

[DISCUSSION DRAFT]

SEPTEMBER 25, 2008

110TH CONGRESS
2^D SESSION**H. R.** _____

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, and for other purposes.

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 AND TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Economic Recovery and Corporate Accountability Act of
4 2008”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

- Sec. 101. Purchases of troubled assets.
- Sec. 102. Considerations.
- Sec. 103. Financial Stability Oversight Board.
- Sec. 104. Reports.
- Sec. 105. Rights; management; sale of troubled assets; revenues and sale proceeds.
- Sec. 106. Contracting procedures.
- Sec. 107. Conflicts of interest.
- Sec. 108. Foreclosure mitigation efforts.
- Sec. 109. Assistance to homeowners and localities.
- Sec. 110. Executive compensation and corporate governance.
- Sec. 111. Coordination with foreign authorities and central banks.
- Sec. 112. Minimization of long-term costs and maximization of benefits for taxpayers.
- Sec. 113. Market transparency.
- [Sec. 114. Maximum amount of authorized purchases.]**
- [Sec. 114. Graduated authorization to purchase.]**
- Sec. 115. Oversight and audits.
- Sec. 116. Studies and reports.
- Sec. 117. Funding.
- Sec. 118. Judicial review.
- Sec. 119. Termination of authority.
- Sec. 120. Special inspector general for the troubled asset program.
- Sec. 121. Increase in statutory limit on the public debt.
- Sec. 122. Credit reform.
- Sec. 123. Minimizing foreclosures.
- Sec. 124. Congressional Oversight Panel.
- Sec. 125. FDIC enforcement enhancement.
- Sec. 126. Cooperation with the FBI.
- Sec. 127. Acceleration of effective date.
- Sec. 128. Disclosures on exercise of loan authority.
- Sec. 129. Technical corrections.
- Sec. 130. Temporary money market fund authority.

TITLE II—BUDGET-RELATED PROVISIONS

- Sec. 201. Information for congressional support agencies.

Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.

Sec. 203. Analysis in President's budget.

TITLE III—TAX PROVISIONS

Sec. 301. Gain or loss from sale or exchange of certain preferred stock.

Sec. 302. Special rules for tax treatment of executive compensation of employers participating in the troubled assets relief program.

[Sec. 303. Extension and modification of exclusion of income from discharge of qualified principal residence indebtedness.]

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the current United States financial crisis
4 necessitates immediate action to stabilize the econ-
5 omy, restore liquidity to financial institutions and
6 the capital markets, protect savings and pensions,
7 and preserve the availability of credit for individuals
8 and businesses;

9 (2) actions taken to protect consumers and
10 minimize mortgage foreclosures are equally impor-
11 tant objectives in promoting a resolution to this cri-
12 sis and minimizing any losses and maximizing the
13 ultimate return to the taxpayer on assets purchased
14 under this program;

15 (3) financial regulators ignored questionable
16 practices and emerging problems and, as a result,
17 existing financial regulatory structures have clearly
18 failed to prevent the current crisis or to protect
19 United States consumers and investors; and

1 (4) comprehensive regulatory modernization is
2 required to restore confidence in financial markets
3 and institutions going forward.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to immediately provide authority and facili-
6 ties that the Secretary of the Treasury can use to
7 restore liquidity and stability to the United States fi-
8 nancial system;

9 (2) to ensure that this authority and these fa-
10 cilities are used in a manner that minimizes mort-
11 gage foreclosures, maximizes the ability of United
12 States homeowners to remain in their homes, pro-
13 tects individual investors, including retirement fund
14 investors, minimizes initial costs, and maximizes
15 overall returns to United States taxpayers;

16 (3) to review, on an expedited basis, the ways
17 that deficiencies and gaps in the current financial
18 regulatory system contributed to the current crisis;
19 and

20 (4) to act as quickly as possible to comprehen-
21 sively modernize the United States financial regu-
22 latory system to protect consumers and homeowners,
23 reform the mortgage lending and securitization proc-
24 ess, enhance the transparency and fairness in finan-

1 cial markets, and ensure the future stability of the
2 financial system.

3 **SEC. 3. DEFINITIONS.**

4 For purposes of this Act, the following definitions
5 shall apply:

6 (1) **APPROPRIATE COMMITTEES OF CON-**
7 **GRESS.**—The term “appropriate committees of Con-
8 gress” means—

9 (A) the Committee on Banking, Housing,
10 and Urban Affairs, the Committee on Finance,
11 and the Committee on the Budget of the Sen-
12 ate; and

13 (B) the Committee on Financial Services,
14 the Committee on Ways and Means, and the
15 Committee on the Budget of the House of Rep-
16 resentatives.

17 (2) **BOARD.**—The term “Board” means the
18 Board of Governors of the Federal Reserve System.

19 (3) **CONGRESSIONAL SUPPORT AGENCIES.**—The
20 term “congressional support agencies” means the
21 Congressional Budget Office and the Joint Com-
22 mittee on Taxation.

23 **[(4) FINANCIAL INSTITUTION.**—The term “fi-
24 nancial institution” means any institution, including
25 any bank, savings association, credit union, security

1 broker or dealer, or insurance company, organized
2 and regulated under the laws of the United States
3 or any State, territory, or possession of the United
4 States, the District of Columbia, Commonwealth of
5 Puerto Rico, Commonwealth of Northern Marianas
6 Islands, Guam, American Samoa, or the United
7 States Virgin Islands, and having significant oper-
8 ations in the United States, but excluding any cen-
9 tral bank of, or institution owned by, a foreign gov-
10 ernment.】

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of the Treasury.

13 (6) TROUBLED ASSETS.—The term “troubled
14 assets” means residential or commercial mortgages
15 and any securities, obligations, or other instruments
16 that are based on or related to such mortgages, that
17 in each case was originated or issued on or before
18 March 14, 2008, the purchase of which the Sec-
19 retary determines promotes financial market sta-
20 bility; and, upon the determination of the Secretary
21 in consultation with the Chairman of the Board of
22 Governors of the Federal Reserve, any other finan-
23 cial instrument, the purchase of which the Secretary
24 determines necessary to promote financial market
25 stability.

1 **TITLE I—TROUBLED ASSETS**
2 **RELIEF PROGRAM**

3 **SEC. 101. PURCHASES OF TROUBLED ASSETS.**

4 (a) OFFICES; AUTHORITY.—

5 (1) AUTHORITY.—The Secretary is authorized
6 to establish a program to purchase, and to make and
7 fund commitments to purchase, troubled assets from
8 any financial institution, on such terms and condi-
9 tions as are determined by the Secretary, and in ac-
10 cordance with this Act and the policies and proce-
11 dures developed and published by the Secretary.

12 (2) ESTABLISHMENT OF TREASURY OFFICE.—

13 (A) IN GENERAL.—The Secretary shall im-
14 plement any program under paragraph (1)
15 through an Office of Financial Stability, estab-
16 lished for such purpose within the Office of Do-
17 mestic Finance of the Department of the Treas-
18 ury, which office shall be headed by an Assist-
19 ant Secretary of the Treasury.

20 (B) CLERICAL AMENDMENT.—Section
21 5315 of title 5, United States Code, is amended
22 in the item relating to Assistant Secretaries of
23 the Treasury, by striking “(9)” and inserting
24 “(10)”.

1 (b) CONSULTATION.—In exercising the authority
2 under this Act, the Secretary shall consult with the Board
3 of Governors of the Federal Reserve System, the Federal
4 Reserve Bank of New York, the Federal Deposit Insur-
5 ance Corporation, the Comptroller of the Currency, the
6 Director of the Office of Thrift Supervision, and the Sec-
7 retary of Housing and Urban Development.

8 (c) NECESSARY ACTIONS.—The Secretary is author-
9 ized to take such actions as the Secretary deems necessary
10 to carry out the authorities in this Act, including, without
11 limitation, the following:

12 (1) The Secretary shall have direct hiring au-
13 thority with respect to the appointment of employees
14 to administer this Act.

15 (2) Entering into contracts, including contracts
16 for services authorized by section 3109 of title 5,
17 United States Code.

18 (3) Designating financial institutions as finan-
19 cial agents of the Federal Government, and such in-
20 stitutions shall perform all such reasonable duties
21 related to this Act as financial agents of the Federal
22 Government as may be required.

23 (4) Establishing vehicles that are authorized,
24 subject to supervision by the Secretary, to purchase
25 troubled assets and issue obligations.

1 (5) Issuing such regulations and other guidance
2 as may be necessary or appropriate to define terms
3 or carry out the authorities or purposes of this Act.

4 (d) PROGRAM GUIDELINES.—Before the earlier of
5 the end of the 2-business day period beginning on the date
6 of the first exercise of the authority under this section or
7 the end of the 30-day period beginning on the date of the
8 enactment of this Act, the Secretary shall publish program
9 guidelines, including the following:

10 (1) Mechanisms for purchasing troubled assets.

11 (2) Methods for pricing and valuing troubled
12 assets.

13 (3) Procedures for selecting asset managers.

14 (4) Criteria for identifying troubled assets for
15 purchase.

16 (e) PREVENTING UNJUST ENRICHMENT.—In making
17 purchases under the authority of this Act, the Secretary
18 shall take such steps as may be necessary to prevent un-
19 just enrichment of financial institutions participating in
20 a program established under this section, including by pre-
21 venting the resale of a troubled asset to the Secretary at
22 a higher price than what the seller paid to purchase the
23 asset.

1 **SEC. 102. CONSIDERATIONS.**

2 In exercising the authorities granted in this Act, the
3 Secretary shall take into consideration—

4 (1) providing stability or preventing disruption
5 to the financial markets or banking system;

6 (2) the need to help families to keep their
7 homes and to stabilize communities;

8 (3) in determining whether to engage in a di-
9 rect purchase from an individual financial institu-
10 tion, the long-term viability of the financial institu-
11 tion in determining whether the purchase represents
12 the most efficient use of funds under this Act;

13 (4) ensuring that as many financial institutions
14 as possible participate in the program, without dis-
15 crimination against financial institutions based on
16 their size, geographic operation, or the size, type,
17 and number of assets eligible for purchase under
18 this Act;

19 (5) providing assistance to financial institu-
20 tions, including those serving low- and moderate-in-
21 come populations and other underserved commu-
22 nities, and that have assets less than
23 \$1,000,000,000 that were well or adequately capital-
24 ized as of June 30, 2008, and that as a result of
25 the devaluation of the preferred government-spon-
26 sored enterprises stock will drop one or more capital

1 levels, in a manner sufficient to restore the financial
2 institutions to at least an adequately capitalized
3 level;

4 (6) the need to ensure stability for United
5 States public instrumentalities, such as counties and
6 cities, that may have suffered significant increased
7 costs or losses in the current market turmoil;

8 (7) the need to protect the interest of the tax-
9 payers, taking into account the impact on the econ-
10 omy, jobs, savings, and pensions;

11 **[(8) student loans;]**

12 (9) that nothing in this Act prevents the Sec-
13 retary from protecting the retirement security of
14 Americans by purchasing troubled assets that a fi-
15 nancial institution holds or manages on behalf of a
16 cash or deferred **[arrangement]** that meets the re-
17 quirements of section 401(k) of the Internal Rev-
18 enue Code of 1986, pension, or other retirement
19 plan; and

20 (10) the utility of purchasing other real estate
21 owned and instruments backed by mortgages on
22 multifamily properties.

1 **SEC. 103. FINANCIAL STABILITY OVERSIGHT BOARD.**

2 (a) ESTABLISHMENT.—There is established the Fi-
3 nancial Stability Oversight Board, which shall be respon-
4 sible for—

5 (1) reviewing the exercise of authority under a
6 program developed in accordance with this Act, in-
7 cluding—

8 (A) all actions taken by the Secretary and
9 the Office of Financial Stability created under
10 section 101, including the appointment of finan-
11 cial agents, the designation of asset classes to
12 be purchased, and plans for the structure of ve-
13 hicles used to purchase troubled assets; and

14 (B) the effect of such actions in assisting
15 American families in preserving home owner-
16 ship, stabilizing financial markets, and pro-
17 tecting taxpayers;

18 (2) making recommendations, as appropriate, to
19 the Secretary regarding use of the authority under
20 this Act; and

21 (3) reporting any fraud, misrepresentation, or
22 malfeasance to appropriate law enforcement agen-
23 cies.

24 (b) MEMBERSHIP.—The Financial Stability Over-
25 sight Board shall be comprised of—

1 (1) the **【Chairman】** of the Board of Governors
2 of the Federal Reserve System;

3 (2) the **【chairperson】** of the Board of Directors
4 of the Federal Deposit Insurance Corporation;

5 (3) the **【chairperson】** of the Securities and Ex-
6 change Commission;

7 (4) one member who is not an employee of the
8 Federal Government or any State government hav-
9 ing appropriate financial expertise in both the public
10 and private sectors, appointed jointly by the major-
11 ity leader of the Senate and the Speaker of the
12 House of Representatives; and

13 (5) one member who is not a government em-
14 ployee, having appropriate financial expertise in both
15 the public and private sectors, appointed jointly by
16 the minority leader of the Senate and the minority
17 leader of the House of Representatives.

18 (c) CHAIRPERSON.—The chairperson of the Financial
19 Stability Oversight Board shall be elected by the members
20 of the Board from among the members.

21 (d) MEETINGS.—The Financial Stability Oversight
22 Board shall meet 2 weeks after the first exercise of the
23 purchase authority of the Secretary under this Act and
24 monthly thereafter.

25 (e) EXECUTIVE COMMITTEE.—

1 (1) APPOINTMENT.—There is established an ex-
2 ecutive committee of the Financial Stability Over-
3 sight Board which shall consist of the members of
4 the Financial Stability Oversight Board pursuant to
5 paragraphs (1), (2), and (3) of subsection (b).

6 (2) AUTHORITIES.—Notwithstanding the au-
7 thority granted to the Secretary under section
8 101(a), the executive committee may direct, limit, or
9 prohibit the activities of the Secretary to carry out
10 the purposes of this Act, to the extent that the exec-
11 utive committee determines that such activities are
12 not in accordance with the purposes of this Act.

13 (f) CREDIT REVIEW COMMITTEE.—

14 (1) APPOINTMENT.—The executive committee
15 established under subsection (e) may appoint a cred-
16 it review committee for the purpose of evaluating the
17 exercise of the purchase authority provided under
18 this Act and the assets acquired through the exercise
19 of such authority, as the executive committee deter-
20 mines appropriate.

21 (2) ADVISORY COMMITTEE ACT APPLIES.—The
22 Federal Advisory Committee Act (5 U.S.C. App.)
23 shall apply to a credit review committee appointed
24 under this subsection.

1 (3) FEDERAL EMPLOYEES.—The employees of
2 a credit review committee appointed under this sub-
3 section shall be employees under section 2105 of
4 title 5, United States Code, including for purposes
5 of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B,
6 and 90 of that title.

7 (g) SHARING OF INFORMATION.—Any reports or rec-
8 ommendations submitted or proposed under this section
9 shall also be submitted to the Congressional Oversight
10 Panel established under section 124.

11 **SEC. 104. REPORTS.**

12 (a) IN GENERAL.—Before the expiration of the 60-
13 day period beginning on the date of the first exercise of
14 the authority granted in section 101(a), and every 30-day
15 period thereafter, the Secretary shall report to the appro-
16 priate committees of Congress, with respect to each such
17 period—

18 (1) an overview of actions taken by the Sec-
19 retary, including the considerations required by sec-
20 tion 102 and the efforts under section 111;

21 (2) the actual obligation and expenditure of the
22 funds provided for administrative expenses by sec-
23 tion 117 during such period and the expected ex-
24 penditure of such funds in the subsequent period;
25 and

1 (3) a detailed financial statement with respect
2 to the exercise of authority under this Act, includ-
3 ing—

4 (A) all agreements made or renewed;

5 (B) all transactions occurring during such
6 period, including the types of parties involved;

7 (C) the nature of the assets purchased;

8 (D) all projected costs and liabilities;

9 (E) operating expenses, including com-
10 pensation for financial agents;

11 (F) the valuation or pricing method used
12 for each transaction; and

13 (G) a description of the vehicles estab-
14 lished to exercise such authority.

15 (b) WEEKLY PUBLIC REPORTS.—On a weekly basis,
16 every Monday or the first business day of the week, the
17 Secretary shall make public the total amount of assets
18 purchased and sold during the preceding week under the
19 authority of this Act.

20 (c) TRANCHE REPORTS TO CONGRESS.—

21 (1) REPORTS.—The Secretary shall provide to
22 the Committee on Banking, Housing, and Urban Af-
23 fairs, the Committee on the Budget, and the Com-
24 mittee on Finance of the Senate and the Committee
25 on Financial Services, the Committee on the Budget,

1 and the Committee on Ways and Means of the
2 House of Representatives, at the times specified in
3 paragraph (2), a written report, including—

4 (A) a description of all of the transactions
5 made during the reporting period;

6 (B) a description of the pricing mechanism
7 for the transactions;

8 (C) a justification of the price paid for and
9 other financial terms associated with the trans-
10 actions;

11 (D) a description of the impact of the exer-
12 cise of such authority on the financial system,
13 supported, to the extent possible, by specific
14 data;

15 (E) a description of challenges that remain
16 in the financial system, including any bench-
17 marks yet to be achieved; and

18 (F) an estimate of additional actions under
19 the authority provided under this Act that may
20 be necessary to address such challenges.

21 (2) **TIMING.**—The reports required by this sub-
22 section shall be submitted not later than 7 days
23 after the date on which commitments to purchase
24 troubled assets under the authorities provided in this
25 Act first reach an aggregate of \$50,000,000,000 and

1 not later than 7 days after each \$50,000,000,000 in-
2 terval of such commitments is reached thereafter.

3 (d) **REGULATORY MODERNIZATION REPORT.**—The
4 Secretary shall review the current state of the financial
5 markets and the regulatory system and submit a written
6 report to the appropriate committees of Congress not later
7 than April 30, 2009, analyzing the current state of the
8 regulatory system and its effectiveness at overseeing the
9 participants in the financial markets, and providing rec-
10 ommendations for improvement, including recommenda-
11 tions regarding whether any participants in the financial
12 markets that are currently outside the regulatory system
13 should become subject to the regulatory system and the
14 rationale underlying such recommendations.

15 (e) **SHARING OF INFORMATION.**—Any reports re-
16 quired under this section shall also be submitted to the
17 Congressional Oversight Panel established under section
18 124.

19 **SEC. 105. RIGHTS; MANAGEMENT; SALE OF TROUBLED AS-**
20 **SETS; REVENUES AND SALE PROCEEDS.**

21 (a) **EXERCISE OF RIGHTS.**—The Secretary may, at
22 any time, exercise any rights received in connection with
23 troubled assets purchased under this Act.

24 (b) **MANAGEMENT OF TROUBLED ASSETS.**—The Sec-
25 retary, in consultation with the Federal Deposit Insurance

1 Corporation, shall have authority to manage troubled as-
2 sets purchased under this Act, including revenues and
3 portfolio risks therefrom.

4 (c) SALE OF TROUBLED ASSETS.—The Secretary
5 may, at any time, upon terms and conditions and at prices
6 determined by the Secretary, sell, or enter into securities
7 loans, repurchase transactions, or other financial trans-
8 actions in regard to, any troubled asset purchased under
9 this Act.

10 (d) TRANSFER OF A PERCENTAGE OF PROFITS.—

11 (1) DEPOSITS.—Not less than 20 percent of
12 any profit realized on the sale of each troubled asset
13 purchased under this Act shall be deposited as pro-
14 vided in paragraph (2).

15 (2) USE OF DEPOSITS.—Of the amount referred
16 to in paragraph (1)—

17 (A) 65 percent shall be deposited into the
18 Housing Trust Fund established under section
19 1338 of the Federal Housing Enterprises Regu-
20 latory Reform Act of 1992 (12 U.S.C. 4568);
21 and

22 (B) 35 percent shall be deposited into the
23 Capital Magnet Fund established under section
24 1339 of that Act (12 U.S.C. 4569).

1 (3) REMAINDER DEPOSITED IN THE TREAS-
2 URY.—Revenues of, and proceeds from the sale of
3 each troubled asset purchased under this Act that
4 are remaining after payments under paragraph (1)
5 shall be paid into the General Fund of the Treasury
6 for reduction of the public debt.

7 (e) APPLICATION OF SUNSET TO TROUBLED AS-
8 SETS.—The authority of the Secretary to hold any trou-
9 bled asset purchased under this Act before the termination
10 date in section 119, or to purchase or fund the purchase
11 of a troubled asset under a commitment entered into be-
12 fore the termination date in section 119, is not subject
13 to the provisions of section 119.

14 **SEC. 106. CONTRACTING PROCEDURES.**

15 (a) STREAMLINED PROCESS.—In awarding contracts,
16 including contracts to asset managers, servicers, property
17 managers, and other service providers or expert consult-
18 ants, that would otherwise be subject to the Federal Ac-
19 quisition Regulation, the Secretary may instead design a
20 streamlined process, and shall solicit proposals from a
21 broad range of qualified vendors interested in performing
22 the work.

23 (b) ADDITIONAL CONTRACTING REQUIREMENTS.—In
24 soliciting and awarding contracts authorized under the au-
25 thority provided in subsection (a), the Secretary shall de-

1 develop and implement standards and procedures to ensure,
2 to the maximum extent practicable, the inclusion and utili-
3 zation of minorities (as such term is defined in section
4 1204(c) of the Financial Institutions Reform, Recovery,
5 and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and
6 women, and minority- and women-owned businesses (as
7 such terms are defined in section 21A(r)(4) of the Federal
8 Home Loan Bank Act (12 U.S.C. 1441a(r)(4)), in all
9 business and activities provided for under this Act (includ-
10 ing contracts to asset managers, servicers, property man-
11 agers, and other service providers or expert consultants).
12 Any streamlined processes established by the Secretary for
13 review and evaluation of contract proposals shall include
14 a component that gives consideration to the diversity of
15 the applicant.

16 (c) **ELIGIBILITY OF FDIC.**—Notwithstanding sub-
17 sections (a) and (b), the Federal Deposit Insurance Cor-
18 poration shall be eligible and shall be considered in the
19 selection of asset managers for residential mortgage loans
20 and residential mortgage-backed securities shall be reim-
21 bursed by the Secretary for any services provided.

22 **SEC. 107. CONFLICTS OF INTEREST.**

23 (a) **STANDARDS REQUIRED.**—The Secretary shall
24 issue regulations or guidelines necessary to address and
25 manage or to prohibit conflicts of interest that may arise

1 in connection with the administration and execution of the
2 authorities provided under this Act, including—

3 (1) conflicts arising in the selection or hiring of
4 contractors or advisors, including asset managers;

5 (2) the purchase of troubled assets;

6 (3) the management of the troubled assets held;

7 (4) post-employment restrictions on employees;

8 and

9 (5) any other potential conflict of interest, as
10 the Secretary deems necessary or appropriate in the
11 public interest.

12 (b) **TIMING.**—Regulations or guidelines required by
13 this section shall be issued as soon as practicable after
14 the date of the enactment of this Act.

15 **SEC. 108. FORECLOSURE MITIGATION EFFORTS.**

16 (a) **RESIDENTIAL MORTGAGE LOAN SERVICING**
17 **STANDARDS.**—To the extent the Secretary acquires mort-
18 gages, mortgage backed securities, and other assets se-
19 cured by residential real estate, including multifamily
20 housing, the Secretary shall maximize assistance for
21 homeowners and use the Secretary’s authority as investor
22 to encourage the servicers of the underlying mortgages,
23 consistent with a reasonable return to the taxpayer, to
24 take advantage of the HOPE for Homeowners Program
25 under section 257 of the National Housing Act or other

1 available programs to minimize foreclosures. In addition,
2 the Secretary may use loan guarantees and credit en-
3 hancements to facilitate loan modifications to prevent
4 avoidable foreclosures.

5 (b) COORDINATION.—The Secretary shall coordinate
6 with the Federal Deposit Insurance Corporation, the
7 Board, the Federal Housing Finance Agency, the Sec-
8 retary of Housing and Urban Development, and other
9 Federal Government entities that hold troubled assets to
10 attempt to identify opportunities for the acquisition of
11 classes of troubled assets that will improve the Secretary’s
12 ability to improve the loan modification and restructuring
13 process and, where permissible, to permit bona fide ten-
14 ants who are current on their rent to remain in their
15 homes under the terms of the lease.

16 (c) SYSTEMATIC APPROACH.—In carrying out this
17 section, the Secretary shall utilize a systematic approach
18 for preventing foreclosures and ensuring long-term, sus-
19 tainable homeownership through loan modifications and
20 the use of the HOPE for Homeowners Program estab-
21 lished under section 257 of the National Housing Act and
22 any other programs that may be available for such pur-
23 poses. In the case of a mortgage on a residential rental
24 property, the systematic approach required under this sub-
25 section shall include protecting Federal, State, and local

1 rental subsidies and protections, and ensuring any modi-
2 fication takes into account the need for operating funds
3 to maintain decent and safe conditions at the property.

4 (d) CONSENT TO REASONABLE LOAN MODIFICATION
5 REQUESTS.—For residential mortgages underlying trou-
6 bled assets purchased under this Act, the Secretary shall
7 request loan servicers servicing the mortgage loans to
8 avoid preventable foreclosures, to the greatest extent pos-
9 sible, to the extent that the Secretary, as an investor, has
10 discretion to do so under existing investment contracts.
11 Upon any request arising under existing investment con-
12 tracts, the Secretary shall consent, where appropriate, to
13 reasonable requests for loss mitigation measures, includ-
14 ing term extensions, rate reductions, principal write
15 downs, increases in the proportion of loans within a trust
16 or other structure allowed to be modified, or removal of
17 other limitation on modifications.

18 **SEC. 109. ASSISTANCE TO HOMEOWNERS AND LOCALITIES.**

19 (a) DEFINITIONS.—As used in this section—

20 (1) the term “Federal property manager”
21 means—

22 (A) the Federal Housing Finance Agency,
23 in its capacity as conservator of the Federal
24 National Mortgage Association and the Federal
25 Home Loan Mortgage Corporation;

1 (B) the Corporation, in its capacity as con-
2 servator or receiver of an insured depository in-
3 stitution; and

4 (C) the Board, with respect to any mort-
5 gage or mortgage-backed securities or pool of
6 securities held, owned, or controlled by or on
7 behalf of a Federal reserve bank;

8 (2) the term “consumer” has the same meaning
9 as in section 103 of the Truth in Lending Act (15
10 U.S.C. 1602);

11 (3) the term “insured depository institution”
12 has the same meaning as in section 3 of the Federal
13 Deposit Insurance Act (12 U.S.C. 1813); and

14 (4) the term “servicer” has the same meaning
15 as in section 6(i)(2) of the Real Estate Settlement
16 Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

17 (b) SYSTEMATIC HOMEOWNER ASSISTANCE BY
18 AGENCIES.—

19 (1) IN GENERAL.—Each Federal property man-
20 ager shall, with respect to any residential mortgage
21 loans and any mortgage-backed securities that it
22 holds, owns, or controls on or after the date of en-
23 actment of this Act, develop a program that is de-
24 signed to provide a systematic approach for pre-
25 venting foreclosure on the properties securing such

1 loans and securities, and ensuring long-term, sus-
2 tainable homeownership through loan modifications
3 and use of the HOPE for Homeowners Program es-
4 tablished under section 257 of the National Housing
5 Act and any other programs that may be available
6 for such purposes.

7 (2) MODIFICATIONS.—In the case of a residen-
8 tial mortgage loan, modifications made under para-
9 graph (1) may include—

10 (A) reduction in interest rates;

11 (B) reduction of loan principal; and

12 (C) other similar modifications.

13 (3) TENANT PROTECTIONS.—In the case of
14 mortgages on residential rental properties, modifica-
15 tions made under paragraph (1) shall ensure—

16 (A) the continuation of any existing Fed-
17 eral, State, and local rental subsidies and pro-
18 tections; and

19 (B) that modifications take into account
20 the need for operating funds to maintain decent
21 and safe conditions at the property.

22 (4) TIMING.—Each Federal property manager
23 shall develop and begin implementation of the pro-
24 gram required by this subsection not later than 60
25 days after the date of enactment of this Act.

1 (5) REPORTS TO CONGRESS.—Each Federal
2 property manager shall, 60 days after the date of
3 enactment of this Act and every 30 days thereafter,
4 report to Congress specific information on the num-
5 ber and types of loan modifications made and the
6 number of actual foreclosures occurring during the
7 reporting period in accordance with this section.

8 (6) CONSULTATION.—In developing the pro-
9 gram required by this subsection, the Federal prop-
10 erty managers shall consult with one another and, to
11 the extent possible, utilize consistent approaches to
12 implement the requirements of this subsection.

13 **[(c) AVAILABILITY OF FORECLOSED PROPERTIES TO**
14 **STATES AND LOCALITIES.—]**

15 **[(1) IN GENERAL.—**Each Federal property
16 manager shall make available to any State or local
17 government that is receiving emergency assistance
18 under section 2301 of the Foreclosure Prevention
19 Act of 2008 (Public Law 110-289) for purchase, at
20 a discount, residential properties that it owns
21 through foreclosure in that State or locality, in order
22 to facilitate the sale of such properties and to sta-
23 bilize neighborhoods affected by foreclosures.]

24 **[(2) INFORMATION CLEARINGHOUSE.—**

1 **[(A) PROVISION OF INFORMATION TO THE**
2 **SECRETARY.—**Each Federal property manager
3 shall make available to the Secretary of Hous-
4 ing and Urban Development information on
5 properties available for purchase under this
6 subsection.]

7 **[(B) CLEARINGHOUSE.—**The Secretary of
8 Housing and Urban Development and the Fed-
9 eral property managers shall develop a clearing-
10 house for the information compiled under this
11 paragraph, and make such clearinghouse easily
12 accessible by States and local governments de-
13 scribed in paragraph (1).]

14 **(d) ACTIONS WITH RESPECT TO SERVICERS.—**In any
15 case in which a Federal property manager is not the owner
16 of a residential mortgage loan, but holds an interest in
17 obligations or pools of obligations secured by residential
18 mortgage loans, the Federal property manager shall—

19 (1) encourage implementation by the loan
20 servicers of loan modifications developed under sub-
21 section (b);

22 (2) encourage the loan servicers to make fore-
23 closed properties available for sale to State and local
24 governments at a discount, as described in sub-
25 section (c); and

1 (3) assist in facilitating any such modifications
2 or sales, to the extent possible.

3 (e) LIMITATION.—The requirements of this section
4 shall not supersede any other duty or requirement imposed
5 on the Federal property managers under otherwise appli-
6 cable law.

7 **SEC. 110. EXECUTIVE COMPENSATION AND CORPORATE**
8 **GOVERNANCE.**

9 (a) IN GENERAL.—The Secretary shall require that
10 all financial institutions seeking to sell assets through the
11 program under this Act meet appropriate standards for
12 senior executive officer compensation and corporate gov-
13 ernance in order to be eligible.

14 (b) CRITERIA FOR STANDARDS.—The standards
15 under this section shall include with respect to any finan-
16 cial institution participating in the program under this
17 Act, and effective for the 2 years after entry by the finan-
18 cial institution into such participation—

19 (1) limits on compensation to exclude incentives
20 for senior executive officers to take risks that the
21 Secretary deems to be inappropriate or excessive
22 during such participation;

23 (2) a provision for the recovery by the financial
24 institution of any bonus or other incentive com-
25 pensation paid to a senior executive officer based on

1 statements of earnings, gains, or other criteria that
2 are later proven to be false or inaccurate; and

3 (3) a prohibition on the financial institution
4 paying inappropriate or excessive severance com-
5 pensation, or change of control compensation, to its
6 senior executive officers during such period.

7 (c) ADDITIONAL STANDARD FOR DIRECT PUR-
8 CHASES.—The standards prescribed by the Secretary
9 under this section shall include additional standards with
10 respect to financial institutions, in which the Secretary
11 makes a direct purchase from an individual financial insti-
12 tution. Such standards shall be effective for the longer of
13 2 years or the duration of the holding by the Secretary
14 of an equity position in such financial institution pursuant
15 to section 112(c), and shall include—

16 (1) a requirement that the financial institution
17 permit any shareholder or group of shareholders
18 holding, in the aggregate, equity securities of the fi-
19 nancial institution representing 3 percent or more of
20 the equity securities of the financial institution, ac-
21 cess to the proxy solicitation and shareholder vote
22 for any election of the board of directors of the insti-
23 tution for the purposes of nominating and electing
24 a designated individual to the board of directors of
25 the financial institution;

1 (2) a requirement that the financial institution
2 afford to all shareholders the opportunity to cast a
3 non-binding vote, in any annual proxy solicitation
4 and shareholder vote, on the executive compensation
5 to be provide to the executive officers of the financial
6 institution; and

7 (3) a prohibition on the financial institution
8 paying severance compensation, or change of control
9 compensation, to its senior executive officers during
10 any period in which the Secretary continues to hold
11 an equity position in the financial institution.

12 (d) TIMELY IMPLEMENTATION.—

13 (1) IN GENERAL.—The standards required
14 under this section shall be issued not later than 2
15 weeks after the date of enactment of this Act.

16 (2) AGREEMENTS.—Until the standards re-
17 quired under this section are issued, the Secretary
18 may not exercise the authority under section 101(a)
19 to purchase troubled assets from a financial institu-
20 tion unless the institution enters into such agree-
21 ments as the Secretary shall require to comply with
22 such standards upon issuance.

23 (e) DEFINITIONS.—For purposes of this section, the
24 following definitions shall apply:

1 (1) SENIOR EXECUTIVE OFFICER.—The term
2 “senior executive officer” means the same individ-
3 uals that are the most highly compensated executive
4 officers of a publicly traded company that is subject
5 to the compensation disclosure requirements of the
6 Securities Exchange Act of 1934, and their counter-
7 parts in a non-public company.

8 (2) SEVERANCE COMPENSATION.—The term
9 “severance compensation” means any compensation
10 that is awarded to a senior executive officer on the
11 basis of the termination of such executive officer’s
12 service with the financial institution, other than a
13 pension plan or a retirement plan in which the exec-
14 utive officer’s rights were fully vested prior to the
15 date of entry of such financial institution into par-
16 ticipation in the program under this Act.

17 **SEC. 111. COORDINATION WITH FOREIGN AUTHORITIES**
18 **AND CENTRAL BANKS.**

19 The Secretary shall coordinate, as appropriate, with
20 foreign financial authorities and central banks to work to-
21 ward the establishment of similar programs by such au-
22 thorities and central banks.

1 **SEC. 112. MINIMIZATION OF LONG-TERM COSTS AND MAXI-**
2 **MIZATION OF BENEFITS FOR TAXPAYERS.**

3 (a) LONG-TERM COSTS AND BENEFITS.—The Sec-
4 retary shall use the authority under this Act in a manner
5 that will minimize any potential long-term negative impact
6 on the taxpayer, taking into account the direct outlays,
7 potential long-term returns on assets purchased, and the
8 overall economic benefits of the program, including eco-
9 nomic benefits due to improvements in economic activity
10 and the availability of credit, the impact on the savings
11 and pensions of individuals, and reductions in losses to
12 the Federal Government.

13 (b) USE OF MARKET MECHANISMS.—In making pur-
14 chases under this Act, the Secretary shall maximize the
15 efficiency of its use of taxpayer resources by using market
16 mechanisms, including auctions or reverse auctions, where
17 appropriate.

18 (c) DIRECT PURCHASES.—If the Secretary deter-
19 mines that use of a market mechanism under subsection
20 (b) is not feasible or appropriate, and the purposes of the
21 Act are best met through direct purchases from an indi-
22 vidual financial institution, the Secretary shall pursue ad-
23 ditional measures to ensure that prices paid for assets are
24 reasonable and reflect the underlying value of the asset.

25 (d) CONDITIONS ON PURCHASE AUTHORITY FOR
26 WARRANTS AND DEBT INSTRUMENTS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (3), the Secretary may not purchase, or make
3 any commitment to purchase, any troubled asset
4 under the authority of this Act, unless the Secretary
5 receives from the financial institution from which
6 such assets are to be purchased—

7 (A) in the case of a financial institution
8 that is registered (or approved for registration)
9 and traded on a national securities exchange or
10 a national securities association registered pur-
11 suant to section 15A of the Securities Exchange
12 Act of 1934 (15 U.S.C. 78o-3), a warrant giv-
13 ing the right to the Secretary to receive non-
14 voting common stock or preferred stock in such
15 financial institution, as the Secretary deter-
16 mines appropriate; or

17 (B) in the case of any financial institution
18 other than one described in subparagraph (A),
19 a senior debt instrument from such financial in-
20 stitution, as described in paragraph (3)(C).

21 (2) TERMS AND CONDITIONS.—The terms and
22 conditions of any warrant or senior debt instrument
23 required under paragraph (1) shall meet the fol-
24 lowing requirements:

1 (A) PURPOSES.—Such terms and condi-
2 tions shall, at a minimum, be designed—

3 (i) to provide for reasonable participa-
4 tion by the Secretary in equity apprecia-
5 tion in the case of a warrant, or a reason-
6 able interest rate premium, in the case of
7 a debt instrument for the benefit of tax-
8 payers;

9 (ii) to cover any potential losses that
10 would be realized by the Secretary from
11 the sale of troubled assets purchased from
12 the financial institution that issued such
13 warrants or instruments; and

14 (iii) to cover the administrative costs
15 incurred by the Secretary for buying, man-
16 aging, and disposing of such troubled as-
17 sets.

18 (B) AUTHORITY TO SELL, EXERCISE, OR
19 SURRENDER.—The Secretary may sell, exercise,
20 or surrender a warrant or any senior debt in-
21 strument received under this subsection, based
22 on the conditions established under subpara-
23 graph (A).

24 (C) CONVERSION.—The warrant shall pro-
25 vide that if, after the warrant is received by the

1 Secretary under this subsection, the financial
2 institution that issued the warrant is no longer
3 listed or traded on a national securities ex-
4 change or securities association, as described in
5 paragraph (2)(A), such warrants shall convert
6 to senior debt, in an amount determined by the
7 Secretary.

8 (D) PROTECTIONS.—Any warrant rep-
9 resenting securities to be received by the Sec-
10 retary under this subsection shall contain anti-
11 dilution provisions of the type employed in cap-
12 ital market transactions, as determined by the
13 Secretary. Such provisions shall protect the
14 value of the securities from market transactions
15 such as stock splits, stock distributions, divi-
16 dends, and other distributions, mergers, and
17 other forms of reorganization or recapitaliza-
18 tion.

19 (E) EXERCISE PRICE.—The exercise price
20 for any warrant issued pursuant to this sub-
21 section shall be set by the Secretary, in the
22 public interest.

23 (F) SUFFICIENCY.—The financial institu-
24 tion shall guarantee to the Secretary that it has
25 authorized shares of nonvoting stock available

1 to fulfill its obligations under this subsection.
2 Should the financial institution not have suffi-
3 cient authorized shares, the Secretary may ac-
4 cept a contingent senior debt note in anticipa-
5 tion of a shareholder vote for such authoriza-
6 tion. The note must be for a short, limited pe-
7 riod of time, as determined by the Secretary,
8 and shall include a penalty whenever such pe-
9 riod expires.

10 (3) DE MINIMIS EXCEPTION.—The Secretary
11 shall establish a de minimis exception to the require-
12 ments of this subsection, based on the size of the fi-
13 nancial institution or the size of the transaction.

14 **SEC. 113. MARKET TRANSPARENCY.**

15 (a) PRICING.—To facilitate market transparency, the
16 Secretary shall make available to the public, in electronic
17 form, a description, amounts, and pricing of assets ac-
18 quired under this Act, within 2 business days of purchase,
19 trade, or other disposition.

20 (b) DISCLOSURE.—For each type of financial institu-
21 tions that is authorized to use the program established
22 under this Act, the Secretary shall determine whether the
23 public disclosure required for such financial institutions
24 with respect to off-balance sheet transactions, derivatives
25 instruments, contingent liabilities, and similar sources of

1 potential exposure is adequate to provide to the public suf-
2 ficient information as to the true financial position of the
3 institutions. If such disclosure is not adequate for that
4 purpose, the Secretary shall make recommendations for
5 additional disclosure requirements to the relevant regu-
6 lators.

7 **[SEC. 114. MAXIMUM AMOUNT OF AUTHORIZED PUR-**
8 **CHASES.]**

9 The authority of the Secretary to purchase troubled
10 assets under this Act shall be limited to \$700,000,000,000
11 outstanding at any one time, by aggregating the purchase
12 prices of all troubled assets held.】

13 **[SEC. 114. GRADUATED AUTHORIZATION TO PURCHASE.]**

14 **[(a) AUTHORITY.—**The authority of the Secretary to
15 purchase troubled assets under this Act shall be limited
16 as follows:】

17 **[(1) Effective upon the date of the enactment**
18 **of this Act, such authority shall be limited to**
19 **\$250,000,000,000 outstanding at any one time.】**

20 **[(2) If at any time, the President submits to**
21 **the Congress written notification that the Secretary**
22 **is exercising the authority under this paragraph, ef-**
23 **fective upon such submission, such authority shall be**
24 **limited to \$350,000,000,000 outstanding at any one**
25 **time.】**

1 **[(3)** If at any time the President submits to
2 the Congress a written report detailing the plan of
3 the Secretary to exercise the authority under this
4 paragraph, unless there is enacted, within **[15]** cal-
5 endar days of such submission, a joint resolution de-
6 scribed in subsection (c), effective upon the expira-
7 tion of such **[15-day]** period, such authority shall be
8 limited to \$700,000,000,000 outstanding at any one
9 time.]

10 **[(b) AGGREGATION OF PURCHASE PRICES.—**The
11 amount of troubled assets purchased by the Secretary out-
12 standing at any one time shall be determined for purposes
13 of the dollar amount limitations under subsection (a) by
14 aggregating the purchase prices of all troubled assets
15 held.]

16 **[(c) FAST TRACK CONSIDERATION.—]**

17 **[(1) IN GENERAL.—**Notwithstanding any other
18 provision of this section, the Secretary may not exer-
19 cise any authority to make purchases under this Act
20 with regard to any amount in excess of
21 \$350,000,000,000 previously obligated, as described
22 in this section if, within **[15]** calendar days after
23 the date on which Congress receives a report of the
24 Secretary described in subsection (a)(3), Congress

1 enacts a joint resolution disapproving the plan of the
2 Secretary with respect to such additional amount.】

3 【(2) CONTENTS OF RESOLUTION.—For the
4 purpose of paragraph (1), “joint resolution” means
5 only a joint resolution introduced after the date on
6 which the report of the Secretary referred to in sub-
7 section (a)(3) is received by Congress, the matter
8 after the resolving clause of which is as follows:
9 “That Congress disapproves the obligation of any
10 amount exceeding the amounts obligated as de-
11 scribed in paragraphs (1) and (2) of section 114(a)
12 of the Economic Recovery and Corporate Account-
13 ability Act of 2008.”.】

14 【(3) REFERRAL TO COMMITTEE.—A resolution
15 described in paragraph (2) introduced in the House
16 of Representatives shall be referred to the Com-
17 mittee on Financial Services of the House of Rep-
18 resentatives. A resolution described in paragraph (2)
19 introduced in the Senate shall be referred to the
20 Committee on Committee on Banking, Housing, and
21 Urban Affairs of the Senate. Such a resolution may
22 not be reported before the 8th day after its introduc-
23 tion.】

24 【(4) DISCHARGE OF COMMITTEE.—If the com-
25 mittee to which is referred a resolution described in

1 paragraph (2) has not reported such resolution (or
2 an identical resolution) at the end of **[10]** calendar
3 days after its introduction, such committee shall be
4 deemed to be discharged from further consideration
5 of such resolution, and such resolution shall be
6 placed on the appropriate calendar of the House in-
7 volved.】

8 **[(5) FLOOR CONSIDERATION.—**

9 **[(A) IN GENERAL.—**When the committee
10 to which a resolution described in paragraph
11 (2) is referred has reported, or has been
12 deemed to be discharged (under paragraph (4))
13 from further consideration of, a resolution de-
14 scribed in paragraph (2), it is at any time
15 thereafter in order (even though a previous mo-
16 tion to the same effect has been disagreed to)
17 for any Member of the respective House to
18 move to proceed to the consideration of the res-
19 olution, and all points of order against the reso-
20 lution (and against consideration of the resolu-
21 tion) are waived. The motion is highly privi-
22 leged in the House of Representatives and is
23 privileged in the Senate and is not debatable.
24 The motion is not subject to amendment, or to
25 a motion to postpone, or to a motion to proceed

1 to the consideration of other business. A motion
2 to reconsider the vote by which the motion is
3 agreed to or disagreed to shall not be in order.
4 If a motion to proceed to the consideration of
5 the resolution is agreed to, the resolution shall
6 remain the unfinished business of the respective
7 House until disposed of.】

8 【(B) DEBATE.—Debate on the resolution,
9 and on all debatable motions and appeals in
10 connection therewith, shall be limited to not
11 more than 10 hours, which shall be divided
12 equally between those favoring and those oppos-
13 ing the resolution. A motion further to limit de-
14 bate is in order and not debatable. An amend-
15 ment to, or a motion to postpone, or a motion
16 to proceed to the consideration of other busi-
17 ness, or a motion to recommit the resolution is
18 not in order. A motion to reconsider the vote by
19 which the resolution is agreed to or disagreed to
20 is not in order.】

21 【(C) VOTE ON FINAL PASSAGE.—Imme-
22 diately following the conclusion of the debate on
23 a resolution described in paragraph (2), and a
24 single quorum call at the conclusion of the de-
25 bate if requested in accordance with the rules of

1 the appropriate House, the vote on final pas-
2 sage of the resolution shall occur.】

3 【(D) RULINGS OF THE CHAIR ON PROCE-
4 DURE.—Appeals from the decisions of the Chair
5 relating to the application of the rules of the
6 Senate or the House of Representatives, as the
7 case may be, to the procedure relating to a res-
8 olution described in paragraph (2) shall be de-
9 cided without debate.】

10 【(6) COORDINATION WITH ACTION BY OTHER
11 HOUSE.—If, before the passage by one House of a
12 resolution of that House described in paragraph (2),
13 that House receives from the other House a resolu-
14 tion described in paragraph (2), then the following
15 procedures shall apply:】

16 【(A) The resolution of the other House
17 shall not be referred to a committee.】

18 【(B) With respect to a resolution described
19 in paragraph (2) of the House receiving the res-
20 olution—】

21 【(i) the procedure in that House shall
22 be the same as if no resolution had been
23 received from the other House; but】

24 【(ii) the vote on final passage shall be
25 on the resolution of the other House.】

1 **[(7) RULES OF HOUSE OF REPRESENTATIVES**
2 AND SENATE.—This subsection is enacted by Con-
3 gress—]

4 **[(A)** as an exercise of the rulemaking
5 power of the Senate and House of Representa-
6 tives, respectively, and as such it is deemed a
7 part of the rules of each House, respectively,
8 but applicable only with respect to the proce-
9 dure to be followed in that House in the case
10 of a resolution described in paragraph (2), and
11 it supersedes other rules only to the extent that
12 it is inconsistent with such rules; and]

13 **[(B)** with full recognition of the constitu-
14 tional right of either House to change the rules
15 (so far as relating to the procedure of that
16 House) at any time, in the same manner, and
17 to the same extent as in the case of any other
18 rule of that House.]

19 **[SEC. 115. OVERSIGHT AND AUDITS.]**

20 (a) **COMPTROLLER GENERAL OVERSIGHT.—**

21 (1) **SCOPE OF OVERSIGHT.—**The Comptroller
22 General of the United States shall, upon establish-
23 ment of the troubled assets relief program under
24 this Act (in this section referred to as the “TARP”),
25 commence ongoing oversight of the activities and

1 performance of the TARP and of any agents and
2 representatives of the TARP (as related to the agent
3 or representative's activities on behalf of or under
4 the authority of the TARP), including vehicles es-
5 tablished by the Secretary under this Act. The sub-
6 jects of such oversight shall include the following:

7 (A) TARP's performance in meeting the
8 goals set out in this Act, particularly those in-
9 volving foreclosure mitigation, consumer protec-
10 tion, cost reduction, and stabilization of the fi-
11 nancial system.

12 (B) The financial condition and internal
13 controls of the TARP, its representatives and
14 agents.

15 (C) Characteristics of transactions and
16 commitments entered into, including trans-
17 action type, frequency, size, prices paid, and all
18 other relevant terms and conditions, and the
19 timing, duration and terms of any future com-
20 mitments to purchase assets.

21 (D) Characteristics and disposition of ac-
22 quired assets, including type, acquisition price,
23 current market value, sale prices and terms,
24 and use of proceeds from sales.

1 (E) Efficiency of the TARP's operations in
2 the use of appropriated funds.

3 (F) Compliance with all applicable laws
4 and regulations by TARP, its agents and rep-
5 resentatives.

6 (G) TARP's efforts to prevent, identify,
7 and minimize conflicts of interest involving any
8 agent or representative performing activities on
9 behalf of or under the authority of the TARP.

10 (H) The efficacy of contracting procedures
11 established under section 106, including
12 TARP's efforts in evaluating proposals for in-
13 clusion and contracting to the maximum extent
14 possible of minorities, women, and minority-
15 and women-owned businesses, including
16 ascertaining and reporting the total amount of
17 fees paid and other value delivered by TARP to
18 all of its agents and representatives, and such
19 amounts paid or delivered to such firms that
20 are minority- and women-owned businesses (as
21 such terms are defined in section 21A of the
22 Federal Home Loan Bank Act (12 U.S.C.
23 1441a)).

24 (2) CONDUCT AND ADMINISTRATION OF OVER-
25 SIGHT.—

1 (A) GAO PRESENCE.—The Secretary shall
2 provide the Comptroller General with appro-
3 priate space and facilities in the Department of
4 the Treasury as necessary to facilitate oversight
5 of the TARP until the termination date estab-
6 lished in section 119 of this Act.

7 (B) ACCESS TO RECORDS.—The Comp-
8 troller General shall have access, upon request,
9 to any information, data, schedules, books, ac-
10 counts, financial records, reports, files, elec-
11 tronic communications, or other papers, things,
12 or property belonging to or in use by the
13 TARP, or any vehicles established by the Sec-
14 retary under this Act, and to the officers, direc-
15 tors, employees, independent public account-
16 ants, financial advisors, and other agents and
17 representatives of the TARP (as related to the
18 agent or representative’s activities on behalf of
19 or under the authority of the TARP) or any
20 such vehicle at such reasonable time as the
21 Comptroller General may request. The Comp-
22 troller General shall be afforded full facilities
23 for verifying transactions with the balances or
24 securities held by depositaries, fiscal agents,
25 and custodians. The Comptroller General may

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

4 (C) REIMBURSEMENT OF COSTS.—The
5 Treasury shall reimburse the Government Ac-
6 countability Office for the full cost of any such
7 oversight activities as billed therefor by the
8 Comptroller General of the United States. Such
9 reimbursements shall be credited to the appro-
10 priation account “Salaries and Expenses, Gov-
11 ernment Accountability Office” current when
12 the payment is received and remain available
13 until expended.

14 (3) REPORTING.—The Comptroller General
15 shall submit reports of findings under this section,
16 regularly and no less frequently than once every 60
17 days, to the appropriate committees of Congress,
18 and the Inspector General for the Department of the
19 Treasury on the activities and performance of the
20 TARP. The Comptroller may also submit special re-
21 ports under this subsection as warranted by the
22 findings of its oversight activities.

23 (b) COMPTROLLER GENERAL AUDITS.—

24 (1) ANNUAL AUDIT.—The TARP shall annually
25 prepare and issue to the appropriate committees of

1 Congress and the public audited financial statements
2 prepared in accordance with generally accepted ac-
3 counting principles and the Comptroller General
4 shall annually audit such statements in accordance
5 with generally accepted auditing standards. The
6 Treasury shall reimburse the Government Account-
7 ability Office for the full cost of any such audit as
8 billed therefor by the Comptroller General. Such re-
9 imbursements shall be credited to the appropriation
10 account “Salaries and Expenses, Government Ac-
11 countability Office” current when the payment is re-
12 ceived and remain available until expended. The fi-
13 nancial statements prepared under this paragraph
14 shall be on the fiscal year basis prescribed under
15 section 1102 of title 31, United States Code.

16 (2) **AUTHORITY.**—The Comptroller General
17 may audit the programs, activities, receipts, expendi-
18 tures, and financial transactions of the TARP and
19 any agents and representatives of the TARP (as re-
20 lated to the agent or representative’s activities on
21 behalf of or under the authority of the TARP), in-
22 cluding vehicles established by the Secretary under
23 this Act.

24 (3) **CORRECTIVE RESPONSES TO AUDIT PROB-**
25 **LEMS.**—The TARP shall—

1 (A) take action to address deficiencies
2 identified by the Comptroller General or other
3 auditor engaged by the TARP; or

4 (B) certify to appropriate committees of
5 Congress that no action is necessary or appro-
6 priate.

7 (c) INTERNAL CONTROL.—

8 (1) ESTABLISHMENT.—The TARP shall estab-
9 lish and maintain an effective system of internal
10 control, consistent with the standards prescribed
11 under section 3512(c) of title 31, United States
12 Code, that provides reasonable assurance over—

13 (A) the effectiveness and efficiency of oper-
14 ations, including the use of the TARP's re-
15 sources;

16 (B) the reliability of financial reporting, in-
17 cluding financial statements and other reports
18 for internal and external use; and

19 (C) compliance with applicable laws and
20 regulations.

21 (2) REPORTING.—In conjunction with each an-
22 nual financial statement issued under this section,
23 the TARP shall—

1 (A) state the responsibility of management
2 for establishing and maintaining adequate in-
3 ternal control over financial reporting; and

4 (B) state its assessment, as of the end of
5 the most recent year covered by such financial
6 statement of the TARP, of the effectiveness of
7 the internal control over financial reporting.

8 (d) SHARING OF INFORMATION.—Any reports or au-
9 dits required under this section shall also be submitted
10 to the Congressional Oversight Panel established under
11 section 124.

12 **SEC. 116. STUDIES AND REPORTS.**

13 (a) MARGIN AUTHORITY.—

14 (1) STUDY.—The Comptroller General shall un-
15 dertake a study to determine the extent to which le-
16 verage and sudden deleveraging of financial institu-
17 tions was a factor behind the current financial crisis.

18 (2) CONTENT.—The study required by this sec-
19 tion shall include—

20 (A) an analysis of the roles and respon-
21 sibilities of the Board, the Securities and Ex-
22 change Commission, the Secretary, and other
23 Federal banking agencies with respect to moni-
24 toring leverage and acting to curtail excessive
25 leveraging;

1 (B) an analysis of the authority of the
2 Board to regulate leverage, including by setting
3 margin requirements, and what process the
4 Board used to decide whether or not to use its
5 authority;

6 (C) an analysis of the margin authority of
7 the Board; and

8 (D) recommendations for the Board and
9 appropriate committees of Congress with re-
10 spect to the existing authority of the Board.

11 (3) REPORT.—Not later than June 1, 2009, the
12 Comptroller General shall complete and submit a re-
13 port on the study required by this subsection to the
14 Committee on Banking, Housing, and Urban Affairs
15 of the Senate and the Committee on Financial Serv-
16 ices of the House of Representatives.

17 (b) IMPACT ASSESSMENT.—

18 (1) STUDY.—The Comptroller General shall
19 conduct a study to assess the impact of the program
20 authorized by this Act, including—

21 (A) whether it has—

22 (i) provided stability or prevented dis-
23 ruption to the financial markets or the
24 banking system; and

25 (ii) protected taxpayers; and

1 (B) with respect to the processes for pur-
2 chasing, pricing, and disposing of troubled as-
3 sets.

4 (2) SUBMISSIONS TO CONGRESS.—Before the
5 expiration of the 15-day period beginning upon the
6 date of the enactment of this Act and each 3 months
7 thereafter, the Comptroller General shall submit a
8 report on the study required by this subsection to
9 the Committee on Banking, Housing, and Urban Af-
10 fairs of the Senate and the Committee on Financial
11 Services of the House of Representatives.

12 (c) SHARING OF INFORMATION.—Any reports re-
13 quired under this section shall also be submitted to the
14 Congressional Oversight Panel established under section
15 124.

16 **SEC. 117. FUNDING.**

17 For the purpose of the authorities granted in this
18 Act, and for the costs of administering those authorities,
19 the Secretary may use the proceeds of the sale of any secu-
20 rities issued under chapter 31 of title 31, United States
21 Code, and the purposes for which securities may be issued
22 under chapter 31 of title 31, United States Code, are ex-
23 tended to include actions authorized by this Act, including
24 the payment of administrative expenses. Any funds ex-
25 pended or obligated for actions authorized by this Act, in-

1 cluding the payment of administrative expenses, shall be
2 deemed appropriated at the time of such expenditure or
3 obligation.

4 **[SEC. 118. JUDICIAL REVIEW.]**

5 **[(a) IN GENERAL.—]**

6 **[(1) STANDARD.—**Actions by the Secretary
7 pursuant to the authority of this Act shall be held
8 unlawful and set aside only if found to be arbitrary,
9 capricious, or otherwise inconsistent with the law or
10 **[an abuse of discretion, or not in accordance with**
11 **the law].]**

12 **[(2) LIMITATION ON EQUITABLE RELIEF.—**
13 Other than in cases involving constitutional claims,
14 no injunction or other form of equitable relief shall
15 be issued against the Secretary for actions pursuant
16 to the authority of this Act except under extraor-
17 dinary circumstances involving clearly irreparable
18 harm or **[injury].]**

19 **[(3) STAYS.—[**Other than in cases involving
20 constitutional claims,**]** Any injunction or other form
21 of equitable relief that is issued shall be automati-
22 cally stayed until the Secretary has had the oppor-
23 tunity to seek a stay from a higher court and such
24 higher court has ruled on the stay.]

1 **[(b) TREATMENT OF HOMEOWNERS' RIGHTS.—**Not-
2 withstanding subsection (a), the terms of any residential
3 mortgage loan that is part of any purchase by the Sec-
4 retary under this Act shall remain subject to all claims
5 and defenses that would otherwise apply notwithstanding
6 the exercise of authority by the Secretary under this Act.]

7 **(c) RULE OF CONSTRUCTION.—**Any exercise of the
8 authority of the Secretary pursuant to this Act shall not
9 impair the claims or defenses available to any other per-
10 son.

11 **SEC. 119. TERMINATION OF AUTHORITY.**

12 **(a) TERMINATION.—**The authorities provided under
13 section 101(a) shall terminate on December 31, 2009.

14 **(b) EXTENSION UPON CERTIFICATION.—**The Sec-
15 retary, upon submission of a written certification to Con-
16 gress, may extend the authority provided under this Act
17 to expire not later than 2 years from the date of the enact-
18 ment of this Act. Such certification shall include a jus-
19 tification of why the extension is necessary to assist Amer-
20 ican families and stabilize financial markets, as well as
21 the expected costs to the taxpayer for such an extension.

22 **SEC. 120. SPECIAL INSPECTOR GENERAL FOR THE TROU-**
23 **BLED ASSET PROGRAM.**

24 **[(a) PURPOSES.—**The purposes of this section are as
25 follows:]

1 **[(1) To provide for the independent and objec-**
2 **tive conduct and supervision of audits and investiga-**
3 **tions relating to the programs and operations of the**
4 **program authorized to be established under section**
5 **101.]**

6 **[(2) To provide for the independent and objec-**
7 **tive leadership and coordination of, and rec-**
8 **ommendations on, policies designed to—]**

9 **[(A) promote economy, efficiency, and ef-**
10 **fectiveness in the administration of such pro-**
11 **gram; and]**

12 **[(B) prevent and detect fraud and abuse**
13 **in such program.]**

14 **[(3) To provide for an independent and objec-**
15 **tive means of keeping the Congress fully and cur-**
16 **rently informed about problems and deficiencies re-**
17 **lating to the administration of such program and the**
18 **necessity for and progress for corrective action. [De-**
19 **lete this subsection?]]**

20 **(b) OFFICE OF INSPECTOR GENERAL.—**There is
21 hereby established the Office of the Special Inspector Gen-
22 eral for the Troubled Asset Relief Program.

23 **(c) APPOINTMENT OF INSPECTOR GENERAL; RE-**
24 **MOVAL.—**(1) The head of the Office of the Special Inspec-
25 tor General for the Troubled Asset Relief Program is the

1 Special Inspector General for the Troubled Asset Relief
2 Program, who shall be appointed by the President.

3 (2) The appointment of the Special Inspector General
4 for the Troubled Asset Relief Program shall be made sole-
5 ly on the basis of integrity and demonstrated ability in
6 accounting, auditing, financial analysis, law, management
7 analysis, public administration, or investigations.

8 (3) The nomination of an individual as Special In-
9 spector General for the Troubled Asset Relief Program
10 shall be made not later than 30 days after the establish-
11 ment of any program under section 101.

12 (4) The Special Inspector General for the Troubled
13 Asset Relief Program shall be removable from office in
14 accordance with the provisions of section 3(b) of the In-
15 spector General Act of 1978 (5 U.S.C. App.).

16 (5) For purposes of section 7324 of title 5, United
17 States Code, the Special Inspector General for the Trou-
18 bled Asset Relief Program shall not be considered an em-
19 ployee who determines policies to be pursued by the
20 United States in the nationwide administration of Federal
21 law.

22 (6) The annual rate of basic pay of the Special In-
23 spector General for the Troubled Asset Relief Program
24 shall be the annual rate of basic pay provided for positions

1 at level IV of the Executive Schedule under section 5315
2 of title 5, United States Code.

3 **[(d) ASSISTANT INSPECTORS GENERAL.—The Spe-**
4 **cial Inspector General for the Troubled Asset Relief Pro-**
5 **gram shall, in accordance with applicable laws and regula-**
6 **tions governing the civil service—]**

7 **[(1) appoint an Assistant Inspector General for**
8 **Auditing who shall have the responsibility for super-**
9 **vising the performance of auditing activities relating**
10 **to any program established under section 2; and]**

11 **[(2) appoint an Assistant Inspector General for**
12 **Investigations who shall have the responsibility for**
13 **supervising the performance of investigative activi-**
14 **ties relating to such program. [Delete this sub-**
15 **section?]]**

16 **(e) DUTIES.—(1) It shall be the duty of the Special**
17 **Inspector General for the Troubled Asset Relief Program**
18 **to conduct, supervise, and coordinate audits and investiga-**
19 **tions of the purchase, management, and sale of assets by**
20 **the Secretary of the Treasury under any program estab-**
21 **lished by the Secretary under section 101, [including by**
22 **collecting and summarizing the following information:**
23 **[Delete these provisions?]]**

1 **[(A) A description of the categories of troubled**
2 **assets purchased or otherwise procured by the Sec-**
3 **retary.]**

4 **[(B) A listing of the troubled assets purchased**
5 **in each such category described under subparagraph**
6 **(A).]**

7 **[(C) An explanation of the reasons the Sec-**
8 **retary deemed it necessary to purchase each such**
9 **troubled asset.]**

10 **[(D) A listing of each financial institution that**
11 **such troubled assets were purchased from.]**

12 **[(E) A listing of and detailed biographical in-**
13 **formation on each person or entity hired to manage**
14 **such troubled assets.]**

15 **[(F) A current estimate of the total amount of**
16 **troubled assets purchased pursuant to any program**
17 **established under section 101, the amount of trou-**
18 **bled assets on the books of the Treasury, the**
19 **amount of troubled assets sold, and the profit and**
20 **loss incurred on each sale or disposition of each such**
21 **troubled asset.]**

22 (2) The Special Inspector General for the Troubled
23 Asset Relief Program shall establish, maintain, and over-
24 see such systems, procedures, and controls as the Special

1 Inspector General considers appropriate to discharge the
2 duty under paragraph (1).

3 (3) In addition to the duties specified in paragraphs
4 (1) and (2), the Inspector General shall also have the du-
5 ties and responsibilities of inspectors general under the In-
6 spector General Act of 1978.

7 (f) POWERS AND AUTHORITIES.—(1) In carrying out
8 the duties specified in subsection (e), the Special Inspector
9 General for the Troubled Asset Relief Program shall have
10 the authorities provided in section 6 of the Inspector Gen-
11 eral Act of 1978.

12 (2) The Special Inspector General for the Troubled
13 Asset Relief Program shall carry out the duties specified
14 in subsection (e)(1) in accordance with section 4(b)(1) of
15 the Inspector General Act of 1978.

16 **[(g) PERSONNEL, FACILITIES, AND OTHER RE-**
17 **SOURCES.—](1) The Special Inspector General for the**
18 **Troubled Asset Relief Program may select, appoint, and**
19 **employ such officers and employees as may be necessary**
20 **for carrying out the duties of the Special Inspector Gen-**
21 **eral, subject to the provisions of title 5, United States**
22 **Code, governing appointments in the competitive service,**
23 **and the provisions of chapter 51 and subchapter III of**
24 **chapter 53 of such title, relating to classification and Gen-**
25 **eral Schedule pay rates.]**

1 **[(2) The Special Inspector General for the Troubled**
2 **Asset Relief Program may obtain services as authorized**
3 **by section 3109 of title 5, United States Code, at daily**
4 **rates not to exceed the equivalent rate prescribed for grade**
5 **GS-15 of the General Schedule by section 5332 of such**
6 **title.]**

7 **[(3) The Special Inspector General for the Troubled**
8 **Asset Relief Program may enter into contracts and other**
9 **arrangements for audits, studies, analyses, and other serv-**
10 **ices with public agencies and with private persons, and**
11 **make such payments as may be necessary to carry out**
12 **the duties of the Inspector General.]**

13 **[(4)(A) Upon request of the Special Inspector Gen-**
14 **eral for the Troubled Asset Relief Program for informa-**
15 **tion or assistance from any department, agency, or other**
16 **entity of the Federal Government, the head of such entity**
17 **shall, insofar as is practicable and not in contravention**
18 **of any existing law, furnish such information or assistance**
19 **to the Special Inspector General, or an authorized des-**
20 **ignee.]**

21 **[(B) Whenever information or assistance requested**
22 **by the Special Inspector General for the Troubled Asset**
23 **Relief Program is, in the judgment of the Special Inspec-**
24 **tor General, unreasonably refused or not provided, the**
25 **Special Inspector General shall report the circumstances**

1 to the appropriate committees of Congress without delay.

2 **【Delete this subsection?】**

3 (h) REPORTS.—(1) Not later than October 31, 2008,
4 and every calendar quarter thereafter, the Special Inspec-
5 tor General for the Troubled Asset Relief Program shall
6 submit to the appropriate committees of Congress a report
7 summarizing the activities of the Special Inspector Gen-
8 eral during the 120-day period ending on the date of such
9 report. Each report shall include, for the period covered
10 by such report, a detailed statement of all purchases, obli-
11 gations, expenditures, and revenues associated with any
12 program established by the Secretary of the Treasury
13 under section 101, as well as the information collected
14 under subsection (e)(1).

15 (2) Nothing in this subsection shall be construed to
16 authorize the public disclosure of information that is—

17 (A) specifically prohibited from disclosure by
18 any other provision of law;

19 (B) specifically required by Executive order to
20 be protected from disclosure in the interest of na-
21 tional defense or national security or in the conduct
22 of foreign affairs; or

23 (C) a part of an ongoing criminal investigation.

1 (3) Any reports required under this section shall also
2 be submitted to the Congressional Oversight Panel estab-
3 lished under section 124.

4 (i) APPROPRIATE COMMITTEES OF CONGRESS DE-
5 FINED.—In this section, the term “appropriate commit-
6 tees of Congress” means—

7 (1) the Committee on Banking, Housing, and
8 Urban Affairs, the Committee on Finance, and the
9 Committee on the Budget of the Senate; and

10 (A) the Committee on Financial Services,
11 the Committee on Ways and Means, and the
12 Committee on the Budget of the House of Rep-
13 resentatives.

14 **[(j) FUNDING.—]**(1) Of the amounts made available
15 to the Secretary of the Treasury under section 117,
16 \$75,000,000 shall be available to the Special Inspector
17 General for the Troubled Asset Relief Program to carry
18 out this section. **]**

19 **[(2) The amount available under paragraph (1) shall**
20 **remain available until expended. [Delete this sub-**
21 **section?]**

22 **SEC. 121. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**
23 **DEBT.**

24 Subsection (b) of section 3101 of title 31, United
25 States Code, is amended by striking out the dollar limita-

1 tion contained in such subsection and inserting
2 “\$11,315,000,000,000”.

3 **SEC. 122. CREDIT REFORM.**

4 (a) IN GENERAL.—Subject to subsection (b), the
5 costs of purchases of troubled assets made under section
6 101(a) of this Act and any cash flows associated with the
7 exercise of rights or management or sale of troubled assets
8 under section 104 of this Act shall be determined as pro-
9 vided under the Federal Credit Reform Act of 1990 (2
10 U.S.C. 661 et. seq.), as applicable.

11 (b) COSTS.—For the purposes of Section 502(5) of
12 the Federal Credit Reform Act of 1990 (2 U.S.C.
13 661a(5))—

14 (1) the cost of each troubled asset shall be cal-
15 culated by adjusting the discount rate in section
16 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks;
17 and

18 (2) the cost of a modification of a troubled
19 asset shall be the difference between the current es-
20 timate consistent with paragraph (1) under the
21 terms of the troubled asset and the current estimate
22 consistent with paragraph (1) under the terms of the
23 troubled asset as modified.

1 **SEC. 123. MINIMIZING FORECLOSURES.**

2 (a) SPECIAL RULES FOR MODIFICATION OF LOANS
3 SECURED BY RESIDENCES.—

4 (1) IN GENERAL.—Section 1322(b) of title 11,
5 United States Code, is amended—

6 (A) in paragraph (10), by striking “and”
7 at the end;

8 (B) by redesignating paragraph (11) as
9 paragraph (12); and

10 (C) by inserting after paragraph (10) the
11 following:

12 “(11) notwithstanding paragraph (2) and other-
13 wise applicable nonbankruptcy law—

14 “(A) modify an allowed secured claim for
15 a debt secured by the principal residence of the
16 debtor, as described in subparagraph (B), if,
17 after deduction from the debtors current
18 monthly income of the expenses permitted for
19 debtors described in section 1325(b)(3) of this
20 title (other than amounts contractually due to
21 creditors holding such allowed secured claims
22 and additional payments necessary to maintain
23 possession of that residence), the debtor has in-
24 sufficient remaining income to retain possession
25 of the residence by curing a default and main-

1 taining payments while the case is pending, as
2 provided under paragraph (5); and

3 “(B) provide for payment of such claim—

4 “ (i) in an amount equal to the
5 amount of the allowed secured claim;

6 “ (ii) for a period that is not longer
7 than 40 years; and

8 “ (iii) at a rate of interest accruing
9 after such date calculated at a fixed an-
10 nual percentage rate, in an amount equal
11 to the most recently published annual yield
12 on conventional mortgages published by
13 the Board of Governors of the Federal Re-
14 serve System, as of the applicable time set
15 forth in the rules of the Board, plus a rea-
16 sonable premium for risk; and”.

17 (2) CONFORMING AMENDMENT.—Section
18 1325(a)(5) of title 11, United States Code, is
19 amended by inserting before “with respect” the fol-
20 lowing: “except as otherwise provided in section
21 1322(b)(11) of this title,”.

22 (b) WAIVER OF COUNSELING REQUIREMENT WHEN
23 HOMES ARE IN FORECLOSURE.—Section 109(h) of title
24 11, United States Code, is amended by adding at the end
25 the following:

1 “(5) Paragraph (1) shall not apply with respect
2 to a debtor who files with the court a certification
3 that a foreclosure sale of the debtor’s principal resi-
4 dence has been scheduled.”.

5 (c) COMBATING EXCESSIVE FEES.—Section 1322(c)
6 of title 11, the United States Code, is amended—

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

9 (2) in paragraph (2), by striking the period at
10 the end and inserting a semicolon; and

11 (3) by adding at the end the following:

12 “(3) the plan need not provide for the payment
13 of, and the debtor, the debtor’s property, and prop-
14 erty of the debtor’s estate shall not be liable for, any
15 fee, cost, or charge, notwithstanding section 506(b),
16 that arises in connection with a claim secured by the
17 debtor’s principal residence, if the event that gives
18 rise to such fee, cost, or charge occurs while the case
19 is pending but before the discharge order, except to
20 the extent that—

21 “(A) notice of such fees, costs, or charges
22 is filed with the court, and served on the debtor
23 and the trustee, before the expiration of the
24 earlier of—

1 “(i) 1 year after the event that gives
2 rise to such fee, cost, or charge occurs; or

3 “(ii) 60 days before the closing of the
4 case; and

5 “(B) such fees, costs, or charges are law-
6 ful, reasonable, and provided for in the agree-
7 ment under which such claim or security inter-
8 est arose;

9 “(4) the failure of a party to give notice de-
10 scribed in paragraph (3) shall be deemed a waiver
11 of any claim for fees, costs, or charges described in
12 paragraph (3) for all purposes, and any attempt to
13 collect such fees, costs, or charges shall constitute a
14 violation of section 524(a)(2) of this title or, if the
15 violation occurs before the date of discharge, of sec-
16 tion 362(a) of this title; and

17 “(5) a plan may provide for the waiver of any
18 prepayment penalty on a claim secured by the prin-
19 cipal residence of the debtor.”.

20 (d) APPLICATION OF AMENDMENTS.—The amend-
21 ments made to title 11, United States Code, by this sec-
22 tion shall apply with respect to cases commenced under
23 that title on or after the date of enactment of this Act,
24 or pending on the date of enactment of this Act.

1 **[(e) HOPE FOR HOMEOWNERS AMENDMENTS.—**
2 Section 257(e) of the National Housing Act (12 U.S.C.
3 1715z-23(e)) is amended—**]**

4 **[(1) in paragraph (1)(B), by inserting before**
5 “a ratio” the following: “, or thereafter is likely to
6 have, due to the terms of the mortgage being
7 reset,”; and**]**

8 **[(2) in paragraph (2)(B), by inserting before**
9 the period at the end “(or such higher percentage as
10 the Board determines, in the discretion of the
11 Board)”.**]**

12 **SEC. 124. CONGRESSIONAL OVERSIGHT PANEL.**

13 (a) **ESTABLISHMENT.—**There is hereby established
14 the Congressional Oversight Panel (hereafter in this sec-
15 tion referred to as the “Oversight Panel”) as an establish-
16 ment in the legislative branch.

17 (b) **DUTIES.—**The Oversight Panel shall review the
18 current state of the financial markets and the regulatory
19 system and submit the following reports to Congress:

20 (1) **REGULAR REPORTS.—**

21 (A) **IN GENERAL.—**Regular reports of the
22 Oversight Panel shall include the following:

23 (i) The Secretary’s use of authority
24 under this Act, including with respect to

1 the use of contracting authority and ad-
2 ministration of the program.

3 (ii) The impact of purchases made
4 under the Act on the financial markets and
5 financial institutions.

6 (iii) The extent to which the informa-
7 tion made available on transactions under
8 the program has contributed to market
9 transparency.

10 (iv) The effectiveness of foreclosure
11 mitigation efforts, and the effectiveness of
12 the program from the standpoint of mini-
13 mizing long-term costs to the taxpayers
14 and maximizing the benefits for taxpayers.

15 (B) TIMING.—The reports required under
16 this paragraph shall be submitted not later
17 than 30 days after the first exercise by the Sec-
18 retary of the authority under section 101(a),
19 and every 30 days thereafter.

20 (2) SPECIAL REPORT ON REGULATORY RE-
21 FORM.—The Oversight Panel shall submit a special
22 report on regulatory reform not later than January
23 20, 2009, analyzing the current state of the regu-
24 latory system and its effectiveness at overseeing the
25 participants in the financial system, protecting con-

1 consumers, and providing recommendations for im-
2 provement including recommendations regarding
3 whether any participants in the financial markets
4 that are currently outside the regulatory system
5 should become subject to the regulatory system and
6 the rationale underlying such recommendation and
7 whether there are any gaps in existing consumer
8 protections.

9 (c) MEMBERSHIP.—

10 (1) IN GENERAL.—3 members of the Oversight
11 Panel shall be appointed by the Speaker of the
12 House of Representatives, 2 on the basis of rec-
13 ommendations made by the majority leader of such
14 House and 1 by the minority leader of such House,
15 and 3 members of the Oversight Panel shall be ap-
16 pointed by the president pro tempore of the Senate,
17 2 on the basis of recommendations made by the ma-
18 jority leader of the Senate and 1 by the minority
19 leader of the Senate.

20 (2) 7TH MEMBER.—The 7th member of the
21 Oversight Panel shall be appointed by the members
22 appointed under paragraph (1) and shall serve as
23 the Chairperson of the Oversight Panel.

24 (3) PAY.—Each member of the Oversight Panel
25 shall each be paid at a rate equal to the daily equiv-

1 alent of the annual rate of basic pay for level I of
2 the Executive Schedule for each day (including trav-
3 el time) during which such member is engaged in
4 the actual performance of duties vested in the Com-
5 mission.

6 (4) MEETINGS.—The Oversight Panel shall
7 meet at the call of the Chairperson or a majority of
8 its members.

9 (d) STAFF.—

10 (1) IN GENERAL.—The Oversight Panel may
11 appoint and fix the pay of any personnel as the
12 Commission considers appropriate.

13 (2) EXPERTS AND CONSULTANTS.—The Over-
14 sight Panel may procure temporary and intermittent
15 services under section 3109(b) of title 5, United
16 States Code.

17 (3) STAFF OF AGENCIES.—Upon request of the
18 Oversight Panel, the head of any Federal depart-
19 ment or agency may detail, on a reimbursable basis,
20 any of the personnel of that department or agency
21 to the Oversight Panel to assist it in carrying out its
22 duties under this Act.

23 (e) POWERS.—

24 (1) HEARINGS AND SESSIONS.—The Oversight
25 Panel may, for the purpose of carrying out this sec-

1 tion, hold hearings, sit and act at times and places,
2 take testimony, and receive evidence as the Panel
3 considers appropriate and may administer oaths or
4 affirmations to witnesses appearing before it.

5 (2) POWERS OF MEMBERS AND AGENTS.—Any
6 member or agent of the Oversight Panel may, if au-
7 thorized by the Oversight Panel, take any action
8 which the Oversight Panel is authorized to take by
9 this section.

10 (3) OBTAINING OFFICIAL DATA.—The Over-
11 sight Panel may secure directly from any depart-
12 ment or agency of the United States information
13 necessary to enable it to carry out this section. Upon
14 request of the Chairperson of the Oversight Panel,
15 the head of that department or agency shall furnish
16 that information to the Oversight Panel.

17 (4) REPORTS .—The Oversight Panel shall re-
18 ceive and consider all reports required to be sub-
19 mitted to the Oversight Panel under this Act.

20 (f) TERMINATION.—The Oversight Panel shall termi-
21 nate as of the date on which the report required under
22 subsection (b)(1) is filed by the Oversight Panel after the
23 last troubled asset acquired by the Secretary under this
24 Act has been sold or transferred out of the ownership or
25 control of the Federal Government.

1 (g) FUNDING FOR EXPENSES.—

2 (1) AUTHORIZATION OF APPROPRIATIONS.—

3 There is authorized to be appropriated to the Over-
4 sight Panel such sums as may be necessary for any
5 fiscal year, half of which shall be derived from the
6 applicable account of the House of Representatives,
7 and half of which shall be derived from the contin-
8 gent fund of the Senate.

9 (2) REIMBURSEMENT OF AMOUNTS.—An
10 amount equal to the expenses of the Oversight Panel
11 shall be promptly transferred by the Secretary, from
12 time to time upon the presentment of a statement
13 of such expenses by the Chairperson of the Over-
14 sight Panel, from funds made available to the Sec-
15 retary under this Act to the applicable fund of the
16 House of Representatives and the contingent fund of
17 the Senate, as appropriate, as reimbursement for
18 amounts expended from such account and fund
19 under paragraph (1).

20 **SEC. 125. FDIC ENFORCEMENT ENHANCEMENT.**

21 (a) IN GENERAL.—Section 18(a) of the Federal De-
22 posit Insurance Act (12 U.S.C. 1828(a)) is amended by
23 adding at the end the following new paragraph:

1 “(4) FALSE ADVERTISING, MISUSE OF FDIC
2 NAMES, AND MISREPRESENTATION TO INDICATE IN-
3 SURED STATUS.—

4 “(A) PROHIBITION ON FALSE ADVER-
5 TISING AND MISUSE OF FDIC NAMES.—No per-
6 son may represent or imply that any deposit li-
7 ability, obligation, certificate, or share is in-
8 sured or guaranteed by the Federal Deposit In-
9 surance Corporation, if such deposit liability,
10 obligation, certificate, or share is not insured or
11 guaranteed by the Corporation—

12 “(i) by using the terms ‘Federal De-
13 posit’, ‘Federal Deposit Insurance’, ‘Fed-
14 eral Deposit Insurance Corporation’, any
15 combination of such terms, or the abbrevi-
16 ation ‘FDIC’ as part of the business
17 name or firm name of any person, includ-
18 ing any corporation, partnership, business
19 trust, association, or other business entity;
20 or

21 “(ii) by using such terms or any other
22 terms, sign, or symbol as part of an adver-
23 tisement, solicitation, or other document.

1 “(B) PROHIBITION ON MISREPRESENTA-
2 TIONS OF INSURED STATUS.—No person may
3 knowingly misrepresent—

4 “(i) that any deposit liability, obliga-
5 tion, certificate, or share is insured, under
6 this Act, if such deposit liability, obliga-
7 tion, certificate, or share is not so insured;
8 or

9 “(ii) the extent to which or the man-
10 ner in which any deposit liability, obliga-
11 tion, certificate, or share is insured under
12 this Act, if such deposit liability, obliga-
13 tion, certificate, or share is not so insured,
14 to the extent or in the manner represented.

15 “(C) AUTHORITY OF THE APPROPRIATE
16 FEDERAL BANKING AGENCY.—The appropriate
17 Federal banking agency shall have enforcement
18 authority in the case of a violation of this para-
19 graph by any person for which the agency is the
20 appropriate Federal banking agency, by an in-
21 sured depository institution, or any institution-
22 affiliated party thereof.

23 “(D) CORPORATION AUTHORITY IF THE
24 APPROPRIATE FEDERAL BANKING AGENCY
25 FAILS TO FOLLOW RECOMMENDATION.—

1 “(i) RECOMMENDATION.—The Cor-
2 poration may recommend in writing to the
3 appropriate Federal banking agency that
4 the agency take any enforcement action
5 authorized under section 8 for purposes of
6 enforcement of this paragraph with respect
7 to any person for which the agency is the
8 appropriate Federal banking agency or any
9 institution-affiliated party thereof.

10 “(ii) AGENCY RESPONSE.—If the ap-
11 propriate Federal banking agency does not,
12 within 30 days of the date of receipt of a
13 recommendation under clause (i), take the
14 enforcement action with respect to this
15 paragraph recommended by the Corpora-
16 tion or provide a plan acceptable to the
17 Corporation for responding to the situation
18 presented, the Corporation may take the
19 recommended enforcement action against
20 such person or institution-affiliated party.

21 “(E) ADDITIONAL AUTHORITY.—In addi-
22 tion to its authority under subparagraphs (C)
23 and (D), for purposes of this paragraph, the
24 Corporation shall have, in the same manner and

1 to the same extent as with respect to a State
2 nonmember insured bank—

3 “(i) jurisdiction over—

4 “(I) any person other than a per-
5 son for which the agency is the appro-
6 priate Federal banking agency or any
7 institution-affiliated party thereof;
8 and

9 “(II) any person that aids or
10 abets a violation of this paragraph by
11 a person described in subclause (I);
12 and

13 “(ii) for purposes of enforcing the re-
14 quirements of this paragraph, the author-
15 ity of the Corporation under—

16 “(I) section 10(c) to conduct in-
17 vestigations; and

18 “(II) subsections (b), (c), (d) and
19 (i) of section 8 to conduct enforce-
20 ment actions.

21 “(F) OTHER ACTIONS PRESERVED.—No
22 provision of this paragraph shall be construed
23 as barring any action otherwise available, under
24 the laws of the United States or any State, to
25 any Federal or State agency or individual.”.

1 (b) ENFORCEMENT ORDERS.—Section 8(c) of the
2 Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is
3 amended by adding at the end the following new para-
4 graph:

5 “(4) FALSE ADVERTISING OR MISUSE OF
6 NAMES TO INDICATE INSURED STATUS.—

7 “(A) TEMPORARY ORDER.—

8 “(i) IN GENERAL.—If a notice of
9 charges served under subsection (b)(1)
10 specifies on the basis of particular facts
11 that any person engaged or is engaging in
12 conduct described in section 18(a)(4), the
13 Corporation or other appropriate Federal
14 banking agency may issue a temporary
15 order requiring—

16 “(I) the immediate cessation of
17 any activity or practice described,
18 which gave rise to the notice of
19 charges; and

20 “(II) affirmative action to pre-
21 vent any further, or to remedy any ex-
22 isting, violation.

23 “(ii) EFFECT OF ORDER.—Any tem-
24 porary order issued under this subpara-
25 graph shall take effect upon service.

1 “(B) EFFECTIVE PERIOD OF TEMPORARY
2 ORDER.—A temporary order issued under sub-
3 paragraph (A) shall remain effective and en-
4 forceable, pending the completion of an admin-
5 istrative proceeding pursuant to subsection
6 (b)(1) in connection with the notice of
7 charges—

8 “(i) until such time as the Corpora-
9 tion or other appropriate Federal banking
10 agency dismisses the charges specified in
11 such notice; or

12 “(ii) if a cease-and-desist order is
13 issued against such person, until the effec-
14 tive date of such order.

15 “(C) CIVIL MONEY PENALTIES.—Any vio-
16 lation of section 18(a)(4) shall be subject to
17 civil money penalties, as set forth in subsection
18 (i), except that for any person other than an in-
19 sured depository institution or an institution-af-
20 filiated party that is found to have violated this
21 paragraph, the Corporation or other appro-
22 priate Federal banking agency shall not be re-
23 quired to demonstrate any loss to an insured
24 depository institution.”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 18 of the Federal Deposit Insurance Act (12
3 U.S.C. 1828) is amended—

4 (1) in subsection (a)(3)—

5 (A) by striking “this subsection” the first
6 place that term appears and inserting “para-
7 graph (1)”; and

8 (B) by striking “this subsection” the sec-
9 ond place that term appears and inserting
10 “paragraph (2)”; and

11 (2) in the heading for subsection (a), by strik-
12 ing “INSURANCE LOGO.—” and inserting “REP-
13 RESENTATIONS OF DEPOSIT INSURANCE.—”.

14 **SEC. 126. COOPERATION WITH THE FBI.**

15 Any Federal financial regulatory agency shall cooper-
16 ate with the Federal Bureau of Investigation and other
17 law enforcement agencies investigating fraud, misrepre-
18 sentation, and malfeasance with respect to development,
19 advertising, and sale of financial products.

20 **SEC. 127. ACCELERATION OF EFFECTIVE DATE.**

21 Section 203 of the Financial Services Regulatory Re-
22 lief Act of 2006 (12 U.S.C. 461 note) is amended by strik-
23 ing “October 1, 2011” and inserting “October 1, 2008”.

1 **SEC. 128. DISCLOSURES ON EXERCISE OF LOAN AUTHOR-**
2 **ITY.**

3 (a) IN GENERAL.—Not later than 7 days after the
4 date on which the Board exercises its authority under the
5 third paragraph of section 13 of the Federal Reserve Act
6 (12 U.S.C. 343; relating to discounts for individuals, part-
7 nerships, and corporations) the Board shall provide to the
8 Committee on Banking, Housing, and Urban Affairs of
9 the Senate and the Committee on Financial Services of
10 the House of Representatives a report which includes—

11 (1) the justification for exercising the authority;

12 and

13 (2) the specific terms of the actions of the
14 Board, including the size and duration of the lend-
15 ing, the value of any collateral held with respect to
16 such a loan, the recipient of warrants or any other
17 potential equity in exchange for the loan, and any
18 expected cost to the taxpayer for such exercise.

19 (b) PERIODIC UPDATES.—The Board shall provide
20 updates to the Committees specified in subsection (a) not
21 less frequently than once every 30 days while the subject
22 loan is outstanding, including—

23 (1) the status of the loan;

24 (2) the value of the collateral held by the Fed-
25 eral reserve bank which initiated the loan; and

1 (3) the projected cost to the taxpayer of the
2 loan.

3 (c) CONFIDENTIALITY.—The information submitted
4 to the Congress under this section may be kept confiden-
5 tial, upon the written request of the Chairman of the
6 Board, in which case it shall made available only to the
7 Chairpersons and Ranking Members of the Committees
8 described in subsection (a).

9 (d) APPLICABILITY.—The provisions of this section
10 shall be in force for all uses of the authority provided
11 under section 13 of the Federal Reserve Act occurring on
12 or after March 1, 2008, and reports shall be required be-
13 ginning not later than 30 days after the date of enactment
14 of this Act.

15 (e) SHARING OF INFORMATION.—Any reports re-
16 quired under this section shall also be submitted to the
17 Congressional Oversight Panel established under section
18 124.

19 **SEC. 129. TECHNICAL CORRECTIONS.**

20 (a) IN GENERAL.—Section 128(b)(2) of the Truth in
21 Lending Act (15 U.S.C. 1638(b)(2)), as amended by sec-
22 tion 2502 of the Mortgage Disclosure Improvement Act
23 of 2008 (Public Law 110-289), is amended—

1 (1) in subparagraph (A), by striking “In the
2 case” and inserting “Except as provided in subpara-
3 graph (G), in the case”; and

4 (2) by amending subparagraph (G) to read as
5 follows:

6 “(G)(i) In the case of an extension of cred-
7 it relating to a plan described in section
8 101(53D) of title 11, United States Code—

9 “(I) the requirements of subpara-
10 graphs (A) through (E) shall not apply;
11 and

12 “(II) a good faith estimate of the dis-
13 closures required under subsection (a) shall
14 be made in accordance with regulations of
15 the Board under section 121(c) before
16 such credit is extended, or shall be deliv-
17 ered or placed in the mail not later than
18 3 business days after the date on which
19 the creditor receives the consumer’s writ-
20 ten application for such credit, whichever
21 is earlier.

22 “(ii) If a disclosure statement furnished
23 within 3 business days of the written applica-
24 tion (as provided under clause (i)(II)) contains
25 an annual percentage rate which is subse-

1 quently rendered inaccurate, within the mean-
2 ing of section 107(c), the creditor shall furnish
3 another disclosure statement at the time of set-
4 tlement or consummation of the transaction.”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 subsection (a) shall take effect as if included in the
7 amendments made by section 2502 of the Mortgage Dis-
8 closure Improvement Act of 2008 (Public Law 110-289).

9 **SEC. 130. TEMPORARY MONEY MARKET FUND AUTHORITY.**

10 (a) **REIMBURSEMENT.**—The Secretary shall reim-
11 burse the Exchange Stabilization Fund established under
12 section 5302 of title 31, United States Code, for any funds
13 used for the temporary guaranty program for the United
14 States money market mutual fund industry during the pe-
15 riod when the Exchange Stabilization Fund was used as
16 the source for the guarantee.

17 (b) **LIMITATION ON USE OF FUND.**—The Secretary
18 is prohibited from using the Exchange Stabilization Fund
19 for the establishment of any guaranty programs for the
20 United States money market mutual fund industry.

21 (c) **MONEY MARKET FUND AUTHORITY.**—

22 (1) **IN GENERAL.**—The Secretary is authorized
23 to establish a temporary insurance or guarantee pro-
24 gram for money market mutual funds in connection
25 with the program authorized by this Act.

1 (2) APPLICABILITY.—The authority of this sub-
2 section shall remain in effect—

3 (A) for 120 days following the date of en-
4 actment of this Act; or

5 (B) such longer period, not to exceed 365
6 days after the date of enactment of this Act, as
7 the Secretary certifies in writing to Congress is
8 necessary to continue the insurance or guar-
9 antee program for money market mutual funds.

10 (d) CONSULTATIONS.—In carrying out the duties of
11 the Secretary under this section, the Secretary shall con-
12 sult with the Board of Directors of the Corporation and
13 the Securities and Exchange Commission.

14 **TITLE II—BUDGET-RELATED**
15 **PROVISIONS**

16 **SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT**
17 **AGENCIES.**

18 Upon request, all information used by the Secretary
19 in connection with activities authorized under this Act (in-
20 cluding the records to which the Comptroller General is
21 entitled under this Act) shall be made available to congres-
22 sional support agencies (in accordance with their obliga-
23 tions to support the Congress as set out in their author-
24 izing statutes) for the purposes of assisting the commit-

1 tees of Congress with conducting oversight, monitoring,
2 and analysis of the activities authorized under this Act.

3 **SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND**
4 **BUDGET AND THE CONGRESSIONAL BUDGET**
5 **OFFICE.**

6 (a) REPORTS BY THE OFFICE OF MANAGEMENT AND
7 BUDGET.—Within 60 days of the first exercise of the au-
8 thority granted in section 101(a), but in no case later than
9 December 31, 2008, and quarterly thereafter, the Office
10 of Management and Budget shall report to the President
11 and the Congress—

12 (1) the estimate, notwithstanding section
13 502(5)(F) of the Federal Credit Reform Act of 1990
14 (2 U.S.C. 661a(5)(F)), as of the first business day
15 that is at least 30 days prior to the issuance of the
16 report, of the cost of the troubled assets determined
17 in accordance with section 118;

18 (2) the information used to derive the estimate,
19 including assets purchased, prices paid, revenues re-
20 ceived, the impact on the deficit and debt, and a de-
21 scription of any outstanding commitments to pur-
22 chase troubled assets; and

23 (3) a detailed analysis of how the estimate has
24 changed from the previous report.

1 Beginning with the second report under subsection (a), the
2 Office of Management and Budget shall explain the dif-
3 ferences between the Congressional Budget Office esti-
4 mates delivered in accordance with subsection (b) and
5 prior Office of Management and Budget estimates.

6 (b) REPORTS BY THE CONGRESSIONAL BUDGET OF-
7 FICE.—Within 45 days of receipt by the Congress of each
8 report from the Office of Management and Budget under
9 subsection (a), the Congressional Budget Office shall re-
10 port to the Congress the Congressional Budget Office’s
11 assessment of the report submitted by the Office of Man-
12 agement and Budget, including—

13 (1) the cost of the troubled assets,

14 (2) the information and valuation methods used
15 to calculate such cost, and

16 (3) the impact on the deficit and the debt.

17 (c) FINANCIAL EXPERTISE.—In carrying out the du-
18 ties in this subsection or performing analyses of activities
19 under this Act, the Director of the Congressional Budget
20 Office may employ personnel and procure the services of
21 experts and consultants.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as may be
24 necessary to produce reports required by this section.

1 **SEC. 203. ANALYSIS IN PRESIDENT'S BUDGET.**

2 (a) IN GENERAL.—Section 1105(a) of title 31,
3 United States Code, is amended by adding at the end the
4 following new paragraph:

5 “(35) as supplementary materials, a separate
6 analysis of the budgetary effects for all prior fiscal
7 years, the current fiscal year, the fiscal year for
8 which the budget is submitted, and ensuing fiscal
9 years of the actions the Secretary of the Treasury
10 has taken or plans to take using any authority pro-
11 vided in the Economic Recovery and Corporate Ac-
12 countability Act of 2008, including—

13 “(A) an estimate of the current value of all
14 assets purchased and sold under the authority
15 provided in the Economic Recovery and Cor-
16 porate Accountability Act of 2008 using meth-
17 odology required by the Federal Credit Reform
18 Act of 1990 (2 U.S.C. 661 et seq.) and section
19 118 of the Economic Recovery and Corporate
20 Accountability Act of 2008;

21 “(B) an estimate of the deficit, the debt
22 held by the public, and the gross Federal debt
23 using methodology required by the Federal
24 Credit Reform Act of 1990 and section 118 of
25 the Economic Recovery and Corporate Account-
26 ability Act of 2008;

1 “(C) an estimate of the current value of all
2 assets purchased and sold under the authority
3 provided in the Economic Recovery and Cor-
4 porate Accountability Act of 2008 calculated on
5 a cash basis;

6 “(D) a revised estimate of the deficit, the
7 debt held by the public, and the gross Federal
8 debt, substituting the cash-based estimates in
9 subparagraph (C) for the estimates calculated
10 under subparagraph (A) pursuant to the Fed-
11 eral Credit Reform Act of 1990 and section 118
12 of the Economic Recovery and Corporate Ac-
13 countability Act of 2008; and

14 “(E) the portion of the deficit which can
15 be attributed to any action taken by the Sec-
16 retary using authority provided by the Eco-
17 nomic Recovery and Corporate Accountability
18 Act of 2008 and the extent to which the change
19 in the deficit since the most recent estimate is
20 due to a reestimate using the methodology re-
21 quired by the Federal Credit Reform Act of
22 1990 and section 118 of the Economic Recovery
23 and Corporate Accountability Act of 2008.”

24 (b) CONSULTATION.—In implementing this section,
25 the Director of Office of Management and Budget is di-

1 rected to consult periodically, but at least annually, with
2 the Committee on the Budget of the House of Representa-
3 tives, the Committee on the Budget of the Senate, and
4 the Director of the Congressional Budget Office.

5 (c) EFFECTIVE DATE.—This section and the amend-
6 ment made by this section shall apply beginning with re-
7 spect to the fiscal year 2010 budget submission of the
8 President.

9 **TITLE III—TAX PROVISIONS**

10 **SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF** 11 **CERTAIN PREFERRED STOCK.**

12 (a) IN GENERAL.—For purposes of the Internal Rev-
13 enue Code of 1986, gain or loss from the sale or exchange
14 of any applicable preferred stock by any applicable finan-
15 cial institution shall be treated as ordinary income or loss.

16 (b) APPLICABLE PREFERRED STOCK.—For purposes
17 of this section, the term “applicable preferred stock”
18 means any stock—

19 (1) which is preferred stock in—

20 (A) the Federal National Mortgage Asso-
21 ciation, established pursuant to the Federal Na-
22 tional Mortgage Association Charter Act (12
23 U.S.C. 1716 et seq.), or

24 (B) the Federal Home Loan Mortgage
25 Corporation, established pursuant to the Fed-

1 eral Home Loan Mortgage Corporation Act (12
2 U.S.C. 1451 et seq.), and

3 (2) which—

4 (A) was held by the applicable financial in-
5 stitution on September 6, 2008, or

6 (B) was sold or exchanged by the applica-
7 ble financial institution on or after January 1,
8 2008, and before September 7, 2008.

9 (c) APPLICABLE FINANCIAL INSTITUTION.—For pur-
10 poses of this section:

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the term “applicable financial institution”
13 means—

14 (A) a financial institution referred to in
15 section 582(c)(2) of the Internal Revenue Code
16 of 1986, or

17 (B) a depository institution holding com-
18 pany (as defined in section 3(w)(1) of the Fed-
19 eral Deposit Insurance Act (12 U.S.C.
20 1813(w)(1))).

21 (2) SPECIAL RULES FOR CERTAIN SALES.—In
22 the case of —

23 (A) a sale or exchange described in sub-
24 section (b)(2)(B), an entity shall be treated as
25 an applicable financial institution only if it was

1 an entity described in subparagraph (A) or (B)
2 of paragraph (1) at the time of the sale or ex-
3 change, and

4 (B) a sale or exchange after September 6,
5 2008, of preferred stock described in subsection
6 (b)(2)(A), an entity shall be treated as an appli-
7 cable financial institution only if it was an enti-
8 ty described in subparagraph (A) or (B) of
9 paragraph (1) at all times during the period be-
10 ginning on September 6, 2008, and ending on
11 the date of the sale or exchange of the pre-
12 ferred stock.

13 (d) SPECIAL RULE FOR CERTAIN PROPERTY NOT
14 HELD ON SEPTEMBER 6, 2008.—The Secretary of the
15 Treasury or the Secretary’s delegate may extend the appli-
16 cation of this section to all or a portion of the gain or
17 loss from a sale or exchange in any case where—

18 (1) an applicable financial institution sells or
19 exchanges applicable preferred stock after Sep-
20 tember 6, 2008, which the applicable financial insti-
21 tution did not hold on such date, but the basis of
22 which in the hands of the applicable financial insti-
23 tution at the time of the sale or exchange is the
24 same as the basis in the hands of the person which
25 held such stock on such date, or

1 (2) the applicable financial institution is a part-
2 ner in a partnership which—

3 (A) held such stock on September 6, 2008,
4 and later sold or exchanged such stock, or

5 (B) sold or exchanged such stock during
6 the period described in subsection (b)(2)(B).

7 (e) REGULATORY AUTHORITY.—The Secretary of the
8 Treasury or the Secretary’s delegate may prescribe such
9 guidance, rules, or regulations as are necessary to carry
10 out the purposes of this section.

11 (f) EFFECTIVE DATE.—This section shall apply to
12 sales or exchanges occurring after December 31, 2007, in
13 taxable years ending after such date.

14 **SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECU-**
15 **TIVE COMPENSATION OF EMPLOYERS PAR-**
16 **TICIPATING IN THE TROUBLED ASSETS RE-**
17 **LIEF PROGRAM.**

18 (a) DENIAL OF DEDUCTION.—Subsection (m) of sec-
19 tion 162 of the Internal Revenue Code of 1986 is amended
20 by adding at the end the following new paragraph:

21 “(5) SPECIAL RULE FOR APPLICATION TO EM-
22 PLOYERS PARTICIPATING IN THE TROUBLED ASSETS
23 RELIEF PROGRAM.—

1 “(A) IN GENERAL.—In the case of an ap-
2 plicable employer, no deduction shall be allowed
3 under this chapter—

4 “(i) in the case of executive remunera-
5 tion for any applicable taxable year which
6 is attributable to services performed by a
7 covered executive during such applicable
8 taxable year, to the extent that the amount
9 of such remuneration exceeds \$400,000, or

10 “(ii) in the case of deferred deduction
11 executive remuneration for any taxable
12 year for services performed during any ap-
13 plicable taxable year by a covered execu-
14 tive, to the extent that the amount of such
15 remuneration exceeds \$400,000 reduced by
16 the sum of—

17 “(I) the executive remuneration
18 for such applicable taxable year, plus

19 “(II) the portion of the deferred
20 deduction executive remuneration for
21 such services which was taken into ac-
22 count under this clause in a preceding
23 taxable year.

24 “(B) APPLICABLE EMPLOYER.—For pur-
25 poses of this paragraph—

1 “(i) IN GENERAL.—The term ‘applica-
2 ble employer’ means any employer from
3 whom any troubled asset is acquired under
4 a program established by the Secretary
5 under section 2 of the Emergency Eco-
6 nomic Stabilization Act of 2008.

7 “(ii) AGGREGATION RULES.—Two or
8 more persons who are treated as a single
9 employer under subsection (b) or (c) of
10 section 414 shall be treated as a single em-
11 ployer, except that in applying section
12 1563(a) for purposes of either such sub-
13 section, paragraphs (2) and (3) thereof
14 shall be disregarded.

15 “(C) APPLICABLE TAXABLE YEAR.—For
16 purposes of this paragraph, the term ‘applicable
17 taxable year’ means any taxable year which in-
18 cludes any portion of the period during which
19 the authorities under the Emergency Economic
20 Stabilization Act of 2008 are in effect, deter-
21 mined without regard to section 12(a)(2) there-
22 of.

23 “(D) COVERED EXECUTIVE.—For pur-
24 poses of this paragraph—

1 “(i) IN GENERAL.—The term ‘covered
2 executive’ means, with respect to any ap-
3 plicable taxable year, any employee—

4 “(I) who, at any time during the
5 portion of the taxable year during
6 which the authorities under the Emer-
7 gency Economic Stabilization Act of
8 2008 are in effect (determined with-
9 out regard to section 12(a)(2) there-
10 of), is the chief executive officer of the
11 applicable employer or the chief finan-
12 cial officer of the applicable employer,
13 or an individual acting in either such
14 capacity, or

15 “(II) who is described in clause
16 (ii).

17 “(ii) HIGHEST COMPENSATED EM-
18 PLOYEES.—An employee is described in
19 this clause if the employee is 1 of the 3
20 highest compensated officers of the appli-
21 cable employer for the taxable year (other
22 than an individual described in clause
23 (i)(I)), determined—

24 “(I) on the basis of the share-
25 holder disclosure rules for compensa-

1 tion under the Securities Exchange
2 Act of 1934 (without regard to wheth-
3 er those rules apply to the employer),
4 and

5 “(II) by only taking into account
6 employees employed during the por-
7 tion of the taxable year described in
8 clause (i)(I).

9 “(iii) EMPLOYEE REMAINS COVERED
10 EXECUTIVE.—If an employee is a covered
11 executive with respect to an applicable em-
12 ployer for any applicable taxable year, such
13 employee shall be treated as a covered ex-
14 ecutive with respect to such employer for
15 all subsequent applicable taxable years.

16 “(E) EXECUTIVE REMUNERATION.—For
17 purposes of this paragraph, the term ‘executive
18 remuneration’ means the applicable employee
19 remuneration of the covered executive, as deter-
20 mined under paragraph (4) without regard to
21 subparagraphs (B), (C), and (D) thereof. Such
22 term shall not include any deferred deduction
23 executive remuneration with respect to services
24 performed in a prior applicable taxable year.

1 “(F) DEFERRED DEDUCTION EXECUTIVE
2 REMUNERATION.—For purposes of this para-
3 graph, the term ‘deferred deduction executive
4 remuneration’ means remuneration which would
5 be executive remuneration for services per-
6 formed in an applicable taxable year but for the
7 fact that the deduction under this chapter (de-
8 termined without regard to this paragraph) for
9 such remuneration is allowable in a subsequent
10 taxable year.

11 “(G) COORDINATION.—Rules similar to
12 the rules of subparagraphs (F) and (G) of para-
13 graph (4) shall apply for purposes of this para-
14 graph.”.

15 (b) GOLDEN PARACHUTE RULE.—Section 280G of
16 the Internal Revenue Code of 1986 is amended—

17 (1) by redesignating subsection (e) as sub-
18 section (f), and

19 (2) by inserting after subsection (d) the fol-
20 lowing new subsection:

21 “(e) SPECIAL RULE FOR APPLICATION TO EMPLOY-
22 ERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF
23 PROGRAM.—

24 “(1) IN GENERAL.—In the case of the sever-
25 ance from employment of a covered executive of an

1 applicable employer during the period during which
2 the authorities under the Emergency Economic Sta-
3 bilization Act of 2008 are in effect (determined with-
4 out regard to section 12(a)(2) thereof), this section
5 shall be applied to payments to such executive with
6 the following modifications:

7 “(A) Any reference to a disqualified indi-
8 vidual (other than in subsection (c)) shall be
9 treated as a reference to a covered executive.

10 “(B) Any reference to a change described
11 in subsection (b)(2)(A)(i) shall be treated as a
12 reference to severance from employment of a
13 covered executive, and any reference to a pay-
14 ment contingent on such a change shall be
15 treated as a reference to a payment made on
16 account of such severance from employment.

17 “(C) Any reference to a corporation shall
18 be treated as a reference to an applicable em-
19 ployer.

20 “(D) The provisions of subsections
21 (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not
22 apply.

23 “(2) DEFINITIONS AND SPECIAL RULES.—

24 “(A) DEFINITIONS.—Any term used in
25 this subsection which is also used in section

1 162(m)(5) shall have the meaning given such
2 term by such section.

3 “(B) COORDINATION.—

4 “(i) IN GENERAL.—If a payment
5 which is treated as a parachute payment
6 by reason of this subsection is also a para-
7 chute payment determined without regard
8 to this subsection, this subsection shall not
9 apply to such payment.

10 “(ii) REGULATORY AUTHORITY.—The
11 Secretary shall prescribe rules for the ap-
12 plication of this section and section 4999
13 in cases where one or more payments with
14 respect to any individual are treated as
15 parachute payments by reason of this sub-
16 section, and other payments with respect
17 to such individual are treated as parachute
18 payments under this section without re-
19 gard to this subsection.”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendment made by
22 subsection (a) shall apply to taxable years ending on
23 or after the date of the enactment of this Act.

24 (2) GOLDEN PARACHUTE RULE.—The amend-
25 ments made by subsection (b) shall apply to pay-

1 ments with respect to severances occurring during
2 the period during which the authorities under this
3 Act are in effect (determined without regard to sec-
4 tion 12(a)(2) thereof).

5 **[SEC. 303. EXTENSION AND MODIFICATION OF EXCLUSION**
6 **OF INCOME FROM DISCHARGE OF QUALIFIED**
7 **PRINCIPAL RESIDENCE INDEBTEDNESS.]**

8 **[(a) EXTENSION.—**Subparagraph (E) of section
9 108(a)(1) of the Internal Revenue Code of 1986 is amend-
10 ed by striking “January 1, 2010” and inserting “January
11 1, 2013”.]

12 **[(b) INCLUSION OF HOME EQUITY INDEBTED-**
13 **NESS.—]**

14 **[(1) IN GENERAL.—**Section 108(h)(2) of the
15 Internal Revenue Code of 1986 is amended by in-
16 serting “and home equity indebtedness (within the
17 meaning of section 163(h)(3)(C))” after “there-
18 of”).]

19 **[(2) EFFECTIVE DATE.—**The amendment made
20 by this subsection shall apply to discharges of in-
21 debtedness occurring on or after the date of the en-
22 actment of this Act, but only with respect to home
23 equity indebtedness outstanding on such date.]