CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

January 13, 2009

H.R. 384
TARP Reform and Accountability Act

As introduced in the House of Representatives on January 9, 2009

SUMMARY

H.R. 384 would establish new requirements and provide additional guidance for administering the Troubled Asset Relief Program (TARP) established by the Emergency Economic Stabilization Act of 2008 (EESA). It also would modify the Hope for Homeowners loan guarantee program authorized by the Housing and Economic Recovery Act of 2008. In addition, the bill would permanently increase the amount of deposits insured by the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA) from $100,000 to $250,000 and modify other terms of the FDIC's deposit insurance program.

The effects on direct spending and revenues over the 2009-2013 and 2009-2018 periods are relevant for enforcing pay-as-you-go rules under the current budget resolution. CBO estimates that enacting this legislation would increase deficits by $14.8 billion over the five-year period from 2009 through 2013, but would reduce deficits by $13.3 billion over the 2009-2018 period. (In total, CBO estimates that the legislation would reduce deficits by $13.9 billion through 2019.) Implementing H.R. 384 would not affect spending subject to appropriation.

H.R. 384 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would prevent governmental and private-sector entities that invest in pooled residential mortgages from seeking damages from servicers of those mortgages on grounds that they violated their duty to maximize the value of the loans. The bill also could prevent private entities from seeking damages under certain antitrust laws for negotiations authorized under the bill. In addition, the bill would preempt some state laws.

CBO estimates that the costs of the intergovernmental and private-sector mandates would be small and would fall below the annual thresholds established in UMRA ($69 million for intergovernmental mandates and $139 million for private-sector mandates in 2009, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars												
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009-2014	2009-2019
CHANGES IN DIRECT SPENDING													
Hope for Homeowners													
Estimated Budget Authority	304	225	146	0	0	0	0	0	0	0	0	675	675
Estimated Outlays	274	233	154	15	0	0	0	0	0	0	0	675	675
FDIC Amendments													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	1,700	5,500	4,700	2,200	-6,100	-8,900	-6,900	-6,100	-100	-600	8,000	-14,600
Total Changes													
Estimated Budget Authority	304	225	146	0	0	0	0	0	0	0	0	675	675
Estimated Outlays	274	1,933	5,654	4,715	2,200	-6,100	-8,900	-6,900	-6,100	-100	-600	8,675	-13,925

BASIS OF ESTIMATE

Troubled Asset Relief Program

H.R. 384 would modify the EESA to establish new requirements and provide additional guidance for administering the Troubled Asset Relief Program. Generally, the bill would clarify the authority broadly granted in the initial legislation; it also would specify that foreclosure prevention on home mortgages should be an explicit focus of future disbursements of TARP funding.

Title I would add reporting requirements for recipients of TARP funding, place some restrictions on the use of that funding, set standards for executive compensation, and

increase the size of the Financial Stability Oversight Board. CBO estimates that those provisions would have a negligible impact on direct spending.

Title II would require the Secretary of the Treasury to present a plan to prevent and mitigate foreclosures on residential properties. That plan should commit between $40 billion and $100 billion to foreclosure relief from the remaining TARP funding. In its baseline, CBO assumed that the Treasury would receive the second installment of the $700 billion provided in the EESA and estimated that purchasing additional troubled assets with those funds would result in a net long-term cost to the government of $88 billion (that cost is estimated on a net-present-value basis, as specified in EESA). CBO expects that directing some of the TARP funds be used to prevent home foreclosures would not add to the costs already expected to occur under current law.

Title III would add specific requirements for current and any future loans to the automobile industry. It also would require the President to designate one or more people to oversee the credit provided to automobile manufacturers and the plans submitted as a condition of that financial assistance; that oversight includes several reporting directives. Furthermore, the bill would require the Government Accountability Office to monitor the activities of the President's designee for auto loans and to report its findings every 60 days or less.

Title IV would clarify that the Treasury has authority to use TARP funds to invest in consumer loans, municipal securities, and commercial real estate loans.

HOPE for Homeowners Program

Title V would make certain changes to the Hope for Homeowners loan guarantee program authorized by the Housing and Economic Recovery Act of 2008. Those changes, which are aimed at increasing the number of loans refinanced through the program, include:

- Eliminating the payment of an up-front insurance premium;
- Reducing the annual insurance premium;
- Increasing the maximum loan to value ratio of the refinanced mortgage to 93 percent;

- Eliminating the government's share of any appreciation in the homes' value at sale; and

- Authorizing a payment to the servicer of the existing mortgage.

The Federal Credit Reform Act requires the federal budget to record the up-front cost of subsidizing loan guarantees on a net-present-value basis. CBO estimates that enacting this legislation, which would directly appropriate the subsidy cost of loan guarantees would increase direct spending by $675 million over the 2009-2019 period.

To determine this subsidy cost, CBO estimated the volume of loans that would be refinanced under this voluntary program and the likelihood that borrowers would default on their refinanced mortgages. Based on participation in the current Hope for Homeowners program, the FHASecure program, and information from mortgage industry participants, CBO estimates that as many as 25,000 additional loans could be refinanced as a result of the proposed changes, representing a loan volume of about $5 billion over the next four years. (As of January 12, 2008, no loans have been guaranteed under the Hope for Homeowners program. In addition, about 4,000 delinquent borrowers refinanced their loans under FHASecure over the 16-month lifetime of the program.)

CBO estimates that the program, as modified by the bill, would have a subsidy rate of about 15 percent of the loan value. This estimated subsidy rate assumes that the cumulative default rate for the program would be about 40 percent and that recoveries on defaulted mortgages would be about 60 percent of the outstanding loan amount. Those rates reflect CBO's view that mortgage holders would have an incentive to direct their highest-risk loans to the program, and are based on the expectation that the underwriting standards established for the new program would be less restrictive than those currently in place for FHA's single-family loan-guarantee program, thereby allowing FHA to insure loans with a greater risk of default.

Federal Deposit Insurance Programs

Title VII would increase the amount of federal deposit insurance coverage and make other changes to the FDIC's programs. Specifically, the bill would:

- Permanently increase the amount of deposits insured by the FDIC and NCUA from $100,000 to $250,000 (the EESA raised the limit to $250,000 through December 31, 2009);

- Adjust the limit on insured deposits for inflation beginning in 2015 instead of 2010;

- Lengthen the amount of time available to restore the size of the FDIC's insurance fund from five years to eight years;

- Modify how the FDIC recovers costs resulting from actions taken to reduce systemic risks; and

- Increase the FDIC's borrowing authority from $30 billion to $100 billion and allow for additional borrowing under certain conditions.

Raising the limit on insured deposits would increase the FDIC's and NCUA's liabilities for failed institutions, but the cost of any additional losses would be offset over time by higher insurance premiums. In addition, depository institutions would pay higher premiums to cover newly insured deposits. Because the legislation also would extend the period for the FDIC to collect premiums and recover costs from systemic actions, CBO expects that the agency's net outlays would increase over the 2009-2013 period because of higher losses and slower collections but would end the 2009-2019 period significantly lower than under current law because higher premium income would be available from new deposits and could be used to offset additional losses. Credit unions, by contrast, would be obligated to pay premiums for the newly insured deposits immediately.

CBO estimates that implementing this title would increase direct spending by $14.1 billion over the next five years but would reduce direct spending by about $14.6 billion over the 11-year period from 2009 through 2019. Based on information from the FDIC and NCUA, CBO estimates that raising deposit insurance coverage from $100,000 to $250,000 would increase insured deposits by 15 percent and 10 percent, respectively. Applying those increases to CBO's baseline assumptions for deposit growth, we estimate that enacting this legislation would increase deposits insured by the FDIC by about $1.1 trillion by 2019 and by the NCUA by almost $100 billion. Assuming the agencies would charge premiums of 1.25 percent and 1 percent, respectively, for insured deposits, CBO estimates that enacting this title would reduce net outlays by about $14.6 billion by 2019.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 384 contains intergovernmental and private-sector mandates as defined in UMRA, but CBO estimates that the costs of those mandates would fall below the annual

thresholds established in UMRA ($69 million and $139 million, respectively, in 2009, adjusted annually for inflation).

Mandates that Apply to Both Public and Private Entities

H.R. 384 would impose a mandate on both intergovernmental and private-sector entities that invest in residential mortgages by prohibiting those entities from suing servicers of those loans in some circumstances. The bill would provide a safe harbor for servicers of mortgages when they modify mortgages in ways that may violate their duty to maximize the value of the loans. Removing the existing right of investors to seek damages would be a mandate under UMRA. CBO concludes, however, that servicers would be unlikely to alter mortgages in ways that would be significant enough to cause investors to seek damages because they would still be required to maximize returns for investors under their fiduciary obligations. Therefore, CBO estimates that the cost of the mandate (the forgone net value of awards and settlements) would be small.

Mandates that Apply to Public Entities Only

Several provisions of H.R. 384 would preempt state laws; those preemptions constitute intergovernmental mandates as defined in UMRA. By exempting communications between auto manufacturers and interested parties regarding negotiated plans from some state antitrust laws, the bill would preempt state law. The bill also would preempt state laws that allow individuals to seek compensation from entities that issue certain securities. CBO estimates that such preemptions would not result in additional spending for governments.

Mandates that Apply to Private-Sector Entities Only

H.R. 384 could impose a private-sector mandate by preventing private entities from seeking damages under certain antitrust laws for negotiations authorized under the bill. The direct cost of the mandate would be the forgone net value of the awards and settlements in such claims. Because the Attorney General and the Federal Trade Commission would retain the authority to enforce antitrust laws, CBO expects the cost of such a mandate would likely be small relative to the annual threshold for the private sector.

Other Impacts

The bill also would allow federal entities to insure or purchase municipal debt, which would benefit state, local, and tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: TARP – Jeffrey Holland
Housing Programs – Susanne Mehlman and Chad Chirico
FDIC – Kathleen Gramp
Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis