IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2009

Received; read twice and referred to the Committee on Finance

AN ACT

To reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program.

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Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “TARP Reform and Accountability Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

Sec. 101. New conditionality for TARP-assisted institutions.
Sec. 102. Executive compensation and corporate governance.
Sec. 103. New lending by insured depository institutions that is attributable to TARP investments and assistance.
Sec. 104. Other protections for the taxpayer.
Sec. 105. Availability of TARP funds to smaller community institutions.
Sec. 106. Increase in size and authority of Financial Stability Oversight Board.
Sec. 107. Inclusion of women and minorities.
Sec. 108. Analysis of use of assistance.
Sec. 109. Database of use of TARP funds.
Sec. 110. Clarification.
Sec. 111. Investment of TARP funds in credit unions taken into account in determination of net worth.
Sec. 112. Treasury facilitated auction.
Sec. 113. Broadened Inspector General Authority.

TITLE II—FORECLOSURE RELIEF

Sec. 201. TARP foreclosure mitigation plan and implementation.
Sec. 203. Program alternatives.
Sec. 204. Systematic foreclosure prevention and mortgage modification plan established.
Sec. 205. Modification of plan.
Sec. 206. Servicer safe harbor.
Sec. 207. Foreclosure moratorium recommendation.
Sec. 208. Foreclosure prevention for affordable housing.
Sec. 209. Report by Congressional Oversight Panel.

TITLE III—AUTO INDUSTRY FINANCING AND RESTRUCTURING

Sec. 301. Short title.
Sec. 302. Direct loan provisions.

TITLE IV—CLARIFICATION OF AUTHORITY

Sec. 401. Consumer loans.
Sec. 402. Municipal securities.
Sec. 403. Commercial real estate loans.
Sec. 404. Small business loans.
Sec. 405. Commercial loans.
Sec. 406. Automobile fleet purchase loans.
Sec. 407. Certification.

TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS

Sec. 501. Changes to HOPE for Homeowners Program.

TITLE VI—HOME BUYER STIMULUS

Sec. 601. Home buyer stimulus program.

TITLE VII—FDIC PROVISIONS

Sec. 701. Permanent increase in deposit insurance.
Sec. 702. Extension of restoration plan period.
Sec. 703. Borrowing authority.
Sec. 704. Systemic risk special assessments.

TITLE VIII—REPORTS ON THE GUARANTEE OF CERTAIN CITIGROUP ASSETS

Sec. 801. Reports required.

TITLE IX—GAO STUDY OF FINANCIAL CRISIS

Sec. 901. Study required.
Sec. 902. Treasury strategy and timeline.

TITLE X—AGENCY MBS PURCHASE PROGRAM DISCLOSURE

Sec. 1001. Disclosure required.

1 TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

2 SEC. 101. NEW CONDITIONALITY FOR TARP-ASSISTED INSTITUTIONS.

3 (a) IN GENERAL.—Section 113 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223) is amended by adding at the end the following new subsections:

4 “(e) REPORTING, MONITORING AND ACCOUNTABILITY.—

5 “(1) PERIODIC PUBLIC REPORTING ON USE OF ASSISTANCE.—The Secretary shall require any as-
sisted institution that became an assisted institution
on or after October 3, 2008, to publicly report, not
less than quarterly, on such institution’s use of the
assistance. Such reporting may be required directly
for nondepository institutions or through the appro-
priate Federal banking agency, as provided in sec-
tion 103.

“(2) ADDITIONAL REQUIREMENTS AND COMPLI-
ANCE.—The Secretary—

“(A) may establish additional reporting
and information requirements for any direct or
indirect recipient of any assistance or benefit at
any time on or after October 3, 2008, that in-
volves the obligation or expenditure, loan, or in-
vestment of funds available to the Secretary
under this title; and

“(B) shall establish appropriate mecha-
nisms to ensure appropriate use and compliance
with all terms of any use of funds made avail-
able under this title.

“(3) CONSULTATION.—The Secretary shall con-
sult with the appropriate Federal banking agencies
in establishing the reporting requirements under this
subsection that are applicable to insured depository
institutions.
“(4) **Online publication of periodic reports.**—The Secretary shall make publicly available on the Internet each report made in accordance with paragraph (1).

“(5) **Use of 2008 assistance.**—

“(A) **Collection of information.**—Effective upon enactment of this paragraph, The Secretary shall require any assisted institution which received assistance under this title before January 1, 2009, to provide sufficient information with regard to such assistance as to inform the Secretary of the precise use of such assistance by the institution and the purpose for the use.

“(B) **Analysis.**—The Secretary shall conduct an analysis of the use of the assistance for which information was received under subparagraph (A).

“(C) **Report to the Congress.**—Within 30 days after the enactment of this paragraph, the Secretary shall promptly submit a report containing the findings and conclusion of the Secretary on the use of the assistance referred to in subparagraph (A), together with such recommendations for legislative or administrative
action as the Secretary may determine to be ap-
propriate, to the Committee on Financial Serv-
ices of the House of Representatives, the Com-
mittee on Banking, Housing, and Urban Affairs
of the Senate, and the Committees on Approp-
riations of the House of Representatives and
the Senate.

“(f) USE AND ACCOUNTABILITY FOR USE OF
FUNDS.—

“(1) INSURED DEPOSITORY INSTITUTION.—

“(A) INVESTMENT IN OR OTHER INJEC-
TION OF FUNDS INTO A DEPOSITORY INSTITU-
TION.—Except as provided in section 105, as a
condition for the provision of any investment in
the capital or assets of, or any other provision
of assistance to or for the benefit of, any in-
sured depository institution made after the date
of the enactment of the TARP Reform and Ac-
countability Act of 2009, the Secretary shall in-
corporate into the agreement for such invest-
ment or assistance an agreement between the
depository institution and the appropriate Fed-
eral banking agency with respect to such insti-
tution on the manner in which the funds are to
be used and benchmarks that the institution is
required to meet in using the assistance so as to advance the purposes of this Act to strengthen the soundness of the financial system and the availability of credit to the economy.

“(B) EXAMINATIONS.—In the case of any assisted insured depository institution that became an assisted institution on or after October 3, 2008, the appropriate Federal banking agency shall specifically review at least once annually the use, by the institution, of assistance made available under this Act and compliance by the institution with the requirements established by or pursuant to this title or by agreement of the institution with the Secretary or the appropriate Federal banking agency, including executive compensation and any other specific agreement terms. Such review may be conducted in connection with the regular full-site examination, or any other examination.

“(C) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring assisted insured depository institutions to establish and maintain procedures designed to assure and monitor the compliance of such depository
institutions with the requirements established
by or pursuant to this title or by agreement of
the institution with the Secretary or such agen-
cy.

“(2) USE OF TARP FUNDS FOR MERGERS OR
ACQUISITIONS.—Effective as of the date of the en-
actment of the TARP Reform and Accountability
Act of 2009, no assisted institution that became an
assisted institution at any time on or after October
3, 2008, may merge or consolidate with any insured
depository institution or, either directly or indirectly,
acquire the assets of, or assume liability to pay any
deposits made in, any insured depository institution,
and no Federal banking agency may approve any
such action under section 18(c) of the Federal De-
posit Insurance Act, while any of such assistance is
outstanding unless, prior to the approval of such
agency, the Secretary has determined in consultation
with any relevant Federal banking agencies that—

“(A) such action will reduce risk to the
taxpayer; or

“(B) the transaction could have been con-
summated without assistance provided under
this title.
“(3) NONDEPOSITORY INSTITUTIONS.—In the case of any assisted institution that became an assisted institution on or after October 3, 2008, and is not described in and subject to paragraph (1), the Secretary shall establish such reporting requirements and require any other conditions or agreements no less stringent than those applicable to assisted insured depository institutions, including requirements to conduct examinations of the books, affairs, and procedures of any such financial institution by the Secretary or by delegation to the Board.

“(4) RENTER PROTECTION.—In the case of any foreclosure on any dwelling or residential real property securing an extension of credit made under a contract entered into after the date of the enactment of this Act, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

“(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate; and

“(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—
“(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or

“(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A).

“(5) BONA FIDE LEASE OR TENANCY.—For purposes of this paragraph (1), a lease or tenancy shall be considered bona fide only if—

“(A) the mortgagor under the contract is not the tenant;

“(B) the lease or tenancy was the result of an arms-length transaction; or

“(C) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

“(6) PROHIBITION ON USE OF TARP FUNDS FOR FOREIGN CUSTOMER SERVICE POSITIONS.—Ef-
fective as of the date of the enactment of the TARP Reform and Accountability Act of 2009, no assisted institution that became an assisted institution on or after October 3, 2008, may enter into a new agreement, or expand a current agreement, with any foreign company for provision of customer service functions, including call-center services, while any of such assistance is outstanding.

“(g) NO IMPEDIMENT TO WITHDRAWAL.—Subject to consultation with the appropriate Federal banking agencies, the Secretary shall permit an assisted insured depository institution to repay any assistance previously provided under this title to such depository institution without regard to whether the depository institution has replaced such funds from any other source, and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price.”.

(b) DEFINITIONS.—Section 3 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5202) is amended by adding at the end the following new paragraphs:

“(10) DEFINITIONS RELATING TO INSURED DEPOSITORY INSTITUTIONS.—The terms ‘depository institution’, ‘insured depository institution’, ‘Federal
banking agency’ and ‘appropriate Federal banking agency’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(11) ASSISTED INSTITUTION.—The terms ‘assisted institution’ or ‘assisted insured depository institution’ mean any such institution that receives, directly or indirectly, any assistance or benefit that involves the obligation or expenditure, loan, or investment of funds available to the Secretary under title I.”.

SEC. 102. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—Section 111 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221) is amended by adding at the end the following new subsections:

“(e) ACROSS-THE-BOARD EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE REQUIREMENTS.—

“(1) STANDARDS REQUIRED.—Notwithstanding any provision of, and in addition to any requirement of subsection (a), (b), or (c) (other than the definitions in subsection (b)(3)), the Secretary shall require any institution that became an assisted institution after the date of the enactment of the TARP Reform and Accountability Act of 2009 to meet
standards for executive compensation and corporate
governance while any assistance under this title is
outstanding:

“(2) SPECIFIC REQUIREMENTS.—The standards
established under paragraph (1) shall include—

“(A) limits on compensation that exclude
incentives for senior executive officers of such
institution to take unnecessary and excessive
risks that threaten the value of such institution
during the period that any assistance under this
title is outstanding;

“(B) a provision for the recovery by such
institution of any bonus or incentive compensa-
tion paid to a senior executive officer based on
statements of earnings, gains, or other criteria
that are later found to be materially inaccurate;

“(C) a prohibition on such institution mak-
ing any golden parachute payment to a senior
executive officer during the period that the ass-
sistance under this title is outstanding;

“(D) a prohibition on such institution pay-
ing or accruing any bonus or incentive com-
pensation, during the period that the assistance
under this title is outstanding, to the 25 most
highly-compensated employees; and
“(E) a prohibition on any compensation plan that would encourage manipulation of such institution’s reported earnings to enhance the compensation of any of its employees.

“(3) Applicability to prior assistance.—Notwithstanding any limitations included in subsection (a), (b), or (e) with regard to applicability, the Secretary may apply the requirements of and the standards established under this subsection to any assisted institution that received any assistance under this title before the date of the enactment of the TARP Reform and Accountability Act of 2009.

“(f) Board Observer.—The Secretary may require the attendance of an observer delegated by the Secretary, on behalf of the Secretary, to attend the meetings of the board of directors of any assisted institution that became an assisted institution before October 3, 2008, and any committees of such board of directors, while any assistance under this title is outstanding.”.

(b) Repeal of de minimis exception.—Section 111(c) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(c)) is amended by striking “and only where such purchases per financial institution in the aggregate exceed $300,000,000 (including direct purchases),”.
SEC. 103. NEW LENDING BY INSURED DEPOSITORY INSTITUTIONS THAT IS ATTRIBUTABLE TO TARP INVESTMENTS AND ASSISTANCE.

Section 7(a) of the Federal Deposit Insurance Act (U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

“(12) LENDING INCREASES ATTRIBUTABLE TO INVESTMENT OR OTHER ASSISTANCE UNDER THE TROUBLED ASSETS RELIEF PROGRAM.—

“(A) IN GENERAL.—Each report of condition filed pursuant to this subsection by an insured depository institution which received an investment or other assistance under the Troubled Assets Relief Program established by the Emergency Economic Stabilization Act of 2008 or section 136(d) of the Energy Independence and Security Act of 2007 shall report the amount of any increase in new lending in the period covered by such report (or the amount of any reduction in any decrease in new lending) that is attributable to such investment or assistance, to the extent possible.

“(B) ALTERNATIVE MEASURE.—If an insured depository institution that is subject to subparagraph (A) cannot accurately quantify the effect that an investment or other assist-
ance under such Troubled Assets Relief Pro-
gram has had on new lending by the institution,
the insured depository institution shall report
the total amount of the increase in new lending,
if any, in the period covered by such report.

“(C) Designation of Reporting Re-
quirement.—The Federal banking agencies
and the Secretary of the Treasury shall specify
the form, content, and manner of reports re-
quired under this paragraph, and shall require
such reports to be provided to the appropriate
State bank supervisor (as defined in section 3
of the Federal Deposit Insurance Act).”.

SEC. 104. OTHER PROTECTIONS FOR THE TAXPAYER.

(a) Warrant Requirements.—Subsection (d) of
section 113 of the Emergency Economic Stabilization Act
of 2008 (12 U.S.C. 5223(d)) is amended by adding at the
end the following new paragraph:

“(4) Amount.—For assistance provided after
the date of the enactment of the TARP Reform and
Accountability Act of 2009, and except as provided
in title III of such Act, the warrants or instruments
described in this section shall have a value at least
equal to 15 percent of the aggregate amount of such
assistance.”.

SEC. 105. AVAILABILITY OF TARP FUNDS TO SMALLER COMMUNITY INSTITUTIONS.

(a) PROMPT ACTION.—The Secretary shall promptly take all necessary actions to provide assistance under title I of the Emergency Economic Stabilization Act of 2008 to smaller community financial institutions, including such institutions that are privately held.

(b) COMPARABLE TERMS.—An institution that receives assistance after the date of the enactment of the TARP Reform and Accountability Act of 2009, shall do so on terms comparable to the terms applicable to institutions that received assistance prior to the date of the enactment of such Act of 2009: Provided, That the institution—

(1) has submitted an application on which no action has been taken, such as institutions that are C corporations (including privately held institutions) and community development financial institutions; or

(2) is of a type for which the Secretary has not yet established an application deadline or for which
any such deadline has not yet occurred as of the
date of the enactment of this Act, such as institu-
tions that are non-stock corporations, S-corpora-
tions, mutually-owned insured depository institutions
(as defined in section 3 of the Federal Deposit In-
surance Act).

(c) DEFINITIONS.—For purposes of this section, the
terms “S Corporation” and “C Corporation” shall have
the same meaning given to those terms in section 1361(a)

SEC. 106. INCREASE IN SIZE AND AUTHORITY OF FINAN-
CIAL STABILITY OVERSIGHT BOARD.

(a) AUTHORITY.—Section 104 of the Emergency
Economic Stabilization Act of 2008 (12 U.S.C. 2514) is
amended—

(1) by redesignating subsections (g) and (h) as
subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the fol-
lowing new subsection:

“(g) REVIEW AND DECISIONMAKING.—After con-
ducting any review under this section of a policy deter-
mination made by the Secretary, the Financial Stability
Oversight Board may overturn any such policy determin-
ation by a two-thirds vote of all members of such board.”.
(b) APPOINTMENT OF 3 ADDITIONAL MEMBERS.—

Section 104(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 2514(b)) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(6) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; and

“(7) two members appointed by the President, by and with the consent of the Senate, from among individuals who are not officers or employees of the United States Government.”.

SEC. 107. INCLUSION OF WOMEN AND MINORITIES.

(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—The Secretary of the Treasury shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and ensuring compliance by the Secretary and each assisted institution (as such term is defined in section 3 of the Emergency Economic Stabilization Act of 2008) with the requirements of this section. The Office shall be responsible for all matters of the entity relating
to diversity in management, employment, and business ac-
tivities in accordance with such standards and require-
ments as the Secretary shall establish regarding the use
of assistance provided under title I of such Act.

(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIV-
ITIES.—The Secretary and each assisted institution shall
develop and implement standards and procedures to en-
sure, to the maximum extent possible, 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)) (including
financial institutions, investment banking firms, mortgage
banking firms, asset management firms, broker-dealers, fi-
ancial services firms, underwriters, accountants, brokers,
investment consultants, and providers of legal services) in
all business and activities of the Secretary and each as-
sisted institution at all levels, including in procurement,
insurance, and all types of contracts (including contracts
for the issuance or guarantee of any debt, equity, or mort-
gage-related securities, the management of its mortgage
and securities portfolios, the making of its equity invest-
ments, the purchase, sale and servicing of single- and
multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by the Secretary and each assisted institution for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

(c) Applicability.—This section shall apply to all contracts of the Secretary of the Treasury and assisted institutions for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

(d) Reports to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Congress detailed information describing the actions taken by the Office and assisted institutions pursuant to this section, which shall include a statement of the total amounts provided by the Secretary and assisted institutions under title I of the Emergency Economic Stabilization Act of 2008 to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section.
SEC. 108. ANALYSIS OF USE OF ASSISTANCE.

(a) REQUIREMENT.—The Secretary of the Treasury shall regularly analyze timely and detailed information concerning the use of assistance provided under title I of the Emergency Economic Stabilization Act of 2008 by assisted institutions to ensure that the program established under title I of such Act is meeting the goals of the program.

(b) AGENCY COLLECTION.—The Secretary of the Treasury shall require the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other Federal agency the Secretary chooses to report detailed information to the Secretary on the use of assistance provided by the Secretary under the Emergency Economic Stabilization Act of 2008 in a standard electronic form on no less than a quarterly basis.

(c) SOURCE OF INFORMATION.—The data collected and analyzed under subsections (a) and (b)—

(1) shall come from existing reports filed by all assisted institutions where possible, including depository institutions and nondepository institutions, with the principal Federal regulator of each such institution, if any; and

(2) and should be sufficiently detailed and timely to enable the Secretary to determine the effectiveness of the program established under title I of the

(d) ADJUSTMENTS AND RECOMMENDATIONS.—If the Secretary of the Treasury determines that—

(1) the goals of the program established under title I of the Emergency Economic Stabilization Act of 2008 are not being met, the Secretary shall work with the Federal agencies supplying the information under subsection (b) to encourage such agencies to provide the recipients of assistance under such title with recommendations for better meeting the goals of the program; and

(2) the goals of the program are not being met following the recommendations and adjustments made in accordance with paragraph (1), the Secretary shall adjust the future uses of assistance provided under such title.

SEC. 109. DATABASE OF USE OF TARP FUNDS.

The Secretary of the Treasury shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains the name of each entity receiving funds made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (12
U.S.C. 5225(a)) and the purpose for which such entity is receiving such funds.

SEC. 110. CLARIFICATION.

Section 101 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 2514(b)) is amended by adding at the end the following new subsections:

“(f) CLARIFICATION.—Any provision of capital to, purchase of equity in, or assistance provided to any institution under this title shall be considered to be a purchase of troubled assets for purposes of this title.

“(g) QUALIFIED PROPERTY.—

“(1) GUARANTEE.—Upon the request of a lessee of qualified property in leases where the lessee economically defeased its rent and purchase option payments, the Secretary may serve as a guarantor with respect to all payment obligations of such lessee with respect to any defeased lease transaction that is in technical default because of a downgrade of a financial guarantor. Such guarantee shall be on such terms and conditions as are determined by the Secretary.

“(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) QUALIFIED PROPERTY.—The term ‘qualified property’ means domestic property
subject to a lease entered into prior to November 1, 2007, in which a State or local government authority (as defined in section 5302(a) of title 49, United States Code) is the lessee.

“(B) GUARANTOR.—The term ‘guarantor’ includes any guarantor, surety, and payment undertaker.”.

SEC. 111. INVESTMENT OF TARP FUNDS IN CREDIT UNIONS TAKEN INTO ACCOUNT IN DETERMINATION OF NET WORTH.

(a) IN GENERAL.—Section 216(o)(2) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

“(A) with respect to any insured credit union, means—

“(i) the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously the retained earnings of any other credit union with which the credit union has combined; and

“(ii) any donated equity, permanent, and perpetual capital deposits, or other
primary capital made available under Title I of the Emergency Economic Stabilization Act of 2008, as determined by regulation or order of the Board with due regard for the accepted capital standards for United States depository institutions generally; and”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 112. TREASURY FACILITATED AUCTION.

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) Use of Market Mechanisms.—

“(1) In general.—In making purchases under this Act, the Secretary shall—

“(A) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

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

“(2) Auction facilitation.—
“(A) IN GENERAL.—The Secretary shall, in coordination with institutions that volunteer to participate, and not using any funds under this title for purchases, facilitate an auction of troubled assets owned by such institutions to third party purchasers.

“(B) REPORT.—If the auction described in subparagraph (A) does not take place within the 3 month period following the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary shall issue a report to the Congress stating—

“(i) why such auction has not taken place; and

“(ii) by what mechanism the Secretary feels that troubled assets could most expeditiously be valued and liquidated.”.

SEC. 113. BROADENED INSPECTOR GENERAL AUTHORITY.

Section 121(c) of the Emergency Economic Stabilization Act (12 U.S.C. 5231(c)) is amended by striking “the purchase, management, and sale of assets” and all that follows through “under section 102” and inserting “any action taken by the Secretary of the Treasury under this title (except sections 115, 116, 117, and 125), as the Special Inspector General determines appropriate”.

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TITLE II—FORECLOSURE RELIEF

SEC. 201. TARP FORECLOSURE MITIGATION PLAN AND IMPLEMENTATION.

(a) COMMITMENT OF RESOURCES.—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, not later than seven days after the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary of the Treasury (in this title referred to as the “Secretary”) shall commit funds made available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 in an amount of at least $100,000,000,000, unless the Secretary certifies otherwise under subsection (d), but in no case less than $40,000,000,000, for the purposes of foreclosure mitigation. Not less than $20,000,000,000 of this amount shall be dedicated to the program described under section 204 of this Act. The Secretary shall consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation regarding the administration of the program.

(b) PLAN REQUIRED.—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, none of the funds otherwise available to the Secretary pursuant to section 115(a)(3) of such Act shall
be available to the Secretary after March 15, 2009, unless a comprehensive plan to use the funds committed under subparagraph (a) to prevent and mitigate foreclosures on residential properties, in accordance with the requirements of this title, has been developed by the Secretary and approved by the Financial Stability Oversight Board by such date.

(c) Implementation Required.—The Secretary shall begin to implement the comprehensive plan established pursuant to subsection (b) by not later than April 1, 2009.

(d) Certification.—If the Secretary does not commit at least $100,000,000,000 in the plan established under subsection (b), the Secretary shall certify to the Congress in the plan the specific reasons that such amounts have not been committed.

(e) Clarification.—For purposes of this title, the term “residential properties” shall include 1- to 4-family residential properties.

SEC. 202. ELEMENTS OF PLAN.

(a) Required Elements.—The comprehensive plan established pursuant to section 201(b) shall comply with the following requirements:

(1) Owner-occupied residences only.—The programs implemented under the plan shall pre-
vent and mitigate foreclosures specifically on owner-occupied residential properties.

(2) **LEVERAGING OF PRIVATE CAPITAL.**—The plan shall leverage private capital to the maximum extent possible consistent with the purpose of preventing and mitigating foreclosures on such properties.

(3) **USE OF PROGRAM ALTERNATIVES.**—The actions to be taken under the plan shall consist of the systematic foreclosure prevention and mortgage modification program under section 204 and a combination of the program alternatives set forth in section 203.

(4) **WORKFORCE AND OUTREACH.**—The plan shall set forth how the Secretary intends to develop, second, or contract for appropriate staffing to carry out the plan and the component programs and to ensure that private mortgage servicers utilizing the programs established by the Secretary will provide sufficient staffing and resources to engage in the outreach, loss mitigation activities, and homeowner education necessary for successful foreclosure mitigation.

(b) **CONCENTRATIONS OF FORECLOSURES.**—The comprehensive plan established pursuant to section 201(b)
may include provisions designed to prevent and mitigate foreclosures on residential properties located in areas that are most seriously affected by such foreclosures.

SEC. 203. PROGRAM ALTERNATIVES.

The program alternatives set forth in this section are as follows:

1. REDUCTION OF HOPE FOR HOMEOWNERS PROGRAM COSTS.—A program under which the Secretary—

   (A) provides coverage for fees under the HOPE for Homeowners Program under section 257 of the National Housing Act (12 U.S.C. 1715z–23), as amended by title V of this Act; or

   (B) ensures the affordability of interest rates of mortgages insured under such Program.

2. BUY-DOWN OF SECOND LIEN MORTGAGES.—A program under which the Secretary makes available to owners of owner-occupied residential properties a direct mortgage loan the proceeds of which shall be used only to reduce the outstanding debt of such owner under an existing second lien mortgage on such residential property, for the purpose of facilitating loan modification, subject
to such reductions in the principal of such existing
second lien mortgages as the Secretary may require.

(3) Servicer incentives and assistance.—
A program under which the Secretary may make
payments to servicers, including servicers that are
not affiliated with a depository institution, who im-
plement modifications to mortgages that result in
mortgages that meet such requirements as the Sec-
retary shall establish.

(4) Loan purchases.—A program under
which the Secretary, or one or more entities that the
Secretary, in consultation with the Secretary of
Housing and Urban Development, enters into a con-
tract with to carry out the program under this para-
graph, which may include the Federal Deposit Insur-
ance Corporation, regional public-private partner-
ships, and entities selected as contractors under sec-
tion 107 of the Emergency Economic Stabilization
Act of 2008, purchases whole loans for the purpose
of modifying or refinancing the loans.

(5) Substitution of trust.—A program
under which modifications are allowed to the
securitization trust agreements with respect to secur-
rities secured by pools of mortgages to allow a new
qualified buyer to be substituted on a foreclosed
property or a delinquent mortgage without seeking new financing.

SEC. 204. SYSTEMATIC FORECLOSURE PREVENTION AND MORTGAGE MODIFICATION PLAN ESTABLISHED.

(a) IN GENERAL.—The systematic foreclosure prevention and mortgage modification program under this section shall be a program established by the Secretary, in consultation with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the Secretary of Housing and Urban Development, that—

(1) provides lenders and loan servicers with certain compensation to cover administrative costs for each loan modified according to the required standards; and

(2) provides loss sharing or guarantees for certain losses incurred if a modified loan should subsequently re-default.

(b) PROGRAM ADMINISTRATION.—The Secretary, in consultation with the Chairperson of the Federal Deposit Insurance Corporation and the Secretary of Housing and Urban Development, may contract with one or more entities, including the Federal Deposit Insurance Corporation and entities selected as contractors under section 107 of the Emergency Economic Stabilization Act of 2008, to
conduct the program activities required under the program under this section.

(c) PROGRAM COMPONENTS.—The program established under subsection (a) may include the following components:

(1) ELIGIBLE BORROWERS.—The program shall be limited to loans secured by owner-occupied properties.

(2) EXCLUSION FOR EARLY PAYMENT DEFAULT.—To promote sustainable mortgages, loss sharing or guarantees shall be available only after the borrower has made a specified minimum number of payments on the modified mortgage.

(3) STANDARD NET PRESENT VALUE TEST.—In order to promote consistency and simplicity in implementation and audit, the Secretary shall prescribe a standardized net present value analysis for participating lenders and servicers comparing the expected net present value of modifying past due loans compared to the net present value of foreclosing on them will be applied. Under this test, standard assumptions shall be used to ensure that a consistent standard for affordability is provided based on a ratio of the borrower’s mortgage-related expenses for the
first priority mortgage-to-gross income specified by
the Secretary.

(4) Systematic loan review by participating lenders and servicers.—Participating
lenders and servicers shall be required to undertake
a systematic review of all of the loans under their
management, to subject each loan to a standard net
present value test to determine whether it is a suit-
able candidate for modification, and to offer modi-
fications for all loans that pass this test. The pen-
alty for failing to undertake such a systematic re-
view and to carry out modifications where they are
justified would be disqualification from further par-
ticipation in the program until such a systematic
program was introduced.

(5) Modifications.—Modifications may in-
clude any of the following:

(A) Reduction in interest rates and fees.

(B) Term or amortization extensions.

(C) Forbearance or forgiveness of prin-
cipal.

(D) Other similar modifications.

(6) Simplified loss share calculation.—
In order to ensure the administrative efficiency and
effective operation of the program, the Secretary
shall define appropriate measures for loss sharing or
guarantees designed to reduce the risk and loss upon
redefault of modified mortgages in order to provide
adequate incentives to lenders, servicers, and inves-
tors to modify eligible mortgages and avoid unneces-
sary foreclosures. Interim modifications shall be al-
lowed.

(7) DE MINIMIS TEST.—To lower administra-
tive costs, a de minimis test shall be used to exclude
from loss sharing any modification that does not
lower the monthly payment at least 10 percent.

(8) 8 YEAR LIMIT ON LOSS SHARING PAY-
MENT.—The loss sharing guarantee shall terminate
at the end of the 8-year period beginning on the
date the modification was consummated.

(d) ALTERNATIVE COMPONENTS.—The Secretary
may, with the approval of the Board, implement fore-
closure prevention and mitigation actions other than those
included pursuant to subsection (c) in the comprehensive
plan initially approved by the Board pursuant to section
201(b) that the Secretary believes would provide equiva-
alent or greater impact on foreclosure mitigation.

(e) REGULATIONS.—The Secretary shall prescribe
such regulations as may be necessary to implement this
section and prevent evasions thereof.
(f) Troubled Assets.—The costs incurred by the Federal Government in carrying out the loan modification program established under this section shall be covered out of the funds made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008 or such other funds as may be available to the Secretary.

(g) Report.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall submit a progress report to the Congress containing such findings and such recommendations for legislative or administrative action as the Secretary may determine to be appropriate.

SEC. 205. MODIFICATION OF PLAN.

(a) In General.—If the Secretary, in consultation with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the Secretary of Housing and Urban Development, determines at any time that modification of the comprehensive plan initially approved by the Board pursuant to section 201(b) (as such plan may subsequently have been modified pursuant to this section), or that modification of any component program element, is necessary to maximize the prevention of foreclosures on residential properties or minimize costs to taxpayers of such foreclosure mitigation, the Secretary
may modify the plan or program element, but only to the extent such modifications are approved by the Board.

SEC. 206. SERVICER SAFE HARBOR.

(a) Safe Harbor.—

(1) Loan modifications and workout plans.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle or investor, a servicer that acts consistent with the duty set forth in section 129A(a) of Truth in Lending Act (15 U.S.C. 1639a) shall not be liable for entering into a loan modification or workout plan with respect to any such mortgage that meets all of the criteria set forth in paragraph (2)(B) to—

(A) any person, based on that person’s ownership of a residential mortgage loan or any interest in a pool of residential mortgage loans or in securities that distribute payments out of the principal, interest and other payments in loans on the pool;

(B) any person who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or
(C) any person that insures any loan or any interest referred to in subparagraph (A)
under any law or regulation of the United States or any law or regulation of any State or political subdivision of any State.

(2) ABILITY TO MODIFY MORTGAGES.—

(A) ABILITY.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle or investor, a servicer—

(i) shall not be limited in the ability to modify mortgages, the number of mortgages that can be modified, the frequency of loan modifications, or the range of permissible modifications; and

(ii) shall not be obligated to repurchase loans from or otherwise make payments to the securitization vehicle on account of a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitute a part or all of the mortgages in the securitization vehicle, if any mortgage so modified meets all of the criteria set forth in subparagraph (B).
(B) CRITERIA.—The criteria under this subparagraph with respect to a mortgage are as follows:

(i) Default on the payment of such mortgage has occurred or is reasonably foreseeable.

(ii) The property securing such mortgage is occupied by the mortgagor of such mortgage.

(iii) The servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the particular modification or workout plan or other loss mitigation action will exceed, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage to be realized through foreclosure.

(3) APPLICABILITY.—This subsection shall apply only with respect to modifications, workouts, and other loss mitigation plans initiated before January 1, 2012.

(b) REPORTING.—Each servicer that engages in loan modifications or workout plans subject to the safe harbor
in subsection (a) shall report to the Secretary on a regular
basis regarding the extent, scope and results of the
servicer’s modification activities. The Secretary shall pre-
scribe regulations specifying the form, content, and timing
of such reports.

(c) DEFINITION OF SECURITIZATION VEHICLES.—
For purposes of this section, the term “securitization vehi-
cle” means a trust, corporation, partnership, limited liability
entity, special purpose entity, or other structure that—

(1) is the issuer, or is created by the issuer, of
mortgage pass-through certificates, participation cer-
tificates, mortgage-backed securities, or other similar
securities backed by a pool of assets that includes
residential mortgage loans; and

(2) holds such mortgages.

SEC. 207. FORECLOSURE MORATORIUM RECOMMENDA-
TION.

(a) FORECLOSURE DEFERMENT.—It is the sense of
the Congress that any institution which becomes an as-
sisted institution on or after the date of the enactment
of this Act should not initiate, or allow to continue, a fore-
closure proceeding or a foreclosure sale on any with re-
spect to any principal homeowner mortgage, until the ear-
liest of the following:
(1) The date by which the comprehensive plan to prevent and mitigate foreclosures has been developed by the Secretary and the Federal Deposit Insurance Corporation and approved by the Financial Stability Oversight Board under section 201 and become fully operational.

(2) The date by which the systematic foreclosure prevention and mortgage modification plan has been established by the Secretary in accordance with section 204 and become fully operational.

(3) The end of the 9-month period beginning on the date of the enactment of this Act.

(b) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If an assisted institution to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in paragraph (1) or (2) of such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(c) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage may not, with respect to any prop-
erty securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(d) Duty of Consumer to Respond to Reasonable Inquiries.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage shall respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

SEC. 208. FORECLOSURE PREVENTION FOR AFFORDABLE HOUSING.

Section 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended to read as follows:

"SEC. 109. FORECLOSURE MITIGATION EFFORTS.

"(a) Residential Mortgage 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 renters 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 mini-
mize foreclosures. In addition, the Secretary may use loan
guarantees and credit enhancements to facilitate loan
modifications to prevent avoidable foreclosures on single-
family and multifamily housing.

“(b) COORDINATION.—The Secretary shall coordi-
nate with the Corporation, the Board (with respect to any
mortgage or mortgage-backed securities or pool of securi-
ties held, owned, or controlled by or on behalf of a Federal
reserve bank, as provided in section 110(a)(1)(C)), the
Federal Housing Finance Agency, the Secretary of Hous-
ing and Urban Development, and other Federal Govern-
ment entities that hold troubled assets to attempt to iden-
tify opportunities for the acquisition of classes of troubled
assets that will improve the ability of the Secretary to im-
prove the loan modification and restructuring 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 residen-
tial rental property, including a qualified low-income
building under section 42 of the Internal Revenue Code
of 1986, the plan required under this section shall include
protecting Federal, State, and local rental subsidies and
protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

“(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate and considering net present value to the taxpayer, to reasonable requests by homeowners and owners of multifamily housing, including qualified low-income buildings under section 42 of the Internal Revenue Code of 1986, 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. 209. REPORT BY CONGRESSIONAL OVERSIGHT PANEL.

The Congressional Oversight Panel established by section 125 of the Emergency Economic Stabilization Act of 2008 shall submit a report to the Congress, not later than July 1, 2009, regarding—

(1) the actions taken by the Secretary pursuant to this title;

(2) the impact and effectiveness of such actions on foreclosures on residential properties; and
(3) the effectiveness of such actions from the standpoint of minimizing costs to the taxpayers.

SEC. 210. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.

(a) Reporting Requirements.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency, in coordination with the Director of the Office of Thrift Supervision, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Joint Economic Committee on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.
(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(2) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased 10 percent or more.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the
Currency and the Director of the Office of Thrift Supervision to fulfill the reporting re-
quirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements established under para-
graph (1) to each committee receiving the report re-
quired under subsection (a).

TITLE III—AUTO INDUSTRY FI-
NANCING AND RESTRUCTURING

SEC. 301. SHORT TITLE.

This title may be cited as the “TARP Reform and Accountability Act of 2009”.

SEC. 302. DIRECT LOAN PROVISIONS.

(a) IN GENERAL.—The Emergency Economic Sta-
bilization Act of 2008 (division A of Public Law 110–343) is amended by adding at the end the following:

“TITLE IV—AUTO INDUSTRY FI-
NANCING AND RESTRUCTURING

“SEC. 401. PURPOSES.

“The purposes of this title are—

“(1) to clarify and confirm the authority and facilities to restore liquidity and stability to domestic vehicle manufacturers in the United States; and
“(2) to ensure that such authority and such facilities are used in a manner that—

“(A) results in a viable and competitive domestic automobile industry that minimizes adverse effects on the environment;

“(B) enhances the ability and the capacity of the domestic automobile industry to pursue the timely and aggressive production of energy-efficient advanced technology vehicles;

“(C) preserves and promotes the jobs of American workers employed directly by the domestic automobile industry and in related industries;

“(D) safeguards the ability of the domestic automobile industry to provide retirement and health care benefits for the industry’s retirees and their dependents; and

“(E) stimulates manufacturing and sales of automobiles produced by automobile manufacturers in the United States.

“SEC. 402. PRESIDENTIAL DESIGNATION.

“(a) DESIGNATION.—The President shall designate one or more officers from the Executive Branch having appropriate expertise in such areas as economic stabilization, financial aid to commerce and industry, financial re-
structuring, energy efficiency, and environmental protection (who shall hereinafter in this title be collectively referred to as the ‘President’s designee’) to carry out the purposes of this title, including the facilitation of restructuring necessary to achieve the long-term financial viability of domestic automobile manufacturers, who shall serve at the pleasure of the President.

“(b) ADDITIONAL PERSONS.—The President or the President’s designee may also employ, appoint, or contract with additional persons having such expertise as the President or the President’s designee believes will assist the Government in carrying out the purposes of this title.

“(c) PARTICIPATION BY OTHER AGENCY PERSONNEL.—Other Federal agencies may provide, at the request of the President’s designee, staff on detail from such agencies for purposes of carrying out this title.

“SEC. 403. BRIDGE FINANCING.

“(a) IN GENERAL.—The President’s designee shall authorize and direct the disbursement of bridge loans or enter into commitments for lines of credit to each automobile manufacturer that submitted a plan to the Congress on December 2, 2008 (hereafter in this title referred to as an ‘eligible automobile manufacturer’), and has submitted a request for such loan or commitment. Nothing in this section shall preclude the President’s designee from
authorizing and directing the disbursement of bridge loans
or entering into commitments for lines of credit to other
entities.

“(b) Amount of Assistance.—The President’s des-
ignee shall authorize bridge loans or commitments for
lines of credit to each eligible automobile manufacturer in
an amount that is intended to facilitate the continued op-
erations of the eligible automobile manufacturer and to
prevent the failure of the eligible automobile manufac-
turer, consistent with the plan submitted on December 2,
2008, and subject to available funds.

“Sec. 404. Restructuring Progress Assessment.

“(a) Establishment of Measures for Assessing
Progress.—Not later than February 1, 2009, the Presi-
dent’s designee shall determine appropriate measures for
assessing the progress of each eligible automobile manu-
facturer toward transforming the plan submitted by such
manufacturer to the Congress on December 2, 2008, into
the restructuring plan to be submitted under section
405(b).

“(b) Evaluation of Progress on Basis of Re-
structuring Progress Assessment Measures.—

“(1) In general.—The President’s designee
shall evaluate the progress of each eligible auto-
mobile manufacturer toward the development of a
restructuring plan, on the basis of the restructuring
progress assessment measures established under this
section for such manufacturer.

“(2) Timing.—Each evaluation required under
paragraph (1) for any eligible automobile manufac-
turer shall be conducted at the end of the 15-day pe-
period beginning on the date on which the restruc-
turing progress assessment measures were estab-
lished by the President’s designee for such eligible
automobile manufacturer.

“SEC. 405. SUBMISSION OF PLANS.

“(a) Negotiated Plans.—

“(1) Facilitation.—

“(A) In general.—Beginning on the date
of any disbursement under the facility, the
President’s designee shall seek to facilitate
agreement on any restructuring plan to achieve
and sustain the long-term viability, inter-
national competitiveness, and energy efficiency
of an eligible automobile manufacturer, nego-
tiated and agreed to by representatives of inter-
ested parties (in this title referred to as a ‘ne-
gotiated plan’) with respect to any eligible auto-
mobile manufacturer.
“(B) INTERESTED PARTIES.—For purposes of this section, the term ‘interested party’ shall be construed broadly so as to include all persons who have a direct financial interest in a particular automobile manufacturer, including—

“(i) employees and retirees of the eligible automobile manufacturer;
“(ii) trade unions;
“(iii) creditors;
“(iv) suppliers;
“(v) automobile dealers; and
“(vi) shareholders.

“(2) ACTIONS OF THE PRESIDENT’S DESIGNEE.—

“(A) IN GENERAL.—For the purpose of achieving a negotiated plan, the President’s designee may convene, chair, and conduct formal and informal meetings, discussions, and consultations, as appropriate, with interested parties of an eligible automobile manufacturer.

“(B) CLARIFICATION.—The Federal Advisory Committee Act shall not apply with respect to any of the activities conducted or taken by the President’s designee pursuant to this title.
“(b) Restructuring Plan.—Not later than March 31, 2009, each eligible automobile manufacturer shall submit to the President’s designee a restructuring plan to achieve and sustain the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer (in this title referred to as the ‘restructuring plan’) in accordance with this section. The President’s designee shall approve the restructuring plan if the President’s designee determines that the plan will result in—

“(1) the repayment of all Government-provided financing, consistent with the terms specified in section 408, or otherwise agreed to;

“(2) the ability—

“(A) to comply with applicable fuel efficiency and emissions requirements;

“(B) to commence domestic manufacturing of advanced technology vehicles, as described in section 136 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17013); and

“(C) to produce new and existing products and capacity;

“(3) the achievement of a positive net present value, using reasonable assumptions and taking into
account all existing and projected future costs, including repayment of any financial assistance provided pursuant to this title;

“(4) the ability to rationalize costs, capitalization, and capacity with respect to the manufacturing workforce, suppliers, and dealerships of the eligible automobile manufacturer;

“(5) proposals to restructure existing debt, including, where appropriate, the conversion of debt to equity, to improve the ability of the eligible automobile manufacturer to raise private capital; and

“(6) a product mix and cost structure that is competitive in the marketplace.

“(c) Extension of Negotiations and Plan Deadline.—Notwithstanding the time limitations in subsection (b), the President’s designee, upon making a determination that the interested parties are negotiating in good faith, are making significant progress, and that an additional period of time would likely facilitate agreement on a negotiated plan, and upon notification of the Congress, may extend for not longer than 30 additional days the negotiation period under subsection (b).

“SEC. 406. FINANCING FOR RESTRUCTURING.

“Upon approval by the President’s designee of a restructuring plan, the President’s designee may provide fi-
nancial assistance to an eligible automobile manufacturer
to implement the restructuring plan.

“SEC. 407. DISAPPROVAL AND CALL OF LOAN.

“If the President’s designee has not approved the re-
structuring plan at the expiration of the period provided
in section 405 for submission and approval of the restruc-
turing plan, the President’s designee shall call the loan
or cancel the commitment within 30 days, unless a re-
structuring plan is approved within that period.

“SEC. 408. TERMS AND CONDITIONS.

“(a) DURATION.—The duration of any loan made
under this title shall be 7 years, or such period as the
President’s designee may determine with respect to such
loan.

“(b) NO PREPAYMENT PENALTY.—A loan made
under this title shall be prepayable without penalty at any
time.

“(c) INFORMATION ACCESS.—As a condition for the
receipt of any financial assistance made under this title,
an eligible automobile manufacturer shall agree—

“(1) to allow the President’s designee to exam-
ine any books, papers, records, or other data of the
eligible automobile manufacturer, and those of any
subsidiary, affiliate, or entity holding an ownership
interest of 50 percent or more of such automobile
manufacturer, that may be relevant to the financial
assistance, including compliance with the terms of a
loan or any conditions imposed under this title; and

“(2) to provide in a timely manner any infor-
mation requested by the President’s designee, in-
cluding requiring any officer or employee of the eli-
gible automobile manufacturer, any subsidiary, affil-
iate, or entity referred to in paragraph (1) with re-
spect to such manufacturer, or any person having
possession, custody, or care of the reports and
records required under paragraph (1), to appear be-
fore the President’s designee at a time and place re-
quested and to provide such books, papers, records,
or other data, as requested, as may be relevant or
material.

“(d) OVERSIGHT OF TRANSACTIONS AND FINANCIAL
CONDITION.—

“(1) DUTY TO INFORM.—During the period in
which any loan extended under this title remains
outstanding, the eligible automobile manufacturer
which received such loan shall promptly inform the
President’s designee of—

“(A) any asset sale, investment, contract,
commitment, or other transaction proposed to
be entered into by such eligible automobile
manufacturer that has a value in excess of
$100,000,000; and

“(B) any other material change in the fi-
nancial condition of such eligible automobile
manufacturer.

“(2) AUTHORITY OF THE PRESIDENT’S DES-
IGNEE.—During the period in which any loan ex-
tended under this title remains outstanding, the
President’s designee may—

“(A) review any asset sale, investment,
contract, commitment, or other transaction de-
scribed in paragraph (1); and

“(B) prohibit the eligible automobile man-
ufacturer which received the loan from consum-
mating any such proposed sale, investment,
contract, commitment, or other transaction, if
the President’s designee determines that con-
summation of such transaction would be incon-
sistent with or detrimental to the long-term via-
ability of the eligible automobile manufacturer.

“(3) PROCEDURES.—The President’s designee
may establish procedures for conducting any review
under this subsection.
“(e) Consequences for Failure To Comply.—

The terms of any financial assistance made under this title shall provide that if—

“(1) an evaluation by the President’s designee under section 404(b) demonstrates that the eligible automobile manufacturer which received the financial assistance has failed to make adequate progress towards meeting the restructuring progress assessment measures established by the President’s designee under section 404(a) with respect to such recipient;

“(2) after March 31, 2009, the eligible automobile manufacturer which received the financial assistance fails to submit an acceptable restructuring plan under section 405(b), or fails to comply with any conditions or requirement applicable under this title or applicable fuel efficiency and emissions requirements; or

“(3) after a restructuring plan of an eligible automobile manufacturer has been approved by the President’s designee, the auto manufacturer fails to make adequate progress in the implementation of the plan, as determined by the President’s designee, the repayment of any loan may be accelerated to such earlier date or dates as the President’s designee may deter-
mine and any other financial assistance may be cancelled
by the President’s designee.

“SEC. 409. TAXPAYER PROTECTION.

“(a) WARRANTS.—

“(1) IN GENERAL.—The President’s designee
may not provide any loan under this title, unless the
President’s designee, or such department or agency
as is designated for such purpose by the President,
receives from the eligible automobile manufacturer—

“(A) in the case of an eligible automobile
manufacturer, the securities of which are traded
on a national securities exchange, a warrant
giving the right to the President’s designee to
receive nonvoting common stock or preferred
stock in such eligible automobile manufacturer,
or voting stock, with respect to which the Presi-
dent’s designee agrees not to exercise voting
power, whichever the President’s designee de-
termines appropriate; or

“(B) in the case of an eligible automobile
manufacturer other than one described in sub-
paragraph (A), a warrant for common or pre-
ferred stock, or an instrument that is the eco-
nomic equivalent (as determined by the Presi-
dent’s designee) of such a warrant in the hold-
ing company of the eligible automobile manu-
facturer, or any company that controls a major-
ity stake in the eligible automobile manufac-
turer, whichever the President’s designee deter-
mines appropriate.

“(2) AMOUNT.—

“(A) IN GENERAL.—The warrants or in-
struments described in paragraph (1) shall have
a value equal to 20 percent of the aggregate
amount of all loans provided to the eligible
automobile manufacturer under this title. Such
warrants or instruments shall entitle the Gov-
ernment to purchase—

“(i) nonvoting common stock, up to a
maximum amount of 20 percent of the
issued and outstanding common stock of—

“(I) the eligible automobile manu-
facturer; or

“(II) in the case of an eligible
automobile manufacturer, the securi-
ties of which are not traded on a na-
tional securities exchange, a holding
company or company that controls a
majority of the stock thereof (in this
section referred to as the ‘warrant common’); and

“(ii) preferred stock having an aggregate liquidation preference equal to 20 percent of such aggregate loan amount, less the value of common stock available for purchase under the warrant common (in this section referred to as the ‘warrant preferred’).

“(B) COMMON STOCK WARRANT PRICE.—

The exercise price on a warrant or instrument described in paragraph (1) shall be—

“(i) the 15-day trailing average, as of the day before the date on which any commitment to provide a loan was entered into, of the market price of the common stock of the eligible automobile manufacturer which received any loan under this title; or

“(ii) in the case of an eligible automobile manufacturer, the securities of which are not traded on a national securities exchange, the economic equivalent of the market price described in clause (i), as determined by the President’s designee.
“(C) TERMS OF PREFERRED STOCK WARRANT.—

“(i) IN GENERAL.—The initial exercise price for the preferred stock warrant shall be $0.01 per share or such greater amount as the corporate charter may require as the par value per share of the warrant preferred. The Government shall have the right to immediately exercise the warrants.

“(ii) REDEMPTION.—The warrant preferred may be redeemed at any time after exercise of the preferred stock warrant at 100 percent of its issue price, plus any accrued and unpaid dividends.

“(iii) OTHER TERMS AND CONDITIONS.—Other terms and conditions of the warrant preferred shall be determined by the President’s designee to protect the interests of taxpayers.

“(3) APPLICATION OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the requirements for the purchase of warrants under section 113(d)(2) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law
110–343) shall apply to any warrant or instrument
described in paragraph (1), including the
antidilution protection provisions therein.

“(b) EXECUTIVE COMPENSATION AND CORPORATE
GOVERNANCE.—

“(1) IN GENERAL.—During the period in which
any financial assistance under this title remains out-
standing, the eligible automobile manufacturer which
received such assistance shall be subject to—

“(A) the standards established by the
President’s designee under paragraph (2); and

“(B) the provisions of section 162(m)(5) of
the Internal Revenue Code of 1986, as applica-
ble.

“(2) STANDARDS REQUIRED.—The President’s
designee shall require any eligible automobile manu-
facturer which received any financial assistance
under this title to meet appropriate standards for
executive compensation and corporate governance.

“(3) SPECIFIC REQUIREMENTS.—The standards
established under paragraph (2) shall include—

“(A) limits on compensation that exclude
incentives for senior executive officers of an eli-
gible automobile manufacturer which received
assistance under this title to take unnecessary
and excessive risks that threaten the value of such manufacturer during the period that the loan is outstanding;

“(B) a provision for the recovery by such automobile manufacturer of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later found to be materially inaccurate;

“(C) a prohibition on such automobile manufacturer making any golden parachute payment to a senior executive officer during the period that the loan is outstanding;

“(D) a prohibition on such automobile manufacturer paying or accruing any bonus or incentive compensation during the period that the loan is outstanding to the 25 most highly-compensated employees; and

“(E) a prohibition on any compensation plan that would encourage manipulation of such automobile manufacturer’s reported earnings to enhance the compensation of any of its employees.

“(4) DIVESTITURE.—During the period in which any financial assistance provided under this
title to any eligible automobile manufacturer is outstanding, the eligible automobile manufacturer may not own or lease any private passenger aircraft, or have any interest in such aircraft, except that such eligible automobile manufacturer shall not be treated as being in violation of this provision with respect to any aircraft or interest in any aircraft that was owned or held by the manufacturer immediately before receiving such assistance, as long as the recipient demonstrates to the satisfaction of the President’s designee that all reasonable steps are being taken to sell or divest such aircraft or interest.

“(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) SENIOR EXECUTIVE OFFICER.—The term ‘senior executive officer’ means an individual who is one of the top five most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

“(B) GOLDEN PARACHUTE PAYMENT.—The term ‘golden parachute payment’ means any payment to a senior executive officer for
departure from a company for any reason, except for payments for services performed or benefits accrued.

“(c) Prohibition on Payment of Dividends.— Except with respect to obligations owed pursuant to law to any nonaffiliated party or any existing contract with any nonaffiliated party in effect as of December 2, 2008, no dividends or distributions of any kind, or the economic equivalent thereof (as determined by the President’s designee), may be paid by any eligible automobile manufacturer which receives financial assistance under this title, or any holding company or company that controls a majority stake in the eligible automobile manufacturer, while such financial assistance is outstanding.

“(d) Other Interests Subordinated.—

“(1) In general.—In the case of an eligible automobile manufacturer which received a loan under this title, to the extent permitted by the terms of any existing vested legal rights and the Constitution, any other obligation of such eligible automobile manufacturer shall be subordinate to such loan, and such loan shall be senior and prior to all obligations, liabilities, and debts of the eligible automobile manufacturer, and such eligible automobile manufacturer shall provide to the Government, all available secur-
rity and collateral against which the loans under this title shall be secured.

“(2) Applicability in certain cases.—In the case of an eligible automobile manufacturer referred to in paragraph (1), the securities of which are not traded on a national securities exchange, a loan under this title to the eligible automobile manufacturer shall—

“(A) be treated as a loan to any holding company of, or company that controls a majority stake in, the eligible automobile manufacturer; and

“(B) be senior and prior to all obligations, liabilities, and debts of any such holding company or company that controls a majority stake in the eligible automobile manufacturer.

“(e) Additional taxpayer protections.—

“(1) Discharge.—A discharge under title 11, United States Code, shall not discharge an eligible automobile manufacturer, or any successor in interest thereto, from any debt for financial assistance received pursuant to this title.

“(2) Exemption.—Any financial assistance provided to an eligible automobile manufacturer under this title shall be exempt from the automatic
stay established by section 362 of title 11, United States Code.

“(3) INTERESTED PARTIES.—Notwithstanding any provision of title 11, United States Code, any interest in property or equity rights of the United States arising from financial assistance provided to an eligible automobile manufacturer under this title shall remain unaffected by any plan of reorganization, except as the United States may agree to in writing.

“SEC. 410. OVERSIGHT AND AUDITS.

“(a) COMPTROLLER GENERAL OVERSIGHT.—

“(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall conduct ongoing oversight of the activities and performance of the President’s designee.

“(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

“(A) GAO PRESENCE.—The President’s designee shall provide to the Comptroller General appropriate space and facilities for purposes of this subsection.

“(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 communications, or other papers, things, or property belonging to or in use by the President’s designee, at such reasonable time as the Comptroller General 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 appropriate.

“(3) REPORTING.—The Comptroller General shall submit reports of findings under this section to Congress, regularly and not less frequently than once every 60 days. The Comptroller General may also submit special reports under this subsection, as warranted by the findings of its oversight activities.

“(b) SPECIAL INSPECTOR GENERAL.—It shall be the duty of the Special Inspector General established under section 121 of Public Law 110–343 to conduct, supervise, and coordinate audits and investigations of the President’s designee in addition to the duties of the Special Inspector General under such section and for such purposes. The
Special Inspector General shall also have the duties, responsibilities, and authorities of inspectors general under the Inspector General Act of 1978, including section 6 of such Act. In the event that the Office of the Special Inspector General is terminated, the Inspector General of the Department of the Treasury shall assume the responsibilities of the Special Inspector General under this subsection.

"(e) ACCESS TO RECORDS OF BORROWERS BY GAO.—Notwithstanding any other provision of law, during the period in which any financial assistance provided under this title is outstanding, the Comptroller General of the United States shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the eligible automobile manufacturer, and any subsidiary, affiliate, or entity holding an ownership interest of 50 percent or more of such eligible automobile manufacturer (collectively referred to in this section as ‘related entities’), and to any officer, director, or other agent or representative of the eligible automobile manufacturer and its related entities, at such reasonable times as the Comptroller General may request. The Comptroller General may
make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

“SEC. 411. REPORTING AND MONITORING.

“(a) Reporting on Consummation of Loans.—The President’s designee shall submit a report to the Congress on each bridge loan made under this title not later than 5 days after the date of the consummation of such loan.

“(b) Reporting on Restructuring Progress Assessment Measures.—The President’s designee shall submit a report to the Congress on the restructuring progress assessment measures established for each manufacturer under section 404(a) not later than 10 days after establishing the restructuring progress assessment measures.

“(c) Reporting on Evaluations.—The President’s designee shall submit a report to the Congress containing the detailed findings and conclusions of the President’s designee in connection with the evaluation of an eligible automobile manufacturer under section 404(b).

“(d) Reporting on Consequences for Failure to Comply.—The President’s designee shall submit a report to the Congress on the exercise of a right under section 408(e) to accelerate indebtedness of an eligible automobile manufacturer under this title or to cancel any other
financial assistance provided to such eligible automobile manufacturer, and the facts and circumstances on which such exercise was based, before the end of the 10-day period beginning on the date of the exercise of the right.

“(e) MONITORING.—The President’s designee shall monitor the use of loan funds received by eligible automobile manufacturers under this title, and shall report to Congress once every 90 days (beginning 30 days after the date of enactment of this title) on the progress of the ability of the recipient of the loan to continue operations and proceed with restructuring processes that restore the financial viability of the recipient and promote environmental sustainability.

“SEC. 412. REPORT TO CONGRESS ON LACK OF PROGRESS TOWARD ACHIEVING AN ACCEPTABLE NEGOTIATED PLAN.

“(a) AUTHORITY TO FACILITATE A NEGOTIATED PLAN.—At any such time as the President’s designee determines that action is necessary to avoid disruption to the economy or to achieve a negotiated plan, the President’s designee shall submit to Congress a report outlining any additional powers and authorities necessary to facilitate the completion of a negotiated plan required under section 405.
“(b) Impediments to Achieving Negotiated Plans.—If the President’s designee determines, on the basis of an evaluation by the President’s designee of the progress being made by an eligible automobile manufacturer toward meeting the restructuring progress assessment measures established under section 404, that adequate progress is not being made toward achieving a negotiated plan by March 31, 2009, the President’s designee shall submit to Congress a report detailing the impediments to achievement of a negotiated plan by the eligible automobile manufacturer.

“Sec. 413. Submission of Plan to Congress by the President’s Designee.

“Upon submission of a report pursuant to section 412(b), the President’s designee shall provide to Congress a plan that represents the judgement of the President’s designee as to the steps necessary to achieve the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer, consistent with the factors set forth in section 405(b), including through a negotiated plan, a plan to be implemented by legislation, or a reorganization pursuant to chapter 11 of title 11, United States Code.
“SEC. 414. COORDINATION WITH OTHER LAWS.

“(a) IN GENERAL.—No provision of this title may be construed as altering, affecting, or superseding—

“(1) the provisions of section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles;

“(2) any existing authority to provide financial assistance or liquidity for purposes of the day-to-day operations in the ordinary course of business or research and development.

“(b) ANTITRUST PROVISIONS.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (4), the antitrust laws shall not apply to meetings, discussions, or consultations among an eligible automobile manufacturer and its interested parties for the purpose of achieving a negotiated plan pursuant to section 405(a)(2).

“(2) EXCLUSIONS.—Paragraph (1) shall not apply with respect to price-fixing, allocating a market between competitors, monopolizing (or attempting to monopolize) a market, or boycotting.

“(3) ANTITRUST AGENCY PARTICIPATION.—The Attorney General of the United States and the Federal Trade Commission shall, to the extent prac-
ticable, receive reasonable advance notice of, and be permitted to participate in, each meeting, discussion, or consultation described in paragraph (1).

“(4) PRESERVATION OF ENFORCEMENT AUTHORITY.—Paragraph (1) shall not be construed to preclude the Attorney General of the United States or the Federal Trade Commission from bringing an enforcement action under the antitrust laws for injunctive relief.

“(5) SUNSET.—Paragraph (1) shall apply only with respect to meetings, discussions, or consultations that occur within the 3-year period beginning on the date of the enactment of this title.

“(6) DEFINITION.—For purposes of this subsection, the term ‘antitrust laws’—

“(A) has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section 5 applies to unfair methods of competition; and

“(B) includes any provision of State law that is similar to the laws referred to in subparagraph (A).
“SEC. 415. TREATMENT OF RESTRUCTURING FOR PURPOSES OF APPLYING LIMITATIONS ON NET OPERATING LOSS CARRYFORWARDS AND CERTAIN BUILT-IN LOSSES.

“Section 382 of the Internal Revenue Code of 1986 shall not apply in the case of an ownership change resulting from this title or pursuant to a restructuring plan approved under this title.

“SEC. 416. CLARIFICATION OF AVAILABILITY OF FINANCIAL SUPPORT FOR FINANCING ARMS.

“The authority of the President’s designee to provide assistance to any eligible automobile manufacturer includes the authority to provide support to finance company affiliates of the manufacturer to ensure that such affiliates have the necessary resources to continue to provide needed credit, including through dealer and other financing of consumer and business auto and other vehicle loans and dealer floor plan loans.”.

TITLE IV—CLARIFICATION OF AUTHORITY

SEC. 401. CONSUMER LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following new section:
"SEC. 137. CLARIFICATION OF AUTHORITY REGARDING CONSUMER LOANS."

"The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of consumer loans, including loans for autos and other vehicles and student loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank. In determining which classes of consumer loans to support, the Secretary may consider the applicable regulatory structure and level of consumer protection afforded to such loans.".

"SEC. 402. MUNICIPAL SECURITIES."

Section 101 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211) is amended by inserting after subsection (g) (as added by section 110 of this Act) the following new subsection:

"(h) CLARIFICATION OF AUTHORITY REGARDING MUNICIPAL SECURITIES.—

“(1) CLARIFICATION.—The authority of the Secretary to take any action under this title includes the authority to provide support to State and local governments, and other issuers of municipal securities, which are having difficulty accessing appropriate financing in the capital markets. Such support includes the direct purchase of municipal secu-
ities and providing credit enhancement in connection with municipal securities whose purchase is financed under any facility provided by the Board or any Federal reserve bank.

“(2) DEFINITION.—For purposes of this subsection, the term ‘municipal security’ has the meaning given the term ‘State or local bond’ in section 103(e) of the Internal Revenue Code of 1986 (26 U.S.C. 103(e)) and the regulations issued thereunder or any other entity eligible to issue bonds the interest on which is excludable from gross income for Federal income tax purposes.”.

SEC. 403. COMMERCIAL REAL ESTATE LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 137 (as added by section 401 of this title) the following new section:

SEC. 138. CLARIFICATION OF AUTHORITY REGARDING COMMERCIAL REAL ESTATE LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of commercial real estate loans, including loans for multifamily housing, including through purchase of asset-backed securities, di-
rectly or through the Board of Governors of the Federal Reserve System or any Federal reserve bank.”.

**SEC. 404. SMALL BUSINESS LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 138 (as added by section 403 of this title) the following new section:

“**SEC. 139. CLARIFICATION OF AUTHORITY REGARDING SMALL BUSINESS LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of small business loans, including farm loans, loans to minority and disadvantaged businesses, debtor-in-possession financing, dealer floor plan financing, and any other small business loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

**SEC. 405. COMMERCIAL LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 139 (as added by section 404 of this title) the following new section:
SEC. 140. CLARIFICATION OF AUTHORITY REGARDING COMMERCIAL LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of commercial loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

SEC. 406. AUTOMOBILE FLEET PURCHASE LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 140 (as added by section 405 of this title) the following new section:

SEC. 141. CLARIFICATION OF AUTHORITY REGARDING AUTOMOBILE FLEET PURCHASE LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of automobile fleet purchase loans, including loans for the automobile rental industry and other fleet purchasers, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

SEC. 407. CERTIFICATION.

Subsection (a) of section 105 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5215(a)) is amended—
(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) the use of the authority for the purposes specified in the amendments made by title IV of the TARP Reform and Accountability Act of 2009.”.

TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS

SEC. 501. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

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

(1) in subsection (e)—

(A) by striking paragraph (1);

(B) in paragraph (2)(B), by striking “90 percent” and inserting “93 percent”;

(C) by striking paragraph (7);

(D) in paragraph (9), by striking “by procuring” and all that follows through “by any other method”; and
(E) by redesignating paragraphs (2), (3), (4), (5), (6), (8), (9), (10), and (11) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9), respectively;

(2) in subsection (h)(2), by striking “, or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage”;

(3) by striking subsection (i) and inserting the following new subsection:

“(i) ANNUAL PREMIUMS.—

“(1) IN GENERAL.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect an annual premium in an amount equal to not less than 0.55 percent of the amount of the remaining insured principal balance of the mortgage and not more than 0.75 percent of such remaining insured principal balance, as determined according to a schedule established by the Board that assigns such annual premiums based upon the credit risk of the mortgage.

“(2) REDUCTION OR TERMINATION DURING MORTGAGE TERM.—Notwithstanding paragraph (1), the Secretary may provide that the annual premiums charged for refinanced eligible mortgages insured under this section are reduced over the term of the
mortgage or that the collection of such premiums is
discontinued at some time during the term of the
mortgage, in a manner that is consistent with poli-
cies for such reduction or discontinuation of annual
premiums charged for mortgages in accordance with
section 203(c).”;

(4) in subsection (k)—

(A) by striking the subsection heading and
inserting “EXIT FEE”;

(B) in paragraph (1), in the matter pre-
ceding subparagraph (A), by striking “such sale
or refinancing” and inserting “the mortgage
being insured under this section”; and

(C) by striking paragraph (2);

(5) in subsection (s)(3)(A)(ii), by striking “sub-
section (e)(1)(B) and such other” and inserting
“such”;

(6) in subsection (v), by inserting after the pe-
period at the end the following: “The Board shall con-
form documents, forms, and procedures for mort-
gages insured under this section to those in place for
mortgages insured under section 203(b) to the max-
imum extent possible consistent with the require-
ments of this section.”;
(7) in subsection (w)(1)(C), by striking “(e)(4)(A)” and inserting “(e)(3)(A)”; and

(8) by adding at the end the following new subsection:

“(x) PAYMENT TO EXISTING LOAN SERVICER.—The Board may establish a payment to the servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program.”.

TITLE VI—HOME BUYER STIMULUS

SEC. 601. HOME BUYER STIMULUS PROGRAM.

(a) IN GENERAL.—The Secretary of the Treasury (in this title referred to as the “Secretary”) shall establish and implement, within 60 days of the date of the enactment of the TARP Reform and Accountability Act of 2009, a program to stimulate demand for home purchases and reduce unsold inventories of residential properties, by providing mechanisms to ensure the availability of affordable, below-market interest rates on mortgages made for the purchase, by qualified home buyers, of 1- to 4-family residential properties.

(b) IMPLEMENTATION.—The Secretary shall execute the program under this section using the authority to purchase obligations and other securities issued by the Federal National Mortgage Association, the Federal Home
Loan Mortgage Corporation, and the Federal Home Loan
Banks made available by the Housing and Economic Re-
covery Act of 2008 and such other authority as the Sec-
retary may have (other than that provided by title I of
the Emergency Economic Stabilization Act of 2008) to
make affordable, below-market interest rates available di-
rectly through portfolio lenders.

(c) Availability of Affordable Loans Under
HOPE for Homeowners Program.—The Secretary, in
consultation with the Secretary of Housing and Urban De-
velopment, shall ensure that the affordable, below-market
interest rates made available through the program under
this section are made available in connection with mort-
gages made for refinancing eligible mortgages, as such
term is defined in section 257 of the National Housing
Act (12 U.S.C. 1715z–23), to be insured under the HOPE
for Homeowners Program under such section.

(d) Targeting for Housing Disaster Areas.—

(1) In General.—In carrying out the program
under this section, the Secretary shall take into con-
sideration impact of activities under the program on
housing disaster areas.

(2) Report.—Not later than 60 days after the
Secretary first has authority to purchase troubled
assets pursuant to section 115(a)(3) of the Emer-
gency Economic Stabilization Act of 2008 (12
U.S.C. 5225(a)(3)), the Secretary shall—

(A) evaluate the impact of existing Federal
foreclosure prevention activities on housing dis-
aster areas;

(B) make a determination of whether the
foreclosure rates and anticipated default rates
in such areas have been adequately reduced;
and

(C) submit a report to the Congress that
describes the impact of such activities and the
determination of the Secretary under subpara-
graph (B).

(3) ALTERNATIVE PROPOSALS.—If the Sec-
retary determines that the foreclosure rates and an-
ticipated default rates in housing disaster areas have
not been adequately reduced, the Secretary shall—

(A) consider carrying out alternative pro-
posals, including a proposal under which the
Federal Government makes available affordable
mortgages, including refinancings, through sub-
sidized financing or mortgage purchases; and

(B) establish and carry out alternative pro-
grams as the Secretary considers necesssary to
ensure that foreclosure prevention efforts are
most effective in the areas of greatest need, in-
cluding housing disaster areas.

(4) **Housing Disaster Areas.**—For purposes
of this section, the term “housing disaster area”
means a geographic area having both—

(A) a high foreclosure rate during the 12
months preceding the date of the enactment of
this Act, as measured by percentages of homes
in or having gone through foreclosure during
such period and compared to other areas; and

(B) a substantial decline in home prices
during the 12 months preceding the date of the
enactment of this Act, as measured by the Of-

cine of Federal Housing Enterprise and Over-
sight and compared to other areas.

**TITLE VII—FDIC PROVISIONS**

**SEC. 701. Permanent Increase in Deposit Insurance.**

(a) **Amendments to Federal Deposit Insurance**

Act.—Section 11(a)(1) of the Federal Deposit Insurance
Act (12 U.S.C. 1821(a)) is amended—

(1) in paragraph (1)(E), by striking

“$100,000” and inserting “$250,000”;

(2) in paragraph (1)(F)(i), by striking “2010”

and inserting “2015”;
(3) in subclause (I) of paragraph (1)(F)(i), by striking “$100,000” and inserting “$250,000”;

(4) in subclause (II) of paragraph (1)(F)(i), by striking “the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005” and inserting “calendar year 2008”; and

(5) in paragraph (3)(A)(iii), by striking “, except that $250,000 shall be substituted for $100,000 wherever such term appears in such paragraph”.

(b) **Repeal of EESA Provision.**—Section 136 of the Emergency Economic Stabilization Act (Public Law 110–343; 122 Stat. 3765) is hereby repealed.

(c) **Amendment to Federal Credit Union Act.**—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k) is amended—

(1) in paragraph (3)—

(A) by striking the opening quotation mark before “$250,000”;

(B) by striking “, except that $250,000 shall be substituted for $100,000 wherever such term appears in such section”; and

(C) by striking the closing quotation mark after the closing parenthesis; and
(2) in paragraph (5), by striking “$100,000” and inserting “$250,000”;  

SEC. 702. EXTENSION OF RESTORATION PLAN PERIOD.  
Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.  

SEC. 703. BORROWING AUTHORITY.  
Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—  

(1) by striking “$30,000,000,000” and inserting “$100,000,000,000”; and  

(2) by inserting prior to the last sentence, the following new sentence: “The Corporation may request in writing to borrow, and the Secretary may authorize and approve the borrowing of, additional amounts above $100,000,000,000 to the extent that the Board of Directors and the Secretary determine such borrowing to be necessary.”.  

SEC. 704. SYSTEMIC RISK SPECIAL ASSESSMENTS.  
Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:  

“(ii) Repayment of loss.—  

“(I) In general.—The Corporation shall recover the loss to the De-
posit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) Treatment of Depository Institution Holding Companies.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) Regulations.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall con-
sider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions; the effects on the industry; and such other factors as the Corporation deems appropriate.”

**TITLE VIII—REPORTS ON THE GUARANTEE OF CERTAIN CITIGROUP ASSETS**

**SEC. 801. REPORTS REQUIRED.**

(a) **Treasury Reports.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury, in coordination with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, shall issue a report to the Committee on Financial Services of the House of Representatives, the Committee on Banking of the Senate, and to the Comptroller General of the United States containing the following:

(1) The authority under which the Citigroup guarantee and purchases were made.

(2) A complete accounting of the specific loans, securities, and any other financial instruments in the asset pool covered by the Citigroup guarantee.
(b) GAO REPORT.—Not later than 60 days after the date the Secretary of the Treasury issues the report required by subsection (a), the Comptroller General of the United States shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking of the Senate examining the probable long-term cost to the Federal Government of the Citigroup guarantee.

(e) CITIGROUP GUARANTEE DEFINED.—For the purpose of this section, the term “Citigroup guarantee” means the agreement announced November 23, 2008, between Citigroup and the Treasury and the Federal Deposit Insurance Corporation to guarantee or purchase, partly through the use of funds authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), an asset pool of approximately $306 billion of loans and securities backed by residential and commercial real estate and other such assets on Citigroup’s balance sheet.

TITLE IX—GAO STUDY OF FINANCIAL CRISIS

SEC. 901. STUDY REQUIRED.

The Comptroller General of the United States shall—

(1) conduct an in-depth study of the root causes of the financial crisis; and
(2) submit a report to the Congress and the President, and transmit a copy to the Secretary of the Treasury, containing the findings and conclusions of the Comptroller General with respect to the study under paragraph (1), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate before the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 902. TREASURY STRATEGY AND TIMELINE.

Using the findings and conclusions of the Comptroller General in the report under section 901(2), within 30 days, the Secretary of the Treasury shall issue an overall strategy and timeline for implementing the recommendations contained in the report with the goal of financial stability and the well-being of taxpayers.

TITLE X—AGENCY MBS PURCHASE PROGRAM DISCLOSURE

SEC. 1001. DISCLOSURE REQUIRED.

Not later than 1 month after the date of the enactment of this Act, the Chairman of the Board of Governors of the Federal Reserve System shall issue to the Congress a report disclosing—
(1) the details of the competitive request for proposal process that was used to select the investment managers of the Federal Reserve System’s Agency Mortgage-Backed Security Purchase Program announced by the Federal Reserve System on November 25, 2008;

(2) all details of the contracts, including contract price, made between the Federal Reserve System and such investment managers; and

(3) steps that each such investment manager has taken to ensure that the investment manager has appropriately segregated the investment management team that implements the Agency Mortgage-Backed Security Purchase Program from other advisory and propriety trading activities undertaken by the investment manager and the members of the investment management team.


Attest: LORRAINE C. MILLER,

Clerk.