Requiring Strong Supervision And Regulation Of All Financial Firms

The current regime for regulating and supervising financial firms suffers from gaps, weaknesses and jurisdictional overlaps. It is also based on an outdated conception of financial risk - focusing on the safety and soundness of individual institutions, but not on the interconnections among firms or the stability of the system as a whole. Supervision has been lax and inconsistent among the various regulators. Many large, highly interconnected institutions have escaped real consolidated supervision. Private pools of capital, such as hedge funds, remain essentially unregulated. To lay a new foundation for regulation and supervision, the administration's plan will strengthen capital and liquidity requirements for all financial firms, establish a tougher supervisory regime for the firms that pose the most serious risks to financial stability, eliminate gaps, increase transparency, and limit the opportunities for regulatory arbitrage. The plan seeks to protect the integrity of our financial system while encouraging growth and innovation.

Increased Oversight Of Systemic Risk and Financial Regulation

Create A Financial Services Oversight Council:

- The President's plan will create a Financial Services Oversight Council chaired by Treasury, to help fill gaps in regulation, facilitate coordination of policy and resolution of disputes, and identify emerging risks in firms and market activities.

- The Financial Services Oversight Council will replace the President's Working Group on Financial Markets and will have a permanent, full-time staff at Treasury. The Council will:

    - Have broad authority to gather information through the Chair from any financial firm to identify emerging risks to financial stability.

    - Identify gaps in regulation and prepare an annual report to Congress on market developments and potential emerging risks

    - Recommend firms for identification as Tier 1 Financial Holding Companies (Tier 1 FHCs) that should be under consolidated supervision by the Federal Reserve

    - Provide consultation on material prudential standards for Tier 1 FHCs and systemically important payment, clearing and settlement systems

    - Provide a forum for discussion of cross-cutting issues among the principal federal financial regulatory agencies

    - Facilitate information sharing and coordination among the principal federal financial regulatory agencies regarding policy development, rulemakings, examinations, reporting requirements, and enforcement actions

- The Council will have eight members, one from each of the principal federal financial regulators: the Secretary of the Treasury, who shall serve as the Chair; (ii) the Chair of the Board of Governors of the Federal Reserve System; (iii) the Chair of the Commodity Futures Trading Commission (CFTC); (iv) the Director of the newly created Consumer Financial Protection Agency; (v) the Chair of the Federal Deposit Insurance Corporation (FDIC); (vi) the Director of the Federal Housing Finance Agency (FHFA); (vii) the Director of the newly created National Bank Supervisor (NBS); and (viii) the Chair of the Securities and Exchange Commission (SEC).

Robust, Accountable Regulation for Large, Interconnected Financial Firms

Consolidated Supervision And Regulation:

- Under the President's plan, all financial firms that are found to pose a threat to our economy's financial stability based on their size, leverage, and interconnectedness to the financial system will be subjected to strong consolidated supervision and regulation.

- These Tier 1 FHCs will be subject to consolidated supervision and regulation regardless of whether they own insured depository institutions and will be subject to the nonfinancial activities restrictions of the BHC Act.

- Treasury will lead a working group, with participation by federal agencies and outside experts, that will conduct a fundamental reassessment of the supervision of banks and BHC. The working group will issue a report with its conclusions by October 1, 2009.

Expanded Authority And Accountability For The Federal Reserve Board:

- The Federal Reserve currently holds regulatory responsibilities over bank holding companies and is best suited to take on authority and accountability for consolidated supervision of all Tier 1 FHCs.

Establish Specific Criteria To Determine Which Firms Are Subject To The Highest Regulatory Standards:

- The Administration proposes that Congress should establish criteria that the Federal Reserve must consider for identifying large and interconnected firms as Tier 1 FHCs.

Higher Prudential Standards For Large, Interconnected Firms:

- As part of the President's plan, Tier 1 FHCs will be subjected to stricter and more conservative prudential standards than those that apply to other bank holding companies – including higher standards on capital, liquidity and risk management.

Authority To Federal Reserve Board To Assess Risk and Impose Requirements On Consolidated Activities Of Large, Interconnected Financial Firms:

- Under the President's plan, the Federal Reserve will be responsible for and have a right to assess risk and set higher standards at all levels (including regulated and unregulated subsidiaries) of a Tier 1 FHC to protect against excessive risk taking at any level.

Higher Standards For All Financial Firms

Higher Capital And Management Requirements For All Financial Holding Companies:

- As part of the President's plan, all financial holding companies – including Tier 1 FHCs – will be required to be "well capitalized" and "well managed" on a consolidated basis to engage in the broad set of financial activities permitted under the Gramm-Leach-Bliley Act.

Fundamental Reassessment Of Design And Structure Of Regulatory Capital Requirements:

- As part of the President's plan, a working group led by Treasury will conduct a fundamental reassessment of the design and structure of the existing regulatory capital requirements for banks and bank holding companies (including Tier 1 FHCs).

- The working group will issue a report with its conclusions on how to strengthen regulatory capital requirements by December 31, 2009.

Executive Compensation Standards:

- Under the President's plan, regulators will issue standards and guidelines that better align executive compensation practices with long-term shareholder value and that prevent compensation practices from providing incentives that could threaten the safety and soundness of supervised institutions.

- Under the President's plan, the SEC will have authority to require companies to allow shareholders to vote on executive-compensation packages to help ensure that compensation packages are closely aligned with the interests of shareholders.

Strengthen Firewalls Between Banks And Their Affiliates:

- As part of the President's plan, firewalls between banks and their affiliates will be strengthened to better protect the federal safety net that supports banks, to better prevent spread of the subsidy from the federal safety net to bank affiliates, and to better address conflicts of interest in banking organizations.

Review Of Accounting Standards For Financial Firms:

- As part of the President's plan, accounting standards will be reviewed to determine how financial firms should be required to employ more forward-looking loan loss provisioning practices that incorporate a broader range of available credit information.

- Fair value accounting rules also will be reviewed with the goal of identifying changes that could provide market participants with both fair value information and greater transparency regarding the cash flows management expects to receive from investments.

Providing A More Sensible, Efficient Regulatory System

Create New National Bank Supervisor:

- Under the President's plan, a new National Bank Supervisor will conduct prudential supervision and regulation of federally chartered depository institutions and federal branches and agencies of foreign banks.

Eliminate Federal Thrift Charter:

- The fragility of thrifts has become readily apparent during the financial crisis. Eliminating the thrift charter is one of the most important steps towards a more prudent, efficient financial regulatory system.

Eliminate Loopholes In The Bank Holding Company Act:

- Under the President's plan, all companies that control an insured depository institution will be subject to robust, consolidated supervision and regulation at the federal level by the Federal Reserve and will be subject to the nonfinancial activity limits contained in the Bank Holding Company Act.

Requiring Increased Transparency

Require Advisers To Hedge Funds and Other Private Pools Of Capital To Register With The SEC:

- To protect investors, the President's plan requires all advisers to hedge funds -- and other private pools of capital, including private equity funds and venture capital funds -- whose assets under management exceed some modest threshold to register with the SEC under the Investment Advisers Act.

- Advisers will be required to report a sufficient amount of information on their managed funds that will allow for a proper assessment of whether any funds pose a threat to financial stability.

Improve The Regulation Of Money Market Mutual Funds:

- As part of the President's plan, the regulatory framework for money market mutual funds (MMFs) will be strengthened. The President's Working Group on Financial Markets will consider whether more fundamental changes are needed to make the MMF industry less vulnerable to runs.