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and employee compensation plans re-
quired under paragraphs (a)(1), (2), and
(3) of this section.

(b) Exclusion of TARP recipients with
no employees or no affected employees.
For any period during which a TARP
recipient has no employees, or has no
SEO or compensation plan subject to
the review process, the TARP recipient
is not subject to the requirements of
paragraph (a) of this section.

(c) Application to private TARP recipi-
ents. The rules provided in paragraph
(a) of this section are also applicable to
TARP recipients that do not have secu-
rities registered with the SEC pursuant
to the Federal securities laws. A TARP
recipient that does not have securities
registered with the SEC pursuant to
the Federal securities laws and has re-
ceived $25,000,000 or less in financial as-
sistance is subject to paragraph (a) of
this section, except that, in lieu of es-
tablishing and maintaining a compen-
sation committee, such a TARP re-
cipient is permitted to ensure that all
the members of the board of directors
carry out the duties of the compensa-
tion committee as described in para-
graph (a) of this section. However, such
a TARP recipient will be required to estab-
lish and maintain a compensation com-
mittee satisfying the requirements of
paragraph (a) of this section for the
first fiscal year following a fiscal year
during which the TARP recipient ei-
ther registers securities with the SEC
pursuant to the Federal securities laws
or has received more than $25,000,000 in
financial assistance, and during subse-
quent years of the TARP period.

(d) Application to TARP recipients that
have never had an outstanding obliga-
tion. For TARP recipients that have
never had an outstanding obligation,
only paragraphs (a)(2), (a)(4), (a)(5) (but
for the narrative and certification re-
quirements of (a)(4) and (a)(5), applied
only to the requirements of paragraph
(a)(2)), (b) and (c) of this §30.4 (Q–4)
shall apply.

§ 30.5  Q–5: How does a TARP recipient
comply with the requirements under
§30.4 (Q–4) of this part that the
compensation committee dis-
cuss, evaluate, and review the SEO
compensation plans and employee
compensation plans to ensure that
the SEO compensation plans do not
encourage the SEOs to take unnec-
essary and excessive risks that
threaten the value of the TARP re-
cipient, or that the employee com-
pensation plans do not pose unnec-
essary risks to the TARP recipient?

At least every six months, the compen-
sation committee must discuss,
evaluate, and review with the TARP
recipient’s senior risk officers any
risks (including long-term as well as
short-term risks) that the TARP re-
cipient faces that could threaten the
value of the TARP recipient. The com-
pensation committee must identify the
features in the TARP recipient’s SEO
compensation plans that could lead
SEO to take these risks and the fea-
tures in the employee compensation
plans that pose risks to the TARP re-
cipient, including any features in the
SEO compensation plans and the em-
ployee compensation plans that would
encourage behavior focused on short-
term results and not on long-term
value creation. The compensation com-
mited is required to limit these fea-
tures to ensure that the SEOs are not
encouraged to take risks that are un-
necessary or excessive and that the
TARP recipient is not unnecessarily
exposed to risks.

§ 30.6  Q–6: How does a TARP recipient
comply with the requirement under
§30.4 (Q–4) of this part that the
compensation committee discuss,
evaluate, and review the employee
compensation plans to ensure that
these plans do not encourage the
manipulation of reported earnings
of the TARP recipient to enhance
the compensation of any of the
TARP recipient’s employees?

The compensation committee must
discuss, evaluate, and review at least
every six months the terms of each em-
ployee compensation plan and identify
and eliminate the features in these plans that could encourage the manip-
ulation of reported earnings of the
TARP recipient to enhance the com-
pensation of any employee.