

Response for the Record to Senator Crapo's question at  
Dec. 4, 2008 hearing on possible automaker financial assistance

**Q. [I]n 1979, in terms of the Chrysler bailout that occurred then . . . my understanding is that at that time Congress was very specific. And the terms and conditions that Congress laid out were statutory and I assume that you are contemplating, as you suggest an oversight board here, that we have, again, very specific congressional standards set and that this oversight board would have some authorities to implement those standards, correct? . . . Do you recall what kinds of standards Congress put in, in 1979?**

A. To protect the government's interests, the Congress imposed a series of requirements before the Chrysler Corporation Loan Guarantee Board<sup>1</sup> could extend federal loan guarantees—up to \$1.5 billion in outstanding aggregate principal—to Chrysler. These requirements, under the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. No. 96-185 (Jan. 7, 1980), included:

1. Requirements before committing to make a loan guarantee

Before making a commitment to make a loan guarantee, the Board was required to determine that:

- A loan guarantee commitment is needed to enable Chrysler (or related entity) to continue to operate, and failure to meet this need would adversely and seriously affect the employment or economy of the United States or any U.S. region (Sec. 4(a)(2))
- Chrysler has submitted a satisfactory operating plan for the next four fiscal years demonstrating its ability to continue operating as a going concern in the automobile business and thereafter to continue operating as a going concern without additional loan guarantees or other federal financing (Sec. 4(a)(3)(A))
- The Board has received adequate assurances that Chrysler's operating plan is realistic and feasible (Sec. 4(a)(3)(B))
- Chrysler has submitted a satisfactory financing plan which meets its financing needs as reflected in its operating plan and includes a specified amount of funds not guaranteed by the federal government, obtained through commitments and concessions from stakeholders as determined by the Board (Sec. 4(a)(4))
- The Board has received adequate assurances that all financing is available and adequate (Sec. 4(a)(5))
- Chrysler's existing creditors have certified to the Board that they will waive their rights to recover under any existing credit commitments that may be in default unless the Board determines that exercise of those rights would not adversely affect Chrysler's operating

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<sup>1</sup> The Board was comprised of the Secretary of the Treasury (Chairman), the Chairman of the Federal Reserve Board of Governors, and the Comptroller General of the United States, with the Secretary of Labor and Secretary of Transportation serving as ex officio non-voting members.

or financing plans (Sec. 4(a)(6))

## 2. Requirements before making a loan guarantee

Before making a loan guarantee, the Board was required to determine that:

- Credit is not otherwise available to Chrysler on reasonable terms or conditions sufficient to meet its financing needs as reflected in its financing plan (Sec. 5(a)(1))
- There is reasonable assurance, based on Chrysler's prospective earning power and the character and value of its pledged security, that loans guaranteed under the Act will be repaid in accordance with the terms of the loan (Sec. 5(a)(2))
- The loan bears a reasonable interest rate (Sec. 5(a)(3))
- Chrysler's operating and financial plans continue to meet the statute's requirements for a loan guarantee commitment and any approved revisions (Sec. 5(a)(4))
- Chrysler agrees that as long as loan guarantees are outstanding, there is no substantial likelihood that it will be absorbed by or merged with any foreign entity (Sec. 5(a)(8))
- The Board must assess fees to compensate for the government's administrative expenses related to the loan guarantee (Sec. 5(c))
- The Board must ensure, to the maximum extent feasible, that the government is compensated for its risk (*e.g.*, by giving the government warrants) (Sec. 5(d))
- Labor costs must be reduced by specified amounts (Sec. 6)
- Chrysler must agree in writing to establish a trust and employee stock ownership plan (Sec. 7)
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- Chrysler must provide security for the loans satisfactory to the Board (Sec. 9(b)(1))

## 3. Access to records, GAO audits, fraud investigations

- The Board must have access, as long as a loan guarantee request is pending or a loan guarantee is outstanding, to Chrysler's accounts, books, records, and transactions (Sec. 10(a))
- GAO may audit Chrysler's accounts, books, records, and transactions and shall report the results to the Congress. No loan guarantee may be made unless and until Chrysler agrees

in writing to allow GAO to conduct such audits (Sec. 10(b))

- The Board must investigate any allegations of fraud, dishonesty, incompetence, misconduct, or irregularity in the management of Chrysler's affairs that are material to its ability to repay guaranteed loans (Sec. 10(c))

4. Other protections for the government

- The Board may not make further loan guarantees, and existing loan guarantees shall become due and payable in full, if the Board determines that Chrysler's sale of any high-value asset or proposed high-value contract would impair its ability to repay the loan as scheduled or impair its ability to continue as a going concern (Sec. 11(b) & (c))
- Debts owed to the United States under any loan guarantee must be satisfied first in cases of insolvency or bankruptcy, subject to the Board's authority to waive its priority rights under certain circumstances (Sec. 11(i))
- Chrysler may not pay dividends on its common or preferred stock from the date of enactment until any loan guarantees made under the Act are no longer outstanding (Sec. 11(j))