

111TH CONGRESS
1ST SESSION

H. R. 384

AN ACT

To reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “TARP Reform and Accountability Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

Sec. 101. New conditionality for TARP-assisted institutions.

Sec. 102. Executive compensation and corporate governance.

Sec. 103. New lending by insured depository institutions that is attributable to
TARP investments and assistance.

Sec. 104. Other protections for the taxpayer.

Sec. 105. Availability of TARP funds to smaller community institutions.

Sec. 106. Increase in size and authority of Financial Stability Oversight Board.

Sec. 107. Inclusion of women and minorities.

Sec. 108. Analysis of use of assistance.

Sec. 109. Database of use of TARP funds.

Sec. 110. Clarification.

Sec. 111. Investment of TARP funds in credit unions taken into account in de-
termination of net worth.

Sec. 112. Treasury facilitated auction.

Sec. 113. Broadened Inspector General Authority.

TITLE II—FORECLOSURE RELIEF

Sec. 201. TARP foreclosure mitigation plan and implementation.

Sec. 202. Elements of plan.

Sec. 203. Program alternatives.

Sec. 204. Systematic foreclosure prevention and mortgage modification plan es-
tablished.

Sec. 205. Modification of plan.

Sec. 206. Servicer safe harbor.

Sec. 207. Foreclosure moratorium recommendation.

Sec. 208. Foreclosure prevention for affordable housing.

Sec. 209. Report by Congressional Oversight Panel.

Sec. 210. Mortgage modification data collecting and reporting.

TITLE III—AUTO INDUSTRY FINANCING AND RESTRUCTURING

Sec. 301. Short title.

Sec. 302. Direct loan provisions.

TITLE IV—CLARIFICATION OF AUTHORITY

Sec. 401. Consumer loans.

Sec. 402. Municipal securities.

Sec. 403. Commercial real estate loans.

Sec. 404. Small business loans.

Sec. 405. Commercial loans.

Sec. 406. Automobile fleet purchase loans.
 Sec. 407. Certification.

TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS

Sec. 501. Changes to HOPE for Homeowners Program.

TITLE VI—HOME BUYER STIMULUS

Sec. 601. Home buyer stimulus program.

TITLE VII—FDIC PROVISIONS

Sec. 701. Permanent increase in deposit insurance.
 Sec. 702. Extension of restoration plan period.
 Sec. 703. Borrowing authority.
 Sec. 704. Systemic risk special assessments.

TITLE VIII—REPORTS ON THE GUARANTEE OF CERTAIN CITIGROUP ASSETS

Sec. 801. Reports required.

TITLE IX—GAO STUDY OF FINANCIAL CRISIS

Sec. 901. Study required.
 Sec. 902. Treasury strategy and timeline.

TITLE X—AGENCY MBS PURCHASE PROGRAM DISCLOSURE

Sec. 1001. Disclosure required.

1 TITLE I—MODIFICATIONS TO **2 TARP AND TARP OVERSIGHT** **3 SEC. 101. NEW CONDITIONALITY FOR TARP-ASSISTED IN-** **4 STITUTIONS.**

5 (a) IN GENERAL.—Section 113 of the Emergency
6 Economic Stabilization Act of 2008 (12 U.S.C. 5223) is
7 amended by adding at the end the following new sub-
8 sections:

9 “(e) REPORTING, MONITORING AND ACCOUNT-
10 ABILITY.—

11 “(1) PERIODIC PUBLIC REPORTING ON USE OF
12 ASSISTANCE.—The Secretary shall require any as-

1 sisted institution that became an assisted institution
2 on or after October 3, 2008, to publicly report, not
3 less than quarterly, on such institution's use of the
4 assistance. Such reporting may be required directly
5 for nondepository institutions or through the appro-
6 priate Federal banking agency, as provided in sec-
7 tion 103.

8 “(2) ADDITIONAL REQUIREMENTS AND COMPLI-
9 ANCE.—The Secretary—

10 “(A) may establish additional reporting
11 and information requirements for any direct or
12 indirect recipient of any assistance or benefit at
13 any time on or after October 3, 2008, that in-
14 volves the obligation or expenditure, loan, or in-
15 vestment of funds available to the Secretary
16 under this title; and

17 “(B) shall establish appropriate mecha-
18 nisms to ensure appropriate use and compliance
19 with all terms of any use of funds made avail-
20 able under this title.

21 “(3) CONSULTATION.—The Secretary shall con-
22 sult with the appropriate Federal banking agencies
23 in establishing the reporting requirements under this
24 subsection that are applicable to insured depository
25 institutions.

1 “(4) ONLINE PUBLICATION OF PERIODIC RE-
2 PORTS.—The Secretary shall make publicly available
3 on the Internet each report made in accordance with
4 paragraph (1).

5 “(5) USE OF 2008 ASSISTANCE.—

6 “(A) COLLECTION OF INFORMATION.—Ef-
7 fective upon enactment of this paragraph, The
8 Secretary shall require any assisted institution
9 which received assistance under this title before
10 January 1, 2009, to provide sufficient informa-
11 tion with regard to such assistance as to inform
12 the Secretary of the precise use of such assist-
13 ance by the institution and the purpose for the
14 use.

15 “(B) ANALYSIS.—The Secretary shall con-
16 duct an analysis of the use of the assistance for
17 which information was received under subpara-
18 graph (A).

19 “(C) REPORT TO THE CONGRESS.—Within
20 30 days after the enactment of this paragraph,
21 the Secretary shall promptly submit a report
22 containing the findings and conclusion of the
23 Secretary on the use of the assistance referred
24 to in subparagraph (A), together with such rec-
25 ommendations for legislative or administrative

1 action as the Secretary may determine to be ap-
2 propriate, to the Committee on Financial Serv-
3 ices of the House of Representatives, the Com-
4 mittee on Banking, Housing, and Urban Affairs
5 of the Senate, and the Committees on Appro-
6 priations of the House of Representatives and
7 the Senate.

8 “(f) USE AND ACCOUNTABILITY FOR USE OF
9 FUNDS.—

10 “(1) INSURED DEPOSITORY INSTITUTION.—

11 “(A) INVESTMENT IN OR OTHER INJEC-
12 TION OF FUNDS INTO A DEPOSITORY INSTITU-
13 TION.—Except as provided in section 105, as a
14 condition for the provision of any investment in
15 the capital or assets of, or any other provision
16 of assistance to or for the benefit of, any in-
17 sured depository institution made after the date
18 of the enactment of the TARP Reform and Ac-
19 countability Act of 2009, the Secretary shall in-
20 corporate into the agreement for such invest-
21 ment or assistance an agreement between the
22 depository institution and the appropriate Fed-
23 eral banking agency with respect to such insti-
24 tution on the manner in which the funds are to
25 be used and benchmarks that the institution is

1 required to meet in using the assistance so as
2 to advance the purposes of this Act to strength-
3 en the soundness of the financial system and
4 the availability of credit to the economy.

5 “(B) EXAMINATIONS.—In the case of any
6 assisted insured depository institution that be-
7 came an assisted institution on or after October
8 3, 2008, the appropriate Federal banking agen-
9 cy shall specifically review at least once annu-
10 ally the use, by the institution, of assistance
11 made available under this Act and compliance
12 by the institution with the requirements estab-
13 lished by or pursuant to this title or by agree-
14 ment of the institution with the Secretary or
15 the appropriate Federal banking agency, includ-
16 ing executive compensation and any other spe-
17 cific agreement terms. Such review may be con-
18 ducted in connection with the regular full-site
19 examination, or any other examination.

20 “(C) COMPLIANCE PROCEDURES RE-
21 QUIRED.—Each appropriate Federal banking
22 agency shall prescribe regulations requiring as-
23 sisted insured depository institutions to estab-
24 lish and maintain procedures designed to assure
25 and monitor the compliance of such depository

1 institutions with the requirements established
2 by or pursuant to this title or by agreement of
3 the institution with the Secretary or such agen-
4 cy.

5 “(2) USE OF TARP FUNDS FOR MERGERS OR
6 ACQUISITIONS.—Effective as of the date of the en-
7 actment of the TARP Reform and Accountability
8 Act of 2009, no assisted institution that became an
9 assisted institution at any time on or after October
10 3, 2008, may merge or consolidate with any insured
11 depository institution or, either directly or indirectly,
12 acquire the assets of, or assume liability to pay any
13 deposits made in, any insured depository institution,
14 and no Federal banking agency may approve any
15 such action under section 18(c) of the Federal De-
16 posit Insurance Act, while any of such assistance is
17 outstanding unless, prior to the approval of such
18 agency, the Secretary has determined in consultation
19 with any relevant Federal banking agencies that—

20 “(A) such action will reduce risk to the
21 taxpayer; or

22 “(B) the transaction could have been con-
23 summated without assistance provided under
24 this title.

1 “(3) NONDEPOSITORY INSTITUTIONS.—In the
2 case of any assisted institution that became an as-
3 sisted institution on or after October 3, 2008, and
4 is not described in and subject to paragraph (1), the
5 Secretary shall establish such reporting requirements
6 and require any other conditions or agreements no
7 less stringent than those applicable to assisted in-
8 sured depository institutions, including requirements
9 to conduct examinations of the books, affairs, and
10 procedures of any such financial institution by the
11 Secretary or by delegation to the Board.

12 “(4) RENTER PROTECTION.—In the case of any
13 foreclosure on any dwelling or residential real prop-
14 erty securing an extension of credit made under a
15 contract entered into after the date of the enactment
16 of this Act, any successor in interest in such prop-
17 erty pursuant to the foreclosure shall assume such
18 interest subject to—

19 “(A) the provision, by the successor in in-
20 terest, of a notice to vacate to any bona fide
21 tenant at least 90 days before the effective date
22 of the notice to vacate; and

23 “(B) the rights of any bona fide tenant, as
24 of the date of such notice of foreclosure—

1 “(i) under any bona fide lease entered
 2 into before the notice of foreclosure to oc-
 3 cupy the premises until the end of the re-
 4 maining term of the lease or the end of the
 5 6-month period beginning on the date of
 6 the notice of foreclosure, whichever occurs
 7 first, subject to the receipt by the tenant
 8 of the 90-day notice under subparagraph
 9 (A); or

10 “(ii) without a lease or with a lease
 11 terminable at will under State law, subject
 12 to the receipt by the tenant of the 90-day
 13 notice under subparagraph (A).

14 “(5) BONA FIDE LEASE OR TENANCY.—For
 15 purposes of this paragraph (1), a lease or tenancy
 16 shall be considered bona fide only if—

17 “(A) the mortgagor under the contract is
 18 not the tenant;

19 “(B) the lease or tenancy was the result of
 20 an arms-length transaction; or

21 “(C) the lease or tenancy requires the re-
 22 ceipt of rent that is not substantially less than
 23 fair market rent for the property.

24 “(6) PROHIBITION ON USE OF TARP FUNDS
 25 FOR FOREIGN CUSTOMER SERVICE POSITIONS.—Ef-

1 fective as of the date of the enactment of the TARP
2 Reform and Accountability Act of 2009, no assisted
3 institution that became an assisted institution on or
4 after October 3, 2008, may enter into a new agree-
5 ment, or expand a current agreement, with any for-
6 eign company for provision of customer service func-
7 tions, including call-center services, while any of
8 such assistance is outstanding.

9 “(g) NO IMPEDIMENT TO WITHDRAWAL.—Subject to
10 consultation with the appropriate Federal banking agen-
11 cies, the Secretary shall permit an assisted insured deposi-
12 tory institution to repay any assistance previously pro-
13 vided under this title to such depository institution with-
14 out regard to whether the depository institution has re-
15 placed such funds from any other source, and when such
16 assistance is repaid, the Secretary shall liquidate warrants
17 associated with such assistance at the current market
18 price.”.

19 (b) DEFINITIONS.—Section 3 of the Emergency Eco-
20 nomic Stabilization Act of 2008 (12 U.S.C. 5202) is
21 amended by adding at the end the following new para-
22 graphs:

23 “(10) DEFINITIONS RELATING TO INSURED DE-
24 POSITORY INSTITUTIONS.—The terms ‘depository in-
25 stitution’, ‘insured depository institution’, ‘Federal

1 banking agency’ and ‘appropriate Federal banking
 2 agency’ have the same meanings as in section 3 of
 3 the Federal Deposit Insurance Act.

4 “(11) ASSISTED INSTITUTION.—The terms ‘as-
 5 sisted institution’ or ‘assisted insured depository in-
 6 stitution’ mean any such institution that receives, di-
 7 rectly or indirectly, any assistance or benefit that in-
 8 volves the obligation or expenditure, loan, or invest-
 9 ment of funds available to the Secretary under title
 10 I.”.

11 **SEC. 102. EXECUTIVE COMPENSATION AND CORPORATE**
 12 **GOVERNANCE.**

13 (a) IN GENERAL.—Section 111 of the Emergency
 14 Economic Stabilization Act of 2008 (12 U.S.C. 5221) is
 15 amended by adding at the end the following new sub-
 16 sections:

17 “(e) ACROSS-THE-BOARD EXECUTIVE COMPENSA-
 18 TION AND CORPORATE GOVERNANCE REQUIREMENTS.—

19 “(1) STANDARDS REQUIRED.—Notwithstanding
 20 any provision of, and in addition to any requirement
 21 of subsection (a), (b), or (c) (other than the defini-
 22 tions in subsection (b)(3)), the Secretary shall re-
 23 quire any institution that became an assisted institu-
 24 tion after the date of the enactment of the TARP
 25 Reform and Accountability Act of 2009 to meet

1 standards for executive compensation and corporate
2 governance while any assistance under this title is
3 outstanding.

4 “(2) SPECIFIC REQUIREMENTS.—The standards
5 established under paragraph (1) shall include—

6 “(A) limits on compensation that exclude
7 incentives for senior executive officers of such
8 institution to take unnecessary and excessive
9 risks that threaten the value of such institution
10 during the period that any assistance under this
11 title is outstanding;

12 “(B) a provision for the recovery by such
13 institution of any bonus or incentive compensa-
14 tion paid to a senior executive officer based on
15 statements of earnings, gains, or other criteria
16 that are later found to be materially inaccurate;

17 “(C) a prohibition on such institution mak-
18 ing any golden parachute payment to a senior
19 executive officer during the period that the as-
20 sistance under this title is outstanding;

21 “(D) a prohibition on such institution pay-
22 ing or accruing any bonus or incentive com-
23 pensation, during the period that the assistance
24 under this title is outstanding, to the 25 most
25 highly-compensated employees; and

1 “(E) a prohibition on any compensation
2 plan that would encourage manipulation of such
3 institution’s reported earnings to enhance the
4 compensation of any of its employees.

5 “(3) APPLICABILITY TO PRIOR ASSISTANCE.—
6 Notwithstanding any limitations included in sub-
7 section (a), (b), or (c) with regard to applicability,
8 the Secretary may apply the requirements of and the
9 standards established under this subsection to any
10 assisted institution that received any assistance
11 under this title before the date of the enactment of
12 the TARP Reform and Accountability Act of 2009.

13 “(f) BOARD OBSERVER.—The Secretary may require
14 the attendance of an observer delegated by the Secretary,
15 on behalf of the Secretary, to attend the meetings of the
16 board of directors of any assisted institution that became
17 an assisted institution before October 3, 2008, and any
18 committees of such board of directors, while any assist-
19 ance under this title is outstanding.”.

20 (b) REPEAL OF DE MINIMIS EXCEPTION.—Section
21 111(c) of the Emergency Economic Stabilization Act of
22 2008 (12 U.S.C. 5221(c)) is amended by striking “and
23 only where such purchases per financial institution in the
24 aggregate exceed \$300,000,000 (including direct pur-
25 chases),”.

1 **SEC. 103. NEW LENDING BY INSURED DEPOSITORY INSTI-**
2 **TUTIONS THAT IS ATTRIBUTABLE TO TARP**
3 **INVESTMENTS AND ASSISTANCE.**

4 Section 7(a) of the Federal Deposit Insurance Act
5 (U.S.C. 1817(a)) is amended by adding at the end the
6 following new paragraph:

7 “(12) LENDING INCREASES ATTRIBUTABLE TO
8 INVESTMENT OR OTHER ASSISTANCE UNDER THE
9 TROUBLED ASSETS RELIEF PROGRAM.—

10 “(A) IN GENERAL.—Each report of condi-
11 tion filed pursuant to this subsection by an in-
12 sured depository institution which received an
13 investment or other assistance under the Trou-
14 bled Assets Relief Program established by the
15 Emergency Economic Stabilization Act of 2008
16 or section 136(d) of the Energy Independence
17 and Security Act of 2007 shall report the
18 amount of any increase in new lending in the
19 period covered by such report (or the amount of
20 any reduction in any decrease in new lending)
21 that is attributable to such investment or as-
22 sistance, to the extent possible.

23 “(B) ALTERNATIVE MEASURE.—If an in-
24 sured depository institution that is subject to
25 subparagraph (A) cannot accurately quantify
26 the effect that an investment or other assist-

1 ance under such Troubled Assets Relief Pro-
 2 gram has had on new lending by the institution,
 3 the insured depository institution shall report
 4 the total amount of the increase in new lending,
 5 if any, in the period covered by such report.

6 “(C) DESIGNATION OF REPORTING RE-
 7 QUIREMENT.—The Federal banking agencies
 8 and the Secretary of the Treasury shall specify
 9 the form, content, and manner of reports re-
 10 quired under this paragraph, and shall require
 11 such reports to be provided to the appropriate
 12 State bank supervisor (as defined in section 3
 13 of the Federal Deposit Insurance Act).”.

14 **SEC. 104. OTHER PROTECTIONS FOR THE TAXPAYER.**

15 (a) WARRANT REQUIREMENTS.—Subsection (d) of
 16 section 113 of the Emergency Economic Stabilization Act
 17 of 2008 (12 U.S.C. 5223(d)) is amended by adding at the
 18 end the following new paragraph:

19 “(4) AMOUNT.—For assistance provided after
 20 the date of the enactment of the TARP Reform and
 21 Accountability Act of 2009, and except as provided
 22 in title III of such Act, the warrants or instruments
 23 described in this section shall have a value at least
 24 equal to 15 percent of the aggregate amount of such
 25 assistance.”.

1 (b) REPEAL OF CERTAIN EXCEPTION.—Section
 2 113(d)(3) of the Emergency Economic Stabilization Act
 3 of 2008 (12 U.S.C. 5223(d)(3)) is amended by striking
 4 subparagraph (A).

5 **SEC. 105. AVAILABILITY OF TARP FUNDS TO SMALLER COM-**
 6 **MUNITY INSTITUTIONS.**

7 (a) PROMPT ACTION.—The Secretary shall promptly
 8 take all necessary actions to provide assistance under title
 9 I of the Emergency Economic Stabilization Act of 2008
 10 to smaller community financial institutions, including such
 11 institutions that are privately held.

12 (b) COMPARABLE TERMS.—An institution that re-
 13 ceives assistance after the date of the enactment of the
 14 TARP Reform and Accountability Act of 2009, shall do
 15 so on terms comparable to the terms applicable to institu-
 16 tions that received assistance prior to the date of the en-
 17 actment of such Act of 2009: *Provided*, That the institu-
 18 tion—

19 (1) has submitted an application on which no
 20 action has been taken, such as institutions that are
 21 C corporations (including privately held institutions)
 22 and community development financial institutions;
 23 or

24 (2) is of a type for which the Secretary has not
 25 yet established an application deadline or for which

1 any such deadline has not yet occurred as of the
 2 date of the enactment of this Act, such as institu-
 3 tions that are non-stock corporations, S-corpora-
 4 tions, mutually-owned insured depository institutions
 5 (as defined in section 3 of the Federal Deposit In-
 6 surance Act).

7 (c) DEFINITIONS.—For purposes of this section, the
 8 terms “S Corporation” and “C Corporation” shall have
 9 the same meaning given to those terms in section 1361(a)
 10 of the Internal Revenue Code of 1986.

11 **SEC. 106. INCREASE IN SIZE AND AUTHORITY OF FINAN-**
 12 **CIAL STABILITY OVERSIGHT BOARD.**

13 (a) AUTHORITY.—Section 104 of the Emergency
 14 Economic Stabilization Act of 2008 (12 U.S.C. 2514) is
 15 amended—

16 (1) by redesignating subsections (g) and (h) as
 17 subsections (h) and (i), respectively; and

18 (2) by inserting after subsection (f) the fol-
 19 lowing new subsection:

20 “(g) REVIEW AND DECISIONMAKING.—After con-
 21 ducting any review under this section of a policy deter-
 22 mination made by the Secretary, the Financial Stability
 23 Oversight Board may overturn any such policy determina-
 24 tion by a two-thirds vote of all members of such board.”.

1 (b) APPOINTMENT OF 3 ADDITIONAL MEMBERS.—
2 Section 104(b) of the Emergency Economic Stabilization
3 Act of 2008 (12 U.S.C. 2514(b)) is amended—

4 (1) by striking “and” at the end of paragraph
5 (4);

6 (2) by striking the period at the end of para-
7 graph (5) and inserting a semicolon; and

8 (3) by adding at the end the following new
9 paragraphs:

10 “(6) the Chairperson of the Board of Directors
11 of the Federal Deposit Insurance Corporation; and

12 “(7) two members appointed by the President,
13 by and with the consent of the Senate, from among
14 individuals who are not officers or employees of the
15 United States Government.”.

16 **SEC. 107. INCLUSION OF WOMEN AND MINORITIES.**

17 (a) OFFICE OF MINORITY AND WOMEN INCLU-
18 SION.—The Secretary of the Treasury shall establish an
19 Office of Minority and Women Inclusion, or designate an
20 office of the entity, that shall be responsible for carrying
21 out this section and ensuring compliance by the Secretary
22 and each assisted institution (as such term is defined in
23 section 3 of the Emergency Economic Stabilization Act of
24 2008) with the requirements of this section. The Office
25 shall be responsible for all matters of the entity relating

1 to diversity in management, employment, and business ac-
2 tivities in accordance with such standards and require-
3 ments as the Secretary shall establish regarding the use
4 of assistance provided under title I of such Act.

5 (b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVI-
6 TIES.—The Secretary and each assisted institution shall
7 develop and implement standards and procedures to en-
8 sure, to the maximum extent possible, the inclusion and
9 utilization of minorities (as such term is defined in section
10 1204(c) of the Financial Institutions Reform, Recovery,
11 and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and
12 women, and minority- and women-owned businesses (as
13 such terms are defined in section 21A(r)(4) of the Federal
14 Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including
15 financial institutions, investment banking firms, mortgage
16 banking firms, asset management firms, broker-dealers, fi-
17 nancial services firms, underwriters, accountants, brokers,
18 investment consultants, and providers of legal services) in
19 all business and activities of the Secretary and each as-
20 sisted institution at all levels, including in procurement,
21 insurance, and all types of contracts (including contracts
22 for the issuance or guarantee of any debt, equity, or mort-
23 gage-related securities, the management of its mortgage
24 and securities portfolios, the making of its equity invest-
25 ments, the purchase, sale and servicing of single- and

1 multi-family mortgage loans, and the implementation of
2 its affordable housing program and initiatives). The proc-
3 esses established by the Secretary and each assisted insti-
4 tution for review and evaluation for contract proposals and
5 to hire service providers shall include a component that
6 gives consideration to the diversity of the applicant.

7 (c) APPLICABILITY.—This section shall apply to all
8 contracts of the Secretary of the Treasury and assisted
9 institutions for services of any kind, including services
10 that require the services of investment banking, asset
11 management entities, broker-dealers, financial services en-
12 tities, underwriters, accountants, investment consultants,
13 and providers of legal services.

14 (d) REPORTS TO CONGRESS.—Not later than 180
15 days after the date of the enactment of this Act, the Sec-
16 retary shall report to the Congress detailed information
17 describing the actions taken by the Office and assisted in-
18 stitutions pursuant to this section, which shall include a
19 statement of the total amounts provided by the Secretary
20 and assisted institutions under title I of the Emergency
21 Economic Stabilization Act of 2008 to third party contrac-
22 tors since the last such report and the percentage of such
23 amounts paid to businesses described in subsection (b) of
24 this section.

1 **SEC. 108. ANALYSIS OF USE OF ASSISTANCE.**

2 (a) REQUIREMENT.—The Secretary of the Treasury
3 shall regularly analyze timely and detailed information
4 concerning the use of assistance provided under title I of
5 the Emergency Economic Stabilization Act of 2008 by as-
6 sisted institutions to ensure that the program established
7 under title I of such Act is meeting the goals of the pro-
8 gram.

9 (b) AGENCY COLLECTION.—The Secretary of the
10 Treasury shall require the Federal banking agencies (as
11 defined in section 3 of the Federal Deposit Insurance Act)
12 and any other Federal agency the Secretary chooses to
13 report detailed information to the Secretary on the use
14 of assistance provided by the Secretary under the Emer-
15 gency Economic Stabilization Act of 2008 in a standard
16 electronic form on no less than a quarterly basis.

17 (c) SOURCE OF INFORMATION.—The data collected
18 and analyzed under subsections (a) and (b)—

19 (1) shall come from existing reports filed by all
20 assisted institutions where possible, including deposi-
21 tory institutions and nondepository institutions, with
22 the principal Federal regulator of each such institu-
23 tion, if any; and

24 (2) and should be sufficiently detailed and time-
25 ly to enable the Secretary to determine the effective-
26 ness of the program established under title I of the

1 Emergency Economic Stabilization Act of 2008 in
2 stimulating prudent lending and strengthening bank
3 capital.

4 (d) ADJUSTMENTS AND RECOMMENDATIONS.— If
5 the Secretary of the Treasury determines that—

6 (1) the goals of the program established under
7 title I of the Emergency Economic Stabilization Act
8 of 2008 are not being met, the Secretary shall work
9 with the Federal agencies supplying the information
10 under subsection (b) to encourage such agencies to
11 provide the recipients of assistance under such title
12 with recommendations for better meeting the goals
13 of the program; and

14 (2) the goals of the program are not being met
15 following the recommendations and adjustments
16 made in accordance with paragraph (1), the Sec-
17 retary shall adjust the future uses of assistance pro-
18 vided under such title.

19 **SEC. 109. DATABASE OF USE OF TARP FUNDS.**

20 The Secretary of the Treasury shall create and main-
21 tain a fully searchable database, accessible on the Internet
22 at no cost to the public, that contains the name of each
23 entity receiving funds made available under section 115(a)
24 of the Emergency Economic Stabilization Act of 2008 (12

1 U.S.C. 5225(a)) and the purpose for which such entity
2 is receiving such funds.

3 **SEC. 110. CLARIFICATION.**

4 Section 101 of the Emergency Economic Stabilization
5 Act of 2008 (12 U.S.C. 2514(b)) is amended by adding
6 at the end the following new subsections:

7 “(f) CLARIFICATION.—Any provision of capital to,
8 purchase of equity in, or assistance provided to any insti-
9 tution under this title shall be considered to be a purchase
10 of troubled assets for purposes of this title.

11 “(g) QUALIFIED PROPERTY.—

12 “(1) GUARANTEE.—Upon the request of a les-
13 see of qualified property in leases where the lessee
14 economically defeased its rent and purchase option
15 payments, the Secretary may serve as a guarantor
16 with respect to all payment obligations of such lessee
17 with respect to any defeased lease transaction that
18 is in technical default because of a downgrade of a
19 financial guarantor. Such guarantee shall be on such
20 terms and conditions as are determined by the Sec-
21 retary.

22 “(2) DEFINITIONS.—For purposes of this sub-
23 section, the following definitions shall apply:

24 “(A) QUALIFIED PROPERTY.—The term
25 ‘qualified property’ means domestic property

1 subject to a lease entered into prior to Novem-
 2 ber 1, 2007, in which a State or local govern-
 3 ment authority (as defined in section 5302(a)
 4 of title 49, United States Code) is the lessee.

5 “(B) GUARANTOR.—The term ‘guarantor’
 6 includes any guarantor, surety, and payment
 7 undertaker.”.

8 **SEC. 111. INVESTMENT OF TARP FUNDS IN CREDIT UNIONS**
 9 **TAKEN INTO ACCOUNT IN DETERMINATION**
 10 **OF NET WORTH.**

11 (a) IN GENERAL.—Section 216(o)(2) of the Federal
 12 Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended by
 13 striking subparagraph (A) and inserting the following new
 14 subparagraph:

15 “(A) with respect to any insured credit
 16 union, means—

17 “(i) the retained earnings balance of
 18 the credit union, as determined under gen-
 19 erally accepted accounting principles, to-
 20 gether with any amounts that were pre-
 21 viously the retained earnings of any other
 22 credit union with which the credit union
 23 has combined; and

24 “(ii) any donated equity, permanent,
 25 and perpetual capital deposits, or other

primary capital made available under Title I of the Emergency Economic Stabilization Act of 2008, as determined by regulation or order of the Board with due regard for the accepted capital standards for United States depository institutions generally; and”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 112. TREASURY FACILITATED AUCTION.

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) USE OF MARKET MECHANISMS.—

“(1) IN GENERAL.—In making purchases under this Act, the Secretary shall—

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

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

“(2) AUCTION FACILITATION.—

1 “(A) IN GENERAL.—The Secretary shall,
2 in coordination with institutions that volunteer
3 to participate, and not using any funds under
4 this title for purchases, facilitate an auction of
5 troubled assets owned by such institutions to
6 third party purchasers.

7 “(B) REPORT.—If the auction described in
8 subparagraph (A) does not take place within
9 the 3 month period following the date of the en-
10 actment of the TARP Reform and Account-
11 ability Act of 2009, the Secretary shall issue a
12 report to the Congress stating—

13 “(i) why such auction has not taken
14 place; and

15 “(ii) by what mechanism the Sec-
16 retary feels that troubled assets could most
17 expeditiously be valued and liquidated.”.

18 **SEC. 113. BROADENED INSPECTOR GENERAL AUTHORITY.**

19 Section 121(c) of the Emergency Economic Stabiliza-
20 tion Act (12 U.S.C. 5231(c)) is amended by striking “the
21 purchase, management, and sale of assets” and all that
22 follows through “under section 102” and inserting “any
23 action taken by the Secretary of the Treasury under this
24 title (except sections 115, 116, 117, and 125), as the Spe-
25 cial Inspector General determines appropriate”.

TITLE II—FORECLOSURE RELIEF

SEC. 201. TARP FORECLOSURE MITIGATION PLAN AND IMPLEMENTATION.

(a) COMMITMENT OF RESOURCES.—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, not later than seven days after the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary of the Treasury (in this title referred to as the “Secretary”) shall commit funds made available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 in an amount of at least \$100,000,000,000, unless the Secretary certifies otherwise under subsection (d), but in no case less than \$40,000,000,000, for the purposes of foreclosure mitigation. Not less than \$20,000,000,000 of this amount shall be dedicated to the program described under section 204 of this Act. The Secretary shall consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation regarding the administration of the program.

(b) PLAN REQUIRED.—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, none of the funds otherwise available to the Secretary pursuant to section 115(a)(3) of such Act shall

1 be available to the Secretary after March 15, 2009, unless
2 a comprehensive plan to use the funds committed under
3 subparagraph (a) to prevent and mitigate foreclosures on
4 residential properties, in accordance with the requirements
5 of this title, has been developed by the Secretary and ap-
6 proved by the Financial Stability Oversight Board by such
7 date.

8 (c) IMPLEMENTATION REQUIRED.—The Secretary
9 shall begin to implement the comprehensive plan estab-
10 lished pursuant to subsection (b) by not later than April
11 1, 2009.

12 (d) CERTIFICATION.—If the Secretary does not com-
13 mit at least \$100,000,000,000 in the plan established
14 under subsection (b), the Secretary shall certify to the
15 Congress in the plan the specific reasons that such
16 amounts have not been committed.

17 (e) CLARIFICATION.—For purposes of this title, the
18 term “residential properties” shall include 1- to 4-family
19 residential properties.

20 **SEC. 202. ELEMENTS OF PLAN.**

21 (a) REQUIRED ELEMENTS.—The comprehensive plan
22 established pursuant to section 201(b) shall comply with
23 the following requirements:

24 (1) OWNER-OCCUPIED RESIDENCES ONLY.—

25 The programs implemented under the plan shall pre-

1 vent and mitigate foreclosures specifically on owner-
2 occupied residential properties.

3 (2) LEVERAGING OF PRIVATE CAPITAL.—The
4 plan shall leverage private capital to the maximum
5 extent possible consistent with the purpose of pre-
6 venting and mitigating foreclosures on such prop-
7 erties.

8 (3) USE OF PROGRAM ALTERNATIVES.—The ac-
9 tions to be taken under the plan shall consist of the
10 systematic foreclosure prevention and mortgage
11 modification program under section 204 and a com-
12 bination of the program alternatives set forth in sec-
13 tion 203.

14 (4) WORKFORCE AND OUTREACH.—The plan
15 shall set forth how the Secretary intends to develop,
16 second, or contract for appropriate staffing to carry
17 out the plan and the component programs and to en-
18 sure that private mortgage servicers utilizing the
19 programs established by the Secretary will provide
20 sufficient staffing and resources to engage in the
21 outreach, loss mitigation activities, and homeowner
22 education necessary for successful foreclosure miti-
23 gation.

24 (b) CONCENTRATIONS OF FORECLOSURES.—The
25 comprehensive plan established pursuant to section 201(b)

1 may include provisions designed to prevent and mitigate
2 foreclosures on residential properties located in areas that
3 are most seriously affected by such foreclosures.

4 **SEC. 203. PROGRAM ALTERNATIVES.**

5 The program alternatives set forth in this section are
6 as follows:

7 (1) REDUCTION OF HOPE FOR HOMEOWNERS
8 PROGRAM COSTS.—A program under which the Sec-
9 retary—

10 (A) provides coverage for fees under the
11 HOPE for Homeowners Program under section
12 257 of the National Housing Act (12 U.S.C.
13 1715z–23), as amended by title V of this Act;
14 or

15 (B) ensures the affordability of interest
16 rates of mortgages insured under such Pro-
17 gram.

18 (2) BUY-DOWN OF SECOND LIEN MORT-
19 GAGES.—A program under which the Secretary
20 makes available to owners of owner-occupied residen-
21 tial properties a direct mortgage loan the proceeds
22 of which shall be used only to reduce the out-
23 standing debt of such owner under an existing sec-
24 ond lien mortgage on such residential property, for
25 the purpose of facilitating loan modification, subject

1 to such reductions in the principal of such existing
2 second lien mortgages as the Secretary may require.

3 (3) SERVICER INCENTIVES AND ASSISTANCE.—

4 A program under which the Secretary may make
5 payments to servicers, including servicers that are
6 not affiliated with a depository institution, who im-
7 plement modifications to mortgages that result in
8 mortgages that meet such requirements as the Sec-
9 retary shall establish.

10 (4) LOAN PURCHASES.—A program under
11 which the Secretary, or one or more entities that the
12 Secretary, in consultation with the Secretary of
13 Housing and Urban Development, enters into a con-
14 tract with to carry out the program under this para-
15 graph, which may include the Federal Deposit Insur-
16 ance Corporation, regional public-private partner-
17 ships, and entities selected as contractors under sec-
18 tion 107 of the Emergency Economic Stabilization
19 Act of 2008, purchases whole loans for the purpose
20 of modifying or refinancing the loans.

21 (5) SUBSTITUTION OF TRUST.—A program
22 under which modifications are allowed to the
23 securitization trust agreements with respect to secu-
24 rities secured by pools of mortgages to allow a new
25 qualified buyer to be substituted on a foreclosed

1 property or a delinquent mortgage without seeking
2 new financing.

3 **SEC. 204. SYSTEMATIC FORECLOSURE PREVENTION AND**
4 **MORTGAGE MODIFICATION PLAN ESTAB-**
5 **LISHED.**

6 (a) IN GENERAL.—The systematic foreclosure pre-
7 vention and mortgage modification program under this
8 section shall be a program established by the Secretary,
9 in consultation with the Chairperson of the Board of Di-
10 rectors of the Federal Deposit Insurance Corporation and
11 the Secretary of Housing and Urban Development, that—

12 (1) provides lenders and loan servicers with cer-
13 tain compensation to cover administrative costs for
14 each loan modified according to the required stand-
15 ards; and

16 (2) provides loss sharing or guarantees for cer-
17 tain losses incurred if a modified loan should subse-
18 quently re-default.

19 (b) PROGRAM ADMINISTRATION.—The Secretary, in
20 consultation with the Chairperson of the Federal Deposit
21 Insurance Corporation and the Secretary of Housing and
22 Urban Development, may contract with one or more enti-
23 ties, including the Federal Deposit Insurance Corporation
24 and entities selected as contractors under section 107 of
25 the Emergency Economic Stabilization Act of 2008, to

1 conduct the program activities required under the pro-
2 gram under this section.

3 (c) PROGRAM COMPONENTS.—The program estab-
4 lished under subsection (a) may include the following com-
5 ponents:

6 (1) ELIGIBLE BORROWERS.—The program shall
7 be limited to loans secured by owner-occupied prop-
8 erties.

9 (2) EXCLUSION FOR EARLY PAYMENT DE-
10 FAULT.—To promote sustainable mortgages, loss
11 sharing or guarantees shall be available only after
12 the borrower has made a specified minimum number
13 of payments on the modified mortgage.

14 (3) STANDARD NET PRESENT VALUE TEST.—In
15 order to promote consistency and simplicity in imple-
16 mentation and audit, the Secretary shall prescribe a
17 standardized net present value analysis for partici-
18 pating lenders and servicers comparing the expected
19 net present value of modifying past due loans com-
20 pared to the net present value of foreclosing on them
21 will be applied. Under this test, standard assump-
22 tions shall be used to ensure that a consistent stand-
23 ard for affordability is provided based on a ratio of
24 the borrower's mortgage-related expenses for the

1 first priority mortgage-to-gross income specified by
2 the Secretary.

3 (4) SYSTEMATIC LOAN REVIEW BY PARTICI-
4 PATING LENDERS AND SERVICERS.—Participating
5 lenders and servicers shall be required to undertake
6 a systematic review of all of the loans under their
7 management, to subject each loan to a standard net
8 present value test to determine whether it is a suit-
9 able candidate for modification, and to offer modi-
10 fications for all loans that pass this test. The pen-
11 alty for failing to undertake such a systematic re-
12 view and to carry out modifications where they are
13 justified would be disqualification from further par-
14 ticipation in the program until such a systematic
15 program was introduced.

16 (5) MODIFICATIONS.—Modifications may in-
17 clude any of the following:

18 (A) Reduction in interest rates and fees.

19 (B) Term or amortization extensions.

20 (C) Forbearance or forgiveness of prin-
21 cipal.

22 (D) Other similar modifications.

23 (6) SIMPLIFIED LOSS SHARE CALCULATION.—
24 In order to ensure the administrative efficiency and
25 effective operation of the program, the Secretary

1 shall define appropriate measures for loss sharing or
2 guarantees designed to reduce the risk and loss upon
3 redefault of modified mortgages in order to provide
4 adequate incentives to lenders, servicers, and inves-
5 tors to modify eligible mortgages and avoid unneces-
6 sary foreclosures. Interim modifications shall be al-
7 lowed.

8 (7) DE MINIMIS TEST.—To lower administra-
9 tive costs, a de minimis test shall be used to exclude
10 from loss sharing any modification that does not
11 lower the monthly payment at least 10 percent.

12 (8) 8 YEAR LIMIT ON LOSS SHARING PAY-
13 MENT.—The loss sharing guarantee shall terminate
14 at the end of the 8-year period beginning on the
15 date the modification was consummated.

16 (d) ALTERNATIVE COMPONENTS.—The Secretary
17 may, with the approval of the Board, implement fore-
18 closure prevention and mitigation actions other than those
19 included pursuant to subsection (c) in the comprehensive
20 plan initially approved by the Board pursuant to section
21 201(b) that the Secretary believes would provide equiva-
22 lent or greater impact on foreclosure mitigation.

23 (e) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be necessary to implement this
25 section and prevent evasions thereof.

1 (f) TROUBLED ASSETS.—The costs incurred by the
2 Federal Government in carrying out the loan modification
3 program established under this section shall be covered
4 out of the funds made available to the Secretary of the
5 Treasury under title I of the Emergency Economic Sta-
6 bilization Act of 2008 or such other funds as may be avail-
7 able to the Secretary.

8 (g) REPORT.—Before the end of the 6-month period
9 beginning on the date of the enactment of this Act, the
10 Secretary shall submit a progress report to the Congress
11 containing such findings and such recommendations for
12 legislative or administrative action as the Secretary may
13 determine to be appropriate.

14 **SEC. 205. MODIFICATION OF PLAN.**

15 (a) IN GENERAL.—If the Secretary, in consultation
16 with the Chairperson of the Board of Directors of the Fed-
17 eral Deposit Insurance Corporation and the Secretary of
18 Housing and Urban Development, determines at any time
19 that modification of the comprehensive plan initially ap-
20 proved by the Board pursuant to section 201(b) (as such
21 plan may subsequently have been modified pursuant to
22 this section), or that modification of any component pro-
23 gram element, is necessary to maximize the prevention of
24 foreclosures on residential properties or minimize costs to
25 taxpayers of such foreclosure mitigation, the Secretary

1 may modify the plan or program element, but only to the
2 extent such modifications are approved by the Board.

3 **SEC. 206. SERVICER SAFE HARBOR.**

4 (a) SAFE HARBOR.—

5 (1) LOAN MODIFICATIONS AND WORKOUT
6 PLANS.—Notwithstanding any other provision of
7 law, and notwithstanding any investment contract
8 between a servicer and a securitization vehicle or in-
9 vestor, a servicer that acts consistent with the duty
10 set forth in section 129A(a) of Truth in Lending Act
11 (15 U.S.C. 1639a) shall not be liable for entering
12 into a loan modification or workout plan with re-
13 spect to any such mortgage that meets all of the cri-
14 teria set forth in paragraph (2)(B) to—

15 (A) any person, based on that person's
16 ownership of a residential mortgage loan or any
17 interest in a pool of residential mortgage loans
18 or in securities that distribute payments out of
19 the principal, interest and other payments in
20 loans on the pool;

21 (B) any person who is obligated to make
22 payments determined in reference to any loan
23 or any interest referred to in subparagraph (A);
24 or

1 (C) any person that insures any loan or
2 any interest referred to in subparagraph (A)
3 under any law or regulation of the United
4 States or any law or regulation of any State or
5 political subdivision of any State.

6 (2) ABILITY TO MODIFY MORTGAGES.—

7 (A) ABILITY.—Notwithstanding any other
8 provision of law, and notwithstanding any in-
9 vestment contract between a servicer and a
10 securitization vehicle or investor, a servicer—

11 (i) shall not be limited in the ability
12 to modify mortgages, the number of mort-
13 gages that can be modified, the frequency
14 of loan modifications, or the range of per-
15 missible modifications; and

16 (ii) shall not be obligated to repur-
17 chase loans from or otherwise make pay-
18 ments to the securitization vehicle on ac-
19 count of a modification, workout, or other
20 loss mitigation plan for a residential mort-
21 gage or a class of residential mortgages
22 that constitute a part or all of the mort-
23 gages in the securitization vehicle,

24 if any mortgage so modified meets all of the cri-
25 teria set forth in subparagraph (B).

1 (B) CRITERIA.—The criteria under this
2 subparagraph with respect to a mortgage are as
3 follows:

4 (i) Default on the payment of such
5 mortgage has occurred or is reasonably
6 foreseeable.

7 (ii) The property securing such mort-
8 gage is occupied by the mortgagor of such
9 mortgage.

10 (iii) The servicer reasonably and in
11 good faith believes that the anticipated re-
12 covery on the principal outstanding obliga-
13 tion of the mortgage under the particular
14 modification or workout plan or other loss
15 mitigation action will exceed, on a net
16 present value basis, the anticipated recov-
17 ery on the principal outstanding obligation
18 of the mortgage to be realized through
19 foreclosure.

20 (3) APPLICABILITY.—This subsection shall
21 apply only with respect to modifications, workouts,
22 and other loss mitigation plans initiated before Jan-
23 uary 1, 2012.

24 (b) REPORTING.—Each servicer that engages in loan
25 modifications or workout plans subject to the safe harbor

1 in subsection (a) shall report to the Secretary on a regular
2 basis regarding the extent, scope and results of the
3 servicer's modification activities. The Secretary shall pre-
4 scribe regulations specifying the form, content, and timing
5 of such reports.

6 (c) DEFINITION OF SECURITIZATION VEHICLES.—

7 For purposes of this section, the term “securitization vehi-
8 cle” means a trust, corporation, partnership, limited liabil-
9 ity entity, special purpose entity, or other structure that—

10 (1) is the issuer, or is created by the issuer, of
11 mortgage pass-through certificates, participation cer-
12 tificates, mortgage-backed securities, or other similar
13 securities backed by a pool of assets that includes
14 residential mortgage loans; and

15 (2) holds such mortgages.

16 **SEC. 207. FORECLOSURE MORATORIUM RECOMMENDA-**
17 **TION.**

18 (a) FORECLOSURE DEFERMENT.—It is the sense of
19 the Congress that any institution which becomes an as-
20 sisted institution on or after the date of the enactment
21 of this Act should not initiate, or allow to continue, a fore-
22 closure proceeding or a foreclosure sale on any with re-
23 spect to any principal homeowner mortgage, until the ear-
24 liest of the following:

1 (1) The date by which the comprehensive plan
2 to prevent and mitigate foreclosures has been devel-
3 oped by the Secretary and the Federal Deposit In-
4 surance Corporation and approved by the Financial
5 Stability Oversight Board under section 201 and be-
6 come fully operational.

7 (2) The date by which the systematic fore-
8 closure prevention and mortgage modification plan
9 has been established by the Secretary in accordance
10 with section 204 and become fully operational.

11 (3) The end of the 9-month period beginning on
12 the date of the enactment of this Act.

13 (b) **FHA-REGULATED LOAN MODIFICATION AGREE-**
14 **MENTS.**—If an assisted institution to which subsection (a)
15 applies reaches a loan modification agreement with a
16 homeowner under the auspices of the Federal Housing Ad-
17 ministration before any plan referred to in paragraph (1)
18 or (2) of such subsection takes effect, subsection (a) shall
19 cease to apply to such institution as of the effective date
20 of the loan modification agreement.

21 (c) **DUTY OF CONSUMER TO MAINTAIN PROPERTY.**—
22 Any homeowner for whose benefit any foreclosure pro-
23 ceeding or sale is barred under subsection (a) from being
24 instituted, continued , or consummated with respect to any
25 homeowner mortgage may not, with respect to any prop-

erty securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(d) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued , or consummated with respect to any homeowner mortgage shall respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

SEC. 208. FORECLOSURE PREVENTION FOR AFFORDABLE HOUSING.

Section 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended to read as follows:

“SEC. 109. FORECLOSURE MITIGATION EFFORTS.

“(a) RESIDENTIAL MORTGAGE SERVICING STANDARDS.—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 renters and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net

1 present value to the taxpayer, to take advantage of the
2 HOPE for Homeowners Program under section 257 of the
3 National Housing Act or other available programs to mini-
4 mize foreclosures. In addition, the Secretary may use loan
5 guarantees and credit enhancements to facilitate loan
6 modifications to prevent avoidable foreclosures on single-
7 family and multifamily housing.

8 “(b) COORDINATION.—The Secretary shall coordi-
9 nate with the Corporation, the Board (with respect to any
10 mortgage or mortgage-backed securities or pool of securi-
11 ties held, owned, or controlled by or on behalf of a Federal
12 reserve bank, as provided in section 110(a)(1)(C)), the
13 Federal Housing Finance Agency, the Secretary of Hous-
14 ing and Urban Development, and other Federal Govern-
15 ment entities that hold troubled assets to attempt to iden-
16 tify opportunities for the acquisition of classes of troubled
17 assets that will improve the ability of the Secretary to im-
18 prove the loan modification and restructuring process and,
19 where permissible, to permit bona fide tenants who are
20 current on their rent to remain in their homes under the
21 terms of the lease. In the case of a mortgage on a residen-
22 tial rental property, including a qualified low-income
23 building under section 42 of the Internal Revenue Code
24 of 1986, the plan required under this section shall include
25 protecting Federal, State, and local rental subsidies and

1 protections, and ensuring any modification takes into ac-
2 count the need for operating funds to maintain decent and
3 safe conditions at the property.

4 “(c) CONSENT TO REASONABLE LOAN MODIFICA-
5 TION REQUESTS.—Upon any request arising under exist-
6 ing investment contracts, the Secretary shall consent,
7 where appropriate and considering net present value to the
8 taxpayer, to reasonable requests by homeowners and own-
9 ers of multifamily housing, including qualified low-income
10 buildings under section 42 of the Internal Revenue Code
11 of 1986, for loss mitigation measures, including term ex-
12 tensions, rate reductions, principal write downs, increases
13 in the proportion of loans within a trust or other structure
14 allowed to be modified, or removal of other limitation on
15 modifications.”.

16 **SEC. 209. REPORT BY CONGRESSIONAL OVERSIGHT PANEL.**

17 The Congressional Oversight Panel established by
18 section 125 of the Emergency Economic Stabilization Act
19 of 2008 shall submit a report to the Congress, not later
20 than July 1, 2009, regarding—

- 21 (1) the actions taken by the Secretary pursuant
22 to this title;
- 23 (2) the impact and effectiveness of such actions
24 on foreclosures on residential properties; and

1 (3) the effectiveness of such actions from the
2 standpoint of minimizing costs to the taxpayers.

3 **SEC. 210. MORTGAGE MODIFICATION DATA COLLECTING**
4 **AND REPORTING.**

5 (a) REPORTING REQUIREMENTS.—Not later than
6 120 days after the date of the enactment of this Act, and
7 quarterly thereafter, the Comptroller of the Currency, in
8 coordination with the Director of the Office of Thrift Su-
9 pervision, shall submit a report to the Committee on
10 Banking, Housing, and Urban Affairs of the Senate, the
11 Committee on Financial Services of the House of Rep-
12 resentatives, and the Joint Economic Committee on the
13 volume of mortgage modifications reported to the Office
14 of the Comptroller of the Currency and the Office of
15 Thrift Supervision, under the mortgage metrics program
16 of each such Office, during the previous quarter, including
17 the following:

18 (1) The total number of mortgage modifications
19 resulting in each of the following:

20 (A) Additions of delinquent payments and
21 fees to loan balances.

22 (B) Interest rate reductions and freezes.

23 (C) Term extensions.

24 (D) Reductions of principal.

25 (E) Deferrals of principal.

1 (F) Combinations of modifications de-
2 scribed in subparagraph (A), (B), (C), (D), or
3 (E).

4 (2) The total number of mortgage modifications
5 in which the total monthly principal and interest
6 payment resulted in the following:

7 (A) An increase.

8 (B) Remained the same.

9 (C) Decreased less than 10 percent.

10 (D) Decreased 10 percent or more.

11 (b) DATA COLLECTION.—

12 (1) REQUIRED.—

13 (A) IN GENERAL.—Not later than 60 days
14 after the date of the enactment of this Act, the
15 Comptroller of the Currency and the Director
16 of the Office of Thrift Supervision, shall issue
17 mortgage modification data collection and re-
18 porting requirements to institutions covered
19 under the reporting requirement of the mort-
20 gage metrics program of the Comptroller or the
21 Director.

22 (B) INCLUSIVENESS OF COLLECTIONS.—

23 The requirements under subparagraph (A) shall
24 provide for the collection of all mortgage modi-
25 fication data needed by the Comptroller of the

1 Currency and the Director of the Office of
 2 Thrift Supervision to fulfill the reporting re-
 3 quirements under subsection (a).

4 (2) REPORT.—The Comptroller of the Currency
 5 shall report all requirements established under para-
 6 graph (1) to each committee receiving the report re-
 7 quired under subsection (a).

8 **TITLE III—AUTO INDUSTRY FI-**
 9 **NANCING AND RESTRUC-**
 10 **TURING**

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “TARP Reform and
 13 Accountability Act of 2009”.

14 **SEC. 302. DIRECT LOAN PROVISIONS.**

15 (a) IN GENERAL.—The Emergency Economic Sta-
 16 bilization Act of 2008 (division A of Public Law 110–343)
 17 is amended by adding at the end the following:

18 **“TITLE IV—AUTO INDUSTRY FI-**
 19 **NANCING AND RESTRUC-**
 20 **TURING**

21 **“SEC. 401. PURPOSES.**

22 “The purposes of this title are—

23 “(1) to clarify and confirm the authority and
 24 facilities to restore liquidity and stability to domestic
 25 vehicle manufacturers in the United States; and

1 “(2) to ensure that such authority and such fa-
2 cilities are used in a manner that—

3 “(A) results in a viable and competitive do-
4 mestic automobile industry that minimizes ad-
5 verse effects on the environment;

6 “(B) enhances the ability and the capacity
7 of the domestic automobile industry to pursue
8 the timely and aggressive production of energy-
9 efficient advanced technology vehicles;

10 “(C) preserves and promotes the jobs of
11 American workers employed directly by the do-
12 mestic automobile industry and in related in-
13 dustries;

14 “(D) safeguards the ability of the domestic
15 automobile industry to provide retirement and
16 health care benefits for the industry’s retirees
17 and their dependents; and

18 “(E) stimulates manufacturing and sales
19 of automobiles produced by automobile manu-
20 facturers in the United States.

21 **“SEC. 402. PRESIDENTIAL DESIGNATION.**

22 “(a) DESIGNATION.—The President shall designate
23 one or more officers from the Executive Branch having
24 appropriate expertise in such areas as economic stabiliza-
25 tion, financial aid to commerce and industry, financial re-

1 structuring, energy efficiency, and environmental protec-
2 tion (who shall hereinafter in this title be collectively re-
3 ferred to as the ‘President’s designee’) to carry out the
4 purposes of this title, including the facilitation of restruc-
5 turing necessary to achieve the long-term financial viabil-
6 ity of domestic automobile manufacturers, who shall serve
7 at the pleasure of the President.

8 “(b) **ADDITIONAL PERSONS.**—The President or the
9 President’s designee may also employ, appoint, or contract
10 with additional persons having such expertise as the Presi-
11 dent or the President’s designee believes will assist the
12 Government in carrying out the purposes of this title.

13 “(c) **PARTICIPATION BY OTHER AGENCY PER-**
14 **SONNEL.**—Other Federal agencies may provide, at the re-
15 quest of the President’s designee, staff on detail from such
16 agencies for purposes of carrying out this title.

17 **“SEC. 403. BRIDGE FINANCING.**

18 “(a) **IN GENERAL.**—The President’s designee shall
19 authorize and direct the disbursement of bridge loans or
20 enter into commitments for lines of credit to each auto-
21 mobile manufacturer that submitted a plan to the Con-
22 gress on December 2, 2008 (hereafter in this title referred
23 to as an ‘eligible automobile manufacturer’), and has sub-
24 mitted a request for such loan or commitment. Nothing
25 in this section shall preclude the President’s designee from

1 authorizing and directing the disbursement of bridge loans
2 or entering into commitments for lines of credit to other
3 entities.

4 “(b) AMOUNT OF ASSISTANCE.—The President’s des-
5 ignee shall authorize bridge loans or commitments for
6 lines of credit to each eligible automobile manufacturer in
7 an amount that is intended to facilitate the continued op-
8 erations of the eligible automobile manufacturer and to
9 prevent the failure of the eligible automobile manufac-
10 turer, consistent with the plan submitted on December 2,
11 2008, and subject to available funds.

12 **“SEC. 404. RESTRUCTURING PROGRESS ASSESSMENT.**

13 “(a) ESTABLISHMENT OF MEASURES FOR ASSESSING
14 PROGRESS.—Not later than February 1, 2009, the Presi-
15 dent’s designee shall determine appropriate measures for
16 assessing the progress of each eligible automobile manu-
17 facturer toward transforming the plan submitted by such
18 manufacturer to the Congress on December 2, 2008, into
19 the restructuring plan to be submitted under section
20 405(b).

21 “(b) EVALUATION OF PROGRESS ON BASIS OF RE-
22 STRUCTURING PROGRESS ASSESSMENT MEASURES.—

23 “(1) IN GENERAL.—The President’s designee
24 shall evaluate the progress of each eligible auto-
25 mobile manufacturer toward the development of a

1 restructuring plan, on the basis of the restructuring
2 progress assessment measures established under this
3 section for such manufacturer.

4 “(2) TIMING.—Each evaluation required under
5 paragraph (1) for any eligible automobile manufac-
6 turer shall be conducted at the end of the 15-day pe-
7 riod beginning on the date on which the restruc-
8 turing progress assessment measures were estab-
9 lished by the President’s designee for such eligible
10 automobile manufacturer.

11 **“SEC. 405. SUBMISSION OF PLANS.**

12 “(a) NEGOTIATED PLANS.—

13 “(1) FACILITATION.—

14 “(A) IN GENERAL.—Beginning on the date
15 of any disbursement under the facility, the
16 President’s designee shall seek to facilitate
17 agreement on any restructuring plan to achieve
18 and sustain the long-term viability, inter-
19 national competitiveness, and energy efficiency
20 of an eligible automobile manufacturer, nego-
21 tiated and agreed to by representatives of inter-
22 ested parties (in this title referred to as a ‘ne-
23 gotiated plan’) with respect to any eligible auto-
24 mobile manufacturer.

“(B) INTERESTED PARTIES.—For purposes of this section, the term ‘interested party’ shall be construed broadly so as to include all persons who have a direct financial interest in a particular automobile manufacturer, including—

“(i) employees and retirees of the eligible automobile manufacturer;

“(ii) trade unions;

“(iii) creditors;

“(iv) suppliers;

“(v) automobile dealers; and

“(vi) shareholders.

“(2) ACTIONS OF THE PRESIDENT’S DESIGNEE.—

“(A) IN GENERAL.—For the purpose of achieving a negotiated plan, the President’s designee may convene, chair, and conduct formal and informal meetings, discussions, and consultations, as appropriate, with interested parties of an eligible automobile manufacturer.

“(B) CLARIFICATION.—The Federal Advisory Committee Act shall not apply with respect to any of the activities conducted or taken by the President’s designee pursuant to this title.

1 “(b) RESTRUCTURING PLAN.—Not later than March
2 31, 2009, each eligible automobile manufacturer shall sub-
3 mit to the President’s designee a restructuring plan to
4 achieve and sustain the long-term viability, international
5 competitiveness, and energy efficiency of the eligible auto-
6 mobile manufacturer (in this title referred to as the ‘re-
7 structuring plan’) in accordance with this section. The
8 President’s designee shall approve the restructuring plan
9 if the President’s designee determines that the plan will
10 result in—

11 “(1) the repayment of all Government-provided
12 financing, consistent with the terms specified in sec-
13 tion 408, or otherwise agreed to;

14 “(2) the ability—

15 “(A) to comply with applicable fuel effi-
16 ciency and emissions requirements;

17 “(B) to commence domestic manufacturing
18 of advanced technology vehicles, as described in
19 section 136 of the Energy Independence and
20 Security Act of 2007 (Public Law 110–140; 42
21 U.S.C. 17013); and

22 “(C) to produce new and existing products
23 and capacity;

24 “(3) the achievement of a positive net present
25 value, using reasonable assumptions and taking into

1 account all existing and projected future costs, in-
2 cluding repayment of any financial assistance pro-
3 vided pursuant to this title;

4 “(4) the ability to rationalize costs, capitaliza-
5 tion, and capacity with respect to the manufacturing
6 workforce, suppliers, and dealerships of the eligible
7 automobile manufacturer;

8 “(5) proposals to restructure existing debt, in-
9 cluding, where appropriate, the conversion of debt to
10 equity, to improve the ability of the eligible auto-
11 mobile manufacturer to raise private capital; and

12 “(6) a product mix and cost structure that is
13 competitive in the marketplace.

14 “(c) EXTENSION OF NEGOTIATIONS AND PLAN
15 DEADLINE.—Notwithstanding the time limitations in sub-
16 section (b), the President’s designee, upon making a deter-
17 mination that the interested parties are negotiating in
18 good faith, are making significant progress, and that an
19 additional period of time would likely facilitate agreement
20 on a negotiated plan, and upon notification of the Con-
21 gress, may extend for not longer than 30 additional days
22 the negotiation period under subsection (b).

23 **“SEC. 406. FINANCING FOR RESTRUCTURING.**

24 “Upon approval by the President’s designee of a re-
25 structuring plan, the President’s designee may provide fi-

1 nancial assistance to an eligible automobile manufacturer
2 to implement the restructuring plan.

3 **“SEC. 407. DISAPPROVAL AND CALL OF LOAN.**

4 “If the President’s designee has not approved the re-
5 structuring plan at the expiration of the period provided
6 in section 405 for submission and approval of the restruc-
7 turing plan, the President’s designee shall call the loan
8 or cancel the commitment within 30 days, unless a re-
9 structuring plan is approved within that period.

10 **“SEC. 408. TERMS AND CONDITIONS.**

11 “(a) DURATION.—The duration of any loan made
12 under this title shall be 7 years, or such period as the
13 President’s designee may determine with respect to such
14 loan.

15 “(b) NO PREPAYMENT PENALTY.—A loan made
16 under this title shall be prepayable without penalty at any
17 time.

18 “(c) INFORMATION ACCESS.—As a condition for the
19 receipt of any financial assistance made under this title,
20 an eligible automobile manufacturer shall agree—

21 “(1) to allow the President’s designee to exam-
22 ine any books, papers, records, or other data of the
23 eligible automobile manufacturer, and those of any
24 subsidiary, affiliate, or entity holding an ownership
25 interest of 50 percent or more of such automobile

1 manufacturer, that may be relevant to the financial
2 assistance, including compliance with the terms of a
3 loan or any conditions imposed under this title; and

4 “(2) to provide in a timely manner any infor-
5 mation requested by the President’s designee, in-
6 cluding requiring any officer or employee of the eli-
7 gible automobile manufacturer, any subsidiary, affil-
8 iate, or entity referred to in paragraph (1) with re-
9 spect to such manufacturer, or any person having
10 possession, custody, or care of the reports and
11 records required under paragraph (1), to appear be-
12 fore the President’s designee at a time and place re-
13 quested and to provide such books, papers, records,
14 or other data, as requested, as may be relevant or
15 material.

16 “(d) OVERSIGHT OF TRANSACTIONS AND FINANCIAL
17 CONDITION.—

18 “(1) DUTY TO INFORM.—During the period in
19 which any loan extended under this title remains
20 outstanding, the eligible automobile manufacturer
21 which received such loan shall promptly inform the
22 President’s designee of—

23 “(A) any asset sale, investment, contract,
24 commitment, or other transaction proposed to
25 be entered into by such eligible automobile

1 manufacturer that has a value in excess of
2 \$100,000,000; and

3 “(B) any other material change in the fi-
4 nancial condition of such eligible automobile
5 manufacturer.

6 “(2) AUTHORITY OF THE PRESIDENT’S DES-
7 IGNEE.—During the period in which any loan ex-
8 tended under this title remains outstanding, the
9 President’s designee may—

10 “(A) review any asset sale, investment,
11 contract, commitment, or other transaction de-
12 scribed in paragraph (1); and

13 “(B) prohibit the eligible automobile man-
14 ufacturer which received the loan from consum-
15 mating any such proposed sale, investment,
16 contract, commitment, or other transaction, if
17 the President’s designee determines that con-
18 summation of such transaction would be incon-
19 sistent with or detrimental to the long-term via-
20 bility of the eligible automobile manufacturer.

21 “(3) PROCEDURES.—The President’s designee
22 may establish procedures for conducting any review
23 under this subsection.

1 “(e) CONSEQUENCES FOR FAILURE TO COMPLY.—

2 The terms of any financial assistance made under this title

3 shall provide that if—

4 “(1) an evaluation by the President’s designee

5 under section 404(b) demonstrates that the eligible

6 automobile manufacturer which received the finan-

7 cial assistance has failed to make adequate progress

8 towards meeting the restructuring progress assess-

9 ment measures established by the President’s des-

10 signee under section 404(a) with respect to such re-

11 cipient;

12 “(2) after March 31, 2009, the eligible auto-

13 mobile manufacturer which received the financial as-

14 sistance fails to submit an acceptable restructuring

15 plan under section 405(b), or fails to comply with

16 any conditions or requirement applicable under this

17 title or applicable fuel efficiency and emissions re-

18 quirements; or

19 “(3) after a restructuring plan of an eligible

20 automobile manufacturer has been approved by the

21 President’s designee, the auto manufacturer fails to

22 make adequate progress in the implementation of

23 the plan, as determined by the President’s designee,

24 the repayment of any loan may be accelerated to such ear-

25 lier date or dates as the President’s designee may deter-

1 mine and any other financial assistance may be cancelled
2 by the President's designee.

3 **“SEC. 409. TAXPAYER PROTECTION.**

4 “(a) WARRANTS.—

5 “(1) IN GENERAL.—The President's designee
6 may not provide any loan under this title, unless the
7 President's designee, or such department or agency
8 as is designated for such purpose by the President,
9 receives from the eligible automobile manufacturer—

10 “(A) in the case of an eligible automobile
11 manufacturer, the securities of which are traded
12 on a national securities exchange, a warrant
13 giving the right to the President's designee to
14 receive nonvoting common stock or preferred
15 stock in such eligible automobile manufacturer,
16 or voting stock, with respect to which the Presi-
17 dent's designee agrees not to exercise voting
18 power, whichever the President's designee de-
19 termines appropriate; or

20 “(B) in the case of an eligible automobile
21 manufacturer other than one described in sub-
22 paragraph (A), a warrant for common or pre-
23 ferred stock, or an instrument that is the eco-
24 nomic equivalent (as determined by the Presi-
25 dent's designee) of such a warrant in the hold-

1 ing company of the eligible automobile manu-
2 facturer, or any company that controls a major-
3 ity stake in the eligible automobile manufac-
4 turer, whichever the President's designee deter-
5 mines appropriate.

6 “(2) AMOUNT.—

7 “(A) IN GENERAL.—The warrants or in-
8 struments described in paragraph (1) shall have
9 a value equal to 20 percent of the aggregate
10 amount of all loans provided to the eligible
11 automobile manufacturer under this title. Such
12 warrants or instruments shall entitle the Gov-
13 ernment to purchase—

14 “(i) nonvoting common stock, up to a
15 maximum amount of 20 percent of the
16 issued and outstanding common stock of—

17 “(I) the eligible automobile man-
18 ufacturer; or

19 “(II) in the case of an eligible
20 automobile manufacturer, the securi-
21 ties of which are not traded on a na-
22 tional securities exchange, a holding
23 company or company that controls a
24 majority of the stock thereof (in this

1 section referred to as the ‘warrant
2 common’); and

3 “(ii) preferred stock having an aggre-
4 gate liquidation preference equal to 20 per-
5 cent of such aggregate loan amount, less
6 the value of common stock available for
7 purchase under the warrant common (in
8 this section referred to as the ‘warrant
9 preferred’).

10 “(B) COMMON STOCK WARRANT PRICE.—

11 The exercise price on a warrant or instrument
12 described in paragraph (1) shall be—

13 “(i) the 15-day trailing average, as of
14 the day before the date on which any com-
15 mitment to provide a loan was entered
16 into, of the market price of the common
17 stock of the eligible automobile manufac-
18 turer which received any loan under this
19 title; or

20 “(ii) in the case of an eligible auto-
21 mobile manufacturer, the securities of
22 which are not traded on a national securi-
23 ties exchange, the economic equivalent of
24 the market price described in clause (i), as
25 determined by the President’s designee.

1 “(C) TERMS OF PREFERRED STOCK WAR-
2 RANT.—

3 “(i) IN GENERAL.—The initial exer-
4 cise price for the preferred stock warrant
5 shall be \$0.01 per share or such greater
6 amount as the corporate charter may re-
7 quire as the par value per share of the
8 warrant preferred. The Government shall
9 have the right to immediately exercise the
10 warrants.

11 “(ii) REDEMPTION.—The warrant
12 preferred may be redeemed at any time
13 after exercise of the preferred stock war-
14 rant at 100 percent of its issue price, plus
15 any accrued and unpaid dividends.

16 “(iii) OTHER TERMS AND CONDI-
17 TIONS.—Other terms and conditions of the
18 warrant preferred shall be determined by
19 the President’s designee to protect the in-
20 terests of taxpayers.

21 “(3) APPLICATION OF OTHER PROVISIONS OF
22 LAW.—Except as otherwise provided in this section,
23 the requirements for the purchase of warrants under
24 section 113(d)(2) of the Emergency Economic Sta-
25 bilization Act of 2008 (division A of Public Law

1 110–343) shall apply to any warrant or instrument
2 described in paragraph (1), including the
3 antidilution protection provisions therein.

4 “(b) EXECUTIVE COMPENSATION AND CORPORATE
5 GOVERNANCE.—

6 “(1) IN GENERAL.—During the period in which
7 any financial assistance under this title remains out-
8 standing, the eligible automobile manufacturer which
9 received such assistance shall be subject to—

10 “(A) the standards established by the
11 President’s designee under paragraph (2); and

12 “(B) the provisions of section 162(m)(5) of
13 the Internal Revenue Code of 1986, as applica-
14 ble.

15 “(2) STANDARDS REQUIRED.—The President’s
16 designee shall require any eligible automobile manu-
17 facturer which received any financial assistance
18 under this title to meet appropriate standards for
19 executive compensation and corporate governance.

20 “(3) SPECIFIC REQUIREMENTS.—The standards
21 established under paragraph (2) shall include—

22 “(A) limits on compensation that exclude
23 incentives for senior executive officers of an eli-
24 gible automobile manufacturer which received
25 assistance under this title to take unnecessary

1 and excessive risks that threaten the value of
2 such manufacturer during the period that the
3 loan is outstanding;

4 “(B) a provision for the recovery by such
5 automobile manufacturer of any bonus or incen-
6 tive compensation paid to a senior executive of-
7 ficer based on statements of earnings, gains, or
8 other criteria that are later found to be materi-
9 ally inaccurate;

10 “(C) a prohibition on such automobile
11 manufacturer making any golden parachute
12 payment to a senior executive officer during the
13 period that the loan is outstanding;

14 “(D) a prohibition on such automobile
15 manufacturer paying or accruing any bonus or
16 incentive compensation during the period that
17 the loan is outstanding to the 25 most highly-
18 compensated employees; and

19 “(E) a prohibition on any compensation
20 plan that would encourage manipulation of such
21 automobile manufacturer’s reported earnings to
22 enhance the compensation of any of its employ-
23 ees.

24 “(4) DIVESTITURE.—During the period in
25 which any financial assistance provided under this

1 title to any eligible automobile manufacturer is out-
2 standing, the eligible automobile manufacturer may
3 not own or lease any private passenger aircraft, or
4 have any interest in such aircraft, except that such
5 eligible automobile manufacturer shall not be treated
6 as being in violation of this provision with respect to
7 any aircraft or interest in any aircraft that was
8 owned or held by the manufacturer immediately be-
9 fore receiving such assistance, as long as the recipi-
10 ent demonstrates to the satisfaction of the Presi-
11 dent's designee that all reasonable steps are being
12 taken to sell or divest such aircraft or interest.

13 “(5) DEFINITIONS.—For purposes of this sub-
14 section, the following definitions shall apply:

15 “(A) SENIOR EXECUTIVE OFFICER.—The
16 term ‘senior executive officer’ means an indi-
17 vidual who is one of the top five most highly
18 paid executives of a public company, whose
19 compensation is required to be disclosed pursu-
20 ant to the Securities Exchange Act of 1934,
21 and any regulations issued thereunder, and
22 non-public company counterparts.

23 “(B) GOLDEN PARACHUTE PAYMENT.—
24 The term ‘golden parachute payment’ means
25 any payment to a senior executive officer for

1 departure from a company for any reason, ex-
2 cept for payments for services performed or
3 benefits accrued.

4 “(c) PROHIBITION ON PAYMENT OF DIVIDENDS.—
5 Except with respect to obligations owed pursuant to law
6 to any nonaffiliated party or any existing contract with
7 any nonaffiliated party in effect as of December 2, 2008,
8 no dividends or distributions of any kind, or the economic
9 equivalent thereof (as determined by the President’s des-
10 ignee), may be paid by any eligible automobile manufac-
11 turer which receives financial assistance under this title,
12 or any holding company or company that controls a major-
13 ity stake in the eligible automobile manufacturer, while
14 such financial assistance is outstanding.

15 “(d) OTHER INTERESTS SUBORDINATED.—

16 “(1) IN GENERAL.—In the case of an eligible
17 automobile manufacturer which received a loan
18 under this title, to the extent permitted by the terms
19 of any existing vested legal rights and the Constitu-
20 tion, any other obligation of such eligible automobile
21 manufacturer shall be subordinate to such loan, and
22 such loan shall be senior and prior to all obligations,
23 liabilities, and debts of the eligible automobile manu-
24 facturer, and such eligible automobile manufacturer
25 shall provide to the Government, all available secu-

1 rity and collateral against which the loans under this
2 title shall be secured.

3 “(2) APPLICABILITY IN CERTAIN CASES.—In
4 the case of an eligible automobile manufacturer re-
5 ferred to in paragraph (1), the securities of which
6 are not traded on a national securities exchange, a
7 loan under this title to the eligible automobile manu-
8 facturer shall—

9 “(A) be treated as a loan to any holding
10 company of, or company that controls a major-
11 ity stake in, the eligible automobile manufac-
12 turer; and

13 “(B) be senior and prior to all obligations,
14 liabilities, and debts of any such holding com-
15 pany or company that controls a majority stake
16 in the eligible automobile manufacturer.

17 “(e) ADDITIONAL TAXPAYER PROTECTIONS.—

18 “(1) DISCHARGE.—A discharge under title 11,
19 United States Code, shall not discharge an eligible
20 automobile manufacturer, or any successor in inter-
21 est thereto, from any debt for financial assistance
22 received pursuant to this title.

23 “(2) EXEMPTION.—Any financial assistance
24 provided to an eligible automobile manufacturer
25 under this title shall be exempt from the automatic

1 stay established by section 362 of title 11, United
2 States Code.

3 “(3) INTERESTED PARTIES.—Notwithstanding
4 any provision of title 11, United States Code, any
5 interest in property or equity rights of the United
6 States arising from financial assistance provided to
7 an eligible automobile manufacturer under this title
8 shall remain unaffected by any plan of reorganiza-
9 tion, except as the United States may agree to in
10 writing.

11 **“SEC. 410. OVERSIGHT AND AUDITS.**

12 “(a) COMPTROLLER GENERAL OVERSIGHT.—

13 “(1) SCOPE OF OVERSIGHT.—The Comptroller
14 General of the United States shall conduct ongoing
15 oversight of the activities and performance of the
16 President’s designee.

17 “(2) CONDUCT AND ADMINISTRATION OF OVER-
18 SIGHT.—

19 “(A) GAO PRESENCE.—The President’s
20 designee shall provide to the Comptroller Gen-
21 eral appropriate space and facilities for pur-
22 poses of this subsection.

23 “(B) ACCESS TO RECORDS.—To the extent
24 otherwise consistent with law, the Comptroller
25 General shall have access, upon request, to any

1 information, data, schedules, books, accounts,
2 financial records, reports, files, electronic com-
3 munications, or other papers, things, or prop-
4 erty belonging to or in use by the President's
5 designee, at such reasonable time as the Comp-
6 troller General may request. The Comptroller
7 General shall be afforded full facilities for
8 verifying transactions with the balances or secu-
9 rities held by depositaries, fiscal agents, and
10 custodians. The Comptroller General may make
11 and retain copies of such books, accounts, and
12 other records as the Comptroller General deems
13 appropriate.

14 “(3) REPORTING.—The Comptroller General
15 shall submit reports of findings under this section to
16 Congress, regularly and not less frequently than
17 once every 60 days. The Comptroller General may
18 also submit special reports under this subsection, as
19 warranted by the findings of its oversight activities.

20 “(b) SPECIAL INSPECTOR GENERAL.—It shall be the
21 duty of the Special Inspector General established under
22 section 121 of Public Law 110–343 to conduct, supervise,
23 and coordinate audits and investigations of the President's
24 designee in addition to the duties of the Special Inspector
25 General under such section and for such purposes. The

1 Special Inspector General shall also have the duties, re-
2 sponsibilities, and authorities of inspectors general under
3 the Inspector General Act of 1978, including section 6 of
4 such Act. In the event that the Office of the Special In-
5 spector General is terminated, the Inspector General of
6 the Department of the Treasury shall assume the respon-
7 sibilities of the Special Inspector General under this sub-
8 section.

9 “(c) ACCESS TO RECORDS OF BORROWERS BY
10 GAO.—Notwithstanding any other provision of law, dur-
11 ing the period in which any financial assistance provided
12 under this title is outstanding, the Comptroller General
13 of the United States shall have access, upon request, to
14 any information, data, schedules, books, accounts, finan-
15 cial records, reports, files, electronic communications, or
16 other papers, things, or property belonging to or in use
17 by the eligible automobile manufacturer, and any sub-
18 sidiary, affiliate, or entity holding an ownership interest
19 of 50 percent or more of such eligible automobile manufac-
20 turer (collectively referred to in this section as ‘related en-
21 tities’), and to any officer, director, or other agent or rep-
22 resentative of the eligible automobile manufacturer and its
23 related entities, at such reasonable times as the Comp-
24 troller General may request. The Comptroller General may

1 make and retain copies of such books, accounts, and other
2 records as the Comptroller General deems appropriate.

3 **“SEC. 411. REPORTING AND MONITORING.**

4 “(a) REPORTING ON CONSUMMATION OF LOANS.—
5 The President’s designee shall submit a report to the Con-
6 gress on each bridge loan made under this title not later
7 than 5 days after the date of the consummation of such
8 loan.

9 “(b) REPORTING ON RESTRUCTURING PROGRESS AS-
10 SSESSMENT MEASURES.—The President’s designee shall
11 submit a report to the Congress on the restructuring
12 progress assessment measures established for each manu-
13 facturer under section 404(a) not later than 10 days after
14 establishing the restructuring progress assessment meas-
15 ures.

16 “(c) REPORTING ON EVALUATIONS.—The Presi-
17 dent’s designee shall submit a report to the Congress con-
18 taining the detailed findings and conclusions of the Presi-
19 dent’s designee in connection with the evaluation of an eli-
20 gible automobile manufacturer under section 404(b).

21 “(d) REPORTING ON CONSEQUENCES FOR FAILURE
22 TO COMPLY.—The President’s designee shall submit a re-
23 port to the Congress on the exercise of a right under sec-
24 tion 408(e) to accelerate indebtedness of an eligible auto-
25 mobile manufacturer under this title or to cancel any other

1 financial assistance provided to such eligible automobile
2 manufacturer, and the facts and circumstances on which
3 such exercise was based, before the end of the 10-day pe-
4 riod beginning on the date of the exercise of the right.

5 “(e) MONITORING.—The President’s designee shall
6 monitor the use of loan funds received by eligible auto-
7 mobile manufacturers under this title, and shall report to
8 Congress once every 90 days (beginning 30 days after the
9 date of enactment of this title) on the progress of the abil-
10 ity of the recipient of the loan to continue operations and
11 proceed with restructuring processes that restore the fi-
12 nancial viability of the recipient and promote environ-
13 mental sustainability.

14 **“SEC. 412. REPORT TO CONGRESS ON LACK OF PROGRESS**
15 **TOWARD ACHIEVING AN ACCEPTABLE NEGOTIATED PLAN.**
16

17 “(a) AUTHORITY TO FACILITATE A NEGOTIATED
18 PLAN.—At any such time as the President’s designee de-
19 termines that action is necessary to avoid disruption to
20 the economy or to achieve a negotiated plan, the Presi-
21 dent’s designee shall submit to Congress a report outlining
22 any additional powers and authorities necessary to facili-
23 tate the completion of a negotiated plan required under
24 section 405.

1 “(b) IMPEDIMENTS TO ACHIEVING NEGOTIATED
2 PLANS.—If the President’s designee determines, on the
3 basis of an evaluation by the President’s designee of the
4 progress being made by an eligible automobile manufac-
5 turer toward meeting the restructuring progress assess-
6 ment measures established under section 404, that ade-
7 quate progress is not being made toward achieving a nego-
8 tiated plan by March 31, 2009, the President’s designee
9 shall submit to Congress a report detailing the impedi-
10 ments to achievement of a negotiated plan by the eligible
11 automobile manufacturer.

12 **“SEC. 413. SUBMISSION OF PLAN TO CONGRESS BY THE**
13 **PRESIDENT’S DESIGNEE.**

14 “Upon submission of a report pursuant to section
15 412(b), the President’s designee shall provide to Congress
16 a plan that represents the judgement of the President’s
17 designee as to the steps necessary to achieve the long-term
18 viability, international competitiveness, and energy effi-
19 ciency of the eligible automobile manufacturer, consistent
20 with the factors set forth in section 405(b), including
21 through a negotiated plan, a plan to be implemented by
22 legislation, or a reorganization pursuant to chapter 11 of
23 title 11, United States Code.

1 **“SEC. 414. COORDINATION WITH OTHER LAWS.**

2 “(a) IN GENERAL.—No provision of this title may be
3 construed as altering, affecting, or superseding—

4 “(1) the provisions of section 129 of division A
5 of the Consolidated Security, Disaster Assistance,
6 and Continuing Appropriations Act, 2009, relating
7 to funding for the manufacture of advanced tech-
8 nology vehicles;

9 “(2) any existing authority to provide financial
10 assistance or liquidity for purposes of the day-to-day
11 operations in the ordinary course of business or re-
12 search and development.

13 **“(b) ANTITRUST PROVISIONS.—**

14 “(1) IN GENERAL.—Subject to paragraphs (2)
15 and (4), the antitrust laws shall not apply to meet-
16 ings, discussions, or consultations among an eligible
17 automobile manufacturer and its interested parties
18 for the purpose of achieving a negotiated plan pur-
19 suant to section 405(a)(2).

20 “(2) EXCLUSIONS.—Paragraph (1) shall not
21 apply with respect to price-fixing, allocating a mar-
22 ket between competitors, monopolizing (or attempt-
23 ing to monopolize) a market, or boycotting.

24 “(3) ANTITRUST AGENCY PARTICIPATION.—The
25 Attorney General of the United States and the Fed-
26 eral Trade Commission shall, to the extent prac-

1 ticable, receive reasonable advance notice of, and be
2 permitted to participate in, each meeting, discussion,
3 or consultation described in paragraph (1).

4 “(4) PRESERVATION OF ENFORCEMENT AU-
5 THORITY.—Paragraph (1) shall not be construed to
6 preclude the Attorney General of the United States
7 or the Federal Trade Commission from bringing an
8 enforcement action under the antitrust laws for in-
9 junctive relief.

10 “(5) SUNSET.—Paragraph (1) shall apply only
11 with respect to meetings, discussions, or consulta-
12 tions that occur within the 3-year period beginning
13 on the date of the enactment of this title.

14 “(6) DEFINITION.—For purposes of this sub-
15 section, the term ‘antitrust laws’—

16 “(A) has the same meaning as in sub-
17 section (a) of the first section of the Clayton
18 Act (15 U.S.C. 12(a)), except that such term
19 includes section 5 of the Federal Trade Com-
20 mission Act (15 U.S.C. 45), to the extent that
21 such section 5 applies to unfair methods of
22 competition; and

23 “(B) includes any provision of State law
24 that is similar to the laws referred to in sub-
25 paragraph (A).

1 **“SEC. 415. TREATMENT OF RESTRUCTURING FOR PUR-**
2 **POSES OF APPLYING LIMITATIONS ON NET**
3 **OPERATING LOSS CARRYFORWARDS AND**
4 **CERTAIN BUILT-IN LOSSES.**

5 “Section 382 of the Internal Revenue Code of 1986
6 shall not apply in the case of an ownership change result-
7 ing from this title or pursuant to a restructuring plan ap-
8 proved under this title.

9 **“SEC. 416. CLARIFICATION OF AVAILABILITY OF FINANCIAL**
10 **SUPPORT FOR FINANCING ARMS.**

11 “The authority of the President’s designee to provide
12 assistance to any eligible automobile manufacturer in-
13 cludes the authority to provide support to finance com-
14 pany affiliates of the manufacturer to ensure that such
15 affiliates have the necessary resources to continue to pro-
16 vide needed credit, including through dealer and other fi-
17 nancing of consumer and business auto and other vehicle
18 loans and dealer floor plan loans.”.

19 **TITLE IV—CLARIFICATION OF**
20 **AUTHORITY**

21 **SEC. 401. CONSUMER LOANS.**

22 Title I of the Emergency Economic Stabilization Act
23 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
24 at the end the following new section:

1 **“SEC. 137. CLARIFICATION OF AUTHORITY REGARDING**
 2 **CONSUMER LOANS.**

3 “The authority of the Secretary to take any action
 4 under this title includes the authority to establish or sup-
 5 port facilities to support the availability of consumer
 6 loans, including loans for autos and other vehicles and stu-
 7 dent loans, including through purchase of asset-backed se-
 8 curities, directly or through the Board or any Federal re-
 9 serve bank. In determining which classes of consumer
 10 loans to support, the Secretary may consider the applica-
 11 ble regulatory structure and level of consumer protection
 12 afforded to such loans.”.

13 **SEC. 402. MUNICIPAL SECURITIES.**

14 Section 101 of the Emergency Economic Stabilization
 15 Act of 2008 (12 U.S.C. 5211) is amended by inserting
 16 after subsection (g) (as added by section 110 of this Act)
 17 the following new subsection:

18 “(h) CLARIFICATION OF AUTHORITY REGARDING
 19 MUNICIPAL SECURITIES.—

20 “(1) CLARIFICATION.—The authority of the
 21 Secretary to take any action under this title includes
 22 the authority to provide support to State and local
 23 governments, and other issuers of municipal securi-
 24 ties, which are having difficulty accessing appro-
 25 priate financing in the capital markets. Such sup-
 26 port includes the direct purchase of municipal secu-

1 rities and providing credit enhancement in connec-
2 tion with municipal securities whose purchase is fi-
3 nanced under any facility provided by the Board or
4 any Federal reserve bank.

5 “(2) DEFINITION.—For purposes of this sub-
6 section, the term ‘municipal security’ has the mean-
7 ing given the term ‘State or local bond’ in section
8 103(c) of the Internal Revenue Code of 1986 (26
9 U.S.C. 103(c)) and the regulations issued there-
10 under or any other entity eligible to issue bonds the
11 interest on which is excludable from gross income
12 for Federal income tax purposes.”.

13 **SEC. 403. COMMERCIAL REAL ESTATE LOANS.**

14 Title I of the Emergency Economic Stabilization Act
15 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
16 after section 137 (as added by section 401 of this title)
17 the following new section:

18 **“SEC. 138. CLARIFICATION OF AUTHORITY REGARDING**
19 **COMMERCIAL REAL ESTATE LOANS.**

20 “The authority of the Secretary to take any action
21 under this title includes the authority to establish or sup-
22 port facilities to support the availability of commercial real
23 estate loans, including loans for multifamily housing, in-
24 cluding through purchase of asset-backed securities, di-

1 rectly or through the Board of Governors of the Federal
2 Reserve System or any Federal reserve bank.”.

3 **SEC. 404. SMALL BUSINESS LOANS.**

4 Title I of the Emergency Economic Stabilization Act
5 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
6 after section 138 (as added by section 403 of this title)
7 the following new section:

8 **“SEC. 139. CLARIFICATION OF AUTHORITY REGARDING**
9 **SMALL BUSINESS LOANS.**

10 “The authority of the Secretary to take any action
11 under this title includes the authority to establish or sup-
12 port facilities to support the availability of small business
13 loans, including farm loans, loans to minority and dis-
14 advantaged businesses, debtor-in-possession financing,
15 dealer floor plan financing, and any other small business
16 loans, including through purchase of asset-backed securi-
17 ties, directly or through the Board or any Federal reserve
18 bank.”.

19 **SEC. 405. COMMERCIAL LOANS.**

20 Title I of the Emergency Economic Stabilization Act
21 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
22 after section 139 (as added by section 404 of this title)
23 the following new section:

1 **“SEC. 140. CLARIFICATION OF AUTHORITY REGARDING**
2 **COMMERCIAL LOANS.**

3 “The authority of the Secretary to take any action
4 under this title includes the authority to establish or sup-
5 port facilities to support the availability of commercial
6 loans, including through purchase of asset-backed securi-
7 ties, directly or through the Board or any Federal reserve
8 bank.”.

9 **SEC. 406. AUTOMOBILE FLEET PURCHASE LOANS.**

10 Title I of the Emergency Economic Stabilization Act
11 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
12 after section 140 (as added by section 405 of this title)
13 the following new section:

14 **“SEC. 141. CLARIFICATION OF AUTHORITY REGARDING**
15 **AUTOMOBILE FLEET PURCHASE LOANS.**

16 “The authority of the Secretary to take any action
17 under this title includes the authority to establish or sup-
18 port facilities to support the availability of automobile fleet
19 purchase loans, including loans for the automobile rental
20 industry and other fleet purchasers, including through
21 purchase of asset-backed securities, directly or through
22 the Board or any Federal reserve bank.”.

23 **SEC. 407. CERTIFICATION.**

24 Subsection (a) of section 105 of the Emergency Eco-
25 nomic Stabilization Act of 2008 (12 U.S.C. 5215(a)) is
26 amended—

1 (1) in paragraph (2), by striking “and” at the
2 end;

3 (2) in paragraph (3), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(4) the use of the authority for the purposes
8 specified in the amendments made by title IV of the
9 TARP Reform and Accountability Act of 2009.”.

10 **TITLE V—HOPE FOR HOME-**
11 **OWNERS PROGRAM IMPROVE-**
12 **MENTS**

13 **SEC. 501. CHANGES TO HOPE FOR HOMEOWNERS PRO-**
14 **GRAM.**

15 Section 257 of the National Housing Act (12 U.S.C.
16 1715z–23) is amended—

17 (1) in subsection (e)—

18 (A) by striking paragraph (1);

19 (B) in paragraph (2)(B), by striking “90
20 percent” and inserting “93 percent”;

21 (C) by striking paragraph (7);

22 (D) in paragraph (9), by striking “by pro-
23 curing” and all that follows through “by any
24 other method”; and

1 (E) by redesignating paragraphs (2), (3),
2 (4), (5), (6), (8), (9), (10), and (11) as para-
3 graphs (1), (2), (3), (4), (5), (6), (7), (8), and
4 (9), respectively;

5 (2) in subsection (h)(2), by striking “, or in any
6 case in which a mortgagor fails to make the first
7 payment on a refinanced eligible mortgage”;

8 (3) by striking subsection (i) and inserting the
9 following new subsection:

10 “(i) ANNUAL PREMIUMS.—

11 “(1) IN GENERAL.—For each refinanced eligible
12 mortgage insured under this section, the Secretary
13 shall establish and collect an annual premium in an
14 amount equal to not less than 0.55 percent of the
15 amount of the remaining insured principal balance
16 of the mortgage and not more than 0.75 percent of
17 such remaining insured principal balance, as deter-
18 mined according to a schedule established by the
19 Board that assigns such annual premiums based
20 upon the credit risk of the mortgage.

21 “(2) REDUCTION OR TERMINATION DURING
22 MORTGAGE TERM.—Notwithstanding paragraph (1),
23 the Secretary may provide that the annual premiums
24 charged for refinanced eligible mortgages insured
25 under this section are reduced over the term of the

1 mortgage or that the collection of such premiums is
2 discontinued at some time during the term of the
3 mortgage, in a manner that is consistent with poli-
4 cies for such reduction or discontinuation of annual
5 premiums charged for mortgages in accordance with
6 section 203(c).”;

7 (4) in subsection (k)—

8 (A) by striking the subsection heading and
9 inserting “EXIT FEE”;

10 (B) in paragraph (1), in the matter pre-
11 ceding subparagraph (A), by striking “such sale
12 or refinancing” and inserting “the mortgage
13 being insured under this section”; and

14 (C) by striking paragraph (2);

15 (5) in subsection (s)(3)(A)(ii), by striking “sub-
16 section (e)(1)(B) and such other” and inserting
17 “such”;

18 (6) in subsection (v), by inserting after the pe-
19 riod at the end the following: “The Board shall con-
20 form documents, forms, and procedures for mort-
21 gages insured under this section to those in place for
22 mortgages insured under section 203(b) to the max-
23 imum extent possible consistent with the require-
24 ments of this section.”;

1 (7) in subsection (w)(1)(C), by striking
2 “(e)(4)(A)” and inserting “(e)(3)(A)”;

3 (8) by adding at the end the following new sub-
4 section:

5 “(x) PAYMENT TO EXISTING LOAN SERVICER.—The
6 Board may establish a payment to the servicer of the exist-
7 ing senior mortgage for every loan insured under the
8 HOPE for Homeowners Program.”.

9 **TITLE VI—HOME BUYER** 10 **STIMULUS**

11 **SEC. 601. HOME BUYER STIMULUS PROGRAM.**

12 (a) IN GENERAL.—The Secretary of the Treasury (in
13 this title referred to as the “Secretary”) shall establish
14 and implement, within 60 days of the date of the enact-
15 ment of the TARP Reform and Accountability Act of
16 2009, a program to stimulate demand for home purchases
17 and reduce unsold inventories of residential properties, by
18 providing mechanisms to ensure the availability of afford-
19 able, below-market interest rates on mortgages made for
20 the purchase, by qualified home buyers, of 1- to 4-family
21 residential properties.

22 (b) IMPLEMENTATION.—The Secretary shall execute
23 the program under this section using the authority to pur-
24 chase obligations and other securities issued by the Fed-
25 eral National Mortgage Association, the Federal Home

1 Loan Mortgage Corporation, and the Federal Home Loan
2 Banks made available by the Housing and Economic Re-
3 covery Act of 2008 and such other authority as the Sec-
4 retary may have (other than that provided by title I of
5 the Emergency Economic Stabilization Act of 2008) to
6 make affordable, below-market interest rates available di-
7 rectly through portfolio lenders.

8 (c) AVAILABILITY OF AFFORDABLE LOANS UNDER
9 HOPE FOR HOMEOWNERS PROGRAM.—The Secretary, in
10 consultation with the Secretary of Housing and Urban De-
11 velopment, shall ensure that the affordable, below-market
12 interest rates made available through the program under
13 this section are made available in connection with mort-
14 gages made for refinancing eligible mortgages, as such
15 term is defined in section 257 of the National Housing
16 Act (12 U.S.C. 1715z–23), to be insured under the HOPE
17 for Homeowners Program under such section.

18 (d) TARGETING FOR HOUSING DISASTER AREAS.—

19 (1) IN GENERAL.—In carrying out the program
20 under this section, the Secretary shall take into con-
21 sideration impact of activities under the program on
22 housing disaster areas.

23 (2) REPORT.—Not later than 60 days after the
24 Secretary first has authority to purchase troubled
25 assets pursuant to section 115(a)(3) of the Emer-

1 agency Economic Stabilization Act of 2008 (12
2 U.S.C. 5225(a)(3)), the Secretary shall—

3 (A) evaluate the impact of existing Federal
4 foreclosure prevention activities on housing dis-
5 aster areas;

6 (B) make a determination of whether the
7 foreclosure rates and anticipated default rates
8 in such areas have been adequately reduced;
9 and

10 (C) submit a report to the Congress that
11 describes the impact of such activities and the
12 determination of the Secretary under subpara-
13 graph (B).

14 (3) ALTERNATIVE PROPOSALS.— If the Sec-
15 retary determines that the foreclosure rates and an-
16 ticipated default rates in housing disaster areas have
17 not been adequately reduced, the Secretary shall—

18 (A) consider carrying out alternative pro-
19 posals, including a proposal under which the
20 Federal Government makes available affordable
21 mortgages, including refinancings, through sub-
22 sidized financing or mortgage purchases; and

23 (B) establish and carry out alternative pro-
24 grams as the Secretary considers necessary to
25 ensure that foreclosure prevention efforts are

1 most effective in the areas of greatest need, in-
 2 cluding housing disaster areas.

3 (4) HOUSING DISASTER AREAS.—For purposes
 4 of this section, the term “housing disaster area”
 5 means a geographic area having both—

6 (A) a high foreclosure rate during the 12
 7 months preceding the date of the enactment of
 8 this Act, as measured by percentages of homes
 9 in or having gone through foreclosure during
 10 such period and compared to other areas; and

11 (B) a substantial decline in home prices
 12 during the 12 months preceding the date of the
 13 enactment of this Act, as measured by the Of-
 14 fice of Federal Housing Enterprise and Over-
 15 sight and compared to other areas.

16 **TITLE VII—FDIC PROVISIONS**

17 **SEC. 701. PERMANENT INCREASE IN DEPOSIT INSURANCE.**

18 (a) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE
 19 ACT.—Section 11(a)(1) of the Federal Deposit Insurance
 20 Act (12 U.S.C. 1821(a)) is amended—

21 (1) in paragraph (1)(E), by striking
 22 “\$100,000” and inserting “\$250,000”;

23 (2) in paragraph (1)(F)(i), by striking “2010”
 24 and inserting “2015”;

1 (3) in subclause (I) of paragraph (1)(F)(i), by
2 striking “\$100,000” and inserting “\$250,000”;

3 (4) in subclause (II) of paragraph (1)(F)(i), by
4 striking “the calendar year preceding the date this
5 subparagraph takes effect under the Federal Deposit
6 Insurance Reform Act of 2005” and inserting “cal-
7 endar year 2008”; and

8 (5) in paragraph (3)(A)(iii), by striking “, ex-
9 cept that \$250,000 shall be substituted for \$100,000
10 wherever such term appears in such paragraph”.

11 (b) REPEAL OF EESA PROVISION.—Section 136 of
12 the Emergency Economic Stabilization Act (Public Law
13 110–343; 122 Stat. 3765) is hereby repealed.

14 (c) AMENDMENT TO FEDERAL CREDIT UNION
15 ACT.—Section 207(k) of the Federal Credit Union Act
16 (12 U.S.C. 1787(k) is amended—

17 (1) in paragraph (3)—

18 (A) by striking the opening quotation mark
19 before “\$250,000”;

20 (B) by striking “, except that \$250,000
21 shall be substituted for \$100,000 wherever such
22 term appears in such section”; and

23 (C) by striking the closing quotation mark
24 after the closing parenthesis; and

1 (2) in paragraph (5), by striking “\$100,000”
 2 and inserting “\$250,000”;

3 **SEC. 702. EXTENSION OF RESTORATION PLAN PERIOD.**

4 Section 7(b)(3)(E)(ii) of the Federal Deposit Insur-
 5 ance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by
 6 striking “5-year period” and inserting “8-year period”.

7 **SEC. 703. BORROWING AUTHORITY.**

8 Section 14(a) of the Federal Deposit Insurance Act
 9 (12 U.S.C. 1824(a)) is amended—

10 (1) by striking “\$30,000,000,000” and insert-
 11 ing “\$100,000,000,000”; and

12 (2) by inserting prior to the last sentence, the
 13 following new sentence: “The Corporation may re-
 14 quest in writing to borrow, and the Secretary may
 15 authorize and approve the borrowing of, additional
 16 amounts above \$100,000,000,000 to the extent that
 17 the Board of Directors and the Secretary determine
 18 such borrowing to be necessary.”.

19 **SEC. 704. SYSTEMIC RISK SPECIAL ASSESSMENTS.**

20 Section 13(c)(4)(G)(ii) of the Federal Deposit Insur-
 21 ance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read
 22 as follows:

23 “(ii) REPAYMENT OF LOSS.—

24 “(I) IN GENERAL.—The Corpora-
 25 tion shall recover the loss to the De-

1 posit Insurance Fund arising from
2 any action taken or assistance pro-
3 vided with respect to an insured de-
4 pository institution under clause (i)
5 from 1 or more special assessments on
6 insured depository institutions, depository
7 institution holding companies
8 (with the concurrence of the Secretary
9 of the Treasury with respect to hold-
10 ing companies), or both, as the Cor-
11 poration determines to be appropriate.

12 “(II) TREATMENT OF DEPOSI-
13 TORY INSTITUTION HOLDING COMPA-
14 NIES.—For purposes of this clause,
15 sections 7(c)(2) and 18(h) shall apply
16 to depository institution holding com-
17 panies as if they were insured depository
18 institutions.

19 “(III) REGULATIONS.—The Cor-
20 poration shall prescribe such regula-
21 tions as it deems necessary to imple-
22 ment this clause. In prescribing such
23 regulations, defining terms, and set-
24 ting the appropriate assessment rate
25 or rates, the Corporation shall con-

1 sider: the types of entities that benefit
 2 from any action taken or assistance
 3 provided under this subparagraph;
 4 economic conditions; the effects on the
 5 industry; and such other factors as
 6 the Corporation deems appropriate.”.

7 **TITLE VIII—REPORTS ON THE**
 8 **GUARANTEE OF CERTAIN**
 9 **CITIGROUP ASSETS**

10 **SEC. 801. REPORTS REQUIRED.**

11 (a) TREASURY REPORTS.—Not later than 30 days
 12 after the date of the enactment of this Act, the Secretary
 13 of the Treasury, in coordination with the Chairperson of
 14 the Board of Directors of the Federal Deposit Insurance
 15 Corporation, shall issue a report to the Committee on Fi-
 16 nancial Services of the House of Representatives, the
 17 Committee on Banking of the Senate, and to the Comp-
 18 troller General of the United States containing the fol-
 19 lowing:

20 (1) The authority under which the Citigroup
 21 guarantee and purchases were made.

22 (2) A complete accounting of the specific loans,
 23 securities, and any other financial instruments in the
 24 asset pool covered by the Citigroup guarantee.

1 (b) GAO REPORT.—Not later than 60 days after the
 2 date the Secretary of the Treasury issues the report re-
 3 quired by subsection (a), the Comptroller General of the
 4 United States shall issue a report to the Committee on
 5 Financial Services of the House of Representatives and
 6 the Committee on Banking of the Senate examining the
 7 probable long-term cost to the Federal Government of the
 8 Citigroup guarantee.

9 (c) CITIGROUP GUARANTEE DEFINED.—For the pur-
 10 pose of this section, the term “Citigroup guarantee”
 11 means the agreement announced November 23, 2008, be-
 12 tween Citigroup and the Treasury and the Federal De-
 13 posit Insurance Corporation to guarantee or purchase,
 14 partly through the use of funds authorized under the
 15 Emergency Economic Stabilization Act of 2008 (12
 16 U.S.C. 5201 et seq.), an asset pool of approximately \$306
 17 billion of loans and securities backed by residential and
 18 commercial real estate and other such assets on
 19 Citigroup’s balance sheet.

20 **TITLE IX—GAO STUDY OF** 21 **FINANCIAL CRISIS**

22 **SEC. 901. STUDY REQUIRED.**

23 The Comptroller General of the United States shall—
 24 (1) conduct an in-depth study of the root
 25 causes of the financial crisis; and

1 (2) submit a report to the Congress and the
2 President, and transmit a copy to the Secretary of
3 the Treasury, containing the findings and conclu-
4 sions of the Comptroller General with respect to the
5 study under paragraph (1), together with such rec-
6 ommendations for legislative and administrative ac-
7 tion as the Comptroller General may determine to be
8 appropriate before the end of the 6-month period be-
9 ginning on the date of the enactment of this Act.

10 **SEC. 902. TREASURY STRATEGY AND TIMELINE.**

11 Using the findings and conclusions of the Comptroller
12 General in the report under section 901(2), within 30
13 days, the Secretary of the Treasury shall issue an overall
14 strategy and timeline for implementing the recommenda-
15 tions contained in the report with the goal of financial sta-
16 bility and the well-being of taxpayers.

17 **TITLE X—AGENCY MBS PUR-**
18 **CHASE PROGRAM DISCLO-**
19 **SURE**

20 **SEC. 1001. DISCLOSURE REQUIRED.**

21 Not later than 1 month after the date of the enact-
22 ment of this Act, the Chairman of the Board of Governors
23 of the Federal Reserve System shall issue to the Congress
24 a report disclosing—

1 (1) the details of the competitive request for
2 proposal process that was used to select the invest-
3 ment managers of the Federal Reserve System's
4 Agency Mortgage-Backed Security Purchase Pro-
5 gram announced by the Federal Reserve System on
6 November 25, 2008;

7 (2) all details of the contracts, including con-
8 tract price, made between the Federal Reserve Sys-
9 tem and such investment managers; and

10 (3) steps that each such investment manager
11 has taken to ensure that the investment manager
12 has appropriately segregated the investment man-
13 agement team that implements the Agency Mort-
14 gage-Backed Security Purchase Program from other
15 advisory and propriety trading activities undertaken
16 by the investment manager and the members of the
17 investment management team.

Passed the House of Representatives January 21,
2009.

Attest:

Clerk.

11TH CONGRESS
1ST SESSION

H. R. 384

AN ACT

To reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program.