

constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq.*)

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded Mandate on State, local, or Tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon

the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 944**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 18, 2009.

**Allen D. Klein,**  
*Regional Director, Western Region.*

■ For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

**PART 944—UTAH**

■ 1. The authority citation for part 944 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 944.15 Approval of Utah regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
May 19, 2009	December 7, 2009	UCA § 40–10–11, 40–10–17/Deletion of repeal dates for remining provisions.

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**DEPARTMENT OF THE TREASURY**

**31 CFR Part 30**

**RIN 1505–AC09**

**TARP Standards for Compensation and Corporate Governance**

**AGENCY:** Domestic Finance, Treasury.

**ACTION:** Interim final rule; correction.

**SUMMARY:** This document contains corrections to the preamble of an interim final rule that was published in the **Federal Register** on Monday, June 15, 2009 (74 FR 28394), relating to certain standards for compensation and corporate governance applicable to financial institutions receiving funds under the Troubled Assets Relief Program (TARP).

**FOR FURTHER INFORMATION CONTACT:**  
Office of Domestic Finance, Treasury (202) 927–6618 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The interim final rule the preamble of which is subject to these corrections is under section 111 of the Emergency Economic Stabilization Act of 2008, as amended.

**Need for Correction**

As published, the preamble to the interim final rule contains errors that may prove to be misleading and are in need of correction.

**Correction of Publication**

Accordingly, the publication of the interim final rule, which was the subject of FR Doc. E9–13868, published on June 15, 2009 (74 FR 28394), is corrected as follows:

1. On page 28399, column 3, in the preamble under the heading **SUPPLEMENTARY INFORMATION**, the first paragraph, line 26 the language “Section 30.10 (Q–10) of the Interim Final Rule states that TARP recipients will be subject during the TARP period to the bonus limitation requirements based on the total amount of financial assistance outstanding under the TARP.” is corrected to read “Section 30.10 (Q–10) of the Interim Final Rule states that TARP recipients will be subject during the TARP period to the bonus limitation requirements based on the gross amount of all financial assistance provided to the TARP recipient, valued at the time the financial assistance was received.”

2. On page 28403, column 2, in the preamble under the heading **Supplementary Information**, the carryover paragraph, line 33 the language “(15) certain employees named in the certification are the CEOs and most highly compensated employees for

the current fiscal year based on their compensation during the prior fiscal year;" is corrected to read "(15) an accurate list of the employees who are the SEOs and most highly compensated employees for the current fiscal year has been provided to the Treasury;"

Dated: November 30, 2009.

**Herbert M. Allison, Jr.,**

*Assistant Secretary for Financial Stability.*

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 30

#### RIN 1505-AC09

### TARP Standards for Compensation and Corporate Governance; Correction

**AGENCY:** Domestic Finance, Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to an interim final rule that was published in the **Federal Register** on Monday, June 15, 2009. The rule relates to certain standards for compensation and corporate governance applicable to financial institutions receiving funds under the Troubled Asset Relief Program (TARP).

**DATES:** *Effective date:* December 7, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Office of Domestic Finance, Treasury (202) 927-6618 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 15, 2009, Treasury published an interim final rule (74 FR 29394) entitled TARP Standards for Compensation and Corporate Governance. The interim final rule implemented certain provisions of section 111 of the Emergency Economic Stabilization Act of 2008, as amended (12 U.S.C. 5221) (EESA), which directs Treasury to establish executive compensation and corporate governance standards for entities receiving financial assistance under the TARP. This document makes several technical amendments to that interim final rule.

#### Need for Correction

As published, the interim final rule contains errors that may prove to be misleading and are in need of correction. Section 30.1 of the interim final rule contained definitions applicable for purposes of the interim final rule. The definition of "most highly compensated employee" had provided that, for purposes of identifying a most highly compensated

employee, senior executive officers (SEOs) were excluded. If this definition were applied literally with respect to Sections 30.10(b)(1)(i) and (ii), the definition would have the effect of exempting SEOs from the bonus limitations applicable to certain most highly compensated employees. Such a result would be contrary to the intent of the regulation and the language of EESA. Accordingly, this provision is corrected to provide that the terms "most highly compensated employee" or "most highly compensated employees" mean the employee or employees of the TARP recipient whose annual compensation is determined to be the highest among all employees of the TARP recipient, provided that, solely for purposes of identifying the employees who are subject to any rule applicable to both the SEOs and one or more of the most highly compensated employees of the TARP recipient, SEOs of the TARP recipient are excluded when identifying the most highly compensated employee(s). So, for instance, if a provision is applicable only to the most highly compensated employee of the TARP recipient, the most highly compensated employee of the TARP recipient is subject to the provision regardless of whether the employee is also a SEO. In contrast, if a provision is applicable to the SEOs and a certain number of the most highly compensated employees of the TARP recipient, the SEOs (because they are already subject to the provision) are excluded for purposes of determining the most highly compensated employees that are also subject to the provision.

Section 30.2 of the interim final rule provides that the requirements of section 111(c) (generally relating to the establishment and maintenance of an independent compensation committee and that committee's review of employee compensation plans, as well as the establishment of a company-wide excessive and luxury expenditures policy) apply through the last day of the TARP period for recipients with an obligation, and through the last day of the recipient's fiscal year including the sunset date (which is the date on which the authorities provided under EESA section 101 and 102 terminate, pursuant to EESA section 120, taking into account any extensions pursuant to EESA section 120(b)) for recipients that never had an obligation. However, the interim final rule erroneously stated that the requirements apply through the later of these dates. Because only one of these dates is potentially applicable to any specific TARP recipient, the "later of" language is inoperative, but may render

the provision confusing. Accordingly, Section 30.2 is revised to more clearly state the applicable time periods.

Section 30.13 of the interim final rule, relating to the requirement to permit a shareholder vote to approve certain executive compensation, is clarified to provide that TARP recipients must comply with the rules and regulations promulgated by the Securities and Exchange Commission (SEC) with respect to that requirement, but only to the extent the rules and regulations are applicable to the TARP recipient. Accordingly, a TARP recipient that is not subject to those rules because, for example, the TARP recipient is not required to register any securities with the SEC, is not required to permit such a vote.

Section 30.15 of the interim final rule, relating to certain certifications that the principal executive officer and the principal financial officer must provide, is revised to provide that the certification must state that the TARP recipient has provided the Treasury Department a complete and accurate list of the SEOs and the twenty next most highly compensated employees for the current fiscal year, with the non-SEOs ranked in descending order of level of annual compensation. Accordingly, a list of the names of the SEOs and the twenty next most highly compensated employees is not required to be provided in the certification, but may be provided separately. Section 30.15 is also corrected so that the model certification language reflects the deadlines set forth elsewhere in the regulation, and to correct certain cross-references.

#### Procedural Matters

The June 15, 2009 interim final rule was promulgated pursuant to EESA, as amended, which provides for authority and facilities that the Secretary of the Treasury can use immediately to restore liquidity and stability to the financial system of the United States. Because of exigencies in the financial markets and to encourage entities to choose or continue to participate in the TARP, Treasury issued the interim final rule without prior notice and comment and without a delayed effective date pursuant to 5 U.S.C. 553(b)(B) and (d)(3). Treasury invited interested members of the public to submit comments on the rule and will carefully consider all comments in developing a final rule. The comment period for the interim final rule closed on August 14, 2009.

This document makes technical amendments to the Code of Federal Regulations that do not otherwise