

EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

[Title I of Division A of Public Law 110–343, Enacted October 3, 2008]

[As Amended Through P.L. 117–286, Enacted December 27, 2022]

【Currency: This publication is a compilation of Public Law 110-343. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—EMERGENCY ECONOMIC STABILIZATION

SECTION 1. [12 U.S.C. 5201 note] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Emergency Economic Stabilization Act of 2008”.

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

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

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

- Sec. 101. Purchases of troubled assets.
- Sec. 102. Insurance of troubled assets.
- Sec. 103. Considerations.
- Sec. 104. Financial Stability Oversight Board.
- Sec. 105. Reports.
- Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
- Sec. 107. Contracting procedures.
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- Sec. 109. Foreclosure mitigation efforts.
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- Sec. 111. Executive compensation and corporate governance.
 Sec. 112. Coordination with foreign authorities and central banks.
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 Sec. 114. Market transparency.
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 Sec. 121. Special Inspector General for the Troubled Asset Relief Program.
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 Sec. 130. Technical corrections.
 Sec. 131. Exchange Stabilization Fund reimbursement.
 Sec. 132. Authority to suspend mark-to-market accounting.
 Sec. 133. Study on mark-to-market accounting.
 Sec. 134. Recoupment.
 Sec. 135. Preservation of authority.
 Sec. 136. Temporary increase in deposit and share insurance coverage.

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SEC. 2. [12 U.S.C. 5201] PURPOSES.

The purposes of this Act are—

- (1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States; and
- (2) to ensure that such authority and such facilities are used in a manner that—
 - (A) protects home values, college funds, retirement accounts, and life savings;
 - (B) preserves homeownership and promotes jobs and economic growth;
 - (C) maximizes overall returns to the taxpayers of the United States; and
 - (D) provides public accountability for the exercise of such authority.

SEC. 3. [12 U.S.C. 5202] DEFINITIONS.

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

- (1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—
 - (A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and
 - (B) the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.
- (2) BOARD.—The term “Board” means the Board of Governors of the Federal Reserve System.

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

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

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

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

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

(8) TARP.—The term “TARP” means the Troubled Asset Relief Program established under section 101.

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

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

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

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

SEC. 101. [12 U.S.C. 5211] PURCHASES OF TROUBLED ASSETS.

(a) OFFICES; AUTHORITY.—

(1) AUTHORITY.—The Secretary is authorized to establish the Troubled Asset Relief Program (or “TARP”) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary.

(2) COMMENCEMENT OF PROGRAM.—Establishment of the policies and procedures and other similar administrative requirements imposed on the Secretary by this Act are not intended to delay the commencement of the TARP.

(3) ESTABLISHMENT OF TREASURY OFFICE.—

(A) IN GENERAL.—The Secretary shall implement any program under paragraph (1) through an Office of Financial Stability, established for such purpose within the Office of Domestic Finance of the Department of the Treasury, which office shall be headed by an Assistant Secretary of the Treasury, appointed by the President, by and with the advice and consent of the Senate, except that an interim Assistant Secretary may be appointed by the Secretary.

(B) CLERICAL AMENDMENTS.—

(i) TITLE 5.—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury, by striking “(9)” and inserting “(10)”.

(ii) TITLE 31.—Section 301(e) of title 31, United States Code, is amended by striking “9” and inserting “10”.

(b) CONSULTATION.—In exercising the authority under this section, the Secretary shall consult with the Board, the Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the National Credit Union Administration Board, and the Secretary of Housing and Urban Development.

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

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

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

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

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

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

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

(1) Mechanisms for purchasing troubled assets.

(2) Methods for pricing and valuing troubled assets.

(3) Procedures for selecting asset managers.

(4) Criteria for identifying troubled assets for purchase.

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

SEC. 102. [12 U.S.C. 5212] INSURANCE OF TROUBLED ASSETS.

(a) AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes the program authorized under section 101, then the Secretary shall establish a program to guarantee troubled assets originated or issued prior to March 14, 2008, including mortgage-backed securities.

(2) GUARANTEES.—In establishing any program under this subsection, the Secretary may develop guarantees of troubled assets and the associated premiums for such guarantees. Such guarantees and premiums may be determined by category or class of the troubled assets to be guaranteed.

(3) EXTENT OF GUARANTEE.—Upon request of a financial institution, the Secretary may guarantee the timely payment of principal of, and interest on, troubled assets in amounts not to exceed 100 percent of such payments. Such guarantee may be on such terms and conditions as are determined by the Secretary, provided that such terms and conditions are consistent with the purposes of this Act.

(b) REPORTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall report to the appropriate committees of Congress on the program established under subsection (a).

(c) PREMIUMS.—

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

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

(3) MINIMUM LEVEL.—The premiums referred to in paragraph (1) shall be set by the Secretary at a level necessary to create reserves sufficient to meet anticipated claims, based on

an actuarial analysis, and to ensure that taxpayers are fully protected.

(4) ADJUSTMENT TO PURCHASE AUTHORITY.—The purchase authority limit in section 115 shall be reduced by an amount equal to the difference between the total of the outstanding guaranteed obligations and the balance in the Troubled Assets Insurance Financing Fund.

(d) TROUBLED ASSETS INSURANCE FINANCING FUND.—

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

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

(3) PAYMENTS FROM FUND.—The Secretary shall make payments from amounts deposited in the Fund to fulfill obligations of the guarantees provided to financial institutions under subsection (a).

SEC. 103. [12 U.S.C. 5213] CONSIDERATIONS.

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

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

(2) providing stability and preventing disruption to financial markets in order to limit the impact on the economy and protect American jobs, savings, and retirement security;

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

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

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

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

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

(8) protecting the retirement security of Americans by purchasing troubled assets held by or on behalf of an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the Internal Revenue Code of 1986, except that such authority shall not extend to any compensation arrangements subject to section 409A of such Code; and

(9) the utility of purchasing other real estate owned and instruments backed by mortgages on multifamily properties.

SEC. 104. [12 U.S.C. 5214] FINANCIAL STABILITY OVERSIGHT BOARD.

(a) **ESTABLISHMENT.**—There is established the Financial Stability Oversight Board, which shall be responsible for—

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

(A) policies implemented by the Secretary and the Office of Financial Stability created under sections 101 and 102, including the appointment of financial agents, the designation of asset classes to be purchased, and plans for the structure of vehicles used to purchase troubled assets; and

(B) the effect of such actions in assisting American families in preserving home ownership, stabilizing financial markets, and protecting taxpayers;

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

(3) reporting any suspected fraud, misrepresentation, or malfeasance to the Special Inspector General for the Troubled Assets Relief Program or the Attorney General of the United States, consistent with section 535(b) of title 28, United States Code.

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

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

(2) the Secretary;

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

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

(5) the Secretary of Housing and Urban Development.

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

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

(e) **ADDITIONAL AUTHORITIES.**—In addition to the responsibilities described in subsection (a), the Financial Stability Oversight Board shall have the authority to ensure that the policies implemented by the Secretary are—

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

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

(3) consistent with protecting taxpayers, in accordance with section 113(a).

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

(g) REPORTS.—The Financial Stability Oversight Board shall report to the appropriate committees of Congress and the Congressional Oversight Panel established under section 125, not less frequently than quarterly, on the matters described under subsection (a)(1).

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

- (1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or
- (2) the date of expiration of the last insurance contract issued under section 102.

SEC. 105. [12 U.S.C. 5215] REPORTS.

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

- (1) an overview of actions taken by the Secretary, including the considerations required by section 103 and the efforts under section 109;
- (2) the actual obligation and expenditure of the funds provided for administrative expenses by section 118 during such period and the expected expenditure of such funds in the subsequent period; and
- (3) a detailed financial statement with respect to the exercise of authority under this Act, including—
 - (A) all agreements made or renewed;
 - (B) all insurance contracts entered into pursuant to section 102;
 - (C) all transactions occurring during such period, including the types of parties involved;
 - (D) the nature of the assets purchased;
 - (E) all projected costs and liabilities;
 - (F) operating expenses, including compensation for financial agents;
 - (G) the valuation or pricing method used for each transaction; and
 - (H) a description of the vehicles established to exercise such authority.

(b) TRANCHE REPORTS TO CONGRESS.—

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

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

(B) a description of the pricing mechanism for the transactions;

(C) a justification of the price paid for and other financial terms associated with the transactions;

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

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

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

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

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

(1) recommendations regarding—

(A) whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system; and

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

(2) the rationale underlying such recommendations.

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

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

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

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 106. [12 U.S.C. 5216] RIGHTS; MANAGEMENT; SALE OF TROUBLED ASSETS; REVENUES AND SALE PROCEEDS.

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

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

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

(d) **TRANSFER TO TREASURY.**—Revenues of, and proceeds from the sale of troubled assets purchased under this Act, or from the sale, exercise, or surrender of warrants or senior debt instruments acquired under section 113 shall be paid into the general fund of the Treasury for reduction of the public debt.

(e) **APPLICATION OF SUNSET TO TROUBLED ASSETS.**—The authority of the Secretary to hold any troubled asset purchased under this Act before the termination date in section 120, or to purchase or fund the purchase of a troubled asset under a commitment entered into before the termination date in section 120, is not subject to the provisions of section 120.

(f) **REPORT.**—The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).

SEC. 107. [12 U.S.C. 5217] CONTRACTING PROCEDURES.

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

(b) **ADDITIONAL CONTRACTING REQUIREMENTS.**—In any solicitation or contract where the Secretary has, pursuant to subsection (a), waived any provision of the Federal Acquisition Regulation pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure, to the maximum extent practicable, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4))), and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term “individual with disability” has the same meaning as the term “handicapped individual” as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)), in that solicitation or contract, including contracts to asset managers, servicers, property managers, and other service providers or expert consultants.

(c) **ELIGIBILITY OF FDIC.**—Notwithstanding subsections (a) and (b), the Corporation—

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

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

SEC. 108. [12 U.S.C. 5218] CONFLICTS OF INTEREST.

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

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

(2) the purchase of troubled assets;

(3) the management of the troubled assets held;

(4) post-employment restrictions on employees; and

(5) any other potential conflict of interest, as the Secretary deems necessary or appropriate in the public interest.

(b) **TIMING.**—Regulations or guidelines required by this section shall be issued as soon as practicable after the date of enactment of this Act.

SEC. 109. [12 U.S.C. 5219] FORECLOSURE MITIGATION EFFORTS.

(a) **RESIDENTIAL MORTGAGE LOAN SERVICING STANDARDS.**—

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

(2) **WAIVER OF CERTAIN PROVISIONS IN CONNECTION WITH LOAN MODIFICATIONS.**—The Secretary shall not be required to apply executive compensation restrictions under section 111, or to receive warrants or debt instruments under section 113, solely in connection with any loan modification under this section.

(b) **COORDINATION.**—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 110(a)(1)(C)), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and 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 residential rental property, 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 for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.

SEC. 110. [12 U.S.C. 5220] ASSISTANCE TO HOMEOWNERS.

(a) **DEFINITIONS.**—As used in this section—

(1) the term “Federal property manager” means—

(A) the Federal Housing Finance Agency, in its capacity as conservator of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

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

(C) the Board, with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, other than mortgages or securities held, owned, or controlled in connection with open market operations under section 14 of the Federal Reserve Act (12 U.S.C. 353), or as collateral for an advance or discount that is not in default;

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

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

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

(b) **HOMEOWNER ASSISTANCE BY AGENCIES.**—

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

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

(A) reduction in interest rates;

(B) reduction of loan principal; and

(C) other similar modifications.

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

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

(B) that modifications take into account the need for operating funds to maintain decent and safe conditions at the property.

(4) TIMING.—Each Federal property manager shall develop and begin implementation of the plan required by this subsection not later than 60 days after the date of enactment of this Act.

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

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

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

(1) encourage implementation by the loan servicers of loan modifications developed under subsection (b); and

(2) assist in facilitating any such modifications, to the extent possible.

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

SEC. 111. [12 U.S.C. 5221] EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term “senior executive officer” means an individual who is 1 of the top 5 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.

(2) 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.

(3) TARP RECIPIENT.—The term “TARP recipient” means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(4) COMMISSION.—The term “Commission” means the Securities and Exchange Commission.

(5) PERIOD IN WHICH OBLIGATION IS OUTSTANDING; RULE OF CONSTRUCTION.—For purposes of this section, the period in which any obligation arising from financial assistance provided under the TARP remains outstanding does not include any period during which the Federal Government only holds warrants to purchase common stock of the TARP recipient.

(b) EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.—

(1) ESTABLISHMENT OF STANDARDS.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(A) the standards established by the Secretary under this section; and

(B) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(2) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(3) SPECIFIC REQUIREMENTS.—The standards established under paragraph (2) shall include the following:

(A) Limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding.

(B) A provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate.

(C) A prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding.

(D)(i) A prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, except that any prohibition developed under this paragraph shall not apply to the payment of long-term restricted stock by such TARP recipient, provided that such long-term restricted stock—

(I) does not fully vest during the period in which any obligation arising from financial assistance provided to that TARP recipient remains outstanding;

(II) has a value in an amount that is not greater than $\frac{1}{3}$ of the total amount of annual compensation of the employee receiving the stock; and

(III) is subject to such other terms and conditions as the Secretary may determine is in the public interest.

(ii) The prohibition required under clause (i) shall apply as follows:

(I) For any financial institution that received financial assistance provided under the TARP equal to less than \$25,000,000, the prohibition shall apply only to the most highly compensated employee of the financial institution.

(II) For any financial institution that received financial assistance provided under the TARP equal to at least \$25,000,000, but less than \$250,000,000, the prohibition shall apply to at least the 5 most highly-compensated employees of the financial institution, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

(III) For any financial institution that received financial assistance provided under the TARP equal to at least \$250,000,000, but less than \$500,000,000, the prohibition shall apply to the senior executive officers and at least the 10 next most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

(IV) For any financial institution that received financial assistance provided under the TARP equal to \$500,000,000 or more, the prohibition shall apply to the senior executive officers and at least the 20 next most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

(iii) The prohibition required under clause (i) shall not be construed to prohibit any bonus payment required to be paid pursuant to a written employment contract executed on or before February 11, 2009, as such valid employment contracts are determined by the Secretary or the designee of the Secretary.

(E) A prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees.

(F) A requirement for the establishment of a Board Compensation Committee that meets the requirements of subsection (c).

(4) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this section—

(A) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(B) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

(c) BOARD COMPENSATION COMMITTEE.—

(1) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(2) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

(3) COMPLIANCE BY NON-SEC REGISTRANTS.—In the case of any TARP recipient, the common or preferred stock of which is not registered pursuant to the Securities Exchange Act of 1934, and that has received \$25,000,000 or less of TARP assistance, the duties of the Board Compensation Committee under this subsection shall be carried out by the board of directors of such TARP recipient.

(d) LIMITATION ON LUXURY EXPENDITURES.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

(e) SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—

(1) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(2) NONBINDING VOTE.—A shareholder vote described in paragraph (1) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(3) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of the American Recovery and Reinvestment Act of 2009, the Commission shall issue any final rules and regulations required by this subsection.

(f) REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.—

(1) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to the senior executive officers and the next 20 most highly-compensated employees of each entity receiving TARP assistance before the date of enactment of the American Recovery and Reinvestment Act of 2009, to determine whether any such payments were inconsistent with the purposes of this section or the TARP or were otherwise contrary to the public interest.

(2) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in paragraph (1), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

(g) NO IMPEDIMENT TO WITHDRAWAL BY TARP RECIPIENTS.—Subject to consultation with the appropriate Federal banking agency (as that term is defined in section 3 of the Federal Deposit Insurance Act), if any, the Secretary shall permit a TARP recipient to repay any assistance previously provided under the TARP to such financial institution, without regard to whether the financial institution has replaced such funds from any other source or to any waiting period, and when such assistance is repaid, the Secretary, at the market price, may liquidate warrants associated with such assistance.

(h) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.

SEC. 112. [12 U.S.C. 5222] COORDINATION WITH FOREIGN AUTHORITIES AND CENTRAL BANKS.

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

SEC. 113. [12 U.S.C. 5223] MINIMIZATION OF LONG-TERM COSTS AND MAXIMIZATION OF BENEFITS FOR TAXPAYERS.

(a) LONG-TERM COSTS AND BENEFITS.—

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

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

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

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

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

(b) USE OF MARKET MECHANISMS.—In making purchases under this Act, the Secretary shall—

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

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

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

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

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

(A) in the case of a financial institution, the securities of which are traded on a national securities exchange, a warrant giving the right to the Secretary to receive non-voting common stock or preferred stock in such financial institution, or voting stock with respect to which, the Secretary agrees not to exercise voting power, as the Secretary determines appropriate; or

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

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

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

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

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

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

(C) **CONVERSION.**—The warrant shall provide that if, after the warrant is received by the Secretary under this subsection, the financial institution that issued the warrant is no longer listed or traded on a national securities exchange or securities association, as described in paragraph (1)(A), such warrants shall convert to senior debt, or contain appropriate protections for the Secretary to ensure that the Treasury is appropriately compensated for the value of the warrant, in an amount determined by the Secretary.

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

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

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

(3) **EXCEPTIONS.**—

(A) **DE MINIMIS.**—The Secretary shall establish de minimis exceptions to the requirements of this subsection, based on the size of the cumulative transactions of troubled assets purchased from any one financial institution for the duration of the program, at not more than \$100,000,000.

(B) **OTHER EXCEPTIONS.**—The Secretary shall establish an exception to the requirements of this subsection and appropriate alternative requirements for any participating financial institution that is legally prohibited from issuing

securities and debt instruments, so as not to allow circumvention of the requirements of this section.

SEC. 114. [12 U.S.C. 5224] MARKET TRANSPARENCY.

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

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

SEC. 115. [12 U.S.C. 5225] GRADUATED AUTHORIZATION TO PURCHASE.

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

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

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

(3) If, at any time after the certification in paragraph (2) has been made, the President transmits to the Congress a written report detailing the plan of the Secretary to exercise the authority under this paragraph, unless there is enacted, within 15 calendar days of such transmission, a joint resolution described in subsection (c), effective upon the expiration of such 15-day period, such authority shall be limited to \$700,000,000,000, as such amount is reduced by \$1,259,000,000,¹ as such amount is reduced by \$1,244,000,000,¹.

(4) For purposes of this subsection, the amount of authority considered to be exercised by the Secretary shall not be reduced by—

(A) any amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act from repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP

¹Double commas so in law. See amendments made by sections 202(b) and 402(f) of division A of Public Law 111–22.

Section 1302(1)(A) of Public Law 111–203 (124 Stat. 2133) provides for an amendment to section 115(a)(3) as follows:

(A) by striking “, \$700,000,000,000, as such amount is reduced by \$1,259,000,000, as such amount is reduced by \$1,244,000,000” and inserting “\$475,000,000,000”; and

The amendment could not be executed because the matter proposed to be struck does not appear. It probably should have been to strike “\$700,000,000,000, as such amount is reduced by \$1,259,000,000,, as such amount is reduced by \$1,244,000,000,,” and insert “\$475,000,000,000”.

or any other program enacted by the Secretary under the authorities granted to the Secretary under this Act;

(B) any amounts committed for any guarantees pursuant to the TARP that became or become uncommitted; or

(C) any losses realized by the Secretary.

(5) No authority under this Act may be used to incur any obligation for a program or initiative that was not initiated prior to June 25, 2010.

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

(c) JOINT RESOLUTION OF DISAPPROVAL.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may not exercise any authority to make purchases under this Act with regard to any amount in excess of \$350,000,000,000 previously obligated, as described in this section if, within 15 calendar days after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3), there is enacted into law a joint resolution disapproving the plan of the Secretary with respect to such additional amount.

(2) CONTENTS OF JOINT RESOLUTION.—For the purpose of this section, the term “joint resolution” means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the report of the plan of the Secretary referred to in subsection (a)(3) is received by Congress;

(B) which does not have a preamble;

(C) the title of which is as follows: “Joint resolution relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008”; and

(D) the matter after the resolving clause of which is as follows: “That Congress disapproves the obligation of any amount exceeding the amounts obligated as described in paragraphs (1) and (2) of section 115(a) of the Emergency Economic Stabilization Act of 2008.”.

(d) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such report;

(2) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in subsection (a)(3). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(3) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in subsection (a)(3), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(4) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(e) FAST TRACK CONSIDERATION IN SENATE.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(2) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(3) FLOOR CONSIDERATION.—

(A) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) and ending on the 6th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(B) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be

divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(C) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(f) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(1) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

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

(B) With respect to a joint resolution of the House receiving the resolution—

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

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

(2) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

(3) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(4) CONSIDERATION AFTER PASSAGE.—

(A) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3).

(B) VETOES.—If the President vetoes the joint resolution—

(i) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3), and

(ii) debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(5) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—
This subsection and subsections (c), (d), and (e) are enacted by Congress—

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

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

SEC. 116. [12 U.S.C. 5226] OVERSIGHT AND AUDITS.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall, upon establishment of the troubled assets relief program under this Act (in this section referred to as the “TARP”), commence ongoing oversight of the activities and performance of the TARP and of any agents and representatives of the TARP (as related to the agent or representative’s activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act. The subjects of such oversight shall include the following:

(A) The performance of the TARP in meeting the purposes of this Act, particularly those involving—

(i) foreclosure mitigation;

(ii) cost reduction;

(iii) whether it has provided stability or prevented disruption to the financial markets or the banking system;

(iv) whether it has protected taxpayers; and

(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.

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

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

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

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

(F) Compliance with all applicable laws and regulations by the TARP, its agents and representatives.

(G) The efforts of the TARP to prevent, identify, and minimize conflicts of interest involving any agent or representative performing activities on behalf of or under the authority of the TARP.

(H) The efficacy of contracting procedures pursuant to section 107(b), including, as applicable, the efforts of the TARP in evaluating proposals for inclusion and contracting to the maximum extent possible of minorities (as such term is defined in 1204(c) of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1811 note), women, and minority- and women-owned businesses, including ascertaining and reporting the total amount of fees paid and other value delivered by the TARP to all of its agents and representatives, and such amounts paid or delivered to such firms that are minority- and women-owned businesses (as such terms are defined in section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a)).

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

(A) DEFINITION.—In this paragraph, the term “governmental unit” has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

(B) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

(C) ACCESS TO RECORDS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, 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 TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other

records as the Comptroller General determines appropriate.

(D) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

(E) RESTRICTION ON PUBLIC DISCLOSURE.—

(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.

(F) REIMBURSEMENT OF COSTS.—The Treasury shall reimburse the Government Accountability Office for the full cost of any such oversight activities as billed therefor by the Comptroller General of the United States. Such reimbursements shall be credited to the appropriation account “Salaries and Expenses, Government Accountability Office” current when the payment is received and remain available until expended.

(3) REPORTING.—The Comptroller General shall submit reports of findings under this section annually to the appropriate committees of Congress, and the Special Inspector General for the Troubled Asset Relief Program established under this Act on the activities and performance of the TARP. The Comptroller may also submit special reports under this subsection as warranted by the findings of its oversight activities.

(b) COMPTROLLER GENERAL AUDITS.—

(1) ANNUAL AUDIT.—The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements prepared in accordance with generally accepted accounting principles, and the Comptroller General shall annually audit such statements in accordance with generally accepted auditing standards. The Treasury shall reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General. Such reimbursements shall be credited to the appropriation account “Salaries and Expenses, Government Accountability Office” current when the payment is received and remain available until expended. The financial statements pre-

pared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31, United States Code.

(2) **AUTHORITY.**—The Comptroller General may audit the programs, activities, receipts, expenditures, and financial transactions of the TARP and any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act.

(3) **CORRECTIVE RESPONSES TO AUDIT PROBLEMS.**—The TARP shall—

(A) take action to address deficiencies identified by the Comptroller General or other auditor engaged by the TARP; or

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

(c) **INTERNAL CONTROL.**—

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

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

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

(C) compliance with applicable laws and regulations.

(2) **REPORTING.**—In conjunction with each annual financial statement issued under this section, the TARP shall—

(A) state the responsibility of management for establishing and maintaining adequate internal control over financial reporting; and

(B) state its assessment, as of the end of the most recent year covered by such financial statement of the TARP, of the effectiveness of the internal control over financial reporting.

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

(e) **TERMINATION.**—Any oversight, reporting, or audit requirement under this section shall terminate on the later of—

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

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 117. [12 U.S.C. 5227] STUDY AND REPORT ON MARGIN AUTHORITY.

(a) **STUDY.**—The Comptroller General shall undertake a study to determine the extent to which leverage and sudden deleveraging of financial institutions was a factor behind the current financial crisis.

(b) **CONTENT.**—The study required by this section shall include—

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

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

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

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

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

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

SEC. 118. [12 U.S.C. 5228] FUNDING.

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

SEC. 119. [12 U.S.C. 5229] JUDICIAL REVIEW AND RELATED MATTERS.

(a) JUDICIAL REVIEW.—

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

(2) LIMITATIONS ON EQUITABLE RELIEF.—

(A) INJUNCTION.—No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, other than to remedy a violation of the Constitution.

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

(C) PRELIMINARY INJUNCTION.—Any request for a preliminary injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis consistent with the pro-

visions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

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

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

(4) STAYS.—Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued.

(b) RELATED MATTERS.—

(1) TREATMENT OF HOMEOWNERS' RIGHTS.—The terms of any residential mortgage loan that is part of any purchase by the Secretary under this Act shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this Act.

(2) SAVINGS CLAUSE.—Any exercise of the authority of the Secretary pursuant to this Act shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary. Except as established in any contract, a servicer of pooled residential mortgages owes any duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer takes reasonable loss mitigation actions, including partial payments.

SEC. 120. [12 U.S.C. 5230] TERMINATION OF AUTHORITY.

(a) TERMINATION.—The authorities provided under sections 101(a), excluding section 101(a)(3), and 102 shall terminate on December 31, 2009.

(b) EXTENSION UPON CERTIFICATION.—The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this Act to expire not later than 2 years from the date of enactment of this Act. Such certification shall include a justification of why the extension is necessary to assist American families and stabilize financial markets, as well as the

expected cost to the taxpayers for such an extension. Notwithstanding the foregoing, the Secretary may further extend the authority provided under this Act to expire on December 31, 2017, provided that (1) any such extension shall apply only with respect to current program participants in the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, and (2) funds obligated following such extension shall not exceed \$2,000,000,000.

SEC. 121. [12 U.S.C. 5231] SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.

(a) **OFFICE OF INSPECTOR GENERAL.**—There is hereby established the Office of the Special Inspector General for the Troubled Asset Relief Program.

(b) **APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.**—(1) The head of the Office of the Special Inspector General for the Troubled Asset Relief Program is the Special Inspector General for the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), who shall be appointed by the President, by and with the advice and consent of the Senate.

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

(3) The nomination of an individual as Special Inspector General shall be made as soon as practicable after the establishment of any program under sections 101 and 102.

(4) The Special Inspector General shall be removable from office in accordance with the provisions of section 403(b) of title 5, United States Code.

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

(6) The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 403(e) of title 5, United States Code.

(c) **DUTIES.**—(1) It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under any program established by the Secretary under section 101, and the management by the Secretary of any program established under section 102, including by collecting and summarizing the following information:

(A) A description of the categories of troubled assets purchased or otherwise procured by the Secretary.

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

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

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

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

(F) A current estimate of the total amount of troubled assets purchased pursuant to any program established under sec-

tion 101, the amount of troubled assets on the books of the Treasury, the amount of troubled assets sold, and the profit and loss incurred on each sale or disposition of each such troubled asset.

(G) A listing of the insurance contracts issued under section 102.

(2) The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under chapter 4 of title 5, United States Code.

(4)(A)² Except as provided under subparagraph (B) and in addition to the duties specified in paragraphs (1), (2), and (3), the Special Inspector General shall have the authority to conduct, supervise, and coordinate an audit or investigation of any action taken under this title as the Special Inspector General determines appropriate.

(B) Subparagraph (A) shall not apply to any action taken under section 115, 116, 117, or 125.

(d) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (c), the Special Inspector General shall have the authorities provided in section 406 of title 5, United States Code.

(2) The Special Inspector General shall carry out the duties specified in subsection (c)(1) and (4) in accordance with section 404(b)(1) of title 5, United States Code.

(3)³ The Office of the Special Inspector General for the Troubled Asset Relief Program shall be treated as an office included under section 406(f)(3) of title 5, United States Code, relating to the exemption from the initial determination of eligibility by the Attorney General.

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

(B)(i) Subject to clause (ii), the Special Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(ii) In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under clause (i) of this subparagraph—

(I) the Special Inspector General may not make any appointment on and after the date occurring 6 months after the

²Margin so in law.

³Margin so in law.

date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009;

(II) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

(III) no period of appointment may exceed the date on which the Office of the Special Inspector General terminates under subsection (k).

(2) The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of such title.

(3) The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

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

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

(5)(A) Except as provided under subparagraph (B), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Office of the Special Inspector General for the Troubled Asset Relief Program, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

(B) Subparagraph (A) shall apply to—

(i) not more than 25 employees at any time as designated by the Special Inspector General; and

(ii) pay periods beginning after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009.

(f) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Secretary shall—

(1)⁴ take action to address deficiencies identified by a report or investigation of the Special Inspector General or other auditor engaged by the TARP; or

(2)⁴ certify to appropriate committees of Congress that no action is necessary or appropriate.

(g) COOPERATION AND COORDINATION WITH OTHER ENTITIES.—In carrying out the duties, responsibilities, and authorities of the Special Inspector General under this section, the Special Inspector General shall work with each of the following entities, with a view toward avoiding duplication of effort and ensuring comprehensive

⁴ Margin for paragraphs (1) and (2) so in law.

oversight of the Troubled Asset Relief Program through effective cooperation and coordination:

- (1) The Inspector General of the Department of Treasury.
- (2) The Inspector General of the Federal Deposit Insurance Corporation.
- (3) The Inspector General of the Securities and Exchange Commission.
- (4) The Inspector General of the Federal Reserve Board.
- (5) The Inspector General of the Federal Housing Finance Board.
- (6) The Inspector General of any other entity as appropriate.

(h) COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 424 of title 5, United States Code, until the date of termination of the Office of the Special Inspector General for the Troubled Asset Relief Program.

(i) REPORTS.—(1) Not later than 60 days after the confirmation of the Special Inspector General, and not later than 30 days following the end of each fiscal quarter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during that fiscal quarter. Each report shall include, for the period covered by such report, a detailed statement of all purchases, obligations, expenditures, and revenues associated with any program established by the Secretary of the Treasury under sections 101 and 102, as well as the information collected under subsection (c)(1).

(2) Not later than September 1, 2009, the Special Inspector General shall submit a report to Congress assessing use of any funds, to the extent practical, received by a financial institution under the TARP and make the report available to the public, including posting the report on the home page of the website of the Special Inspector General within 24 hours after the submission of the report.

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

- (A) specifically prohibited from disclosure by any other provision of law;
- (B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or
- (C) a part of an ongoing criminal investigation.

(4) Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(5) Except as provided under paragraph (3), all reports submitted under this subsection shall be available to the public.

(j) FUNDING.—(1) Of the amounts made available to the Secretary of the Treasury under section 118, \$50,000,000 shall be available to the Special Inspector General to carry out this section, not later than 7 days after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009.

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

(k) **TERMINATION.**—The Office of the Special Inspector General shall terminate on the later of—

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

(2) the date of expiration of the last insurance contract issued under section 102.

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

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

SEC. 123. [12 U.S.C. 5232] CREDIT REFORM.

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

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

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

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

SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.

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

(1) in subsection (e)—

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

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

(C) in paragraph (4)(A)—

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

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

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

SEC. 125. [12 U.S.C. 5233] CONGRESSIONAL OVERSIGHT PANEL.

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

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

(1) **REGULAR REPORTS.**—

(A) **IN GENERAL.**—Regular reports of the Oversight Panel shall include the following:

(i) The use by the Secretary of authority under this Act, including with respect to the use of contracting authority and administration of the program.

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

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

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

(B) **TIMING.**—The reports required under this paragraph shall be submitted not later than 30 days after the first exercise by the Secretary of the authority under section 101(a) or 102, and every 30 days thereafter.

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

(3) **SPECIAL REPORT ON FARM LOAN RESTRUCTURING.**—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any

programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.

(c) MEMBERSHIP.—

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

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

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

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

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

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

(2) PAY.—Each member of the Oversight Panel shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.

(3) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Oversight Panel who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Panel.

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

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

(6) VACANCIES.—A vacancy on the Oversight Panel shall be filled in the manner in which the original appointment was made.

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

(d) STAFF.—

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

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

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

(e) POWERS.—

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

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

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

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

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

(g) **FUNDING FOR EXPENSES.**—

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

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

SEC. 126. FDIC AUTHORITY.

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

“(4) **FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.**—

“(A) **PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC NAMES.**—No person may represent or imply that any deposit liability, obligation, certificate, or share is insured or guaranteed by the Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation—

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

nership, business trust, association, or other business entity; or

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

“(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.—No person may knowingly misrepresent—

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

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

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

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

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

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

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

“(i) jurisdiction over—

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

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

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

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

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

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

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

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

“(A) TEMPORARY ORDER.—

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

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

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

“(ii) EFFECT OF ORDER.—Any temporary order issued under this subparagraph shall take effect upon service.

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

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

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

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

(c) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by adding at the end the following new paragraph:

“(11) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—No provision contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

“(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire,

“(B) prohibits any person from offering to acquire or acquiring, or

“(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of,

all or part of any insured depository institution, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under section 11 or 13, shall be enforceable against or impose any liability on such person, as such enforcement or liability shall be contrary to public policy.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in subsection (a)(3)—

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

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

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

SEC. 127. [12 U.S.C. 5234] COOPERATION WITH THE FBI.

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

SEC. 128. ACCELERATION OF EFFECTIVE DATE.

Section 203 of the Financial Services Regulatory Relief Act of 2006 (12 U.S.C. 461 note) is amended by striking “October 1, 2011” and inserting “October 1, 2008”.

SEC. 129. [12 U.S.C. 5235] DISCLOSURES ON EXERCISE OF LOAN AUTHORITY.

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

(1) the justification for exercising the authority; and

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

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

- (1) the status of the loan;
- (2) the value of the collateral held by the Federal reserve bank which initiated the loan; and
- (3) the projected cost to the taxpayers of the loan.

(c) CONFIDENTIALITY.—The information submitted to the Congress under this section shall be kept confidential, upon the written request of the Chairman of the Board, in which case it shall be made available only to the Chairpersons and Ranking Members of the Committees described in subsection (a).

(d) APPLICABILITY.—The provisions of this section shall be in force for all uses of the authority provided under section 13 of the Federal Reserve Act occurring during the period beginning on March 1, 2008 and ending on the after the date of enactment of this Act, and reports described in subsection (a) shall be required beginning not later than 30 days after that date of enactment, with respect to any such exercise of authority.

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

SEC. 130. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)), as amended by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110–289), is amended—

- (1) in subparagraph (A), by striking “In the case” and inserting “Except as provided in subparagraph (G), in the case”; and

- (2) by amending subparagraph (G) to read as follows:

“(G)(i) In the case of an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code—

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

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

“(ii) If a disclosure statement furnished within 3 business days of the written application (as provided under clause (i)(II)) contains an annual percentage rate which is subsequently rendered inaccurate, within the meaning of section 107(c), the creditor shall furnish another disclosure statement at the time of settlement or consummation of the transaction.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110–289).

SEC. 131. [12 U.S.C. 5236] EXCHANGE STABILIZATION FUND REIMBURSEMENT.

(a) **REIMBURSEMENT.**—The Secretary shall reimburse the Exchange Stabilization Fund established under section 5302 of title 31, United States Code, for any funds that are used for the Treasury Money Market Funds Guaranty Program for the United States money market mutual fund industry, from funds under this Act.

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

SEC. 132. [12 U.S.C. 5237] AUTHORITY TO SUSPEND MARK-TO-MARKET ACCOUNTING.

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

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

SEC. 133. [12 U.S.C. 5238] STUDY ON MARK-TO-MARKET ACCOUNTING.

(a) **STUDY.**—The Securities and Exchange Commission, in consultation with the Board and the Secretary, shall conduct a study on mark-to-market accounting standards as provided in Statement Number 157 of the Financial Accounting Standards Board, as such standards are applicable to financial institutions, including depository institutions. Such a study shall consider at a minimum—

- (1) the effects of such accounting standards on a financial institution's balance sheet;
- (2) the impacts of such accounting on bank failures in 2008;
- (3) the impact of such standards on the quality of financial information available to investors;
- (4) the process used by the Financial Accounting Standards Board in developing accounting standards;
- (5) the advisability and feasibility of modifications to such standards; and
- (6) alternative accounting standards to those provided in such Statement Number 157.

(b) **REPORT.**—The Securities and Exchange Commission shall submit to Congress a report of such study before the end of the 90-day period beginning on the date of the enactment of this Act con-

taining the findings and determinations of the Commission, including such administrative and legislative recommendations as the Commission determines appropriate.

SEC. 134. [12 U.S.C. 5239] RECOUPMENT.

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

SEC. 135. [12 U.S.C. 5240] PRESERVATION OF AUTHORITY.

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

SEC. 136. [12 U.S.C. 5241] TEMPORARY INCREASE IN DEPOSIT AND SHARE INSURANCE COVERAGE.

(a) **FEDERAL DEPOSIT INSURANCE ACT; TEMPORARY INCREASE IN DEPOSIT INSURANCE.—**

(1) **INCREASED AMOUNT.—**Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2013, section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) shall apply with “\$250,000” substituted for “\$100,000”.

(2) **BORROWING LIMITS TEMPORARILY LIFTED.—**During the period beginning on the date of enactment of this Act and ending on December 31, 2013, the Board of Directors of the Corporation may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 14(a) and 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a), 1825(c)).

(b) **FEDERAL CREDIT UNION ACT; TEMPORARY INCREASE IN SHARE INSURANCE.—**

(1) **INCREASED AMOUNT.—**Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2013, section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) shall apply with “\$250,000” substituted for “\$100,000”.

(2) **BORROWING LIMITS TEMPORARILY LIFTED.—**During the period beginning on the date of enactment of this Act and ending on December 31, 2013, the National Credit Union Administration Board may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)).

(c) **NOT FOR USE IN INFLATION ADJUSTMENTS.—**The temporary increase in the standard maximum deposit insurance amount made under this section shall not be used to make any inflation adjust-

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ment under section 11(a)(1)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(F)) for purposes of that Act or the Federal Credit Union Act.