

**[DISCUSSION DRAFT]**

SEPTEMBER 28, 2008

110TH CONGRESS  
2D 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.

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**IN THE HOUSE OF REPRESENTATIVES**

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

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**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,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Emergency Economic Stabilization Act of 2008”.

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

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

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

- Sec. 101. Purchases of troubled assets.
- Sec. 102. Insurance of troubled assets.
- Sec. 103. Considerations.
- Sec. 104. Financial Stability Oversight Board.
- Sec. 105. Reports.
- Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
- Sec. 107. Contracting procedures.
- Sec. 108. Conflicts of interest.
- Sec. 109. Foreclosure mitigation efforts.
- Sec. 110. Assistance to homeowners and localities.
- Sec. 111. Executive compensation and corporate governance.
- Sec. 112. Coordination with foreign authorities and central banks.
- Sec. 113. Minimization of long-term costs and maximization of benefits for taxpayers.
- Sec. 114. Market transparency.
- Sec. 115. Graduated authorization to purchase.
- Sec. 116. Oversight and audits.
- Sec. 117. Study and report on margin authority.
- Sec. 118. Funding.
- Sec. 119. Judicial review and related matters.
- Sec. 120. Termination of authority.
- Sec. 121. Special Inspector General For The Troubled Asset Relief Program.
- Sec. 122. Increase in statutory limit on the public debt.
- Sec. 123. Credit reform.
- Sec. 124. HOPE for Homeowners amendments.
- Sec. 125. Congressional Oversight Panel.
- Sec. 126. FDIC enforcement enhancement.
- Sec. 127. Cooperation with the FBI.
- Sec. 128. Acceleration of effective date.
- Sec. 129. Disclosures on exercise of loan authority.
- Sec. 130. Technical corrections.
- Sec. 131. Exchange Stabilization Fund reimbursement.
- Sec. 132. Suspension of mark-to-market accounting.
- Sec. 133. Study on mark-to-market accounting.
- Sec. 134. Recoupment.
- Sec. 135. Preservation of 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. Extension of exclusion of income from discharge of qualified principal residence indebtedness.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to immediately provide authority and facili-  
4 ties that the Secretary of the Treasury can use to  
5 restore liquidity and stability to the financial system  
6 of the United States; and

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

9 (A) protects home values, college funds, re-  
10 tirement accounts, and life savings;

11 (B) preserves homeownership and pro-  
12 motes jobs and economic growth;

13 (C) maximizes overall returns to the tax-  
14 payers of the United States; and

15 (D) provides public accountability for the  
16 exercise of such authority.

17 **SEC. 3. DEFINITIONS.**

18 For purposes of this Act, the following definitions  
19 shall apply:

20 (1) **APPROPRIATE COMMITTEES OF CON-**  
21 **GRESS.**—The term “appropriate committees of Con-  
22 gress” means—

23 (A) the Committee on Banking, Housing,  
24 and Urban Affairs, the Committee on Finance,

1 and the Committee on the Budget of the Sen-  
2 ate; and

3 (B) the Committee on Financial Services,  
4 the Committee on Ways and Means, and the  
5 Committee on the Budget of the House of Rep-  
6 resentatives.

7 (2) BOARD.—The term “Board” means the  
8 Board of Governors of the Federal Reserve System.

9 (3) CONGRESSIONAL SUPPORT AGENCIES.—The  
10 term “congressional support agencies” means the  
11 Congressional Budget Office and the Joint Com-  
12 mittee on Taxation.

13 (4) CORPORATION.—The term “Corporation”  
14 means the Federal Deposit Insurance Corporation.

15 [(5) FINANCIAL INSTITUTION.—The term “fi-  
16 nancial institution” means any institution, including,  
17 but not limited to, any bank, savings association,  
18 credit union, security broker or dealer, or insurance  
19 company, organized and regulated under the laws of  
20 the United States or any State, territory, or posses-  
21 sion of the United States, the District of Columbia,  
22 Commonwealth of Puerto Rico, Commonwealth of  
23 Northern Mariana Islands, Guam, American Samoa,  
24 or the United States Virgin Islands, and having sig-  
25 nificant operations in the United States, but exclud-

1       ing any central bank of, or institution owned by, a  
2       foreign government.】

3           (6) FUND.—The term “Fund” means the Trou-  
4       bled Assets Insurance Fund established under sec-  
5       tion 102.

6           (7) SECRETARY.—The term “Secretary” means  
7       the Secretary of the Treasury.

8           (8) TARP.—The term “TARP” means the  
9       troubled asset relief program established under sec-  
10      tion 101.

11          (9) TROUBLED ASSETS.—The term “troubled  
12      assets” means—

13           (A) residential or commercial mortgages  
14           and any securities, obligations, or other instru-  
15           ments that are based on or related to such  
16           mortgages, that in each case was originated or  
17           issued on or before March 14, 2008, the pur-  
18           chase of which the Secretary determines pro-  
19           motes financial market stability; and

20           (B) 【any other financial instrument that  
21           the Secretary, after consultation with the Chair-  
22           man of the Board of Governors of the Federal  
23           Reserve System, determines the purchase of  
24           which is necessary to promote financial market  
25           stability, but only upon transmittal of such de-

1            termination, in writing, to the appropriate com-  
2            mittees of Congress】.

3            **TITLE I—TROUBLED ASSETS**  
4            **RELIEF PROGRAM**

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

6            (a) OFFICES; AUTHORITY.—

7            【(1) AUTHORITY.—The Secretary is authorized  
8            to establish a troubled asset relief program (or  
9            “TARP”) to purchase, and to make and fund com-  
10            mitments to purchase, troubled assets from any fi-  
11            nancial institution, on such terms and conditions as  
12            are determined by the Secretary, and in accordance  
13            with this Act and the policies and procedures devel-  
14            oped and published by the Secretary.】

15            (2) ESTABLISHMENT OF TREASURY OFFICE.—

16            (A) IN GENERAL.—The Secretary shall im-  
17            plement any program under paragraph (1)  
18            through an Office of Financial Stability, estab-  
19            lished for such purpose within the Office of Do-  
20            mestic Finance of the Department of the Treas-  
21            ury, which office shall be headed by an Assist-  
22            ant Secretary of the Treasury, appointed by the  
23            President, by and with the advice and consent  
24            of the Senate.

1 (B) CLERICAL AMENDMENT.—Section  
2 5315 of title 5, United States Code, is amended  
3 in the item relating to Assistant Secretaries of  
4 the Treasury, by striking “(9)” and inserting  
5 “(10)”.

6 (b) CONSULTATION.—In exercising the authority  
7 under this section, the Secretary shall consult with the  
8 Board of Governors of the Federal Reserve System, the  
9 Federal Reserve Bank of New York, the Corporation, the  
10 Comptroller of the Currency, the Director of the Office  
11 of Thrift Supervision, and the Secretary of Housing and  
12 Urban Development.

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

17 (1) The Secretary shall have direct hiring au-  
18 thority with respect to the appointment of employees  
19 to administer this Act.

20 (2) Entering into contracts, including contracts  
21 for services authorized by section 3109 of title 5,  
22 United States Code.

23 (3) Designating financial institutions as finan-  
24 cial agents of the Federal Government, and such in-  
25 stitutions shall perform all such reasonable duties

1 related to this Act as financial agents of the Federal  
2 Government as may be required.

3 (4) In order to provide the Secretary with the  
4 flexibility to manage troubled assets in a manner de-  
5 signed to minimize cost to the taxpayers, estab-  
6 lishing vehicles that are authorized, subject to super-  
7 vision by the Secretary, to purchase troubled assets  
8 and issue obligations.

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

12 (d) PROGRAM GUIDELINES.—Before the earlier of  
13 the end of the 2-business-day period beginning on the date  
14 of the first purchase of troubled assets pursuant to the  
15 authority under this section or the end of the 45-day pe-  
16 riod beginning on the date of enactment of this Act, the  
17 Secretary shall publish program guidelines, including the  
18 following:

19 (1) Mechanisms for purchasing troubled assets.

20 (2) Methods for pricing and valuing troubled  
21 assets.

22 (3) Procedures for selecting asset managers.

23 (4) Criteria for identifying troubled assets for  
24 purchase.

1 (e) PREVENTING UNJUST ENRICHMENT.—In making  
2 purchases under the authority of this Act, the Secretary  
3 shall take such steps as may be necessary to prevent un-  
4 just enrichment of financial institutions participating in  
5 a program established under this section, including by pre-  
6 venting the resale of a troubled asset to the Secretary at  
7 a higher price than what the seller paid to purchase the  
8 asset. This subsection does not apply to troubled assets  
9 acquired in a merger or acquisition, or a purchase of as-  
10 sets from a financial institution in conservatorship or re-  
11 ceivership, or that has initiated bankruptcy proceedings  
12 under title 11, United States Code.

13 **SEC. 102. INSURANCE OF TROUBLED ASSETS.**

14 (a) AUTHORITY.—

15 (1) IN GENERAL.—If the Secretary establishes  
16 the program authorized under section 101, then the  
17 Secretary shall establish a program to guarantee  
18 troubled assets, including mortgage-backed securities  
19 issued prior to March 18, 2008.

20 (2) GUARANTEES.—In establishing any pro-  
21 gram under this subsection, the Secretary may de-  
22 velop guarantees of troubled assets and the associ-  
23 ated premiums for such guarantees. Such guaran-  
24 tees and premiums shall be determined by category  
25 or class of the securities to be guaranteed.

1           (3) EXTENT OF GUARANTEE.—Upon request of  
2           a financial institution, the Secretary may guarantee  
3           the timely payment of principal of, and interest on,  
4           troubled assets in amounts not to exceed 100 per-  
5           cent of such payments. Such guarantee may be on  
6           such terms and conditions as are determined by the  
7           Secretary, provided that such terms and conditions  
8           are consistent with the purposes of this Act.

9           (b) REPORTS.—The Secretary shall report to the ap-  
10          propriate committees of Congress on the program estab-  
11          lished under subsection (a). Such report shall be sub-  
12          mitted prior to any increase in the authority to purchase  
13          troubled assets in accordance with section 115.

14          (c) PREMIUMS.—

15               (1) IN GENERAL.—The Secretary shall collect  
16               premiums from any financial institution partici-  
17               pating in the program established under subsection  
18               (a). Such premiums may be in amount that the Sec-  
19               retary determines necessary to meet the purposes of  
20               this Act and to provide sufficient reserves pursuant  
21               to paragraph (3).

22               (2) AUTHORITY TO BASE PREMIUMS ON PROD-  
23               UCT RISK.—In establishing any premium under  
24               paragraph (1), the Secretary may provide for vari-  
25               ations in such rates according to the credit risk as-

1       sociated with the particular troubled asset that is  
2       being guaranteed. The Secretary shall publish the  
3       methodology for setting the premium for a class of  
4       troubled assets, such that the premium is consistent  
5       with paragraph (3), together with an explanation of  
6       the appropriateness of the class of assets that may  
7       participate in the program established under this  
8       section.

9               (3) **MINIMUM LEVEL.**—The premiums referred  
10       to in paragraph (1) shall be set by the Secretary at  
11       a level necessary to create reserves sufficient to meet  
12       anticipated claims, based on an actuarial analysis  
13       and to ensure that taxpayers are fully protected.

14              (4) **OFFSET.**—The amount of premiums col-  
15       lected under this subsection shall offset the amount  
16       authorized to be purchased under section 115.

17       (d) **TROUBLED ASSETS INSURANCE FUND.**—

18              (1) **DEPOSITS.**—The Secretary shall deposit  
19       fees collected under this section into the Troubled  
20       Assets Insurance Fund established under paragraph  
21       (2).

22              (2) **ESTABLISHMENT.**—There is established a  
23       Troubled Assets Insurance Fund that shall consist  
24       of the amounts collected pursuant to paragraph (1),  
25       and any balance ins such fund shall be invested by

1 the Secretary in United States Treasury securities,  
2 or kept in cash on hand or on deposit, as necessary.

3 (3) PAYMENTS FROM FUND.—The Secretary  
4 shall make payments from amounts deposited in the  
5 Troubled Assets Insurance Fund to fulfill obligations  
6 of the guarantees provided to financial institutions  
7 under subsection (a).

8 **SEC. 103. CONSIDERATIONS.**

9 In exercising the authorities granted in this Act, the  
10 Secretary shall take into consideration—

11 (1) protecting the interests of taxpayers by  
12 maximizing overall returns and minimizing the im-  
13 pact to the national debt;

14 (2) providing stability and preventing disrup-  
15 tion to financial markets in order to limit the impact  
16 on the economy;

17 (3) the need to help families keep their homes  
18 and to stabilize communities;

19 (4) in determining whether to engage in a di-  
20 rect purchase from an individual financial institu-  
21 tion, the long-term viability of the financial institu-  
22 tion in determining whether the purchase represents  
23 the most efficient use of funds under this Act;

24 (5) ensuring that all financial institutions are  
25 eligible to participate in the program, without dis-

1       crimination based on size, geography, form of orga-  
2       nization, or the size, type, and number of assets eli-  
3       gible for purchase under this Act;

4           (6) providing assistance to financial institu-  
5       tions, including those serving low- and moderate-in-  
6       come populations and other underserved commu-  
7       nities, and that have assets less than  
8       \$1,000,000,000, that were well or adequately cap-  
9       italized as of June 30, 2008, and that as a result  
10      of the devaluation of the preferred government-spon-  
11      sored enterprises stock will drop one or more capital  
12      levels, in a manner sufficient to restore the financial  
13      institutions to at least an adequately capitalized  
14      level;

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

19           **[(8) that nothing in this Act prevents the Sec-**  
20      **retary from protecting the retirement security of**  
21      **Americans by purchasing troubled assets held by or**  
22      **on behalf of an eligible retirement plan other than**  
23      **a plan described in section 409A of the Internal**  
24      **Revenue Code of 1986; and]**

1 (9) the utility of purchasing other real estate  
2 owned and instruments backed by mortgages on  
3 multifamily properties.

4 **SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.**

5 (a) ESTABLISHMENT.—There is established the Fi-  
6 nancial Stability Oversight Board, which shall be respon-  
7 sible for—

8 (1) reviewing the exercise of authority under a  
9 program developed in accordance with this Act, in-  
10 cluding—

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

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

21 (2) making recommendations, as appropriate, to  
22 the Secretary regarding use of the authority under  
23 this Act; and

24 (3) reporting any suspected fraud, misrepresen-  
25 tation, or malfeasance to the Inspector General for

1 the Department of the Treasury or the Attorney  
2 General of the United States, consistent with section  
3 535(b) of title 28, United States Code.

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

6 (1) the Chairman of the Board of Governors of  
7 the Federal Reserve System;

8 (2) the Secretary;

9 (3) the Director of the Federal Home Finance  
10 Agency;

11 (4) the chairman of the Securities and Ex-  
12 change Commission; and

13 (5) the Secretary of Housing and Urban Devel-  
14 opment.

15 (c) CHAIRPERSON.—The chairperson of the Financial  
16 Stability Oversight Board shall be elected by the members  
17 of the Board from among the members.

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

22 (e) EXECUTIVE COMMITTEE.—

23 (1) APPOINTMENT.—There is established an ex-  
24 ecutive committee of the Financial Stability Over-  
25 sight Board which shall consist of the members of

1 the Financial Stability Oversight Board pursuant to  
2 paragraphs (1), (2), and (3) of subsection (b).

3 (2) AUTHORITIES.—The Financial Stability  
4 Oversight Board shall have the authority to ensure  
5 that the policies implemented by the Secretary are—

6 (A) in accordance with the purposes of this  
7 Act;

8 (B) in the economic interests of the United  
9 States; and

10 (C) consistent with protecting taxpayers, in  
11 accordance with section 112(a).

12 (f) CREDIT REVIEW COMMITTEE.—The executive  
13 committee established under subsection (e) may appoint  
14 a credit review committee for the purpose of evaluating  
15 the exercise of the purchase authority provided under this  
16 Act and the assets acquired through the exercise of such  
17 authority, as the executive committee determines appro-  
18 priate.

19 (g) SHARING OF INFORMATION.—Any reports or rec-  
20 ommendations submitted or proposed under this section  
21 shall also be submitted to the Congressional Oversight  
22 Panel established under section 125.

23 (h) TERMINATION.—The Financial Stability Over-  
24 sight Board, and the authority of the Oversight Board

1 under this section, shall terminate on the expiration of the  
2 15-day period beginning upon the later of—

3 (1) the date of expiration of the last insurance  
4 contract issued under section 102; or

5 (2) the date that the last troubled asset ac-  
6 quired by the Secretary under section 101 has been  
7 sold or transferred out of the ownership or control  
8 of the Federal Government.

9 **SEC. 105. REPORTS.**

10 (a) IN GENERAL.—Before the expiration of the 60-  
11 day period beginning on the date of the first exercise of  
12 the authority granted in section 101(a), whichever date  
13 is earlier, or of the first exercise of the authority granted  
14 in section 102, whichever occurs first, 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 103 and the efforts under section 112;

21 (2) the actual obligation and expenditure of the  
22 funds provided for administrative expenses by sec-  
23 tion 118 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 insurance contracts entered into  
6           pursuant to section 102;

7                   (C) all transactions occurring during such  
8           period, including the types of parties involved;

9                   (D) the nature of the assets purchased;

10                  (E) all projected costs and liabilities;

11                  (F) operating expenses, including com-  
12           pensation for financial agents;

13                  (G) the valuation or pricing method used  
14           for each transaction; and

15                  (H) a description of the vehicles estab-  
16           lished to exercise such authority.

17           (b) TRANCHE REPORTS TO CONGRESS.—

18                   (1) REPORTS.—The Secretary shall provide to  
19           the appropriate committees of Congress, at the times  
20           specified in paragraph (2), a written report, includ-  
21           ing—

22                   (A) a description of all of the transactions  
23           made during the reporting period;

24                   (B) a description of the pricing mechanism  
25           for the transactions;

1 (C) a justification of the price paid for and  
2 other financial terms associated with the trans-  
3 actions;

4 (D) a description of the impact of the exer-  
5 cise of such authority on the financial system,  
6 supported, to the extent possible, by specific  
7 data;

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

11 (F) an estimate of additional actions under  
12 the authority provided under this Act that may  
13 be necessary to address such challenges.

14 (2) TIMING.—The report required by this sub-  
15 section shall be submitted not later than 7 days  
16 after the date on which commitments to purchase  
17 troubled assets under the authorities provided in this  
18 Act first reach an aggregate of \$50,000,000,000 and  
19 not later than 7 days after each \$50,000,000,000 in-  
20 terval of such commitments is reached thereafter.

21 (c) REGULATORY MODERNIZATION REPORT.—The  
22 Secretary shall review the current state of the financial  
23 markets and the regulatory system and submit a written  
24 report to the appropriate committees of Congress not later  
25 than April 30, 2009, analyzing the current state of the

1 regulatory system and its effectiveness at overseeing the  
2 participants in the financial markets, including the over-  
3 the-counter swaps market and government-sponsored en-  
4 terprises, and providing recommendations for improve-  
5 ment, including—

6 (1) recommendations regarding—

7 (A) whether any participants in the finan-  
8 cial markets that are currently outside the reg-  
9 ulatory system should become subject to the  
10 regulatory system; and

11 (B) enhancement of the clearing and set-  
12 tlement of over-the-counter swaps; and

13 (2) the rationale underlying such recommenda-  
14 tions.

15 (d) SHARING OF INFORMATION.—Any report re-  
16 quired under this section shall also be submitted to the  
17 Congressional Oversight Panel established under section  
18 125.

19 (e) SUNSET.—The reporting requirements under this  
20 section shall terminate on the later of—

21 (1) the date of expiration of the last insurance  
22 contract issued under section 102; or

23 (2) the date that the last troubled asset ac-  
24 quired by the Secretary under section 101 has been

1 sold or transferred out of the ownership or control  
2 of the Federal Government.

3 **SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED AS-**  
4 **SETS; REVENUES AND SALE PROCEEDS.**

5 (a) EXERCISE OF RIGHTS.—The Secretary may, at  
6 any time, exercise any rights received in connection with  
7 troubled assets purchased under this Act.

8 **[(b) MANAGEMENT OF TROUBLED ASSETS.—The**  
9 Secretary, in consultation with the Corporation, shall have  
10 authority to manage troubled assets purchased under this  
11 Act, including revenues and portfolio risks therefrom.]

12 (c) SALE OF TROUBLED ASSETS.—The Secretary  
13 may, at any time, upon terms and conditions and at a  
14 price determined by the Secretary, sell, or enter into secu-  
15 rities loans, repurchase transactions, or other financial  
16 transactions in regard to, any troubled asset purchased  
17 under this Act.

18 **[(d) TRANSFER OF A PERCENTAGE OF PROFITS.—**  
19 **]**

20 **[(1) DEPOSITS.—Not less than 20 percent of**  
21 any profit realized on the sale of each troubled asset  
22 purchased under this Act shall be deposited as pro-  
23 vided in paragraph (2).]

24 **[(2) USE OF DEPOSITS.—Of the amount re-**  
25 **ferred to in paragraph (1)—]**

1           【(A) 65 percent shall be deposited into the  
2           Housing Trust Fund established under section  
3           1338 of the Federal Housing Enterprises Regu-  
4           latory Reform Act of 1992 (12 U.S.C. 4568);  
5           and】

6           【(B) 35 percent shall be deposited into the  
7           Capital Magnet Fund established under section  
8           1339 of that Act (12 U.S.C. 4569).】

9           【(3) TRANSFER TO TREASURY.—Revenues of,  
10          and proceeds from the sale of troubled assets pur-  
11          chased under this Act, 【or from】 the sale, exercise,  
12          or surrender of warrants or senior debt acquired  
13          under section 【113】 shall be paid into the general  
14          fund of the Treasury for reduction of the public  
15          debt.】

16          (e) APPLICATION OF SUNSET TO TROUBLED AS-  
17          SETS.—The authority of the Secretary to hold any trou-  
18          bled asset purchased under this Act before the termination  
19          date in section 120, or to purchase or fund the purchase  
20          of a troubled asset under a commitment entered into be-  
21          fore the termination date in section 120, is not subject  
22          to the provisions of section 120.

23          **SEC. 107. CONTRACTING PROCEDURES.**

24          (a) STREAMLINED PROCESS.—For purposes of this  
25          Act, the Secretary may waive specific provisions of the

1 Federal Acquisition Regulation upon a determination that  
2 urgent and compelling circumstances make compliance  
3 with such provisions contrary to the public interest. Any  
4 such determination, and the justification for such deter-  
5 mination, shall be submitted to the Committees on Over-  
6 sight and Government Reform and Financial Services of  
7 the House of Representatives and the Committees on  
8 Homeland Security and Governmental Affairs and Bank-  
9 ing, Housing, and Urban Affairs of the Senate within 7  
10 days.

11 (b) ADDITIONAL CONTRACTING REQUIREMENTS.—In  
12 any solicitation or contract where the Secretary has, pur-  
13 suant to subsection (a) waived the provisions of the Fed-  
14 eral Acquisition Regulation pertaining to minority con-  
15 tracting, the Secretary shall develop and implement stand-  
16 ards and procedures to ensure, to the maximum extent  
17 practicable, the inclusion and utilization of minorities (as  
18 such term is defined in section 1204(c) of the Financial  
19 Institutions Reform, Recovery, and Enforcement Act of  
20 1989 (12 U.S.C. 1811 note)) and women, and minority-  
21 and women-owned businesses (as such terms are defined  
22 in section 21A(r)(4) of the Federal Home Loan Bank Act  
23 (12 U.S.C. 1441a(r)(4)), in that solicitation or contract,  
24 including contracts to asset managers, servicers, property

1 managers, and other service providers or expert consult-  
2 ants.

3 (c) ELIGIBILITY OF FDIC.—Notwithstanding sub-  
4 sections (a) and (b), the Corporation—

5 (1) shall be eligible for, and shall be considered  
6 in, the selection of asset managers for residential  
7 mortgage loans and residential mortgage-backed se-  
8 curities; and

9 (2) shall be reimbursed by the Secretary for  
10 any services provided.

11 **SEC. 108. CONFLICTS OF INTEREST.**

12 (a) STANDARDS REQUIRED.—The Secretary shall  
13 issue regulations or guidelines necessary to address and  
14 manage or to prohibit conflicts of interest that may arise  
15 in connection with the administration and execution of the  
16 authorities provided under this Act, including—

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

19 (2) the purchase of troubled assets;

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

21 (4) post-employment restrictions on employees;

22 and

23 (5) any other potential conflict of interest, as  
24 the Secretary deems necessary or appropriate in the  
25 public interest.

1 (b) TIMING.—Regulations or guidelines required by  
2 this section shall be issued as soon as practicable after  
3 the date of enactment of this Act.

4 **SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

5 (a) RESIDENTIAL MORTGAGE LOAN SERVICING  
6 STANDARDS.—To the extent that the Secretary acquires  
7 mortgages, mortgage backed securities, and other assets  
8 secured by residential real estate, including multifamily  
9 housing, the Secretary shall implement a plan that seeks  
10 to maximize assistance for homeowners and use the au-  
11 thority of the Secretary to encourage the servicers of the  
12 underlying mortgages, considering net present value to the  
13 taxpayer, to take advantage of the HOPE for Home-  
14 owners Program under section 257 of the National Hous-  
15 ing Act or other available programs to minimize fore-  
16 closures. In addition, the Secretary may use loan guaran-  
17 tees and credit enhancements to facilitate loan modifica-  
18 tions to prevent avoidable foreclosures.

19 (b) COORDINATION.—The Secretary shall coordinate  
20 with the Corporation, the Board (with respect to any  
21 mortgage or mortgage-backed securities or pool of securi-  
22 ties held, owned, or controlled by or on behalf of a Federal  
23 reserve bank), the Federal Housing Finance Agency, the  
24 Secretary of Housing and Urban Development, and other  
25 Federal Government entities that hold troubled assets to

1 attempt to identify opportunities for the acquisition of  
2 classes of troubled assets that will improve the ability of  
3 the Secretary to improve the loan modification and re-  
4 structuring process and, where permissible, to permit bona  
5 fide tenants who are current on their rent to remain in  
6 their homes under the terms of the lease. In the case of  
7 a mortgage on a residential rental property, the plan re-  
8 quired under this section shall include protecting Federal,  
9 State, and local rental subsidies and protections, and en-  
10 suring any modification takes into account the need for  
11 operating funds to maintain decent and safe conditions at  
12 the property.

13 (c) CONSENT TO REASONABLE LOAN MODIFICATION  
14 REQUESTS.—Upon any request arising under existing in-  
15 vestment contracts, the Secretary shall consent, where ap-  
16 propriate, and considering net present value to the tax-  
17 payer, to reasonable requests for loss mitigation measures,  
18 including term extensions, rate reductions, principal write  
19 downs, increases in the proportion of loans within a trust  
20 or other structure allowed to be modified, or removal of  
21 other limitation on modifications.

22 **SEC. 110. ASSISTANCE TO HOMEOWNERS AND LOCALITIES.**

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

24 (1) the term “Federal property manager”  
25 means—

1 (A) the Federal Housing Finance Agency,  
2 in its capacity as conservator of the Federal  
3 National Mortgage Association and the Federal  
4 Home Loan Mortgage Corporation;

5 (B) the Corporation, with respect to resi-  
6 dential mortgage loans and mortgage-backed se-  
7 curities held by any bridge depository institu-  
8 tion pursuant to section 11(n) of the Federal  
9 Deposit Insurance Act; and

10 (C) the Board, with respect to any mort-  
11 gage or mortgage-backed securities or pool of  
12 securities held, owned, or controlled by or on  
13 behalf of a Federal reserve bank;

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

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

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

23 (b) HOMEOWNER ASSISTANCE BY AGENCIES.—

24 (1) IN GENERAL.—To the extent that the Fed-  
25 eral property manager holds, owns, or controls mort-

1 gages, mortgage backed securities, and other assets  
2 secured by residential real estate, including multi-  
3 family housing, the Federal property manager shall  
4 implement a plan that seeks to maximize assistance  
5 for homeowners and use their authority to encourage  
6 the servicers of the underlying mortgages, and con-  
7 sidering net present value to the taxpayer, to take  
8 advantage of the HOPE for Homeowners Program  
9 under section 257 of the National Housing Act or  
10 other available programs to minimize foreclosures.

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

- 14 (A) reduction in interest rates;
- 15 (B) reduction of loan principal; and
- 16 (C) other similar modifications.

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

- 20 (A) the continuation of any existing Fed-  
21 eral, State, and local rental subsidies and pro-  
22 tections; and
- 23 (B) that modifications take into account  
24 the need for operating funds to maintain decent  
25 and safe conditions at the property.

1           (4) **TIMING.**—Each Federal property manager  
2 shall develop and begin implementation of the plan  
3 required by this subsection not later than 60 days  
4 after the date of enactment of this Act.

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

12           (6) **CONSULTATION.**—In developing the plan re-  
13 quired by this subsection, the Federal property man-  
14 agers shall consult with one another and, to the ex-  
15 tent possible, utilize consistent approaches to imple-  
16 ment the requirements of this subsection.

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

22           (1) encourage implementation by the loan  
23 servicers of loan modifications developed under sub-  
24 section (b); and

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

3           (d) **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. 111. EXECUTIVE COMPENSATION AND CORPORATE**  
8 **GOVERNANCE.**

9           (a) **DIRECT PURCHASES.**—

10           (1) **IN GENERAL.**—Where the Secretary deter-  
11 mines that the purposes of this Act are best met  
12 through direct purchases of troubled assets from an  
13 individual financial institution where no bidding  
14 process or market prices are available, and the Sec-  
15 retary receives a meaningful equity position in the  
16 financial institution as a result of the transaction,  
17 the Secretary shall require that the financial institu-  
18 tion meet appropriate standards for executive com-  
19 pensation and corporate governance. The standards  
20 required under this subsection shall be effective for  
21 the duration of the period that the Secretary holds  
22 an equity position in the financial institution.

23           (2) **CRITERIA.**—The standards required under  
24 subsection shall include—

1 (A) limits on compensation that exclude in-  
2 centives for executive officers of a financial in-  
3 stitution to take unnecessary and excessive  
4 risks that threaten the value of the financial in-  
5 stitution during the period that the Secretary  
6 holds an equity position in the financial institu-  
7 tion;

8 (B) a provision for the recovery by the fi-  
9 nancial institution of any bonus or incentive  
10 compensation paid to a [senior executive offi-  
11 cer] based on statements of earnings, gains, or  
12 other criteria that are later proven to be mate-  
13 rially inaccurate; and

14 (C) a prohibition on the financial institu-  
15 tion making any golden parachute payment to  
16 its [senior executive officers] during the period  
17 that the Secretary holds an equity position in  
18 the financial institution.

19 (b) AUCTION PURCHASES.—Where the Secretary de-  
20 termines that the purposes of this Act are best met  
21 through auction purchases of troubled assets, and only  
22 where such purchases in the aggregate exceed  
23 \$300,000,000, the Secretary shall prohibit any golden  
24 parachute for any employee hired after the successful par-  
25 ticipation in such an auction who also qualifies as a cov-

1 ered executive under section 162(m)(5)(D) of the Internal  
2 Revenue Code of 1986. The Secretary shall issue guidance  
3 to carry out this paragraph not later than 2 months after  
4 the date of enactment of this Act, and such guidance shall  
5 be effective upon issuance.

6 **[(c) GOLDEN PARACHUTE DEFINED.—**In this sec-  
7 tion, the term “golden parachute” means any payment (or  
8 any agreement to make any payment) in the nature of  
9 compensation by any financial institution for the benefit  
10 of an individual pursuant to an obligation of the financial  
11 institution that—**]**

12 **[(1) is contingent on the termination of the af-**  
13 **filiation of such individual with the financial institu-**  
14 **tion; and]**

15 **[(2) is received on or after the date on which—**  
16 **]**

17 **[(A) the financial institution becomes in-**  
18 **solvent;]**

19 **[(B) any conservator or receiver is ap-**  
20 **pointed for the financial institution;]**

21 **[(C) the financial institution files for**  
22 **bankruptcy protection under title 11, United**  
23 **States Code; or]**

24 **[(D) the financial institution is in a trou-**  
25 **bled condition.]**

1 (d) SPECIAL RULES FOR TAX TREATMENT OF EXEC-  
2 UTIVE COMPENSATION OF EMPLOYERS PARTICIPATING IN  
3 THE TROUBLED ASSETS RELIEF PROGRAM.—

4 (1) DENIAL OF DEDUCTION.—Subsection (m)  
5 of section 162 of the Internal Revenue Code of 1986  
6 is amended by adding at the end the following new  
7 paragraph:

8 “(5) SPECIAL RULE FOR APPLICATION TO EM-  
9 PLOYERS PARTICIPATING IN THE TROUBLED ASSETS  
10 RELIEF PROGRAM.—

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

14 “(i) in the case of executive remunera-  
15 tion for any applicable taxable year which  
16 is attributable to services performed by a  
17 covered executive during such applicable  
18 taxable year, to the extent that the amount  
19 of such remuneration exceeds \$500,000, or

20 “(ii) in the case of deferred deduction  
21 executive remuneration for any taxable  
22 year for services performed during any ap-  
23 plicable taxable year by a covered execu-  
24 tive, to the extent that the amount of such

1 remuneration exceeds \$500,000 reduced  
2 (but not below zero) by the sum of—

3 “(I) the executive remuneration  
4 for such applicable taxable year, plus

5 “(II) the portion of the deferred  
6 deduction executive remuneration for  
7 such services which was taken into ac-  
8 count under this clause in a preceding  
9 taxable year.

10 “(B) APPLICABLE EMPLOYER.—For pur-  
11 poses of this paragraph—

12 “(i) IN GENERAL.—Except as pro-  
13 vided in clause (ii), the term ‘applicable  
14 employer’ means any employer from whom  
15 1 or more troubled assets are acquired  
16 under a program established by the Sec-  
17 retary under section 101(a) of the Eco-  
18 nomic Recovery and Corporate Account-  
19 ability Act of 2008 if the aggregate  
20 amount of the assets so acquired for all  
21 taxable years exceeds \$300,000,000.

22 “(ii) DISREGARD OF ASSETS SOLD  
23 THROUGH DIRECT PURCHASE.—If an em-  
24 ployer sells any troubled assets to the Sec-  
25 retary through a direct purchase (within

1 the meaning of section 112(c) of the Eco-  
2 nomic Recovery and Corporate Account-  
3 ability Act of 2008), such assets shall not  
4 be taken into account under clause (i) in  
5 determining whether the employer is an  
6 applicable employer for purposes of this  
7 paragraph.

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

16 “(C) APPLICABLE TAXABLE YEAR.—For  
17 purposes of this paragraph, the term ‘applicable  
18 taxable year’ means, with respect to any em-  
19 ployer—

20 “(i) the first taxable year of the em-  
21 ployer—

22 “(I) which includes any portion  
23 of the period during which the au-  
24 thorities under section 101(a) of the  
25 Economic Recovery and Corporate Ac-

1 countability Act of 2008 are in effect  
2 (determined under section 119 there-  
3 of), and

4 “(II) in which the aggregate  
5 amount of troubled assets acquired  
6 from the employer during the taxable  
7 year pursuant to such authorities,  
8 when added to the aggregate amount  
9 so acquired for all preceding taxable  
10 years, exceeds \$300,000,000, and

11 “(ii) any subsequent taxable year  
12 which includes any portion of such period.

13 “(D) COVERED EXECUTIVE.—For pur-  
14 poses of this paragraph—

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

18 “(I) who, at any time during the  
19 portion of the taxable year during  
20 which the authorities under section  
21 101(a) of the Economic Recovery and  
22 Corporate Accountability Act of 2008  
23 are in effect (determined under sec-  
24 tion 119 thereof), is the chief execu-  
25 tive officer of the applicable employer

1 or the chief financial officer of the ap-  
2 plicable employer, or an individual  
3 acting in either such capacity, or

4 “(II) who is described in clause  
5 (ii).

6 “(ii) HIGHEST COMPENSATED EM-  
7 PLOYEES.—An employee is described in  
8 this clause if the employee is 1 of the 3  
9 highest compensated officers of the appli-  
10 cable employer for the taxable year (other  
11 than an individual described in clause  
12 (i)(I)), determined—

13 “(I) on the basis of the share-  
14 holder disclosure rules for compensa-  
15 tion under the Securities Exchange  
16 Act of 1934 (without regard to wheth-  
17 er those rules apply to the employer),  
18 and

19 “(II) by only taking into account  
20 employees employed during the por-  
21 tion of the taxable year described in  
22 clause (i)(I).

23 “(iii) EMPLOYEE REMAINS COVERED  
24 EXECUTIVE.—If an employee is a covered  
25 executive with respect to an applicable em-

1           ployer for any applicable taxable year, such  
2           employee shall be treated as a covered ex-  
3           ecutive with respect to such employer for  
4           all subsequent applicable taxable years and  
5           for all subsequent taxable years in which  
6           deferred deduction executive remuneration  
7           with respect to services performed in all  
8           such applicable taxable years is paid.

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

18          “(F) DEFERRED DEDUCTION EXECUTIVE  
19          REMUNERATION.—For purposes of this para-  
20          graph, the term ‘deferred deduction executive  
21          remuneration’ means remuneration which would  
22          be executive remuneration for services per-  
23          formed in an applicable taxable year but for the  
24          fact that the deduction under this chapter (de-  
25          termined without regard to this paragraph) for

1 such remuneration is allowable in a subsequent  
2 taxable year.

3 “(G) COORDINATION.—Rules similar to  
4 the rules of subparagraphs (F) and (G) of para-  
5 graph (4) shall apply for purposes of this para-  
6 graph.

7 “(H) REGULATORY AUTHORITY.—The Sec-  
8 retary may prescribe such guidance, rules, or  
9 regulations as are necessary to carry out the  
10 purposes of this paragraph and the Economic  
11 Recovery and Corporate Accountability Act of  
12 2008, including the extent to which this para-  
13 graph applies in the case of any acquisition,  
14 merger, or reorganization of an applicable em-  
15 ployer.”.

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

18 (A) by redesignating subsection (e) as sub-  
19 section (f), and

20 (B) by inserting after subsection (d) the  
21 following new subsection:

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

1           “(1) IN GENERAL.—In the case of the sever-  
2           ance from employment of a covered executive of an  
3           applicable employer during any applicable taxable  
4           year, this section shall be applied to payments to  
5           such executive with the following modifications:

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

9                   “(B) Any reference to a change described  
10                  in subsection (b)(2)(A)(i) shall be treated as a  
11                  reference to an applicable severance from em-  
12                  ployment of a covered executive, and any ref-  
13                  erence to a payment contingent on such a  
14                  change shall be treated as a reference to any  
15                  payment made during an applicable taxable  
16                  year of the employer on account of such appli-  
17                  cable severance from employment.

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

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

24                  “(2) DEFINITIONS AND SPECIAL RULES.—For  
25                  purposes of this subsection—

1           “(A) DEFINITIONS.—Any term used in  
2 this subsection which is also used in section  
3 162(m)(5) shall have the meaning given such  
4 term by such section.

5           “(B) APPLICABLE SEVERANCE FROM EM-  
6 PLOYMENT.—The term ‘applicable severance  
7 from employment’ means any severance from  
8 employment of a covered executive by reason  
9 of—

10                   “(i) an involuntary termination of the  
11 executive by the employer,

12                   “(ii) any bankruptcy or liquidation of  
13 the employer, or

14                   “(iii) the placement of the employer in  
15 receivership.

16           “(C) COORDINATION AND OTHER  
17 RULES.—

18                   “(i) IN GENERAL.—If a payment  
19 which is treated as a parachute payment  
20 by reason of this subsection is also a para-  
21 chute payment determined without regard  
22 to this subsection, this subsection shall not  
23 apply to such payment.

1           “(ii) REGULATORY AUTHORITY.—The  
2           Secretary may prescribe such guidance,  
3           rules, or regulations as are necessary—

4                   “(I) to carry out the purposes of  
5                   this subsection and the Economic Re-  
6                   covery and Corporate Accountability  
7                   Act of 2008, including the extent to  
8                   which this subsection applies in the  
9                   case of any acquisition, merger, or re-  
10                  organization of an applicable em-  
11                  ployer, and

12                   “(II) to apply this section and  
13                   section 4999 in cases where one or  
14                   more payments with respect to any in-  
15                   dividual are treated as parachute pay-  
16                   ments by reason of this subsection,  
17                   and other payments with respect to  
18                   such individual are treated as para-  
19                   chute payments under this section  
20                   without regard to this subsection.”.

21           (3) EFFECTIVE DATES.—

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

1 (B) GOLDEN PARACHUTE RULE.—The  
2 amendments made by paragraph (2) shall apply  
3 to payments with respect to severances occur-  
4 ring during the period during which the au-  
5 thorities under section 101(a) are in effect (de-  
6 termined under section 120).

7 **SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES**  
8 **AND CENTRAL BANKS.**

9 The Secretary shall coordinate, as appropriate, with  
10 foreign financial authorities and central banks to work to-  
11 ward the establishment of similar programs by such au-  
12 thorities and central banks. To the extent that such for-  
13 eign financial authorities or banks hold troubled assets as  
14 a result of extending financing to financial institutions  
15 that have failed or defaulted on such financing, such trou-  
16 bled assets qualify for purchase under section 101.

17 **SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXI-**  
18 **MIZATION OF BENEFITS FOR TAXPAYERS.**

19 (a) LONG-TERM COSTS AND BENEFITS.—

20 (1) MINIMIZING NEGATIVE IMPACT.—The Sec-  
21 retary shall use the authority under this Act in a  
22 manner that will minimize any potential long-term  
23 negative impact on the taxpayer, taking into account  
24 the direct outlays, potential long-term returns on as-  
25 sets purchased, and the overall economic benefits of

1 the program, including economic benefits due to im-  
2 provements in economic activity and the availability  
3 of credit, the impact on the savings and pensions of  
4 individuals, and reductions in losses to the Federal  
5 Government.

6 (2) **AUTHORITY.**—In carrying out paragraph  
7 (1), the Secretary shall—

8 (A) hold the assets to maturity or for re-  
9 sale for and until such time as the Secretary  
10 determines that the market is optimal for sell-  
11 ing such assets, in order to maximize the value  
12 for taxpayers; and

13 (B) sell such assets at a price that the Sec-  
14 retary determines, based on available financial  
15 analysis, will maximize return on investment for  
16 the Federal Government.

17 (3) **PRIVATE SECTOR PARTICIPATION.**—The  
18 Secretary shall encourage the private sector to par-  
19 ticipate in purchases of troubled assets, and to in-  
20 vest in financial institutions, consistent with the pro-  
21 visions of this section.

22 (b) **USE OF MARKET MECHANISMS.**—In making pur-  
23 chases under this Act, the Secretary shall—

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

4           (2) maximize the efficiency of the use of tax-  
5           payer resources by using market mechanisms, in-  
6           cluding auctions or reverse auctions, where appro-  
7           priate.

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

15          (d) CONDITIONS ON PURCHASE AUTHORITY FOR  
16          WARRANTS AND DEBT INSTRUMENTS.—

17                 (1) IN GENERAL.—The Secretary may not pur-  
18                 chase, or make any commitment to purchase, any  
19                 troubled asset under the authority of this Act, unless  
20                 the Secretary receives from the financial institution  
21                 from which such assets are to be purchased—

22                         (A) in the case of a financial institution  
23                         that is registered (or approved for registration)  
24                         and traded on a national securities exchange or  
25                         a national securities association registered pur-

1           suant to section 15A of the Securities Exchange  
2           Act of 1934 (15 U.S.C. 78o-3), a warrant giv-  
3           ing the right to the Secretary to receive non-  
4           voting common stock or preferred stock in such  
5           financial institution, as the Secretary deter-  
6           mines appropriate; or

7                   (B) in the case of any financial institution  
8           other than one described in subparagraph (A),  
9           a senior debt instrument from such financial in-  
10          stitution, as described in paragraph (2)(C).

11          (2) TERMS AND CONDITIONS.—The terms and  
12          conditions of any warrant or senior debt instrument  
13          required under paragraph (1) shall meet the fol-  
14          lowing requirements:

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

17                           (i) to provide for reasonable participa-  
18                           tion by the Secretary, for the benefit of  
19                           taxpayers, in equity appreciation in the  
20                           case of a warrant, or a reasonable interest  
21                           rate premium, in the case of a debt instru-  
22                           ment; and

23                           (ii) to provide additional protection  
24                           for the taxpayer against losses from sale of

1 assets by the Secretary under this Act and  
2 the administrative expenses of the TARP.

3 (B) AUTHORITY TO SELL, EXERCISE, OR  
4 SURRENDER.—The Secretary may sell, exercise,  
5 or surrender a warrant or any senior debt in-  
6 strument received under this subsection, based  
7 on the conditions established under subpara-  
8 graph (A).

9 (C) CONVERSION.—The warrant shall pro-  
10 vide that if, after the warrant is received by the  
11 Secretary under this subsection, the financial  
12 institution that issued the warrant is no longer  
13 listed or traded on a national securities ex-  
14 change or securities association, as described in  
15 paragraph (1)(A), such warrants shall convert  
16 to senior debt, in an amount determined by the  
17 Secretary.

18 (D) PROTECTIONS.—Any warrant rep-  
19 resenting securities to be received by the Sec-  
20 retary under this subsection shall contain anti-  
21 dilution provisions of the type employed in cap-  
22 ital market transactions, as determined by the  
23 Secretary. Such provisions shall protect the  
24 value of the securities from market transactions  
25 such as stock splits, stock distributions, divi-

1           dends, and other distributions, mergers, and  
2           other forms of reorganization or recapitaliza-  
3           tion.

4           (E) EXERCISE PRICE.—The exercise price  
5           for any warrant issued pursuant to this sub-  
6           section shall be set by the Secretary, in the in-  
7           terest of the taxpayers.

8           (F) SUFFICIENCY.—The financial institu-  
9           tion shall guarantee to the Secretary that it has  
10          authorized shares of nonvoting stock available  
11          to fulfill its obligations under this subsection.  
12          Should the financial institution not have suffi-  
13          cient authorized shares, including preferred  
14          shares that may carry dividend rights equal to  
15          a multiple number of common shares, the Sec-  
16          retary may, to the extent necessary, accept a  
17          senior debt note in an amount, and on such  
18          terms, as will compensate the Secretary equiva-  
19          lently, in the event that a sufficient shareholder  
20          vote to authorize the necessary additional  
21          shares cannot be obtained.

22          (3) EXCEPTIONS.—

23           (A) DE MINIMIS.—The Secretary shall es-  
24           tablish de minimis exceptions to the require-  
25           ments of this subsection, based on either—

1 (i) the total consolidated assets of the  
2 financial institution, \$500,000,000 or less;

3 or

4 (ii) the size of the cumulative trans-  
5 actions of troubled assets purchased from  
6 any one financial institution, at not more  
7 than \$100,000,000.

8 (B) OTHER EXCEPTIONS.—The Secretary  
9 shall establish an exception to the requirements  
10 of this subsection and appropriate alternative  
11 requirements for any participating financial in-  
12 stitution that is legally prohibited from issuing  
13 securities and debt instruments, so as not to  
14 allow circumvention of the requirements of this  
15 section.

16 **SEC. 114. MARKET TRANSPARENCY.**

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

22 (b) DISCLOSURE.—For each type of financial institu-  
23 tions that is authorized to use the program established  
24 under this Act, the Secretary shall determine whether the  
25 public disclosure required for such financial institutions

1 with respect to off-balance sheet transactions, derivatives  
2 instruments, contingent liabilities, and similar sources of  
3 potential exposure is adequate to provide to the public suf-  
4 ficient information as to the true financial position of the  
5 institutions. If such disclosure is not adequate for that  
6 purpose, the Secretary shall make recommendations for  
7 additional disclosure requirements to the relevant regu-  
8 lators.

9 **SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.**

10 (a) **AUTHORITY.**—The authority of the Secretary to  
11 purchase troubled assets under this Act shall be limited  
12 as follows:

13 (1) Effective upon the date of enactment of this  
14 Act, such authority shall be limited to  
15 \$250,000,000,000 outstanding at any one time.

16 (2) If at any time, the President submits to the  
17 Congress a written certification that the Secretary is  
18 exercising the authority under this paragraph, effec-  
19 tive upon such submission, such authority shall be  
20 limited to \$350,000,000,000 outstanding at any one  
21 time.

22 (3) If at any time after obligations of amounts  
23 described in paragraphs (1) and (2) have been made,  
24 the President transmits to the Congress a written  
25 report detailing the plan of the Secretary to exercise

1 the authority under this paragraph, unless there is  
2 enacted, within 15 calendar days of such submission,  
3 a joint resolution described in subsection (c), effective  
4 upon the expiration of such 15-day period, such  
5 authority shall be limited to \$700,000,000,000 out-  
6 standing at any one time.

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

12 (c) FAST TRACK CONSIDERATION.—

13 (1) IN GENERAL.—Notwithstanding any other  
14 provision of this section, the Secretary may not exer-  
15 cise any authority to make purchases under this Act  
16 with regard to any amount in excess of  
17 \$350,000,000,000 previously obligated, as described  
18 in this section if, within 10 calendar days after the  
19 date on which Congress receives a report of the Sec-  
20 retary described in subsection (a)(3), Congress en-  
21 acts a joint resolution disapproving the plan of the  
22 Secretary with respect to such additional amount.

23 (2) CONTENTS OF RESOLUTION.—For the pur-  
24 pose of paragraph (1), “joint resolution” means only  
25 a joint resolution introduced after the date on which

1 the report of the Secretary referred to in subsection  
2 (a)(3) is received by Congress, the matter after the  
3 resolving clause of which is as follows: “That Con-  
4 gress disapproves the obligation of any amount ex-  
5 ceeding the amounts obligated as described in para-  
6 graphs (1) and (2) of section 114(a) of the Emer-  
7 gency Economic Stabilization Act of 2008.”.

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

18 (4) DISCHARGE OF COMMITTEE.—If the com-  
19 mittee to which is referred a resolution described in  
20 paragraph (2) has not reported such resolution (or  
21 an identical resolution) at the end of 8 calendar days  
22 after its introduction, such committee shall be  
23 deemed to be discharged from further consideration  
24 of such resolution, and such resolution shall be

1 placed on the appropriate calendar of the House in-  
2 volved.

3 (5) FLOOR CONSIDERATION.—

4 (A) IN GENERAL.—When the committee to  
5 which a resolution described in paragraph (2) is  
6 referred has reported, or has been deemed to be  
7 discharged (under paragraph (4)) from further  
8 consideration of, a resolution described in para-  
9 graph (2), it is at any time thereafter in order  
10 (even though a previous motion to the same ef-  
11 fect has been disagreed to) for any Member of  
12 the respective House to move to proceed to the  
13 consideration of the resolution, and all points of  
14 order against the resolution (and against con-  
15 sideration of the resolution) are waived. The  
16 motion is highly privileged in the House of Rep-  
17 resentatives and is privileged in the Senate and  
18 is not debatable. The motion is not subject to  
19 amendment, or to a motion to postpone, or to  
20 a motion to proceed to the consideration of  
21 other business. A motion to reconsider the vote  
22 by which the motion is agreed to or disagreed  
23 to shall not be in order. If a motion to proceed  
24 to the consideration of the resolution is agreed  
25 to, the resolution shall remain the unfinished

1 business of the respective House until disposed  
2 of.

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

16 (C) VOTE ON FINAL PASSAGE.—Imme-  
17 diately following the conclusion of the debate on  
18 a resolution described in paragraph (2), and a  
19 single quorum call at the conclusion of the de-  
20 bate if requested in accordance with the rules of  
21 the appropriate House.

22 (D) RULINGS OF THE CHAIR ON PROCE-  
23 DURE.—Appeals from the decisions of the Chair  
24 relating to the application of the rules of the  
25 Senate or the House of Representatives, as the

1 case may be, to the procedure relating to a res-  
2 olution described in paragraph (2) shall be de-  
3 cided without debate.

4 (6) COORDINATION WITH ACTION BY OTHER  
5 HOUSE.—If, before the passage by one House of a  
6 resolution of that House described in paragraph (2),  
7 that House receives from the other House a resolu-  
8 tion described in paragraph (2), then the following  
9 procedures shall apply:

10 (A) The resolution of the other House shall  
11 not be referred to a committee.

12 (B) With respect to a resolution described  
13 in paragraph (2) of the House receiving the res-  
14 olution—

15 (i) the procedure in that House shall  
16 be the same as if no resolution had been  
17 received from the other House; but

18 (ii) the vote on final passage shall be  
19 on the resolution of the other House.

20 (7) RULES OF HOUSE OF REPRESENTATIVES  
21 AND SENATE.—This subsection is enacted by Con-  
22 gress—

23 (A) as an exercise of the rulemaking power  
24 of the Senate and House of Representatives, re-  
25 spectively, and as such it is deemed a part of

1 the rules of each House, respectively, but appli-  
2 cable only with respect to the procedure to be  
3 followed in that House in the case of a resolu-  
4 tion described in paragraph (2), and it super-  
5 sedes other rules only to the extent that it is in-  
6 consistent with such rules; and

7 (B) with full recognition of the constitu-  
8 tional right of either House to change the rules  
9 (so far as relating to the procedure of that  
10 House) at any time, in the same manner, and  
11 to the same extent as in the case of any other  
12 rule of that House.

13 **SEC. 116. OVERSIGHT AND AUDITS.**

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

15 (1) **SCOPE OF OVERSIGHT.**—The Comptroller  
16 General of the United States shall, upon establish-  
17 ment of the troubled assets relief program under  
18 this Act (in this section referred to as the “TARP”),  
19 commence ongoing oversight of the activities and  
20 performance of the TARP and of any agents and  
21 representatives of the TARP (as related to the agent  
22 or representative’s activities on behalf of or under  
23 the authority of the TARP), including vehicles es-  
24 tablished by the Secretary under this Act. The sub-  
25 jects of such oversight shall include the following:

1 (A) the performance of the TARP in meet-  
2 ing the purposes of this Act, particularly those  
3 involving foreclosure mitigation, cost reduction,  
4 and whether it has provided stability or pre-  
5 vented disruption to the financial markets or  
6 the banking system and protected taxpayers.

7 (B) The financial condition and internal  
8 controls of the TARP, its representatives and  
9 agents.

10 (C) Characteristics of transactions and  
11 commitments entered into, including trans-  
12 action type, frequency, size, prices paid, and all  
13 other relevant terms and conditions, and the  
14 timing, duration and terms of any future com-  
15 mitments to purchase assets.

16 (D) Characteristics and disposition of ac-  
17 quired assets, including type, acquisition price,  
18 current market value, sale prices and terms,  
19 and use of proceeds from sales.

20 (E) Efficiency of the operations of the  
21 TARP in the use of appropriated funds.

22 (F) Compliance with all applicable laws  
23 and regulations by the TARP, its agents and  
24 representatives.

1 (G) the efforts of the TARP to prevent,  
2 identify, and minimize conflicts of interest in-  
3 volving any agent or representative performing  
4 activities on behalf of or under the authority of  
5 the TARP.

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

20 (2) CONDUCT AND ADMINISTRATION OF OVER-  
21 SIGHT.—

22 (A) GAO PRESENCE.—The Secretary shall  
23 provide the Comptroller General with appro-  
24 priate space and facilities in the Department of  
25 the Treasury as necessary to facilitate oversight

1 of the TARP until the termination date estab-  
2 lished in section 119 of this Act.

3 (B) ACCESS TO RECORDS.—To the extent  
4 otherwise consistent with law, the Comptroller  
5 General shall have access, upon request, to any  
6 information, data, schedules, books, accounts,  
7 financial records, reports, files, electronic com-  
8 munications, or other papers, things, or prop-  
9 erty belonging to or in use by the TARP, or  
10 any vehicles established by the Secretary under  
11 this Act, and to the officers, directors, employ-  
12 ees, independent public accountants, financial  
13 advisors, and other agents and representatives  
14 of the TARP (as related to the agent or rep-  
15 resentative’s activities on behalf of or under the  
16 authority of the TARP) or any such vehicle at  
17 such reasonable time as the Comptroller Gen-  
18 eral may request. The Comptroller General  
19 shall be afforded full facilities for verifying  
20 transactions with the balances or securities held  
21 by depositaries, fiscal agents, and custodians.  
22 The Comptroller General may make and retain  
23 copies of such books, accounts, and other  
24 records as the Comptroller General deems ap-  
25 propriate.

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

11          (3) REPORTING.—The Comptroller General  
12          shall submit reports of findings under this section,  
13          regularly and no less frequently than once every 60  
14          days, to the appropriate committees of Congress,  
15          and the Special Inspector General for the Troubled  
16          Asset Relief Program established under this Act on  
17          the activities and performance of the TARP. The  
18          Comptroller may also submit special reports under  
19          this subsection as warranted by the findings of its  
20          oversight activities.

21          (b) COMPTROLLER GENERAL AUDITS.—

22                (1) ANNUAL AUDIT.—The TARP shall annually  
23                prepare and issue to the appropriate committees of  
24                Congress and the public audited financial statements  
25                prepared in accordance with generally accepted ac-

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

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

22 (3) **CORRECTIVE RESPONSES TO AUDIT PROB-**  
23 **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 of—

13           (A) the effectiveness and efficiency of oper-  
14 ations, including the use of the resources of the  
15 TARP;

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 report or audit  
9 required under this section shall also be submitted to the  
10 Congressional Oversight Panel established under section  
11 125.

12 (e) TERMINATION.—Any reporting or audit require-  
13 ment under this section shall terminate on the later of—

14 (1) the date of expiration of the last insurance  
15 contract issued under section 102; or

16 (2) the date that the last troubled asset ac-  
17 quired by the Secretary under section 101 has been  
18 sold or transferred out of the ownership or control  
19 of the Federal Government.

20 **SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.**

21 (a) STUDY.—The Comptroller General shall under-  
22 take a study to determine the extent to which leverage  
23 and sudden deleveraging of financial institutions was a  
24 factor behind the current financial crisis.

1 (b) CONTENT.—The study required by this section  
2 shall include—

3 (1) an analysis of the roles and responsibilities  
4 of the Board, the Securities and Exchange Commis-  
5 sion, the Secretary, and other Federal banking agen-  
6 cies with respect to monitoring leverage and acting  
7 to curtail excessive leveraging;

8 (2) an analysis of the authority of the Board to  
9 regulate leverage, including by setting margin re-  
10 quirements, and what process the Board used to de-  
11 cide whether or not to use its authority;

12 (3) an analysis of the margin authority of the  
13 Board; and

14 (4) recommendations for the Board and appro-  
15 priate committees of Congress with respect to the  
16 existing authority of the Board.

17 (c) REPORT.—Not later than June 1, 2009, the  
18 Comptroller General shall complete and submit a report  
19 on the study required by this section to the Committee  
20 on Banking, Housing, and Urban Affairs of the Senate  
21 and the Committee on Financial Services of the House of  
22 Representatives.

23 (d) SHARING OF INFORMATION.—Any reports re-  
24 quired under this section shall also be submitted to the

1 Congressional Oversight Panel established under section  
2 125.

3 **SEC. 118. FUNDING.**

4       【For the purpose of the authorities granted in this  
5 Act, and for the costs of administering those authorities,  
6 the Secretary may use the proceeds of the sale of any secu-  
7 rities issued under chapter 31 of title 31, United States  
8 Code, and the purposes for which securities may be issued  
9 under chapter 31 of title 31, United States Code, are ex-  
10 tended to include actions authorized by this Act, including  
11 the payment of administrative expenses.】 Any funds ex-  
12 pended or obligated for actions authorized by this Act, in-  
13 cluding the payment of administrative expenses, shall be  
14 deemed appropriated at the time of such expenditure or  
15 obligation.

16 **SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.**

17       (a) JUDICIAL REVIEW.—

18           (1) STANDARD.—Actions by the Secretary pur-  
19 suant to the authority of this Act shall be subject to  
20 chapter 7 of title 5, United States Code, including  
21 that such actions shall be held unlawful and set  
22 aside if found to be arbitrary, capricious, an abuse  
23 of discretion, or not in accordance with law.

24           (2) LIMITATIONS ON EQUITABLE RELIEF.—

1           (A) INJUNCTION.—No injunction or other  
2 form of equitable relief shall be issued against  
3 the Secretary for actions pursuant to section  
4 101, 105, or 108, other than to remedy a viola-  
5 tion of the Constitution.

6           (B) TEMPORARY RESTRAINING ORDER.—  
7 Any request for a temporary restraining order  
8 against the Secretary for actions pursuant to  
9 this Act shall be considered and granted or de-  
10 nied by the court within 3 days of the date of  
11 the request.

12           (C) PRELIMINARY INJUNCTION.—Any re-  
13 quest for a preliminary injunction against the  
14 Secretary for actions pursuant to this Act shall  
15 be considered and granted or denied by the  
16 court on an expedited basis consistent with the  
17 provisions of rule 65(b)(3) of the Federal Rules  
18 of Civil Procedure, or any successor thereto.

19           (D) PERMANENT INJUNCTION.—Any re-  
20 quest for a permanent injunction against the  
21 Secretary for actions pursuant to this Act shall  
22 be considered and granted or denied by the  
23 court on an expedited basis. Whenever possible,  
24 the court shall consolidate trial on the merits  
25 with any hearing on a request for a preliminary

1           injunction, consistent with the provisions of rule  
2           65(a)(2) of the Federal Rules of Civil Proce-  
3           dure, or any successor thereto.

4           (3) LIMITATION ON ACTIONS BY PARTICIPATING  
5           COMPANIES.—No action or claims may be brought  
6           against the Secretary by any person that divests its  
7           assets with respect to its participation in a program  
8           under this Act, except as provided in paragraph (1),  
9           other than as expressly provided in a written con-  
10          tract with the Secretary.

11          (4) STAYS.—Any injunction or other form of  
12          equitable relief issued against the Secretary for ac-  
13          tions pursuant to section 101, 105, or 108 shall be  
14          automatically stayed. The stay shall be lifted unless  
15          the Secretary seeks a stay from a higher court with-  
16          in 3 calendar days after the date on which the relief  
17          is issued.

18          (b) RELATED MATTERS.—

19                 **[(1) TREATMENT OF HOMEOWNERS' RIGHTS.—**  
20                 The terms of any residential mortgage loan that is  
21                 part of any purchase by the Secretary under this Act  
22                 shall remain subject to all claims and defenses that  
23                 would otherwise apply, notwithstanding the exercise  
24                 of authority by the Secretary under this Act.]

1           (2) SAVINGS CLAUSE.—Any exercise of the au-  
2           thority of the Secretary pursuant to this Act shall  
3           not impair the claims or defenses otherwise available  
4           to any other person. Except as established in any  
5           contract, a servicer of pooled residential mortgages  
6           owes any duty to determine whether the net present  
7           value of the payments on the loan, as modified, is  
8           likely to be greater than the anticipated net recovery  
9           that would result from foreclosure to all investors  
10          and holders of beneficial interests in such invest-  
11          ment, but not to any individual or groups of inves-  
12          tors or beneficial interest holders, and shall be  
13          deemed to act in the best interests of all such inves-  
14          tors or holders of beneficial interests if the servicer  
15          agrees to or implements a modification or workout  
16          plan when the servicer takes reasonable loss mitiga-  
17          tion actions, including partial payments.

18 **SEC. 120. TERMINATION OF AUTHORITY.**

19          (a) TERMINATION.—The authorities provided under  
20          sections 101(a) **[and 102]** shall terminate on December  
21          31, 2009.

22          (b) EXTENSION UPON CERTIFICATION.—The Sec-  
23          retary, upon submission of a written certification to Con-  
24          gress, may extend the authority provided under this Act  
25          to expire not later than 2 years from the date of enact-

1 ment of this Act. Such certification shall include a jus-  
2 tification of why the extension is necessary to assist Amer-  
3 ican families and stabilize financial markets, as well as  
4 the expected cost to the taxpayers for such an extension.

5 **SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROU-**  
6 **bled ASSET RELIEF PROGRAM.**

7 (a) PURPOSES.—The purposes of this section are as  
8 follows:

9 (1) To provide for the independent and objec-  
10 tive conduct and supervision of audits and investiga-  
11 tions relating to the programs and operations of the  
12 program authorized to be established under section  
13 101.

14 (2) To provide for the independent and objec-  
15 tive leadership and coordination of, and rec-  
16 ommendations on, policies designed to—

17 (A) promote economy, efficiency, and effec-  
18 tiveness in the administration of such program;

19 and

20 (B) prevent and detect fraud and abuse in  
21 such program.

22 (3) To provide for an independent and objective  
23 means of keeping the Congress fully and currently  
24 informed about problems and deficiencies relating to

1 the administration of such program and the neces-  
2 sity for and progress for corrective action.

3 (b) OFFICE OF INSPECTOR GENERAL.—There is  
4 hereby established the Office of the Special Inspector Gen-  
5 eral for the Troubled Asset Relief Program.

6 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-  
7 MOVAL.—(1) The head of the Office of the Special Inspec-  
8 tor General for the Troubled Asset Relief Program is the  
9 Special Inspector General for the Troubled Asset Relief  
10 Program (in this section referred to as the Special Inspec-  
11 tor General), who shall be appointed by the President.

12 (2) The appointment of the Special Inspector General  
13 shall be made on the basis of integrity and demonstrated  
14 ability in accounting, auditing, financial analysis, law,  
15 management analysis, public administration, or investiga-  
16 tions.

17 (3) The nomination of an individual as Special In-  
18 spector General shall be made **【as soon as practicable】**  
19 after the establishment of any program under section 101.

20 (4) The Special Inspector General shall be removable  
21 from office in accordance with the provisions of section  
22 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

23 (5) For purposes of section 7324 of title 5, United  
24 States Code, the Special Inspector General shall not be  
25 considered an employee who determines policies to be pur-

1 sued by the United States in the nationwide administra-  
2 tion of Federal law.

3 (6) The annual rate of basic pay of the Special In-  
4 spector General shall be the annual rate of basic pay pro-  
5 vided for positions at level IV of the Executive Schedule  
6 under section 5315 of title 5, United States Code.

7 **[(d) ASSISTANT INSPECTORS GENERAL.—The Spe-**  
8 **cial Inspector General shall, in accordance with applicable**  
9 **laws and regulations governing the civil service—]**

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

14 **[(2) appoint an Assistant Inspector General for**  
15 **Investigations who shall have the responsibility for**  
16 **supervising the performance of investigative activi-**  
17 **ties relating to such program.]**

18 (e) DUTIES.—(1) It shall be the duty of the Special  
19 Inspector General to conduct, supervise, and coordinate  
20 audits and investigations of the purchase, management,  
21 and sale of assets by the Secretary of the Treasury under  
22 any program established by the Secretary under section  
23 101 and 102, including by collecting and summarizing the  
24 following information:

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 Secretary  
8 deemed it necessary to purchase each such troubled  
9 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 infor-  
13 mation 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 shall establish,  
23 maintain, and oversee such systems, procedures, and con-  
24 trols as the Special Inspector General considers appro-  
25 priate to discharge the duty under paragraph (1).

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

5           (f) POWERS AND AUTHORITIES.—(1) In carrying out  
6 the duties specified in subsection (e), the Special Inspector  
7 General shall have the authorities provided in section 6  
8 of the Inspector General Act of 1978.

9           (2) The Special Inspector General shall carry out the  
10 duties specified in subsection (e)(1) in accordance with  
11 section 4(b)(1) of the Inspector General Act of 1978.

12           (g) PERSONNEL, FACILITIES, AND OTHER RE-  
13 SOURCES.—(1) The Special Inspector General may select,  
14 appoint, and employ such officers and employees as may  
15 be necessary for carrying out the duties of the Special In-  
16 spector General, subject to the provisions of title 5, United  
17 States Code, governing appointments in the competitive  
18 service, and the provisions of chapter 51 and subchapter  
19 III of chapter 53 of such title, relating to classification  
20 and General Schedule pay rates.

21           (2) The Special Inspector General may obtain serv-  
22 ices as authorized by section 3109 of title 5, United States  
23 Code, at daily rates not to exceed the equivalent rate pre-  
24 scribed for grade GS–15 of the General Schedule by sec-  
25 tion 5332 of such title.

1           (3) The Special Inspector General may enter into  
2 contracts and other arrangements for audits, studies,  
3 analyses, and other services with public agencies and with  
4 private persons, and make such payments as may be nec-  
5 essary to carry out the duties of the Inspector General.

6           (4)(A) Upon request of the Special Inspector General  
7 for information or assistance from any department, agen-  
8 cy, or other entity of the Federal Government, the head  
9 of such entity shall, insofar as is practicable and not in  
10 contravention of any existing law, furnish such informa-  
11 tion or assistance to the Special Inspector General, or an  
12 authorized designee.

13           (B) Whenever information or assistance requested by  
14 the Special Inspector General is, in the judgment of the  
15 Special Inspector General, unreasonably refused or not  
16 provided, the Special Inspector General shall report the  
17 circumstances to the appropriate committees of Congress  
18 without delay.

19           (h) REPORTS.—(1) Not later than October 31, 2008,  
20 and every calendar quarter thereafter, the Special Inspec-  
21 tor General shall submit to the appropriate committees of  
22 Congress a report summarizing the activities of the Spe-  
23 cial Inspector General during the 120-day period ending  
24 on the date of such report. Each report shall include, for  
25 the period covered by such report, a detailed statement

1 of all purchases, obligations, expenditures, and revenues  
2 associated with any program established by the Secretary  
3 of the Treasury under section 101, as well as the informa-  
4 tion collected under subsection (e)(1).

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

7 (A) specifically prohibited from disclosure by  
8 any other provision of law;

9 (B) specifically required by Executive order to  
10 be protected from disclosure in the interest of na-  
11 tional defense or national security or in the conduct  
12 of foreign affairs; or

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

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

17 (i) FUNDING.—(1) Of the amounts made available to  
18 the Secretary of the Treasury under section 118,  
19 \$75,000,000 shall be available to the Special Inspector  
20 General to carry out this section.

21 (2) The amount available under paragraph (1) shall  
22 remain available until expended.

23 (j) TERMINATION.—The Office of the Special Inspec-  
24 tor General shall terminate on the later of—

1           (1) the date of expiration of the last insurance  
2           contract issued under section 102; or

3           (2) the date that the last troubled asset ac-  
4           quired by the Secretary under section 101 has been  
5           sold or transferred out of the ownership or control  
6           of the Federal Government.

7   **SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**  
8                           **DEBT.**

9           Subsection (b) of section 3101 of title 31, United  
10          States Code, is amended by striking out the dollar limita-  
11          tion contained in such subsection and inserting  
12          “\$11,315,000,000,000”.

13   **SEC. 123. CREDIT REFORM.**

14          (a) **IN GENERAL.**—Subject to subsection (b), the  
15          costs of purchases of troubled assets made under section  
16          101(a) and guarantees of troubled assets under section  
17          102, and any cash flows associated with the activities au-  
18          thorized in subsections (a), (b), and (c) of section 106  
19          shall be determined as provided under the Federal Credit  
20          Reform Act of 1990 (2 U.S.C. 661 et. seq.), as applicable.

21          (b) **COSTS.**—For the purposes of section 502(5) of  
22          the Federal Credit Reform Act of 1990 (2 U.S.C.  
23          661a(5))—

24                 (1) the cost of troubled assets and guarantees  
25                 of troubled assets shall be calculated by adjusting

1 the discount rate in section 502(5)(E) (2 U.S.C.  
2 661a(5)(E)) for market risks; and

3 (2) the cost of a modification of a troubled  
4 asset or guarantee of a troubled asset shall be the  
5 difference between the current estimate consistent  
6 with paragraph (1) under the terms of the troubled  
7 asset or guarantee of the troubled asset and the cur-  
8 rent estimate consistent with paragraph (1) under  
9 the terms of the troubled asset or guarantee of the  
10 troubled asset, as modified.

11 **SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.**

12 Section 257 of the National Housing Act (12 U.S.C.  
13 1715z-23) is amended—

14 (1) in subsection (e)—

15 (A) in paragraph (1)(B), by inserting be-  
16 fore “a ratio” the following: “, or thereafter is  
17 likely to have, due to the terms of the mortgage  
18 being reset,”;

19 (B) in paragraph (2)(B), by inserting be-  
20 fore the period at the end “(or such higher per-  
21 centage as the Board determines, in the discre-  
22 tion of the Board)”; and

23 (C) in paragraph (4)—

24 (i) in the first sentence, by inserting  
25 after “insured loan” the following: “and

1 any payments made under this para-  
2 graph,”; and

3 (ii) by inserting at the end the fol-  
4 lowing “Such actions may include making  
5 payments, which shall be accepted as pay-  
6 ment in full of all indebtedness under the  
7 eligible mortgage, to any holder of an ex-  
8 isting subordinate mortgage in lieu of any  
9 future appreciation payments authorized  
10 under subparagraph (B).”; and

11 (2) in subsection (w), by inserting after “ad-  
12 ministrative costs” the following: “and payments  
13 pursuant to subsection (e)(4)(A)”.

14 **SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.**

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

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

22 (1) **REGULAR REPORTS.**—

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

1 (i) The use by the Secretary of au-  
2 thority under this Act, including with re-  
3 spect to the use of contracting authority  
4 and administration of the program.

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

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

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

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

22 (2) SPECIAL REPORT ON REGULATORY RE-  
23 FORM.—The Oversight Panel shall submit a special  
24 report on regulatory reform not later than January  
25 20, 2009, analyzing the current state of the regu-

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

11 (c) MEMBERSHIP.—

12 (1) IN GENERAL.—The Oversight Panel shall  
13 consist of 5 members, as follows:

14 (A) 1 member appointed by the Speaker of  
15 the House of Representatives.

16 (B) 1 member appointed by the minority  
17 leader of the House of Representatives.

18 (C) 1 member appointed by the majority  
19 leader of the Senate.

20 (D) 1 member appointed by the minority  
21 leader of the Senate.

22 (E) 1 member appointed by the Speaker of  
23 the House of Representatives and the majority  
24 leader of the Senate, in consultation with the

1 minority leader of the Senate and the minority  
2 leader of the House of Representatives.

3 (2) PAY.—Each member of the Oversight Panel  
4 shall each be paid at a rate equal to the daily equiv-  
5 alent of the annual rate of basic pay for level I of  
6 the Executive Schedule for each day (including trav-  
7 el time) during which such member is engaged in  
8 the actual performance of duties vested in the Com-  
9 mission.

10 (3) PROHIBITION OF COMPENSATION OF FED-  
11 ERAL EMPLOYEES.—Members of the Oversight  
12 Panel who are full-time officers or employees of the  
13 United States or Members of Congress may not re-  
14 ceive additional pay, allowances, or benefits by rea-  
15 son of their service on the Oversight Panel.

16 (4) TRAVEL EXPENSES.—Each member shall  
17 receive travel expenses, including per diem in lieu of  
18 subsistence, in accordance with applicable provisions  
19 under subchapter I of chapter 57 of title 5, United  
20 States Code.

21 (5) QUORUM.—Four members of the Oversight  
22 Panel shall constitute a quorum but a lesser number  
23 may hold hearings.

24 (6) VACANCIES.—Any member appointed to fill  
25 a vacancy occurring before the expiration of the

1 term for which a member's predecessor was ap-  
2 pointed shall be appointed only for the remainder of  
3 that term. A member may serve after the expiration  
4 of that member's term until a successor has taken  
5 office. A vacancy in the Oversight Panel shall be  
6 filled in the manner in which the original appoint-  
7 ment was made.

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

11 (d) STAFF.—

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

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

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

25 (e) POWERS.—

1           (1) HEARINGS AND SESSIONS.—The Oversight  
2 Panel may, for the purpose of carrying out this sec-  
3 tion, hold hearings, sit and act at times and places,  
4 take testimony, and receive evidence as the Panel  
5 considers appropriate and may administer oaths or  
6 affirmations to witnesses appearing before it.

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

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

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

22           (f) TERMINATION.—The Oversight Panel shall termi-  
23 nate 6 months after the termination date specified in sec-  
24 tion 120.

25           (g) FUNDING FOR EXPENSES.—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—

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

8           (2) REIMBURSEMENT OF AMOUNTS.—An

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

19 **SEC. 126. FDIC ENFORCEMENT ENHANCEMENT.**

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

23                 “(4) FALSE ADVERTISING, MISUSE OF FDIC  
24                 NAMES, AND MISREPRESENTATION TO INDICATE IN-  
25                 SURED STATUS.—

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

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

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

21           “(B) PROHIBITION ON MISREPRESENTA-  
22           TIONS OF INSURED STATUS.—No person may  
23           knowingly misrepresent—

24                   “(i) that any deposit liability, obliga-  
25                  tion, certificate, or share is insured, under

1 this Act, if such deposit liability, obliga-  
2 tion, certificate, or share is not so insured;  
3 or

4 “(ii) the extent to which or the man-  
5 ner in which any deposit liability, obliga-  
6 tion, certificate, or share is insured under  
7 this Act, if such deposit liability, obliga-  
8 tion, certificate, or share is not so insured,  
9 to the extent or in the manner represented.

10 “(C) AUTHORITY OF THE APPROPRIATE  
11 FEDERAL BANKING AGENCY.—The appropriate  
12 Federal banking agency shall have enforcement  
13 authority in the case of a violation of this para-  
14 graph by any person for which the agency is the  
15 appropriate Federal banking agency, or any in-  
16 stitution-affiliated party thereof.

17 “(D) CORPORATION AUTHORITY IF THE  
18 APPROPRIATE FEDERAL BANKING AGENCY  
19 FAILS TO FOLLOW RECOMMENDATION.—

20 “(i) RECOMMENDATION.—The Cor-  
21 poration may recommend in writing to the  
22 appropriate Federal banking agency that  
23 the agency take any enforcement action  
24 authorized under section 8 for purposes of  
25 enforcement of this paragraph with respect

1 to any person for which the agency is the  
2 appropriate Federal banking agency or any  
3 institution-affiliated party thereof.

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

15 “(E) ADDITIONAL AUTHORITY.—In addi-  
16 tion to its authority under subparagraphs (C)  
17 and (D), for purposes of this paragraph, the  
18 Corporation shall have, in the same manner and  
19 to the same extent as with respect to a State  
20 nonmember insured bank—

21 “(i) jurisdiction over—

22 “(I) any person other than a per-  
23 son for which another agency is the  
24 appropriate Federal banking agency

1 or any institution-affiliated party  
2 thereof; and

3 “(II) any person that aids or  
4 abets a violation of this paragraph by  
5 a person described in subclause (I);  
6 and

7 “(ii) for purposes of enforcing the re-  
8 quirements of this paragraph, the author-  
9 ity of the Corporation under—

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

12 “(II) subsections (b), (c), (d) and  
13 (i) of section 8 to conduct enforce-  
14 ment actions.

15 “(F) OTHER ACTIONS PRESERVED.—No  
16 provision of this paragraph shall be construed  
17 as barring any action otherwise available, under  
18 the laws of the United States or any State, to  
19 any Federal or State agency or individual.”.

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

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

1 “(A) TEMPORARY ORDER.—

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

10 “(I) the immediate cessation of  
11 any activity or practice described,  
12 which gave rise to the notice of  
13 charges; and

14 “(II) affirmative action to pre-  
15 vent any further, or to remedy any ex-  
16 isting, violation.

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

20 “(B) EFFECTIVE PERIOD OF TEMPORARY  
21 ORDER.—A temporary order issued under sub-  
22 paragraph (A) shall remain effective and en-  
23 forceable, pending the completion of an admin-  
24 istrative proceeding pursuant to subsection

1 (b)(1) in connection with the notice of  
2 charges—

3 “(i) until such time as the Corpora-  
4 tion or other appropriate Federal banking  
5 agency dismisses the charges specified in  
6 such notice; or

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

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

20 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

21 Section 18 of the Federal Deposit Insurance Act (12  
22 U.S.C. 1828) is amended—

23 (1) in subsection (a)(3)—

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

4 (B) by striking “this subsection” the sec-  
5 ond place that term appears and inserting  
6 “paragraph (2)”; and

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

10 **SEC. 127. COOPERATION WITH THE FBI.**

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

16 **SEC. 128. ACCELERATION OF EFFECTIVE DATE.**

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

20 **SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHOR-**  
21 **ITY.**

22 (a) IN GENERAL.—Not later than 7 days after the  
23 date on which the Board exercises its authority under the  
24 third paragraph of section 13 of the Federal Reserve Act  
25 (12 U.S.C. 343; relating to discounts for individuals, part-

1 nerships, and corporations) the Board shall provide to the  
2 Committee on Banking, Housing, and Urban Affairs of  
3 the Senate and the Committee on Financial Services of  
4 the House of Representatives a report which includes—

5 (1) the justification for exercising the authority;

6 and

7 (2) the specific terms of the actions of the  
8 Board, including the size and duration of the lend-  
9 ing, available information concerning the value of  
10 any collateral held with respect to such a loan, the  
11 recipient of warrants or any other potential equity in  
12 exchange for the loan, and any expected cost to the  
13 taxpayers for such exercise.

14 (b) PERIODIC UPDATES.—The Board shall provide  
15 updates to the Committees specified in subsection (a) not  
16 less frequently than once every 60 days while the subject  
17 loan is outstanding, including—

18 (1) the status of the loan;

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

21 (3) the projected cost to the taxpayers of the  
22 loan.

23 (c) CONFIDENTIALITY.—The information submitted  
24 to the Congress under this section may be kept confiden-  
25 tial, upon the written request of the Chairman of the

1 Board, in which case it shall made available only to the  
2 Chairpersons and Ranking Members of the Committees  
3 described in subsection (a).

4 (d) APPLICABILITY.—The provisions of this section  
5 shall be in force for all uses of the authority provided  
6 under section 13 of the Federal Reserve Act occurring  
7 during the period beginning on March 1, 2008 and ending  
8 on the after the date of enactment of this Act, and reports  
9 described in subsection (a) shall be required beginning not  
10 later than 30 days after that date of enactment, with re-  
11 spect to any such exercise of authority.

12 (e) SHARING OF INFORMATION.—Any reports re-  
13 quired under this section shall also be submitted to the  
14 Congressional Oversight Panel established under section  
15 125.

16 **SEC. 130. TECHNICAL CORRECTIONS.**

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

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

24 (2) by amending subparagraph (G) to read as  
25 follows:

1           “(G)(i) In the case of an extension of cred-  
2 it relating to a plan described in section  
3 101(53D) of title 11, United States Code—

4           “(I) the requirements of subpara-  
5 graphs (A) through (E) shall not apply;  
6 and

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

17           “(ii) If a disclosure statement furnished  
18 within 3 business days of the written applica-  
19 tion (as provided under clause (i)(II)) contains  
20 an annual percentage rate which is subse-  
21 quently rendered inaccurate, within the mean-  
22 ing of section 107(c), the creditor shall furnish  
23 another disclosure statement at the time of set-  
24 tlement or consummation of the transaction.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect as if included in the  
3 amendments made by section 2502 of the Mortgage Dis-  
4 closure Improvement Act of 2008 (Public Law 110-289).

5 **SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSE-**  
6 **MENT.**

7 (a) REIMBURSEMENT.—The Secretary shall reim-  
8 burse the Exchange Stabilization Fund established under  
9 section 5302 of title 31, United States Code, for any funds  
10 used for the temporary guaranty program for the United  
11 States money market mutual fund industry, from funds  
12 under this Act.

13 (b) LIMITS ON USE OF EXCHANGE STABILIZATION  
14 FUND.—The Secretary is prohibited from using the Ex-  
15 change Stabilization Fund for the establishment of any  
16 future guaranty programs for the United States money  
17 market mutual fund industry.

18 (c) CONSULTATIONS.—In carrying out any guarantee  
19 program, the Secretary shall consult with the Board of  
20 Directors of the Corporation and the Securities and Ex-  
21 change Commission.

22 **SEC. 132. SUSPENSION OF MARK-TO-MARKET ACCOUNTING.**

23 (a) AUTHORITY.—The Securities and Exchange Com-  
24 mission shall have the authority under securities laws (as  
25 such term is defined under section 3(a)(47) of the Securi-

1 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to sus-  
2 pend, by rule, regulation, or order, the application of State-  
3 ment Number 157 of the Financial Accounting Standards  
4 Board for any issuer (as such term is defined in section  
5 3(a)(8) of such Act) or with respect to any class or cat-  
6 egory of transaction if the Commission determines that  
7 is necessary or appropriate in the public interest and is  
8 consistent with the protection of investors.

9 (b) SAVINGS PROVISION.—Nothing in subsection (a)  
10 shall be construed to restrict or limit any authority of the  
11 Securities Exchange Commission under securities laws as  
12 in effect on the date of enactment of this Act.

13 **SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.**

14 (a) STUDY.—The Securities and Exchange Commis-  
15 sion, in consultation with the Board of Governors of the  
16 Federal Reserve System and the Secretary of the Treas-  
17 ury, shall conduct a study on mark-to-market accounting  
18 standards as provided in Statement Number 157 of the  
19 Financial Accounting Standards Board, as such standards  
20 are applicable to financial institutions, including deposi-  
21 tory institutions. Such a study shall consider at a min-  
22 imum—

23 (1) the effects of such accounting standards on  
24 a financial institution's balance sheet;

1           (2) the impacts of such accounting on bank fail-  
2           ures in 2008;

3           (3) the impact of such standards on the quality  
4           of financial information available to investors;

5           (4) the process used by the Financial Account-  
6           ing Standards Board in developing accounting  
7           standards;

8           (5) the advisability and feasibility of modifica-  
9           tions to such standards; and

10          (6) alternative accounting standards to those  
11          provided in such Statement Number 157.

12          (b) REPORT.—The Securities and Exchange Commis-  
13          sion shall submit to Congress a report of such study before  
14          the end of the 90-day period beginning on the date of the  
15          enactment of this Act containing the findings and deter-  
16          minations of the Commission, including such administra-  
17          tive and legislative recommendations as the Commission  
18          determines appropriate.

19          **SEC. 134. RECOUPMENT.**

20          Upon the expiration of the 5-year period beginning  
21          upon the date of the enactment of this Act, the Director  
22          of the Office of Management and Budget, in consultation  
23          with the Director of the Congressional Budget Office, shall  
24          submit a report to the Congress on the net amount within  
25          the Troubled Asset Relief Program under this Act. In any

1 case in which there is a shortfall, the President shall sub-  
2 mit to the Congress a legislative proposal that recoups  
3 from entities benefitting from the program an amount  
4 equal to the shortfall in order to ensure that the Troubled  
5 Asset Relief Program does not add to the budget deficit  
6 or the national debt.

7 **SEC. 135. PRESERVATION OF AUTHORITY.**

8 With the exception of section 131, nothing in this Act  
9 may be construed to limit the authority of the Secretary  
10 or the Board under any other provision of law.

11 **TITLE II—BUDGET-RELATED**  
12 **PROVISIONS**

13 **SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT**  
14 **AGENCIES.**

15 Upon request, and to the extent otherwise consistent  
16 with law, all information used by the Secretary in connec-  
17 tion with activities authorized under this Act (including  
18 the records to which the Comptroller General is entitled  
19 under this Act) shall be made available to congressional  
20 support agencies (in accordance with their obligations to  
21 support the Congress as set out in their authorizing stat-  
22 utes) for the purposes of assisting the committees of Con-  
23 gress with conducting oversight, monitoring, and analysis  
24 of the activities authorized under this Act.

1 **SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND**  
2 **BUDGET AND THE CONGRESSIONAL BUDGET**  
3 **OFFICE.**

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

10 (1) the estimate, notwithstanding section  
11 502(5)(F) of the Federal Credit Reform Act of 1990  
12 (2 U.S.C. 661a(5)(F)), as of the first business day  
13 that is at least 30 days prior to the issuance of the  
14 report, of the cost of the troubled assets determined  
15 in accordance with section **【123/118】**;

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

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

23 Beginning with the second report under subsection (a), the  
24 Office of Management and Budget shall explain the dif-  
25 ferences between the Congressional Budget Office esti-

1 mates delivered in accordance with subsection (b) and  
2 prior Office of Management and Budget estimates.

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

10 (1) the cost of the troubled assets,

11 (2) the information and valuation methods used  
12 to calculate such cost, and

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

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

19 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There  
20 are authorized to be appropriated such sums as may be  
21 necessary to produce reports required by this section.

22 **SEC. 203. ANALYSIS IN PRESIDENT’S BUDGET.**

23 (a) **IN GENERAL.**—Section 1105(a) of title 31,  
24 United States Code, is amended by adding at the end the  
25 following new paragraph:

1           “(35) as supplementary materials, a separate  
2           analysis of the budgetary effects for all prior fiscal  
3           years, the current fiscal year, the fiscal year for  
4           which the budget is submitted, and ensuing fiscal  
5           years of the actions the Secretary of the Treasury  
6           has taken or plans to take using any authority pro-  
7           vided in the Emergency Economic Stabilization Act  
8           of 2008, including—

9           “(A) an estimate of the current value of all  
10           assets purchased and sold under the authority  
11           provided in the Emergency Economic Stabiliza-  
12           tion Act of 2008 using methodology required by  
13           the Federal Credit Reform Act of 1990 (2  
14           U.S.C. 661 et seq.) and section **[123/118]** of  
15           the Emergency Economic Stabilization Act of  
16           2008;

17           “(B) an estimate of the deficit, the debt  
18           held by the public, and the gross Federal debt  
19           using methodology required by the Federal  
20           Credit Reform Act of 1990 and section 118 of  
21           the Emergency Economic Stabilization Act of  
22           2008;

23           “(C) an estimate of the current value of all  
24           assets purchased and sold under the authority

1 provided in the Emergency Economic Stabiliza-  
2 tion Act of 2008 calculated on a cash basis;

3 “(D) a revised estimate of the deficit, the  
4 debt held by the public, and the gross Federal  
5 debt, substituting the cash-based estimates in  
6 subparagraph (C) for the estimates calculated  
7 under subparagraph (A) pursuant to the Fed-  
8 eral Credit Reform Act of 1990 and section  
9 **[123/118]** of the Emergency Economic Sta-  
10 bilization Act of 2008; and

11 “(E) the portion of the deficit which can  
12 be attributed to any action taken by the Sec-  
13 retary using authority provided by the Emer-  
14 gency Economic Stabilization Act of 2008 and  
15 the extent to which the change in the deficit  
16 since the most recent estimate is due to a re-  
17 estimate using the methodology required by the  
18 Federal Credit Reform Act of 1990 and section  
19 **[123/118]** of the Emergency Economic Sta-  
20 bilization Act of 2008.”

21 (b) CONSULTATION.—In implementing this section,  
22 the Director of Office of Management and Budget shall  
23 consult periodically, but at least annually, with the Com-  
24 mittee on the Budget of the House of Representatives, the

1 Committee on the Budget of the Senate, and the Director  
2 of the Congressional Budget Office.

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

## 7 **TITLE III—TAX PROVISIONS**

### 8 **SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF** 9 **CERTAIN PREFERRED STOCK.**

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

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

17 (1) which is preferred stock in—

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

22 (B) the Federal Home Loan Mortgage  
23 Corporation, established pursuant to the Fed-  
24 eral Home Loan Mortgage Corporation Act (12  
25 U.S.C. 1451 et seq.), and

1 (2) which—

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

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

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

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

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

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

19 (2) SPECIAL RULES FOR CERTAIN SALES.—In  
20 the case of —

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

1 of paragraph (1) at the time of the sale or ex-  
2 change, and

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

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

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

