nancial Stability Oversight Board, which shall be respon-
sible for—

(1) reviewing the exercise of authority under a
program developed in accordance with this Act, in-
cluding—

(A) any action taken by the Secretary and
the Office of Financial Stability created under
section 101, including the appointment of finan-
cial agents, the designation of asset classes to
be purchased, and plans for the structure of ve-
hicles used to purchase troubled assets; and

(B) the effect of such actions in assisting
American families in preserving home owner-
ship, stabilizing financial markets, and pro-
tecting taxpayers;

(2) making recommendations, as appropriate, to
the Secretary regarding use of the authority under
this Act; and

(3) reporting any suspected fraud, misrepre-
sentation, or malfeasance to the Inspector General for
the Department of the Treasury or the Attorney General of the United States, consistent with section 535(b) of title 28, United States Code.

(b) MEMBERSHIP.—The Financial Stability Oversight Board shall be comprised of—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Secretary;

(3) the Director of the Federal Home Finance Agency;

(4) the chairman of the Securities and Exchange Commission; and

(5) the Secretary of Housing and Urban Development.

(c) CHAIRPERSON.—The chairperson of the Financial Stability Oversight Board shall be elected by the members of the Board from among the members.

(d) MEETINGS.—The Financial Stability Oversight Board shall meet 2 weeks after the first exercise of the purchase authority of the Secretary under this Act, and monthly thereafter.

(e) EXECUTIVE COMMITTEE.—

(1) APPOINTMENT.—There is established an executive committee of the Financial Stability Oversight Board which shall consist of the members of
the Financial Stability Oversight Board pursuant to paragraphs (1), (2), and (3) of subsection (b).

(2) AUTHORITIES.—The Financial Stability Oversight Board shall have the authority to ensure that the policies implemented by the Secretary are—

(A) in accordance with the purposes of this Act;

(B) in the economic interests of the United States; and

(C) consistent with protecting taxpayers, in accordance with section 112(a).

(f) CREDIT REVIEW COMMITTEE.—The executive committee established under subsection (e) may appoint a credit review committee for the purpose of evaluating the exercise of the purchase authority provided under this Act and the assets acquired through the exercise of such authority, as the executive committee determines appropriate.

(g) SHARING OF INFORMATION.—Any reports or recommendations submitted or proposed under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(h) TERMINATION.—The Financial Stability Oversight Board, and the authority of the Oversight Board
under this section, shall terminate on the expiration of the
15-day period beginning upon the later of—

   (1) the date of expiration of the last insurance
   contract issued under section 102; or

   (2) the date that the last troubled asset ac-
   quired by the Secretary under section 101 has been
   sold or transferred out of the ownership or control
   of the Federal Government.

SEC. 105. REPORTS.

(a) IN GENERAL.—Before the expiration of the 60-
day period beginning on the date of the first exercise of
the authority granted in section 101(a), whichever date
is earlier, or of the first exercise of the authority granted
in section 102, whichever occurs first, and every 30-day
period thereafter, the Secretary shall report to the appro-
priate committees of Congress, with respect to each such
period—

   (1) an overview of actions taken by the Sec-
   retary, including the considerations required by sec-
   tion 103 and the efforts under section 112;

   (2) the actual obligation and expenditure of the
   funds provided for administrative expenses by sec-
   tion 118 during such period and the expected ex-
   penditure of such funds in the subsequent period;
(3) a detailed financial statement with respect to the exercise of authority under this Act, including—

(A) all agreements made or renewed;

(B) all insurance contracts entered into pursuant to section 102;

(C) all transactions occurring during such period, including the types of parties involved;

(D) the nature of the assets purchased;

(E) all projected costs and liabilities;

(F) operating expenses, including compensation for financial agents;

(G) the valuation or pricing method used for each transaction; and

(H) a description of the vehicles established to exercise such authority.

(b) **Tranche Reports to Congress.**—

(1) **Reports.**—The Secretary shall provide to the appropriate committees of Congress, at the times specified in paragraph (2), a written report, including—

(A) a description of all of the transactions made during the reporting period;

(B) a description of the pricing mechanism for the transactions;
(C) a justification of the price paid for and
other financial terms associated with the trans-
actions;

(D) a description of the impact of the exer-
cise of such authority on the financial system,
supported, to the extent possible, by specific
data;

(E) a description of challenges that remain
in the financial system, including any bench-
marks yet to be achieved; and

(F) an estimate of additional actions under
the authority provided under this Act that may
be necessary to address such challenges.

(2) TIMING.—The report required by this sub-
section shall be submitted not later than 7 days
after the date on which commitments to purchase
troubled assets under the authorities provided in this
Act first reach an aggregate of $50,000,000,000 and
not later than 7 days after each $50,000,000,000 in-
terval of such commitments is reached thereafter.

(c) REGULATORY MODERNIZATION REPORT.—The
Secretary shall review the current state of the financial
markets and the regulatory system and submit a written
report to the appropriate committees of Congress not later
than April 30, 2009, analyzing the current state of the
regulatory system and its effectiveness at overseeing the
participants in the financial markets, including the over-
the-counter swaps market and government-sponsored en-
terprises, and providing recommendations for improve-
ment, including—

(1) recommendations regarding—

(A) whether any participants in the finan-
cial markets that are currently outside the reg-
ulatory system should become subject to the
regulatory system; and

(B) enhancement of the clearing and set-
tlement of over-the-counter swaps; and

(2) the rationale underlying such recommenda-
tions.

(d) SHARING OF INFORMATION.—Any report re-
quired under this section shall also be submitted to the
Congressional Oversight Panel established under section
125.

(e) SUNSET.—The reporting requirements under this
section shall terminate on the later of—

(1) the date of expiration of the last insurance
contract issued under section 102; or

(2) the date that the last troubled asset ac-
quired by the Secretary under section 101 has been
sold or transferred out of the ownership or control of the Federal Government.

SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED ASSETS; REVENUES AND SALE PROCEEDS.

(a) EXERCISE OF RIGHTS.—The Secretary may, at any time, exercise any rights received in connection with troubled assets purchased under this Act.

(b) MANAGEMENT OF TROUBLED ASSETS.—The Secretary, in consultation with the Corporation, shall have authority to manage troubled assets purchased under this Act, including revenues and portfolio risks therefrom.

(c) SALE OF TROUBLED ASSETS.—The Secretary may, at any time, upon terms and conditions and at a price determined by the Secretary, sell, or enter into securities loans, repurchase transactions, or other financial transactions in regard to, any troubled asset purchased under this Act.

(d) TRANSFER OF A PERCENTAGE OF PROFITS.—

(1) DEPOSITS.—Not less than 20 percent of any profit realized on the sale of each troubled asset purchased under this Act shall be deposited as provided in paragraph (2).

(2) USE OF DEPOSITS.—Of the amount referred to in paragraph (1)—
[(A) 65 percent shall be deposited into the
Housing Trust Fund established under section
1338 of the Federal Housing Enterprises Regu-
latory Reform Act of 1992 (12 U.S.C. 4568);
and]

[(B) 35 percent shall be deposited into the
Capital Magnet Fund established under section
1339 of that Act (12 U.S.C. 4569).]

[(3) Transfer to Treasury.—Revenues of,
and proceeds from the sale of troubled assets pur-
chased under this Act, [or from] the sale, exercise,
or surrender of warrants or senior debt acquired
under section [113] shall be paid into the general
fund of the Treasury for reduction of the public
debt.]

(e) Application of Sunset to Troubled As-
sets.—The authority of the Secretary to hold any trou-
bled asset purchased under this Act before the termination
date in section 120, or to purchase or fund the purchase
of a troubled asset under a commitment entered into be-
fore the termination date in section 120, is not subject
to the provisions of section 120.

**SEC. 107. CONTRACTING PROCEDURES.**

(a) Streamlined Process.—For purposes of this
Act, the Secretary may waive specific provisions of the
Federal Acquisition Regulation upon a determination that urgent and compelling circumstances make compliance with such provisions contrary to the public interest. Any such determination, and the justification for such determination, shall be submitted to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days.

(b) ADDITIONAL CONTRACTING REQUIREMENTS.—In any solicitation or contract where the Secretary has, pursuant to subsection (a) waived the provisions of the Federal Acquisition Regulation pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure, to the maximum extent practicable, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)), in that solicitation or contract, including contracts to asset managers, servicers, property
managers, and other service providers or expert consultants.

(c) Eligibility of FDIC.—Notwithstanding subsections (a) and (b), the Corporation—

(1) shall be eligible for, and shall be considered in, the selection of asset managers for residential mortgage loans and residential mortgage-backed securities; and

(2) shall be reimbursed by the Secretary for any services provided.

SEC. 108. Conflicts of Interest.

(a) Standards Required.—The Secretary shall issue regulations or guidelines necessary to address and manage or to prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this Act, including—

(1) conflicts arising in the selection or hiring of contractors or advisors, including asset managers;

(2) the purchase of troubled assets;

(3) the management of the troubled assets held;

(4) post-employment restrictions on employees;

and

(5) any other potential conflict of interest, as the Secretary deems necessary or appropriate in the public interest.
(b) TIMING.—Regulations or guidelines required by this section shall be issued as soon as practicable after the date of enactment of this Act.

SEC. 109. FORECLOSURE MITIGATION EFFORTS.

(a) RESIDENTIAL MORTGAGE LOAN SERVICING STANDARDS.—To the extent that the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures.

(b) COORDINATION.—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to
attempt to identify opportunities for the acquisition of
classes of troubled assets that will improve the ability of
the Secretary to improve the loan modification and re-
structuring process and, where permissible, to permit bona
fide tenants who are current on their rent to remain in
their homes under the terms of the lease. In the case of
a mortgage on a residential rental property, the plan re-
quired under this section shall include protecting Federal,
State, and local rental subsidies and protections, and en-
suring any modification takes into account the need for
operating funds to maintain decent and safe conditions at
the property.

(e) Consent to Reasonable Loan Modification
Requests.—Upon any request arising under existing in-
vestment contracts, the Secretary shall consent, where ap-
propriate, and considering net present value to the tax-
payer, to reasonable requests for loss mitigation measures,
including term extensions, rate reductions, principal write
downs, increases in the proportion of loans within a trust
or other structure allowed to be modified, or removal of
other limitation on modifications.

SEC. 110. ASSISTANCE TO HOMEOWNERS AND LOCALITIES.

(a) Definitions.—As used in this section—

(1) the term “Federal property manager”
(A) the Federal Housing Finance Agency, in its capacity as conservator of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Corporation, with respect to residential mortgage loans and mortgage-backed securities held by any bridge depository institution pursuant to section 11(n) of the Federal Deposit Insurance Act; and

(C) the Board, with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank;

(2) the term “consumer” has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(3) the term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(4) the term “servicer” has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(b) HOMEOWNER ASSISTANCE BY AGENCIES.—

(1) IN GENERAL.—To the extent that the Federal property manager holds, owns, or controls mort-
gages, mortgage backed securities, and other assets secured by residential real estate, including multi-family housing, the Federal property manager shall implement a plan that seeks to maximize assistance for homeowners and use their authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures.

(2) Modifications.—In the case of a residential mortgage loan, modifications made under paragraph (1) may include—

(A) reduction in interest rates;

(B) reduction of loan principal; and

(C) other similar modifications.

(3) Tenant Protections.—In the case of mortgages on residential rental properties, modifications made under paragraph (1) shall ensure—

(A) the continuation of any existing Federal, State, and local rental subsidies and protections; and

(B) that modifications take into account the need for operating funds to maintain decent and safe conditions at the property.
(4) TIMING.—Each Federal property manager shall develop and begin implementation of the plan required by this subsection not later than 60 days after the date of enactment of this Act.

(5) REPORTS TO CONGRESS.—Each Federal property manager shall, 60 days after the date of enactment of this Act and every 30 days thereafter, report to Congress specific information on the number and types of loan modifications made and the number of actual foreclosures occurring during the reporting period in accordance with this section.

(6) CONSULTATION.—In developing the plan required by this subsection, the Federal property managers shall consult with one another and, to the extent possible, utilize consistent approaches to implement the requirements of this subsection.

(c) ACTIONS WITH RESPECT TO SERVICERS.—In any case in which a Federal property manager is not the owner of a residential mortgage loan, but holds an interest in obligations or pools of obligations secured by residential mortgage loans, the Federal property manager shall—

(1) encourage implementation by the loan servicers of loan modifications developed under subsection (b); and
(2) assist in facilitating any such modifications, to the extent possible.

(d) LIMITATION.—The requirements of this section shall not supersede any other duty or requirement imposed on the Federal property managers under otherwise applicable law.

SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) DIRECT PURCHASES.—

(1) IN GENERAL.—Where the Secretary determines that the purposes of this Act are best met through direct purchases of troubled assets from an individual financial institution where no bidding process or market prices are available, and the Secretary receives a meaningful equity position in the financial institution as a result of the transaction, the Secretary shall require that the financial institution meet appropriate standards for executive compensation and corporate governance. The standards required under this subsection shall be effective for the duration of the period that the Secretary holds an equity position in the financial institution.

(2) CRITERIA.—The standards required under subsection shall include—
(A) limits on compensation that exclude incentives for executive officers of a financial institution to take unnecessary and excessive risks that threaten the value of the financial institution during the period that the Secretary holds an equity position in the financial institution;

(B) a provision for the recovery by the financial institution of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later proven to be materially inaccurate; and

(C) a prohibition on the financial institution making any golden parachute payment to its senior executive officers during the period that the Secretary holds an equity position in the financial institution.

(b) AUCTION PURCHASES.—Where the Secretary determines that the purposes of this Act are best met through auction purchases of troubled assets, and only where such purchases in the aggregate exceed $300,000,000, the Secretary shall prohibit any golden parachute for any employee hired after the successful participation in such an auction who also qualifies as a cov-
 eased executive under section 162(m)(5)(D) of the Internal Revenue Code of 1986. The Secretary shall issue guidance to carry out this paragraph not later than 2 months after the date of enactment of this Act, and such guidance shall be effective upon issuance.

[(c) GOLDEN PARACHUTE DEFINED.—In this section, the term “golden parachute” means any payment (or any agreement to make any payment) in the nature of compensation by any financial institution for the benefit of an individual pursuant to an obligation of the financial institution that—]

[(1) is contingent on the termination of the affiliation of such individual with the financial institution; and]

[(2) is received on or after the date on which—]

[(A) the financial institution becomes insolvent;]

[(B) any conservator or receiver is appointed for the financial institution;]

[(C) the financial institution files for bankruptcy protection under title 11, United States Code; or]

[(D) the financial institution is in a troubled condition.]
(d) Special Rules for Tax Treatment of Executive Compensation of Employers Participating in the Troubled Assets Relief Program.—

(1) Denial of deduction.—Subsection (m) of section 162 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(5) Special rule for application to employers participating in the Troubled Assets Relief Program.—

“(A) In general.—In the case of an applicable employer, no deduction shall be allowed under this chapter—

“(i) in the case of executive remuneration for any applicable taxable year which is attributable to services performed by a covered executive during such applicable taxable year, to the extent that the amount of such remuneration exceeds $500,000, or

“(ii) in the case of deferred deduction executive remuneration for any taxable year for services performed during any applicable taxable year by a covered executive, to the extent that the amount of such
remuneration exceeds $500,000 reduced
(but not below zero) by the sum of—

“(I) the executive remuneration
for such applicable taxable year, plus

“(II) the portion of the deferred
deduction executive remuneration for
such services which was taken into ac-
count under this clause in a preceding
taxable year.

“(B) APPLICABLE EMPLOYER.—For pur-
poses of this paragraph—

“(i) IN GENERAL.—Except as pro-
vided in clause (ii), the term ‘applicable
employer’ means any employer from whom
1 or more troubled assets are acquired
under a program established by the Sec-
retary under section 101(a) of the Eco-

onomic Recovery and Corporate Account-
ability Act of 2008 if the aggregate
amount of the assets so acquired for all
taxable years exceeds $300,000,000.

“(ii) DISREGARD OF ASSETS SOLD
through direct purchase.—If an em-
ployer sells any troubled assets to the Sec-
retary through a direct purchase (within
the meaning of section 112(c) of the Economic Recovery and Corporate Accountability Act of 2008), such assets shall not be taken into account under clause (i) in determining whether the employer is an applicable employer for purposes of this paragraph.

“(iii) Aggregation rules.—Two or more persons who are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as a single employer, except that in applying section 1563(a) for purposes of either such subsection, paragraphs (2) and (3) thereof shall be disregarded.

“(C) Applicable taxable year.—For purposes of this paragraph, the term ‘applicable taxable year’ means, with respect to any employer—

“(i) the first taxable year of the employer—

“(I) which includes any portion of the period during which the authorities under section 101(a) of the Economic Recovery and Corporate Ac-
countability Act of 2008 are in effect (determined under section 119 thereof), and

“(II) in which the aggregate amount of troubled assets acquired from the employer during the taxable year pursuant to such authorities, when added to the aggregate amount so acquired for all preceding taxable years, exceeds $300,000,000, and

“(ii) any subsequent taxable year which includes any portion of such period.

“(D) COVERED EXECUTIVE.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘covered executive’ means, with respect to any applicable taxable year, any employee—

“(I) who, at any time during the portion of the taxable year during which the authorities under section 101(a) of the Economic Recovery and Corporate Accountability Act of 2008 are in effect (determined under section 119 thereof), is the chief executive officer of the applicable employer
or the chief financial officer of the applicable employer, or an individual acting in either such capacity, or “(II) who is described in clause (ii).

“(ii) HIGHEST COMPENSATED EMPLOYEES.—An employee is described in this clause if the employee is 1 of the 3 highest compensated officers of the applicable employer for the taxable year (other than an individual described in clause (i)(I)), determined—

“(I) on the basis of the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934 (without regard to whether those rules apply to the employer), and

“(II) by only taking into account employees employed during the portion of the taxable year described in clause (i)(I).

“(iii) EMPLOYEE REMAINS COVERED EXECUTIVE.—If an employee is a covered executive with respect to an applicable em-
ployer for any applicable taxable year, such employee shall be treated as a covered executive with respect to such employer for all subsequent applicable taxable years and for all subsequent taxable years in which deferred deduction executive remuneration with respect to services performed in all such applicable taxable years is paid.

“(E) EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term ‘executive remuneration’ means the applicable employee remuneration of the covered executive, as determined under paragraph (4) without regard to subparagraphs (B), (C), and (D) thereof. Such term shall not include any deferred deduction executive remuneration with respect to services performed in a prior applicable taxable year.

“(F) DEFERRED DEDUCTION EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term ‘deferred deduction executive remuneration’ means remuneration which would be executive remuneration for services performed in an applicable taxable year but for the fact that the deduction under this chapter (determined without regard to this paragraph) for
such remuneration is allowable in a subsequent taxable year.

“(G) COORDINATION.—Rules similar to the rules of subparagraphs (F) and (G) of paragraph (4) shall apply for purposes of this paragraph.

“(H) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this paragraph and the Economic Recovery and Corporate Accountability Act of 2008, including the extent to which this paragraph applies in the case of any acquisition, merger, or reorganization of an applicable employer.”.

(2) GOLDEN PARACHUTE RULE.—Section 280G of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsection (e) as subsection (f), and

(B) by inserting after subsection (d) the following new subsection:

“(e) SPECIAL RULE FOR APPLICATION TO EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—
“(1) **IN GENERAL.**—In the case of the severance from employment of a covered executive of an applicable employer during any applicable taxable year, this section shall be applied to payments to such executive with the following modifications:

“(A) Any reference to a disqualified individual (other than in subsection (c)) shall be treated as a reference to a covered executive.

“(B) Any reference to a change described in subsection (b)(2)(A)(i) shall be treated as a reference to an applicable severance from employment of a covered executive, and any reference to a payment contingent on such a change shall be treated as a reference to any payment made during an applicable taxable year of the employer on account of such applicable severance from employment.

“(C) Any reference to a corporation shall be treated as a reference to an applicable employer.

“(D) The provisions of subsections (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not apply.

“(2) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this subsection—
“(A) Definitions.—Any term used in this subsection which is also used in section 162(m)(5) shall have the meaning given such term by such section.

“(B) Applicable Severance from Employment.—The term ‘applicable severance from employment’ means any severance from employment of a covered executive by reason of—

“(i) an involuntary termination of the executive by the employer,

“(ii) any bankruptcy or liquidation of the employer, or

“(iii) the placement of the employer in receivership.

“(C) Coordination and Other Rules.—

“(i) In General.—If a payment which is treated as a parachute payment by reason of this subsection is also a parachute payment determined without regard to this subsection, this subsection shall not apply to such payment.
“(ii) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary—

“(I) to carry out the purposes of this subsection and the Economic Recovery and Corporate Accountability Act of 2008, including the extent to which this subsection applies in the case of any acquisition, merger, or reorganization of an applicable employer, and

“(II) to apply this section and section 4999 in cases where one or more payments with respect to any individual are treated as parachute payments by reason of this subsection, and other payments with respect to such individual are treated as parachute payments under this section without regard to this subsection.”.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years ending on or after the date of the enactment of this Act.
(B) GOLDEN PARACHUTE RULE.—The amendments made by paragraph (2) shall apply to payments with respect to severances occurring during the period during which the authorities under section 101(a) are in effect (determined under section 120).

SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES AND CENTRAL BANKS.

The Secretary shall coordinate, as appropriate, with foreign financial authorities and central banks to work toward the establishment of similar programs by such authorities and central banks. To the extent that such foreign financial authorities or banks hold troubled assets as a result of extending financing to financial institutions that have failed or defaulted on such financing, such troubled assets qualify for purchase under section 101.

SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXIMIZATION OF BENEFITS FOR TAXPAYERS.

(a) LONG-TERM COSTS AND BENEFITS.—

(1) Minimizing negative impact.—The Secretary shall use the authority under this Act in a manner that will minimize any potential long-term negative impact on the taxpayer, taking into account the direct outlays, potential long-term returns on assets purchased, and the overall economic benefits of
the program, including economic benefits due to improvements in economic activity and the availability of credit, the impact on the savings and pensions of individuals, and reductions in losses to the Federal Government.

(2) AUTHORITY.—In carrying out paragraph (1), the Secretary shall—

(A) hold the assets to maturity or for resale for and until such time as the Secretary determines that the market is optimal for selling such assets, in order to maximize the value for taxpayers; and

(B) sell such assets at a price that the Secretary determines, based on available financial analysis, will maximize return on investment for the Federal Government.

(3) PRIVATE SECTOR PARTICIPATION.—The Secretary shall encourage the private sector to participate in purchases of troubled assets, and to invest in financial institutions, consistent with the provisions of this section.

(b) USE OF MARKET MECHANISMS.—In making purchases under this Act, the Secretary shall—
(1) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

(2) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

(c) DIRECT PURCHASES.—If the Secretary determines that use of a market mechanism under subsection (b) is not feasible or appropriate, and the purposes of the Act are best met through direct purchases from an individual financial institution, the Secretary shall pursue additional measures to ensure that prices paid for assets are reasonable and reflect the underlying value of the asset.

(d) CONDITIONS ON PURCHASE AUTHORITY FOR WARRANTS AND DEBT INSTRUMENTS.—

(1) IN GENERAL.—The Secretary may not purchase, or make any commitment to purchase, any troubled asset under the authority of this Act, unless the Secretary receives from the financial institution from which such assets are to be purchased—

(A) in the case of a financial institution that is registered (or approved for registration) and traded on a national securities exchange or a national securities association registered pur-
suant to section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3), a warrant giving the right to the Secretary to receive non-voting common stock or preferred stock in such financial institution, as the Secretary determines appropriate; or

(B) in the case of any financial institution other than one described in subparagraph (A), a senior debt instrument from such financial institution, as described in paragraph (2)(C).

(2) TERMS AND CONDITIONS.—The terms and conditions of any warrant or senior debt instrument required under paragraph (1) shall meet the following requirements:

(A) PURPOSES.—Such terms and conditions shall, at a minimum, be designed—

(i) to provide for reasonable participation by the Secretary, for the benefit of taxpayers, in equity appreciation in the case of a warrant, or a reasonable interest rate premium, in the case of a debt instrument; and

(ii) to provide additional protection for the taxpayer against losses from sale of
assets by the Secretary under this Act and
the administrative expenses of the TARP.

(B) AUTHORITY TO SELL, EXERCISE, OR
SURRENDER.—The Secretary may sell, exercise,
or surrender a warrant or any senior debt in-
strument received under this subsection, based
on the conditions established under subpara-
graph (A).

(C) CONVERSION.—The warrant shall pro-
vide that if, after the warrant is received by the
Secretary under this subsection, the financial
institution that issued the warrant is no longer
listed or traded on a national securities ex-
change or securities association, as described in
paragraph (1)(A), such warrants shall convert
to senior debt, in an amount determined by the
Secretary.

(D) PROTECTIONS.—Any warrant rep-
resenting securities to be received by the Sec-
retary under this subsection shall contain anti-
dilution provisions of the type employed in cap-
ital market transactions, as determined by the
Secretary. Such provisions shall protect the
value of the securities from market transactions
such as stock splits, stock distributions, divi-
dends, and other distributions, mergers, and other forms of reorganization or recapitalization.

(E) **Exercise Price.**—The exercise price for any warrant issued pursuant to this subsection shall be set by the Secretary, in the interest of the taxpayers.

(F) **Sufficiency.**—The financial institution shall guarantee to the Secretary that it has authorized shares of nonvoting stock available to fulfill its obligations under this subsection. Should the financial institution not have sufficient authorized shares, including preferred shares that may carry dividend rights equal to a multiple number of common shares, the Secretary may, to the extent necessary, accept a senior debt note in an amount, and on such terms, as will compensate the Secretary equivalently, in the event that a sufficient shareholder vote to authorize the necessary additional shares cannot be obtained.

(3) **Exceptions.**—

(A) **De minimis.**—The Secretary shall establish de minimis exceptions to the requirements of this subsection, based on either—
(i) the total consolidated assets of the financial institution, $500,000,000 or less; or

(ii) the size of the cumulative transactions of troubled assets purchased from any one financial institution, at not more than $100,000,000.

(B) OTHER EXCEPTIONS.—The Secretary shall establish an exception to the requirements of this subsection and appropriate alternative requirements for any participating financial institution that is legally prohibited from issuing securities and debt instruments, so as not to allow circumvention of the requirements of this section.

SEC. 114. MARKET TRANSPARENCY.

(a) PRICING.—To facilitate market transparency, the Secretary shall make available to the public, in electronic form, a description, amounts, and pricing of assets acquired under this Act, within 2 business days of purchase, trade, or other disposition.

(b) DISCLOSURE.—For each type of financial institutions that is authorized to use the program established under this Act, the Secretary shall determine whether the public disclosure required for such financial institutions
with respect to off-balance sheet transactions, derivatives instruments, contingent liabilities, and similar sources of potential exposure is adequate to provide to the public sufficient information as to the true financial position of the institutions. If such disclosure is not adequate for that purpose, the Secretary shall make recommendations for additional disclosure requirements to the relevant regulators.

SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.

(a) AUTHORITY.—The authority of the Secretary to purchase troubled assets under this Act shall be limited as follows:

(1) Effective upon the date of enactment of this Act, such authority shall be limited to $250,000,000,000 outstanding at any one time.

(2) If at any time, the President submits to the Congress a written certification that the Secretary is exercising the authority under this paragraph, effective upon such submission, such authority shall be limited to $350,000,000,000 outstanding at any one time.

(3) If at any time after obligations of amounts described in paragraphs (1) and (2) have been made, the President transmits to the Congress a written report detailing the plan of the Secretary to exercise
the authority under this paragraph, unless there is enacted, within 15 calendar days of such submission, a joint resolution described in subsection (c), effective upon the expiration of such 15-day period, such authority shall be limited to $700,000,000,000 outstanding at any one time.

(b) Aggregation of Purchase Prices.—The amount of troubled assets purchased by the Secretary outstanding at any one time shall be determined for purposes of the dollar amount limitations under subsection (a) by aggregating the purchase prices of all troubled assets held.

(c) Fast Track Consideration.—

(1) In General.—Notwithstanding any other provision of this section, the Secretary may not exercise any authority to make purchases under this Act with regard to any amount in excess of $350,000,000,000 previously obligated, as described in this section if, within 10 calendar days after the date on which Congress receives a report of the Secretary described in subsection (a)(3), Congress enacts a joint resolution disapproving the plan of the Secretary with respect to such additional amount.

(2) Contents of Resolution.—For the purpose of paragraph (1), “joint resolution” means only a joint resolution introduced after the date on which
the report of the Secretary referred to in subsection (a)(3) is received by Congress, the matter after the resolving clause of which is as follows: “That Congress disapproves the obligation of any amount exceeding the amounts obligated as described in paragraphs (1) and (2) of section 114(a) of the Emergency Economic Stabilization Act of 2008.”

(3) **Referral to Committee.**—A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Financial Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(4) **Discharge of Committee.**—If the committee to which is referred a resolution described in paragraph (2) has not reported such resolution (or an identical resolution) at the end of 8 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be
placed on the appropriate calendar of the House involved.

(5) Floor consideration.—

(A) In general.—When the committee to which a resolution described in paragraph (2) is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (2), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished
business of the respective House until disposed of.

(B) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the
case may be, to the procedure relating to a res-
olution described in paragraph (2) shall be de-
cided without debate.

(6) Coordination with action by other
house.—If, before the passage by one House of a
resolution of that House described in paragraph (2),
that House receives from the other House a resolu-
tion described in paragraph (2), then the following
procedures shall apply:

(A) The resolution of the other House shall
not be referred to a committee.

(B) With respect to a resolution described
in paragraph (2) of the House receiving the res-
olution—

(i) the procedure in that House shall
be the same as if no resolution had been
received from the other House; but

(ii) the vote on final passage shall be
on the resolution of the other House.

(7) Rules of house of representatives
and senate.—This subsection is enacted by Con-
gress—

(A) as an exercise of the rulemaking power
of the Senate and House of Representatives, re-
spectively, and as such it is deemed a part of
the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 116. OVERSIGHT AND AUDITS.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) Scope of oversight.—The Comptroller General of the United States shall, upon establishment of the troubled assets relief program under this Act (in this section referred to as the “TARP”), commence ongoing oversight of the activities and performance of the TARP and of any agents and representatives of the TARP (as related to the agent or representative’s activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act. The subjects of such oversight shall include the following:
(A) the performance of the TARP in meeting the purposes of this Act, particularly those involving foreclosure mitigation, cost reduction, and whether it has provided stability or prevented disruption to the financial markets or the banking system and protected taxpayers.

(B) The financial condition and internal controls of the TARP, its representatives and agents.

(C) Characteristics of transactions and commitments entered into, including transaction type, frequency, size, prices paid, and all other relevant terms and conditions, and the timing, duration and terms of any future commitments to purchase assets.

(D) Characteristics and disposition of acquired assets, including type, acquisition price, current market value, sale prices and terms, and use of proceeds from sales.

(E) Efficiency of the operations of the TARP in the use of appropriated funds.

(F) Compliance with all applicable laws and regulations by the TARP, its agents and representatives.
(G) the efforts of the TARP to prevent, identify, and minimize conflicts of interest involving any agent or representative performing activities on behalf of or under the authority of the TARP.

(H) The efficacy of contracting procedures established under section 106, including the efforts of TARP in evaluating proposals for inclusion and contracting to the maximum extent possible of minorities, women, and minority- and women-owned businesses, including ascertaining and reporting the total amount of fees paid and other value delivered by TARP to all of its agents and representatives, and such amounts paid or delivered to such firms that are minority- and women-owned businesses (as such terms are defined in section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a)).

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

(A) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight
of the TARP until the termination date estab-
lished in section 119 of this Act.

(B) Access to Records.—To the extent
otherwise consistent with law, the Comptroller
General shall have access, upon request, to any
information, data, schedules, books, accounts,
financial records, reports, files, electronic com-
munications, or other papers, things, or prop-
erty belonging to or in use by the TARP, or
any vehicles established by the Secretary under
this Act, and to the officers, directors, employ-
ees, independent public accountants, financial
advisors, and other agents and representatives
of the TARP (as related to the agent or rep-
resentative’s activities on behalf of or under the
authority of the TARP) or any such vehicle at
such reasonable time as the Comptroller Gen-
eral may request. The Comptroller General
shall be afforded full facilities for verifying
transactions with the balances or securities held
by depositaries, fiscal agents, and custodians.
The Comptroller General may make and retain
copies of such books, accounts, and other
records as the Comptroller General deems ap-
propriate.
(C) Reimbursement of costs.—The Treasury shall reimburse the Government Accountability Office for the full cost of any such oversight activities as billed therefor by the Comptroller General of the United States. Such reimbursements shall be credited to the appropriation account “Salaries and Expenses, Government Accountability Office” current when the payment is received and remain available until expended.

(3) Reporting.—The Comptroller General shall submit reports of findings under this section, regularly and no less frequently than once every 60 days, to the appropriate committees of Congress, and the Special Inspector General for the Troubled Asset Relief Program established under this Act on the activities and performance of the TARP. The Comptroller may also submit special reports under this subsection as warranted by the findings of its oversight activities.

(b) Comptroller General Audits.—

(1) Annual Audit.—The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements prepared in accordance with generally accepted ac-
counting principles, and the Comptroller General
shall annually audit such statements in accordance
with generally accepted auditing standards. The
Treasury shall reimburse the Government Account-
ability Office for the full cost of any such audit as
billed therefor by the Comptroller General. Such re-
imbursements shall be credited to the appropriation
account “Salaries and Expenses, Government Ac-
countability Office” current when the payment is re-
ceived and remain available until expended. The fi-
nancial statements prepared under this paragraph
shall be on the fiscal year basis prescribed under
section 1102 of title 31, United States Code.

(2) Authority.—The Comptroller General
may audit the programs, activities, receipts, expendi-
tures, and financial transactions of the TARP and
any agents and representatives of the TARP (as re-
lated to the agent or representative’s activities on
behalf of or under the authority of the TARP), in-
cluding vehicles established by the Secretary under
this Act.

(3) Corrective responses to audit prob-
lems.—The TARP shall—
(A) take action to address deficiencies identified by the Comptroller General or other auditor engaged by the TARP; or

(B) certify to appropriate committees of Congress that no action is necessary or appropriate.

(c) INTERNAL CONTROL.—

(1) Establishment.—The TARP shall establish and maintain an effective system of internal control, consistent with the standards prescribed under section 3512(c) of title 31, United States Code, that provides reasonable assurance of—

(A) the effectiveness and efficiency of operations, including the use of the resources of the TARP;

(B) the reliability of financial reporting, including financial statements and other reports for internal and external use; and

(C) compliance with applicable laws and regulations.

(2) Reporting.—In conjunction with each annual financial statement issued under this section, the TARP shall—
(A) state the responsibility of management
for establishing and maintaining adequate in-
ternal control over financial reporting; and
(B) state its assessment, as of the end of
the most recent year covered by such financial
statement of the TARP, of the effectiveness of
the internal control over financial reporting.
(d) SHARING OF INFORMATION.—Any report or audit
required under this section shall also be submitted to the
Congressional Oversight Panel established under section
125.
(e) TERMINATION.—Any reporting or audit require-
ment under this section shall terminate on the later of—
(1) the date of expiration of the last insurance
contract issued under section 102; or
(2) the date that the last troubled asset ac-
quired by the Secretary under section 101 has been
sold or transferred out of the ownership or control
of the Federal Government.
SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.
(a) STUDY.—The Comptroller General shall under-
take a study to determine the extent to which leverage
and sudden deleveraging of financial institutions was a
factor behind the current financial crisis.
(b) CONTENT.—The study required by this section shall include—

(1) an analysis of the roles and responsibilities of the Board, the Securities and Exchange Commission, the Secretary, and other Federal banking agencies with respect to monitoring leverage and acting to curtail excessive leveraging;

(2) an analysis of the authority of the Board to regulate leverage, including by setting margin requirements, and what process the Board used to decide whether or not to use its authority;

(3) an analysis of the margin authority of the Board; and

(4) recommendations for the Board and appropriate committees of Congress with respect to the existing authority of the Board.

(c) REPORT.—Not later than June 1, 2009, the Comptroller General shall complete and submit a report on the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(d) SHARING OF INFORMATION.—Any reports required under this section shall also be submitted to the
Congressional Oversight Panel established under section 125.

SEC. 118. FUNDING.

For the purpose of the authorities granted in this Act, and for the costs of administering those authorities, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include actions authorized by this Act, including the payment of administrative expenses. Any funds expended or obligated for actions authorized by this Act, including the payment of administrative expenses, shall be deemed appropriated at the time of such expenditure or obligation.

SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.

(a) JUDICIAL REVIEW.—

(1) STANDARD.—Actions by the Secretary pursuant to the authority of this Act shall be subject to chapter 7 of title 5, United States Code, including that such actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(2) LIMITATIONS ON EQUITABLE RELIEF.—
(A) INJUNCTION.—No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to section 101, 105, or 108, other than to remedy a violation of the Constitution.

(B) TEMPORARY RESTRAINING ORDER.—Any request for a temporary restraining order against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court within 3 days of the date of the request.

(C) PRELIMINARY INJUNCTION.—Any request for a preliminary injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

(D) PERMANENT INJUNCTION.—Any request for a permanent injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary
injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor thereto.

(3) LIMITATION ON ACTIONS BY PARTICIPATING COMPANIES.—No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this Act, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

(4) STAYS.—Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section 101, 105, or 108 shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued.

(b) RELATED MATTERS.—

(1) TREATMENT OF HOMEOWNERS’ RIGHTS.—The terms of any residential mortgage loan that is part of any purchase by the Secretary under this Act shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this Act.}
(2) **Savings Clause.**—Any exercise of the authority of the Secretary pursuant to this Act shall not impair the claims or defenses otherwise available to any other person. Except as established in any contract, a servicer of pooled residential mortgages owes any duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer takes reasonable loss mitigation actions, including partial payments.

**SEC. 120. TERMINATION OF AUTHORITY.**

(a) **Termination.**—The authorities provided under sections 101(a) [and 102] shall terminate on December 31, 2009.

(b) **Extension Upon Certification.**—The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this Act to expire not later than 2 years from the date of enact-
ment of this Act. Such certification shall include a jus-
tification of why the extension is necessary to assist Amer-
ican families and stabilize financial markets, as well as
the expected cost to the taxpayers for such an extension.

SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROU-
BLED ASSET RELIEF PROGRAM.

(a) PURPOSES.—The purposes of this section are as
follows:

(1) To provide for the independent and objec-
tive conduct and supervision of audits and investiga-
tions relating to the programs and operations of the
program authorized to be established under section
101.

(2) To provide for the independent and objec-
tive leadership and coordination of, and rec-
ommendations on, policies designed to—

(A) promote economy, efficiency, and effec-
tiveness in the administration of such program;
and

(B) prevent and detect fraud and abuse in
such program.

(3) To provide for an independent and objective
means of keeping the Congress fully and currently
informed about problems and deficiencies relating to
the administration of such program and the necessity for and progress for corrective action.

(b) Office of Inspector General.—There is hereby established the Office of the Special Inspector General for the Troubled Asset Relief Program.

(c) Appointment of Inspector General; Removal.—(1) The head of the Office of the Special Inspector General for the Troubled Asset Relief Program is the Special Inspector General for the Troubled Asset Relief Program (in this section referred to as the Special Inspector General), who shall be appointed by the President.

(2) The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Special Inspector General shall be made as soon as practicable after the establishment of any program under section 101.

(4) The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pur-
sued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay provided for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSISTANT INSPECTORS GENERAL.—The Special Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to any program established under section 2; and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such program.

(e) DUTIES.—(1) It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under any program established by the Secretary under section 101 and 102, including by collecting and summarizing the following information:
(A) A description of the categories of troubled assets purchased or otherwise procured by the Secretary.

(B) A listing of the troubled assets purchased in each such category described under subparagraph (A).

(C) An explanation of the reasons the Secretary deemed it necessary to purchase each such troubled asset.

(D) A listing of each financial institution that such troubled assets were purchased from.

(E) A listing of and detailed biographical information on each person or entity hired to manage such troubled assets.

(F) A current estimate of the total amount of troubled assets purchased pursuant to any program established under section 101, the amount of troubled assets on the books of the Treasury, the amount of troubled assets sold, and the profit and loss incurred on each sale or disposition of each such troubled asset.

(2) The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).
(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(f) **POWERS AND AUTHORITIES.**—(1) In carrying out the duties specified in subsection (e), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(2) The Special Inspector General shall carry out the duties specified in subsection (e)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(g) **PERSONNEL, FACILITIES, AND OTHER RESOURCES.**—(1) The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.
(3) The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Special Inspector General, or an authorized designee.

(B) Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(h) REPORTS.—(1) Not later than October 31, 2008, and every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement
of all purchases, obligations, expenditures, and revenues associated with any program established by the Secretary of the Treasury under section 101, as well as the information collected under subsection (e)(1).

(2) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(3) Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 124.

(i) FUNDING.—(1) Of the amounts made available to the Secretary of the Treasury under section 118, $75,000,000 shall be available to the Special Inspector General to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(j) TERMINATION.—The Office of the Special Inspector General shall terminate on the later of—
(1) the date of expiration of the last insurance contract issued under section 102; or

(2) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government.

SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting “$11,315,000,000,000”.

SEC. 123. CREDIT REFORM.

(a) IN GENERAL.—Subject to subsection (b), the costs of purchases of troubled assets made under section 101(a) and guarantees of troubled assets under section 102, and any cash flows associated with the activities authorized in subsections (a), (b), and (c) of section 106 shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.), as applicable.

(b) COSTS.—For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting
the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.

Section 257 of the National Housing Act (12 U.S.C. 1715z-23) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(B), by inserting before “a ratio” the following: “, or thereafter is likely to have, due to the terms of the mortgage being reset,”;

(B) in paragraph (2)(B), by inserting before the period at the end “(or such higher percentage as the Board determines, in the discretion of the Board)”; and

(C) in paragraph (4)—

(i) in the first sentence, by inserting after “insured loan” the following: “and
any payments made under this paragraph,”; and

(ii) by inserting at the end the following “Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage in lieu of any future appreciation payments authorized under subparagraph (B).”; and

(2) in subsection (w), by inserting after “administrative costs” the following: “and payments pursuant to subsection (e)(4)(A)”.

SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.

(a) Establishment.—There is hereby established the Congressional Oversight Panel (hereafter in this section referred to as the “Oversight Panel”) as an establishment in the legislative branch.

(b) Duties.—The Oversight Panel shall review the current state of the financial markets and the regulatory system and submit the following reports to Congress:

(1) Regular reports.—

(A) In general.—Regular reports of the Oversight Panel shall include the following:
(i) The use by the Secretary of authority under this Act, including with respect to the use of contracting authority and administration of the program.

(ii) The impact of purchases made under the Act on the financial markets and financial institutions.

(iii) The extent to which the information made available on transactions under the program has contributed to market transparency.

(iv) The effectiveness of foreclosure mitigation efforts, and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING.—The reports required under this paragraph shall be submitted not later than 30 days after the first exercise by the Secretary of the authority under section 101(a), and every 30 days thereafter.

(2) SPECIAL REPORT ON REGULATORY REFORM.—The Oversight Panel shall submit a special report on regulatory reform not later than January 20, 2009, analyzing the current state of the regu-
latory system and its effectiveness at overseeing the
participants in the financial system, protecting con-
sumers, and providing recommendations for im-
provement including recommendations regarding
whether any participants in the financial markets
that are currently outside the regulatory system
should become subject to the regulatory system and
the rationale underlying such recommendation and
whether there are any gaps in existing consumer
protections.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Oversight Panel shall
consist of 5 members, as follows:

(A) 1 member appointed by the Speaker of
the House of Representatives.

(B) 1 member appointed by the minority
leader of the House of Representatives.

(C) 1 member appointed by the majority
leader of the Senate.

(D) 1 member appointed by the minority
leader of the Senate.

(E) 1 member appointed by the Speaker of
the House of Representatives and the majority
leader of the Senate, in consultation with the
minority leader of the Senate and the minority
leader of the House of Representatives.

(2) Pay.—Each member of the Oversight Panel
shall each be paid at a rate equal to the daily equiv-
alent of the annual rate of basic pay for level I of
the Executive Schedule for each day (including trav-
el time) during which such member is engaged in
the actual performance of duties vested in the Com-
mission.

(3) Prohibition of Compensation of Fed-
eral Employees.—Members of the Oversight
Panel who are full-time officers or employees of the
United States or Members of Congress may not re-
ceive additional pay, allowances, or benefits by rea-
son of their service on the Oversight Panel.

(4) Travel Expenses.—Each member shall
receive travel expenses, including per diem in lieu of
subsistence, in accordance with applicable provisions
under subchapter I of chapter 57 of title 5, United
States Code.

(5) Quorum.—Four members of the Oversight
Panel shall constitute a quorum but a lesser number
may hold hearings.

(6) Vacancies.—Any member appointed to fill
a vacancy occurring before the expiration of the
term for which a member’s predecessor was ap-
pointed shall be appointed only for the remainder of
that term. A member may serve after the expiration
of that member’s term until a successor has taken
office. A vacancy in the Oversight Panel shall be
filled in the manner in which the original appoint-
ment was made.

(7) MEETINGS.—The Oversight Panel shall
meet at the call of the Chairperson or a majority of
its members.

(d) STAFF.—

(1) IN GENERAL.—The Oversight Panel may
appoint and fix the pay of any personnel as the
Commission considers appropriate.

(2) EXPERTS AND CONSULTANTS.—The Over-
sight Panel may procure temporary and intermittent
services under section 3109(b) of title 5, United
States Code.

(3) STAFF OF AGENCIES.—Upon request of the
Oversight Panel, the head of any Federal depart-
ment or agency may detail, on a reimbursable basis,
any of the personnel of that department or agency
to the Oversight Panel to assist it in carrying out its
duties under this Act.

(e) POWERS.—
(1) HEARINGS AND SESSIONS.—The Oversight Panel may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Panel considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Oversight Panel may, if authorized by the Oversight Panel, take any action which the Oversight Panel is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Oversight Panel may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Panel, the head of that department or agency shall furnish that information to the Oversight Panel.

(4) REPORTS.—The Oversight Panel shall receive and consider all reports required to be submitted to the Oversight Panel under this Act.

(f) TERMINATION.—The Oversight Panel shall terminate 6 months after the termination date specified in section 120.

(g) FUNDING FOR EXPENSES.—
(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Oversight Panel such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) REIMBURSEMENT OF AMOUNTS.—An amount equal to the expenses of the Oversight Panel shall be promptly transferred by the Secretary, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Panel, from funds made available to the Secretary under this Act to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

SEC. 126. FDIC ENFORCEMENT ENHANCEMENT.

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

“(4) FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.—
“(A) Prohibition on false advertising and misuse of FDIC names.—No person may represent or imply that any deposit liability, obligation, certificate, or share is insured or guaranteed by the Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation—

“(i) by using the terms ‘Federal Deposit’, ‘Federal Deposit Insurance’, ‘Federal Deposit Insurance Corporation’, any combination of such terms, or the abbreviation ‘FDIC’ as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

“(ii) by using such terms or any other terms, sign, or symbol as part of an advertisement, solicitation, or other document.

“(B) Prohibition on misrepresentations of insured status.—No person may knowingly misrepresent—

“(i) that any deposit liability, obligation, certificate, or share is insured, under
this Act, if such deposit liability, obligation, certificate, or share is not so insured; or

“(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured under this Act, if such deposit liability, obligation, certificate, or share is not so insured, to the extent or in the manner represented.

“(C) AUTHORITY OF THE APPROPRIATE FEDERAL BANKING AGENCY.—The appropriate Federal banking agency shall have enforcement authority in the case of a violation of this paragraph by any person for which the agency is the appropriate Federal banking agency, or any institution-affiliated party thereof.

“(D) CORPORATION AUTHORITY IF THE APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

“(i) RECOMMENDATION.—The Corporation may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 8 for purposes of enforcement of this paragraph with respect
to any person for which the agency is the
appropriate Federal banking agency or any
institution-affiliated party thereof.

“(ii) AGENCY RESPONSE.—If the ap-
propriate Federal banking agency does not,
within 30 days of the date of receipt of a
recommendation under clause (i), take the
enforcement action with respect to this
paragraph recommended by the Corpora-
tion or provide a plan acceptable to the
Corporation for responding to the situation
presented, the Corporation may take the
recommended enforcement action against
such person or institution-affiliated party.

“(E) ADDITIONAL AUTHORITY.—In addi-
tion to its authority under subparagraphs (C)
and (D), for purposes of this paragraph, the
Corporation shall have, in the same manner and
to the same extent as with respect to a State
nonmember insured bank—

“(i) jurisdiction over—

“(I) any person other than a per-
son for which another agency is the
appropriate Federal banking agency
or any institution-affiliated party thereof; and

“(II) any person that aids or abets a violation of this paragraph by a person described in subclause (I); and

“(ii) for purposes of enforcing the requirements of this paragraph, the authority of the Corporation under—

“(I) section 10(c) to conduct investigations; and

“(II) subsections (b), (c), (d) and (i) of section 8 to conduct enforcement actions.

“(F) OTHER ACTIONS PRESERVED.—No provision of this paragraph shall be construed as barring any action otherwise available, under the laws of the United States or any State, to any Federal or State agency or individual.”.

(b) ENFORCEMENT ORDERS.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

“(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.—
“(A) Temporary order.—

“(i) In general.—If a notice of charges served under subsection (b)(1) specifies on the basis of particular facts that any person engaged or is engaging in conduct described in section 18(a)(4), the Corporation or other appropriate Federal banking agency may issue a temporary order requiring—

“(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

“(II) affirmative action to prevent any further, or to remedy any existing, violation.

“(ii) Effect of order.—Any temporary order issued under this subparagraph shall take effect upon service.

“(B) Effective period of temporary order.—A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection
(b)(1) in connection with the notice of charges—

“(i) until such time as the Corporation or other appropriate Federal banking agency dismisses the charges specified in such notice; or

“(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

“(C) CIVIL MONEY PENALTIES.—Any violation of section 18(a)(4) shall be subject to civil money penalties, as set forth in subsection (i), except that for any person other than an insured depository institution or an institution-affiliated party that is found to have violated this paragraph, the Corporation or other appropriate Federal banking agency shall not be required to demonstrate any loss to an insured depository institution.”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in subsection (a)(3)—
(A) by striking “this subsection” the first place that term appears and inserting “paragraph (1)”; and

(B) by striking “this subsection” the second place that term appears and inserting “paragraph (2)”; and

(2) in the heading for subsection (a), by striking “INSURANCE LOGO.—” and inserting “REPRESENTATIONS OF DEPOSIT INSURANCE.—”.

SEC. 127. COOPERATION WITH THE FBI.

Any Federal financial regulatory agency shall cooperate with the Federal Bureau of Investigation and other law enforcement agencies investigating fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of financial products.

SEC. 128. ACCELERATION OF EFFECTIVE DATE.


SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHORITY.

(a) IN GENERAL.—Not later than 7 days after the date on which the Board exercises its authority under the third paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343; relating to discounts for individuals, part-
nerships, and corporations) the Board shall provide to the
Committee on Banking, Housing, and Urban Affairs of
the Senate and the Committee on Financial Services of
the House of Representatives a report which includes—

(1) the justification for exercising the authority;
and

(2) the specific terms of the actions of the
Board, including the size and duration of the lending, available information concerning the value of
any collateral held with respect to such a loan, the
recipient of warrants or any other potential equity in
exchange for the loan, and any expected cost to the
taxpayers for such exercise.

(b) PERIODIC UPDATES.—The Board shall provide
updates to the Committees specified in subsection (a) not
less frequently than once every 60 days while the subject
loan is outstanding, including—

(1) the status of the loan;

(2) the value of the collateral held by the Fed-
eral reserve bank which initiated the loan; and

(3) the projected cost to the taxpayers of the
loan.

(e) CONFIDENTIALITY.—The information submitted
to the Congress under this section may be kept confiden-
tial, upon the written request of the Chairman of the
1 Board, in which case it shall made available only to the
2 Chairpersons and Ranking Members of the Committees
3 described in subsection (a).
4
5 (d) APPLICABILITY.—The provisions of this section
6 shall be in force for all uses of the authority provided
7 under section 13 of the Federal Reserve Act occurring
8 during the period beginning on March 1, 2008 and ending
9 on the after the date of enactment of this Act, and reports
10 described in subsection (a) shall be required beginning not
11 later than 30 days after that date of enactment, with re-
12 spect to any such exercise of authority.

13 (e) SHARING OF INFORMATION.—Any reports re-
14 quired under this section shall also be submitted to the
15 Congressional Oversight Panel established under section
16 125.

17 SEC. 130. TECHNICAL CORRECTIONS.
18
19 (a) IN GENERAL.—Section 128(b)(2) of the Truth in
20 Lending Act (15 U.S.C. 1638(b)(2)), as amended by sec-
21 tion 2502 of the Mortgage Disclosure Improvement Act
22 of 2008 (Public Law 110-289), is amended—
23
24 (1) in subparagraph (A), by striking “In the
25 case” and inserting “Except as provided in subpara-
26 graph (G), in the case”; and
27
28 (2) by amending subparagraph (G) to read as
29 follows:
“(G)(i) In the case of an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code—

“(I) the requirements of subparagraphs (A) through (E) shall not apply; and

“(II) a good faith estimate of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before such credit is extended, or shall be delivered or placed in the mail not later than 3 business days after the date on which the creditor receives the written application of the consumer for such credit, whichever is earlier.

“(ii) If a disclosure statement furnished within 3 business days of the written application (as provided under clause (i)(II)) contains an annual percentage rate which is subsequently rendered inaccurate, within the meaning of section 107(c), the creditor shall furnish another disclosure statement at the time of settlement or consummation of the transaction.”.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110-289).

SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSEMENT.

(a) REIMBURSEMENT.—The Secretary shall reimburse the Exchange Stabilization Fund established under section 5302 of title 31, United States Code, for any funds used for the temporary guaranty program for the United States money market mutual fund industry, from funds under this Act.

(b) LIMITS ON USE OF EXCHANGE STABILIZATION FUND.—The Secretary is prohibited from using the Exchange Stabilization Fund for the establishment of any future guaranty programs for the United States money market mutual fund industry.

(c) CONSULTATIONS.—In carrying out any guarantee program, the Secretary shall consult with the Board of Directors of the Corporation and the Securities and Exchange Commission.

SEC. 132. SUSPENSION OF MARK-TO-MARKET ACCOUNTING.

(a) AUTHORITY.—The Securities and Exchange Commission shall have the authority under securities laws (as such term is defined under section 3(a)(47) of the Securi-
ties Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to sus-
pend, by rule, regulation, or order, the application of State-
ment Number 157 of the Financial Accounting Standards
Board for any issuer (as such term is defined in section
3(a)(8) of such Act) or with respect to any class or cat-
egory of transaction if the Commission determines that
is necessary or appropriate in the public interest and is
consistent with the protection of investors.

(b) SAVINGS PROVISION.—Nothing in subsection (a)
shall be construed to restrict or limit any authority of the
Securities Exchange Commission under securities laws as
in effect on the date of enactment of this Act.

SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.

(a) STUDY.—The Securities and Exchange Commis-
sion, in consultation with the Board of Governors of the
Federal Reserve System and the Secretary of the Treas-
ury, shall conduct a study on mark-to-market accounting
standards as provided in Statement Number 157 of the
Financial Accounting Standards Board, as such standards
are applicable to financial institutions, including deposi-
tory institutions. Such a study shall consider at a min-
imum—

(1) the effects of such accounting standards on
a financial institution’s balance sheet;
(2) the impacts of such accounting on bank failures in 2008;

(3) the impact of such standards on the quality of financial information available to investors;

(4) the process used by the Financial Accounting Standards Board in developing accounting standards;

(5) the advisability and feasibility of modifications to such standards; and

(6) alternative accounting standards to those provided in such Statement Number 157.

(b) REPORT.—The Securities and Exchange Commission shall submit to Congress a report of such study before the end of the 90-day period beginning on the date of the enactment of this Act containing the findings and determinations of the Commission, including such administrative and legislative recommendations as the Commission determines appropriate.

SEC. 134. RECOUPMENT.

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office, shall submit a report to the Congress on the net amount within the Troubled Asset Relief Program under this Act. In any
case in which there is a shortfall, the President shall submit to the Congress a legislative proposal that recoups from entities benefitting from the program an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the budget deficit or the national debt.

SEC. 135. PRESERVATION OF AUTHORITY.

With the exception of section 131, nothing in this Act may be construed to limit the authority of the Secretary or the Board under any other provision of law.

TITLE II—BUDGET-RELATED PROVISIONS

SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT AGENCIES.

Upon request, and to the extent otherwise consistent with law, all information used by the Secretary in connection with activities authorized under this Act (including the records to which the Comptroller General is entitled under this Act) shall be made available to congressional support agencies (in accordance with their obligations to support the Congress as set out in their authorizing statutes) for the purposes of assisting the committees of Congress with conducting oversight, monitoring, and analysis of the activities authorized under this Act.
SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND
BUDGET AND THE CONGRESSIONAL BUDGET
OFFICE.

(a) REPORTS BY THE OFFICE OF MANAGEMENT AND
BUDGET.—Within 60 days of the first exercise of the au-
thority granted in section 101(a), but in no case later than
December 31, 2008, and semiannually thereafter, the Of-
fice of Management and Budget shall report to the Presi-
dent and the Congress—

(1) the estimate, notwithstanding section
502(5)(F) of the Federal Credit Reform Act of 1990
(2 U.S.C. 661a(5)(F)), as of the first business day
that is at least 30 days prior to the issuance of the
report, of the cost of the troubled assets determined
in accordance with section [123/118];

(2) the information used to derive the estimate,
including assets purchased, prices paid, revenues re-
ceived, the impact on the deficit and debt, and a de-
scription of any outstanding commitments to pur-
chase troubled assets; and

(3) a detailed analysis of how the estimate has
changed from the previous report.

Beginning with the second report under subsection (a), the
Office of Management and Budget shall explain the dif-
ferences between the Congressional Budget Office esti-
mates delivered in accordance with subsection (b) and prior Office of Management and Budget estimates.

(b) REPORTS BY THE CONGRESSIONAL BUDGET OFFICE.—Within 45 days of receipt by the Congress of each report from the Office of Management and Budget under subsection (a), the Congressional Budget Office shall report to the Congress the Congressional Budget Office’s assessment of the report submitted by the Office of Management and Budget, including—

(1) the cost of the troubled assets,

(2) the information and valuation methods used to calculate such cost, and

(3) the impact on the deficit and the debt.

c) FINANCIAL EXPERTISE.—In carrying out the duties in this subsection or performing analyses of activities under this Act, the Director of the Congressional Budget Office may employ personnel and procure the services of experts and consultants.

d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to produce reports required by this section.

SEC. 203. ANALYSIS IN PRESIDENT’S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:
“(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—


“(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 118 of the Emergency Economic Stabilization Act of 2008;

“(C) an estimate of the current value of all assets purchased and sold under the authority
provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

“(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section \[123/118\] of the Emergency Economic Stabilization Act of 2008; and

“(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section \[123/118\] of the Emergency Economic Stabilization Act of 2008.”

(b) CONSULTATION.—In implementing this section, the Director of Office of Management and Budget shall consult periodically, but at least annually, with the Committee on the Budget of the House of Representatives, the
Committee on the Budget of the Senate, and the Director of the Congressional Budget Office.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2010 budget submission of the President.

TITLE III—TAX PROVISIONS

SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution shall be treated as ordinary income or loss.

(b) APPLICABLE PREFERRED STOCK.—For purposes of this section, the term “applicable preferred stock” means any stock—

(1) which is preferred stock in—

(A) the Federal National Mortgage Association, established pursuant to the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), or

(B) the Federal Home Loan Mortgage Corporation, established pursuant to the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and
(2) which—

(A) was held by the applicable financial institution on September 6, 2008, or
(B) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

(c) APPLICABLE FINANCIAL INSTITUTION.—For purposes of this section:

(1) IN GENERAL.—Except as provided in paragraph (2), the term “applicable financial institution” means—

(A) a financial institution referred to in section 582(c)(2) of the Internal Revenue Code of 1986, or
(B) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))).

(2) SPECIAL RULES FOR CERTAIN SALES.—In the case of—

(A) a sale or exchange described in subsection (b)(2)(B), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B)
of paragraph (1) at the time of the sale or exchange, and

(B) a sale or exchange after September 6, 2008, of preferred stock described in subsection (b)(2)(A), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at all times during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the preferred stock.

(d) Special Rule for Certain Property Not Held on September 6, 2008.—The Secretary of the Treasury or the Secretary’s delegate may extend the application of this section to all or a portion of the gain or loss from a sale or exchange in any case where—

(1) an applicable financial institution sells or exchanges applicable preferred stock after September 6, 2008, which the applicable financial institution did not hold on such date, but the basis of which in the hands of the applicable financial institution at the time of the sale or exchange is the same as the basis in the hands of the person which held such stock on such date, or
(2) the applicable financial institution is a partner in a partnership which—

(A) held such stock on September 6, 2008, and later sold or exchanged such stock, or

(B) sold or exchanged such stock during the period described in subsection (b)(2)(B).

(e) REGULATORY AUTHORITY.—The Secretary of the Treasury or the Secretary’s delegate may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—This section shall apply to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

SEC. 302. EXTENSION OF EXCLUSION OF INCOME FROM DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.

(a) EXTENSION.—Subparagraph (E) of section 108(a)(1) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2010” and inserting “January 1, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to discharges of indebtedness occurring on or after January 1, 2010.