

SEC. 6. *General Provisions.* (a) Insofar as the Federal Advisory Committee Act, as amended ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] (the “Act”), may apply to the PCJC, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Secretary of the Treasury in accordance with the guidelines that have been issued by the Administrator of General Services.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 5202. Definitions

For purposes of this chapter, 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 5212 of this title.

(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 5211 of this title.

(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.

(Pub. L. 110-343, div. A, §3, Oct. 3, 2008, 122 Stat. 3766.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

SUBCHAPTER I—TROUBLED ASSETS RELIEF PROGRAM

§ 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 chapter 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 chapter 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) Omitted

(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 chapter, including, without limitation, the following:

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

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

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

(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 October 3, 2008, 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 chapter, 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.

(Pub. L. 110-343, div. A, title I, § 101, Oct. 3, 2008, 122 Stat. 3767.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2), (c), and (e), was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

CODIFICATION

Section is comprised of section 101 of div. A of Pub. L. 110-343. Subsec. (a)(3)(B) of section 101 of div. A of Pub. L. 110-343 amended section 5315 of Title 5, Government Organization and Employees, and section 301 of Title 31, Money and Finance.

§ 5212. Insurance of troubled assets

(a) Authority

(1) In general

If the Secretary establishes the program authorized under section 5211 of this title, 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 chapter.

(b) Reports

Not later than 90 days after October 3, 2008, 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 chapter and to provide sufficient reserves pursuant to paragraph (3).