

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).

(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 5225 of this title 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).

(Pub. L. 110-343, div. A, title I, § 102, Oct. 3, 2008, 122 Stat. 3768.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(3) and (c)(1), 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.

§ 5213. Considerations

In exercising the authorities granted in this chapter, 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 chapter;

(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 chapter;

(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 title 26, except that such authority shall not extend to any compensation arrangements subject to section 409A of such title; and

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

(Pub. L. 110-343, div. A, title I, § 103, Oct. 3, 2008, 122 Stat. 3770.)

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.

§ 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 chapter, including—

(A) policies implemented by the Secretary and the Office of Financial Stability created

under sections 5211 and 5212 of this title, 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 chapter; 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.

(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 chapter, 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 chapter;

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

(3) consistent with protecting taxpayers, in accordance with section 5223(a) of this title.

(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 chapter 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 5233 of this title, 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