

**AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 3997**

OFFERED BY _____

In lieu of the matter proposed to be inserted by the amendment of the Senate to the amendment of the House to the amendment of the Senate, insert the following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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.
- 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 authority.
- 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. Authority to suspend 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.
- Sec. 204. Emergency treatment.

TITLE III—TAX PROVISIONS

- Sec. 301. Gain or loss from sale or exchange of certain preferred stock.
- Sec. 302. Special rules for tax treatment of executive compensation of employees participating in the troubled assets relief program.
- Sec. 303. 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 facilities that the Secretary of the Treasury can use to
4 restore liquidity and stability to the financial system
5 of the United States; and

6 (2) to ensure that such authority and such facilities are used in a manner that—
7
8

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

3 (B) preserves homeownership and pro-
4 motes jobs and economic growth;

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

7 (D) provides public accountability for the
8 exercise of such authority.

9 **SEC. 3. DEFINITIONS.**

10 For purposes of this Act, the following definitions
11 shall apply:

12 (1) APPROPRIATE COMMITTEES OF CON-
13 GRESS.—The term “appropriate committees of Con-
14 gress” means—

15 (A) the Committee on Banking, Housing,
16 and Urban Affairs, the Committee on Finance,
17 the Committee on the Budget, and the Com-
18 mittee on Appropriations of the Senate; and

19 (B) the Committee on Financial Services,
20 the Committee on Ways and Means, the Com-
21 mittee on the Budget, and the Committee on
22 Appropriations of the House of Representatives.

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

1 (3) CONGRESSIONAL SUPPORT AGENCIES.—The
2 term “congressional support agencies” means the
3 Congressional Budget Office and the Joint Com-
4 mittee on Taxation.

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

7 (5) FINANCIAL INSTITUTION.—The term “fi-
8 nancial institution” means any institution, including,
9 but not limited to, any bank, savings association,
10 credit union, security broker or dealer, or insurance
11 company, established and regulated under the laws
12 of the United States or any State, territory, or pos-
13 session of the United States, the District of Colum-
14 bia, Commonwealth of Puerto Rico, Commonwealth
15 of Northern Mariana Islands, Guam, American
16 Samoa, or the United States Virgin Islands, and
17 having significant operations in the United States,
18 but excluding any central bank of, or institution
19 owned by, a foreign government.

20 (6) FUND.—The term “Fund” means the Trou-
21 bled Assets Insurance Financing Fund established
22 under section 102.

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

1 (8) TARP.—The term “TARP” means the
2 Troubled Asset Relief Program established under
3 section 101.

4 (9) TROUBLED ASSETS.—The term “troubled
5 assets” means—

6 (A) residential or commercial mortgages
7 and any securities, obligations, or other instru-
8 ments that are based on or related to such
9 mortgages, that in each case was originated or
10 issued on or before March 14, 2008, the pur-
11 chase of which the Secretary determines pro-
12 motes financial market stability; and

13 (B) any other financial instrument that the
14 Secretary, after consultation with the Chairman
15 of the Board of Governors of the Federal Re-
16 serve System, determines the purchase of which
17 is necessary to promote financial market sta-
18 bility, but only upon transmittal of such deter-
19 mination, in writing, to the appropriate commit-
20 tees of Congress.

21 **TITLE I—TROUBLED ASSETS**
22 **RELIEF PROGRAM**

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

24 (a) OFFICES; AUTHORITY.—

1 (1) AUTHORITY.—The Secretary is authorized
2 to establish the Troubled Asset Relief Program (or
3 “TARP”) to purchase, and to make and fund com-
4 mitments to purchase, troubled assets from any fi-
5 nancial institution, on such terms and conditions as
6 are determined by the Secretary, and in accordance
7 with this Act and the policies and procedures devel-
8 oped and published by the Secretary.

9 (2) COMMENCEMENT OF PROGRAM.—Establish-
10 ment of the policies and procedures and other simi-
11 lar administrative requirements imposed on the Sec-
12 retary by this Act are not intended to delay the com-
13 mencement of the TARP.

14 (3) ESTABLISHMENT OF TREASURY OFFICE.—

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

25 (B) CLERICAL AMENDMENTS.—

1 (i) TITLE 5.—Section 5315 of title 5,
2 United States Code, is amended in the
3 item relating to Assistant Secretaries of
4 the Treasury, by striking “(9)” and insert-
5 ing “(10)”.

6 (ii) TITLE 31.—Section 301(e) of title
7 31, United States Code, is amended by
8 striking “9” and inserting “10”.

9 (b) CONSULTATION.—In exercising the authority
10 under this section, the Secretary shall consult with the
11 Board, the Corporation, the Comptroller of the Currency,
12 the Director of the Office of Thrift Supervision, and the
13 Secretary of Housing and Urban Development.

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

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

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

24 (3) Designating financial institutions as finan-
25 cial agents of the Federal Government, and such in-

1 stitutions shall perform all such reasonable duties
2 related to this Act as financial agents of the Federal
3 Government as may be required.

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

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

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

20 (1) Mechanisms for purchasing troubled assets.

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

23 (3) Procedures for selecting asset managers.

24 (4) Criteria for identifying troubled assets for
25 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 sale 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 originated or issued prior to March
19 14, 2008, including mortgage-backed securities.

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 may be determined by category
25 or class of the troubled assets 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.—Not later than 90 days after the date
10 of enactment of this Act, the Secretary shall report to the
11 appropriate committees of Congress on the program estab-
12 lished under subsection (a).

13 (c) PREMIUMS.—

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

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

1 being guaranteed. The Secretary shall publish the
2 methodology for setting the premium for a class of
3 troubled assets together with an explanation of the
4 appropriateness of the class of assets for participa-
5 tion in the program established under this section.
6 The methodology shall ensure that the premium is
7 consistent with paragraph (3).

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

13 (4) ADJUSTMENT TO PURCHASE AUTHORITY.—
14 The purchase authority limit in section 115 shall be
15 reduced by an amount equal to the difference be-
16 tween the total of the outstanding guaranteed obli-
17 gations and the balance in the Troubled Assets In-
18 surance Financing Fund.

19 (d) TROUBLED ASSETS INSURANCE FINANCING
20 FUND.—

21 (1) DEPOSITS.—The Secretary shall deposit
22 fees collected under this section into the Fund estab-
23 lished under paragraph (2).

24 (2) ESTABLISHMENT.—There is established a
25 Troubled Assets Insurance Financing Fund that

1 shall consist of the amounts collected pursuant to
2 paragraph (1), and any balance in such fund shall
3 be invested by the Secretary in United States Treas-
4 ury securities, or kept in cash on hand or on deposit,
5 as necessary.

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

10 **SEC. 103. CONSIDERATIONS.**

11 In exercising the authorities granted in this Act, the
12 Secretary shall take into consideration—

13 (1) protecting the interests of taxpayers by
14 maximizing overall returns and minimizing the im-
15 pact on the national debt;

16 (2) providing stability and preventing disrup-
17 tion to financial markets in order to limit the impact
18 on the economy and protect American jobs, savings,
19 and retirement security;

20 (3) the need to help families keep their homes
21 and to stabilize communities;

22 (4) in determining whether to engage in a di-
23 rect purchase from an individual financial institu-
24 tion, the long-term viability of the financial institu-

1 tion in determining whether the purchase represents
2 the most efficient use of funds under this Act;

3 (5) ensuring that all financial institutions are
4 eligible to participate in the program, without dis-
5 crimination based on size, geography, form of orga-
6 nization, or the size, type, and number of assets eli-
7 gible for purchase under this Act;

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

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

23 (8) protecting the retirement security of Ameri-
24 cans by purchasing troubled assets held by or on be-
25 half of an eligible retirement plan described in clause

1 (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the
2 Internal Revenue Code of 1986, except that such au-
3 thority shall not extend to any compensation ar-
4 rangements subject to section 409A of such Code;
5 and

6 (9) the utility of purchasing other real estate
7 owned and instruments backed by mortgages on
8 multifamily properties.

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

10 (a) ESTABLISHMENT.—There is established the Fi-
11 nancial Stability Oversight Board, which shall be respon-
12 sible for—

13 (1) reviewing the exercise of authority under a
14 program developed in accordance with this Act, in-
15 cluding—

16 (A) policies implemented by the Secretary
17 and the Office of Financial Stability created
18 under sections 101 and 102, including the ap-
19 pointment of financial agents, the designation
20 of asset classes to be purchased, and plans for
21 the structure of vehicles used to purchase trou-
22 bled assets; and

23 (B) the effect of such actions in assisting
24 American families in preserving home owner-

1 ship, stabilizing financial markets, and pro-
2 tecting taxpayers;

3 (2) making recommendations, as appropriate, to
4 the Secretary regarding use of the authority under
5 this Act; and

6 (3) reporting any suspected fraud, misrepresen-
7 tation, or malfeasance to the Special Inspector Gen-
8 eral for the Troubled Assets Relief Program or the
9 Attorney General of the United States, consistent
10 with section 535(b) of title 28, United States Code.

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

13 (1) the Chairman of the Board of Governors of
14 the Federal Reserve System;

15 (2) the Secretary;

16 (3) the Director of the Federal Housing Fi-
17 nance Agency;

18 (4) the Chairman of the Securities Exchange
19 Commission; and

20 (5) the Secretary of Housing and Urban Devel-
21 opment.

22 (c) CHAIRPERSON.—The chairperson of the Financial
23 Stability Oversight Board shall be elected by the members
24 of the Board from among the members other than the Sec-
25 retary.

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

5 (e) ADDITIONAL AUTHORITIES.—In addition to the
6 responsibilities described in subsection (a), the Financial
7 Stability Oversight Board shall have the authority to en-
8 sure that the policies implemented by the Secretary are—

9 (1) in accordance with the purposes of this Act;

10 (2) in the economic interests of the United
11 States; and

12 (3) consistent with protecting taxpayers, in ac-
13 cordance with section 113(a).

14 (f) CREDIT REVIEW COMMITTEE.—The Financial
15 Stability Oversight Board may appoint a credit review
16 committee for the purpose of evaluating the exercise of
17 the purchase authority provided under this Act and the
18 assets acquired through the exercise of such authority, as
19 the Financial Stability Oversight Board determines appro-
20 priate.

21 (g) REPORTS.—The Financial Stability Oversight
22 Board shall report to the appropriate committees of Con-
23 gress and the Congressional Oversight Panel established
24 under section 125, not less frequently than quarterly, on
25 the matters described under subsection (a)(1).

1 (h) **TERMINATION.**—The Financial Stability Over-
2 sight Board, and its authority under this section, shall ter-
3minate on the expiration of the 15-day period beginning
4 upon the later of—

5 (1) 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; or

9 (2) the date of expiration of the last insurance
10 contract issued under section 102.

11 **SEC. 105. REPORTS.**

12 (a) **IN GENERAL.**—Before the expiration of the 60-
13 day period beginning on the date of the first exercise of
14 the authority granted in section 101(a), or of the first ex-
15 ercise of the authority granted in section 102, whichever
16 occurs first, and every 30-day period thereafter, the Sec-
17 retary shall report to the appropriate committees of Con-
18 gress, with respect to each such period—

19 (1) an overview of actions taken by the Sec-
20 retary, including the considerations required by sec-
21 tion 103 and the efforts under section 109;

22 (2) the actual obligation and expenditure of the
23 funds provided for administrative expenses by sec-
24 tion 118 during such period and the expected ex-

1 penditure of such funds in the subsequent period;
2 and

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

6 (A) all agreements made or renewed;

7 (B) all insurance contracts entered into
8 pursuant to section 102;

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

11 (D) the nature of the assets purchased;

12 (E) all projected costs and liabilities;

13 (F) operating expenses, including com-
14 pensation for financial agents;

15 (G) the valuation or pricing method used
16 for each transaction; and

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

19 (b) TRANCHE REPORTS TO CONGRESS.—

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

24 (A) a description of all of the transactions
25 made during the reporting period;

1 (B) a description of the pricing mechanism
2 for the transactions;

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

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

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

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

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

23 (c) REGULATORY MODERNIZATION REPORT.—The
24 Secretary shall review the current state of the financial
25 markets and the regulatory system and submit a written

1 report to the appropriate committees of Congress not later
2 than April 30, 2009, analyzing the current state of the
3 regulatory system and its effectiveness at overseeing the
4 participants in the financial markets, including the over-
5 the-counter swaps market and government-sponsored en-
6 terprises, and providing recommendations for improve-
7 ment, including—

8 (1) recommendations regarding—

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

13 (B) enhancement of the clearing and set-
14 tlement of over-the-counter swaps; and

15 (2) the rationale underlying such recommenda-
16 tions.

17 (d) SHARING OF INFORMATION.—Any report re-
18 quired under this section shall also be submitted to the
19 Congressional Oversight Panel established under section
20 125.

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

23 (1) 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; or

3 (2) the date of expiration of the last insurance
4 contract issued under section 102.

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

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

10 (b) MANAGEMENT OF TROUBLED ASSETS.—The Sec-
11 retary shall have authority to manage troubled assets pur-
12 chased under this Act, including revenues and portfolio
13 risks therefrom.

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

20 (d) TRANSFER TO TREASURY.—Revenues of, and
21 proceeds from the sale of troubled assets purchased under
22 this Act, or from the sale, exercise, or surrender of war-
23 rants or senior debt instruments acquired under section
24 113 shall be paid into the general fund of the Treasury
25 for reduction of the public debt.

1 (e) APPLICATION OF SUNSET TO TROUBLED AS-
2 SETS.—The authority of the Secretary to hold any trou-
3 bled asset purchased under this Act before the termination
4 date in section 120, or to purchase or fund the purchase
5 of a troubled asset under a commitment entered into be-
6 fore the termination date in section 120, is not subject
7 to the provisions of section 120.

8 **SEC. 107. CONTRACTING PROCEDURES.**

9 (a) STREAMLINED PROCESS.—For purposes of this
10 Act, the Secretary may waive specific provisions of the
11 Federal Acquisition Regulation upon a determination that
12 urgent and compelling circumstances make compliance
13 with such provisions contrary to the public interest. Any
14 such determination, and the justification for such deter-
15 mination, shall be submitted to the Committees on Over-
16 sight and Government Reform and Financial Services of
17 the House of Representatives and the Committees on
18 Homeland Security and Governmental Affairs and Bank-
19 ing, Housing, and Urban Affairs of the Senate within 7
20 days.

21 (b) ADDITIONAL CONTRACTING REQUIREMENTS.—In
22 any solicitation or contract where the Secretary has, pur-
23 suant to subsection (a), waived any provision of the Fed-
24 eral Acquisition Regulation pertaining to minority con-
25 tracting, the Secretary shall develop and implement stand-

1 ards and procedures to ensure, to the maximum extent
2 practicable, the inclusion and utilization of minorities (as
3 such term is defined in section 1204(c) of the Financial
4 Institutions Reform, Recovery, and Enforcement Act of
5 1989 (12 U.S.C. 1811 note)) and women, and minority-
6 and women-owned businesses (as such terms are defined
7 in section 21A(r)(4) of the Federal Home Loan Bank Act
8 (12 U.S.C. 1441a(r)(4)), in that solicitation or contract,
9 including contracts to asset managers, servicers, property
10 managers, and other service providers or expert consult-
11 ants.

12 (c) **ELIGIBILITY OF FDIC.**—Notwithstanding sub-
13 sections (a) and (b), the Corporation—

14 (1) shall be eligible for, and shall be considered
15 in, the selection of asset managers for residential
16 mortgage loans and residential mortgage-backed se-
17 curities; and

18 (2) shall be reimbursed by the Secretary for
19 any services provided.

20 **SEC. 108. CONFLICTS OF INTEREST.**

21 (a) **STANDARDS REQUIRED.**—The Secretary shall
22 issue regulations or guidelines necessary to address and
23 manage or to prohibit conflicts of interest that may arise
24 in connection with the administration and execution of the
25 authorities provided under this Act, including—

1 (1) conflicts arising in the selection or hiring of
2 contractors or advisors, including asset managers;
3 (2) the purchase of troubled assets;
4 (3) the management of the troubled assets held;
5 (4) post-employment restrictions on employees;
6 and
7 (5) any other potential conflict of interest, as
8 the Secretary deems necessary or appropriate in the
9 public interest.

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

13 **SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

14 (a) **RESIDENTIAL MORTGAGE LOAN SERVICING**
15 **STANDARDS.**—To the extent that the Secretary acquires
16 mortgages, mortgage backed securities, and other assets
17 secured by residential real estate, including multifamily
18 housing, the Secretary shall implement a plan that seeks
19 to maximize assistance for homeowners and use the au-
20 thority of the Secretary to encourage the servicers of the
21 underlying mortgages, considering net present value to the
22 taxpayer, to take advantage of the HOPE for Home-
23 owners Program under section 257 of the National Hous-
24 ing Act or other available programs to minimize fore-
25 closures. In addition, the Secretary may use loan guaran-

1 tees and credit enhancements to facilitate loan modifica-
2 tions to prevent avoidable foreclosures.

3 (b) COORDINATION.—The Secretary shall coordinate
4 with the Corporation, the Board (with respect to any
5 mortgage or mortgage-backed securities or pool of securi-
6 ties held, owned, or controlled by or on behalf of a Federal
7 reserve bank, as provided in section 110(a)(1)(C)), the
8 Federal Housing Finance Agency, the Secretary of Hous-
9 ing and Urban Development, and other Federal Govern-
10 ment entities that hold troubled assets to attempt to iden-
11 tify opportunities for the acquisition of classes of troubled
12 assets that will improve the ability of the Secretary to im-
13 prove the loan modification and restructuring process and,
14 where permissible, to permit bona fide tenants who are
15 current on their rent to remain in their homes under the
16 terms of the lease. In the case of a mortgage on a residen-
17 tial rental property, the plan required under this section
18 shall include protecting Federal, State, and local rental
19 subsidies and protections, and ensuring any modification
20 takes into account the need for operating funds to main-
21 tain decent and safe conditions at the property.

22 (c) CONSENT TO REASONABLE LOAN MODIFICATION
23 REQUESTS.—Upon any request arising under existing in-
24 vestment contracts, the Secretary shall consent, where ap-
25 propriate, and considering net present value to the tax-

1 payer, to reasonable requests for loss mitigation measures,
2 including term extensions, rate reductions, principal write
3 downs, increases in the proportion of loans within a trust
4 or other structure allowed to be modified, or removal of
5 other limitation on modifications.

6 **SEC. 110. ASSISTANCE TO HOMEOWNERS.**

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

8 (1) the term “Federal property manager”
9 means—

10 (A) the Federal Housing Finance Agency,
11 in its capacity as conservator of the Federal
12 National Mortgage Association and the Federal
13 Home Loan Mortgage Corporation;

14 (B) the Corporation, with respect to resi-
15 dential mortgage loans and mortgage-backed se-
16 curities held by any bridge depository institu-
17 tion pursuant to section 11(n) of the Federal
18 Deposit Insurance Act; and

19 (C) the Board, with respect to any mort-
20 gage or mortgage-backed securities or pool of
21 securities held, owned, or controlled by or on
22 behalf of a Federal reserve bank, other than
23 mortgages or securities held, owned, or con-
24 trolled in connection with open market oper-
25 ations under section 14 of the Federal Reserve

1 Act (12 U.S.C. 353), or as collateral for an ad-
2 vance or discount that is not in default;

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

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

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

12 (b) HOMEOWNER ASSISTANCE BY AGENCIES.—

13 (1) IN GENERAL.—To the extent that the Fed-
14 eral property manager holds, owns, or controls mort-
15 gages, mortgage backed securities, and other assets
16 secured by residential real estate, including multi-
17 family housing, the Federal property manager shall
18 implement a plan that seeks to maximize assistance
19 for homeowners and use its authority to encourage
20 the servicers of the underlying mortgages, and con-
21 sidering net present value to the taxpayer, to take
22 advantage of the HOPE for Homeowners Program
23 under section 257 of the National Housing Act or
24 other available programs to minimize foreclosures.

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

4 (A) reduction in interest rates;

5 (B) reduction of loan principal; and

6 (C) other similar modifications.

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

10 (A) the continuation of any existing Fed-
11 eral, State, and local rental subsidies and pro-
12 tections; and

13 (B) that modifications take into account
14 the need for operating funds to maintain decent
15 and safe conditions at the property.

16 (4) TIMING.—Each Federal property manager
17 shall develop and begin implementation of the plan
18 required by this subsection not later than 60 days
19 after the date of enactment of this Act.

20 (5) REPORTS TO CONGRESS.—Each Federal
21 property manager shall, 60 days after the date of
22 enactment of this Act and every 30 days thereafter,
23 report to Congress specific information on the num-
24 ber and types of loan modifications made and the

1 number of actual foreclosures occurring during the
2 reporting period in accordance with this section.

3 (6) CONSULTATION.—In developing the plan re-
4 quired by this subsection, the Federal property man-
5 agers shall consult with one another and, to the ex-
6 tent possible, utilize consistent approaches to imple-
7 ment the requirements of this subsection.

8 (c) ACTIONS WITH RESPECT TO SERVICERS.—In any
9 case in which a Federal property manager is not the owner
10 of a residential mortgage loan, but holds an interest in
11 obligations or pools of obligations secured by residential
12 mortgage loans, the Federal property manager shall—

13 (1) encourage implementation by the loan
14 servicers of loan modifications developed under sub-
15 section (b); and

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

18 (d) LIMITATION.—The requirements of this section
19 shall not supersede any other duty or requirement imposed
20 on the Federal property managers under otherwise appli-
21 cable law.

22 **SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE**
23 **GOVERNANCE.**

24 (a) APPLICABILITY.—Any financial institution that
25 sells troubled assets to the Secretary under this Act shall

1 be subject to the executive compensation requirements of
2 subsections (b) and (c) and the provisions under the Inter-
3 nal Revenue Code of 1986, as provided under the amend-
4 ment by section 302, as applicable.

5 (b) DIRECT PURCHASES.—

6 (1) IN GENERAL.—Where the Secretary deter-
7 mines that the purposes of this Act are best met
8 through direct purchases of troubled assets from an
9 individual financial institution where no bidding
10 process or market prices are available, and the Sec-
11 retary receives a meaningful equity or debt position
12 in the financial institution as a result of the trans-
13 action, the Secretary shall require that the financial
14 institution meet appropriate standards for executive
15 compensation and corporate governance. The stand-
16 ards required under this subsection shall be effective
17 for the duration of the period that the Secretary
18 holds an equity or debt position in the financial in-
19 stitution.

20 (2) CRITERIA.—The standards required under
21 this subsection shall include—

22 (A) limits on compensation that exclude in-
23 centives for senior executive officers of a finan-
24 cial institution to take unnecessary and exces-
25 sive risks that threaten the value of the finan-

1 cial institution during the period that the Sec-
2 retary holds an equity or debt position in the fi-
3 nancial institution;

4 (B) a provision for the recovery by the fi-
5 nancial institution of any bonus or incentive
6 compensation paid to a senior executive officer
7 based on statements of earnings, gains, or other
8 criteria that are later proven to be materially
9 inaccurate; and

10 (C) a prohibition on the financial institu-
11 tion making any golden parachute payment to
12 its senior executive officer during the period
13 that the Secretary holds an equity or debt posi-
14 tion in the financial institution.

15 (3) DEFINITION.—For purposes of this section,
16 the term “senior executive officer” means an indi-
17 vidual who is one of the top 5 highly paid executives
18 of a public company, whose compensation is required
19 to be disclosed pursuant to the Securities Exchange
20 Act of 1934, and any regulations issued thereunder,
21 and non-public company counterparts.

22 (c) AUCTION PURCHASES.—Where the Secretary de-
23 termines that the purposes of this Act are best met
24 through auction purchases of troubled assets, and only
25 where such purchases per financial institution in the ag-

1 gregate exceed \$300,000,000 (including direct purchases),
2 the Secretary shall prohibit, for such financial institution,
3 any new employment contract with a senior executive offi-
4 cer that provides a golden parachute in the event of an
5 involuntary termination, bankruptcy filing, insolvency, or
6 receivership. The Secretary shall issue guidance to carry
7 out this paragraph not later than 2 months after the date
8 of enactment of this Act, and such guidance shall be effec-
9 tive upon issuance.

10 (d) SUNSET.—The provisions of subsection (c) shall
11 apply only to arrangements entered into during the period
12 during which the authorities under section 101(a) are in
13 effect, as determined under section 120.

14 **SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES**
15 **AND CENTRAL BANKS.**

16 The Secretary shall coordinate, as appropriate, with
17 foreign financial authorities and central banks to work to-
18 ward the establishment of similar programs by such au-
19 thorities and central banks. To the extent that such for-
20 eign financial authorities or banks hold troubled assets as
21 a result of extending financing to financial institutions
22 that have failed or defaulted on such financing, such trou-
23 bled assets qualify for purchase under section 101.

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

3 (a) LONG-TERM COSTS AND BENEFITS.—

4 (1) MINIMIZING NEGATIVE IMPACT.—The Sec-
5 retary shall use the authority under this Act in a
6 manner that will minimize any potential long-term
7 negative impact on the taxpayer, taking into account
8 the direct outlays, potential long-term returns on as-
9 sets purchased, and the overall economic benefits of
10 the program, including economic benefits due to im-
11 provements in economic activity and the availability
12 of credit, the impact on the savings and pensions of
13 individuals, and reductions in losses to the Federal
14 Government.

15 (2) AUTHORITY.—In carrying out paragraph
16 (1), the Secretary shall—

17 (A) hold the assets to maturity or for re-
18 sale for and until such time as the Secretary
19 determines that the market is optimal for sell-
20 ing such assets, in order to maximize the value
21 for taxpayers; and

22 (B) sell such assets at a price that the Sec-
23 retary determines, based on available financial
24 analysis, will maximize return on investment for
25 the Federal Government.

1 (3) PRIVATE SECTOR PARTICIPATION.—The
2 Secretary shall encourage the private sector to par-
3 ticipate in purchases of troubled assets, and to in-
4 vest in financial institutions, consistent with the pro-
5 visions of this section.

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

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

11 (2) maximize the efficiency of the use of tax-
12 payer resources by using market mechanisms, in-
13 cluding auctions or reverse auctions, where appro-
14 priate.

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

22 (d) CONDITIONS ON PURCHASE AUTHORITY FOR
23 WARRANTS AND DEBT INSTRUMENTS.—

24 (1) IN GENERAL.—The Secretary may not pur-
25 chase, or make any commitment to purchase, any

1 troubled asset under the authority of this Act, unless
2 the Secretary receives from the financial institution
3 from which such assets are to be purchased—

4 (A) in the case of a financial institution,
5 the securities of which are traded on a national
6 securities exchange, a warrant giving the right
7 to the Secretary to receive nonvoting common
8 stock or preferred stock in such financial insti-
9 tution, or voting stock with respect to which,
10 the Secretary agrees not to exercise voting
11 power, as the Secretary determines appropriate;
12 or

13 (B) in the case of any financial institution
14 other than one described in subparagraph (A),
15 a warrant for common or preferred stock, or a
16 senior debt instrument from such financial in-
17 stitution, as described in paragraph (2)(C).

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

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

24 (i) to provide for reasonable participa-
25 tion by the Secretary, for the benefit of

1 taxpayers, in equity appreciation in the
2 case of a warrant or other equity security,
3 or a reasonable interest rate premium, in
4 the case of a debt instrument; and

5 (ii) to provide additional protection
6 for the taxpayer against losses from sale of
7 assets by the Secretary under this Act and
8 the administrative expenses of the TARP.

9 (B) AUTHORITY TO SELL, EXERCISE, OR
10 SURRENDER.—The Secretary may sell, exercise,
11 or surrender a warrant or any senior debt in-
12 strument received under this subsection, based
13 on the conditions established under subpara-
14 graph (A).

15 (C) CONVERSION.—The warrant shall pro-
16 vide that if, after the warrant is received by the
17 Secretary under this subsection, the financial
18 institution that issued the warrant is no longer
19 listed or traded on a national securities ex-
20 change or securities association, as described in
21 paragraph (1)(A), such warrants shall convert
22 to senior debt, or contain appropriate protec-
23 tions for the Secretary to ensure that the
24 Treasury is appropriately compensated for the

1 value of the warrant, in an amount determined
2 by the Secretary.

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

14 (E) EXERCISE PRICE.—The exercise price
15 for any warrant issued pursuant to this sub-
16 section shall be set by the Secretary, in the in-
17 terest of the taxpayers.

18 (F) SUFFICIENCY.—The financial institu-
19 tion shall guarantee to the Secretary that it has
20 authorized shares of nonvoting stock available
21 to fulfill its obligations under this subsection.
22 Should the financial institution not have suffi-
23 cient authorized shares, including preferred
24 shares that may carry dividend rights equal to
25 a multiple number of common shares, the Sec-

1 retary may, to the extent necessary, accept a
2 senior debt note in an amount, and on such
3 terms as will compensate the Secretary with
4 equivalent value, in the event that a sufficient
5 shareholder vote to authorize the necessary ad-
6 ditional shares cannot be obtained.

7 (3) EXCEPTIONS.—

8 (A) DE MINIMIS.—The Secretary shall es-
9 tablish de minimis exceptions to the require-
10 ments of this subsection, based on the size of
11 the cumulative transactions of troubled assets
12 purchased from any one financial institution for
13 the duration of the program, at not more than
14 \$100,000,000.

15 (B) OTHER EXCEPTIONS.—The Secretary
16 shall establish an exception to the requirements
17 of this subsection and appropriate alternative
18 requirements for any participating financial in-
19 stitution that is legally prohibited from issuing
20 securities and debt instruments, so as not to
21 allow circumvention of the requirements of this
22 section.

23 **SEC. 114. MARKET TRANSPARENCY.**

24 (a) PRICING.—To facilitate market transparency, the
25 Secretary shall make available to the public, in electronic

1 form, a description, amounts, and pricing of assets ac-
2 quired under this Act, within 2 business days of purchase,
3 trade, or other disposition.

4 (b) DISCLOSURE.—For each type of financial institu-
5 tions that sells troubled assets to the Secretary under this
6 Act, the Secretary shall determine whether the public dis-
7 closure required for such financial institutions with re-
8 spect to off-balance sheet transactions, derivatives instru-
9 ments, contingent liabilities, and similar sources of poten-
10 tial exposure is adequate to provide to the public sufficient
11 information as to the true financial position of the institu-
12 tions. If such disclosure is not adequate for that purpose,
13 the Secretary shall make recommendations for additional
14 disclosure requirements to the relevant regulators.

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

16 (a) AUTHORITY.—The authority of the Secretary to
17 purchase troubled assets under this Act shall be limited
18 as follows:

19 (1) Effective upon the date of enactment of this
20 Act, such authority shall be limited to
21 \$250,000,000,000 outstanding at any one time.

22 (2) If at any time, the President submits to the
23 Congress a written certification that the Secretary
24 needs to exercise the authority under this paragraph,
25 effective upon such submission, such authority shall

1 be limited to \$350,000,000,000 outstanding at any
2 one time.

3 (3) If, at any time after the certification in
4 paragraph (2) has been made, the President trans-
5 mits to the Congress a written report detailing the
6 plan of the Secretary to exercise the authority under
7 this paragraph, unless there is enacted, within 15
8 calendar days of such transmission, a joint resolu-
9 tion described in subsection (c), effective upon the
10 expiration of such 15-day period, such authority
11 shall be limited to \$700,000,000,000 outstanding at
12 any one time.

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

18 (c) JOINT RESOLUTION OF DISAPPROVAL.—

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

1 of the Secretary described in subsection (a)(3), there
2 is enacted into law a joint resolution disapproving
3 the plan of the Secretary with respect to such addi-
4 tional amount.

5 (2) CONTENTS OF JOINT RESOLUTION.—For
6 the purpose of this section, the term “joint resolu-
7 tion” means only a joint resolution—

8 (A) that is introduced not later than 3 cal-
9 endar days after the date on which the report
10 of the plan of the Secretary referred to in sub-
11 section (a)(3) is received by Congress;

12 (B) which does not have a preamble;

13 (C) the title of which is as follows: “Joint
14 resolution relating to the disapproval of obliga-
15 tions under the Emergency Economic Stabiliza-
16 tion Act of 2008”; and

17 (D) the matter after the resolving clause of
18 which is as follows: “That Congress disapproves
19 the obligation of any amount exceeding the
20 amounts obligated as described in paragraphs
21 (1) and (2) of section 115(a) of the Emergency
22 Economic Stabilization Act of 2008.”.

23 (d) FAST TRACK CONSIDERATION IN HOUSE OF REP-
24 RESENTATIVES.—

1 (1) RECONVENING.—Upon receipt of a report
2 under subsection (a)(3), the Speaker, if the House
3 would otherwise be adjourned, shall notify the Mem-
4 bers of the House that, pursuant to this section, the
5 House shall convene not later than the second cal-
6 endar day after receipt of such report;

7 (2) REPORTING AND DISCHARGE.—Any com-
8 mittee of the House of Representatives to which a
9 joint resolution is referred shall report it to the
10 House not later than 5 calendar days after the date
11 of receipt of the report described in subsection
12 (a)(3). If a committee fails to report the joint resolu-
13 tion within that period, the committee shall be dis-
14 charged from further consideration of the joint reso-
15 lution and the joint resolution shall be referred to
16 the appropriate calendar.

17 (3) PROCEEDING TO CONSIDERATION.—After
18 each committee authorized to consider a joint resolu-
19 tion reports it to the House or has been discharged
20 from its consideration, it shall be in order, not later
21 than the sixth day after Congress receives the report
22 described in subsection (a)(3), to move to proceed to
23 consider the joint resolution in the House. All points
24 of order against the motion are waived. Such a mo-
25 tion shall not be in order after the House has dis-

1 posed of a motion to proceed on the joint resolution.
2 The previous question shall be considered as ordered
3 on the motion to its adoption without intervening
4 motion. The motion shall not be debatable. A motion
5 to reconsider the vote by which the motion is dis-
6 posed of shall not be in order.

7 (4) CONSIDERATION.—The joint resolution
8 shall be considered as read. All points of order
9 against the joint resolution and against its consider-
10 ation are waived. The previous question shall be con-
11 sidered as ordered on the joint resolution to its pas-
12 sage without intervening motion except two hours of
13 debate equally divided and controlled by the pro-
14 ponent and an opponent. A motion to reconsider the
15 vote on passage of the joint resolution shall not be
16 in order.

17 (e) FAST TRACK CONSIDERATION IN SENATE.—

18 (1) RECONVENING.—Upon receipt of a report
19 under subsection (a)(3), if the Senate has adjourned
20 or recessed for more than 2 days, the majority lead-
21 er of the Senate, after consultation with the minority
22 leader of the Senate, shall notify the Members of the
23 Senate that, pursuant to this section, the Senate
24 shall convene not later than the second calendar day
25 after receipt of such message.

1 (2) PLACEMENT ON CALENDAR.—Upon intro-
2 duction in the Senate, the joint resolution shall be
3 placed immediately on the calendar.

4 (3) FLOOR CONSIDERATION.—

5 (A) IN GENERAL.—Notwithstanding Rule
6 XXII of the Standing Rules of the Senate, it is
7 in order at any time during the period begin-
8 ning on the 4th day after the date on which
9 Congress receives a report of the plan of the
10 Secretary described in subsection (a)(3) and
11 ending on the 6th day after the date on which
12 Congress receives a report of the plan of the
13 Secretary described in subsection (a)(3) (even
14 though a previous motion to the same effect has
15 been disagreed to) to move to proceed to the
16 consideration of the joint resolution, and all
17 points of order against the joint resolution (and
18 against consideration of the joint resolution)
19 are waived. The motion to proceed is not debat-
20 able. The motion is not subject to a motion to
21 postpone. A motion to reconsider the vote by
22 which the motion is agreed to or disagreed to
23 shall not be in order. If a motion to proceed to
24 the consideration of the resolution is agreed to,

1 the joint resolution shall remain the unfinished
2 business until disposed of.

3 (B) DEBATE.—Debate on the joint resolu-
4 tion, and on all debatable motions and appeals
5 in connection therewith, shall be limited to not
6 more than 10 hours, which shall be divided
7 equally between the majority and minority lead-
8 ers or their designees. A motion further to limit
9 debate is in order and not debatable. An
10 amendment to, or a motion to postpone, or a
11 motion to proceed to the consideration of other
12 business, or a motion to recommit the joint res-
13 olution is not in order.

14 (C) VOTE ON PASSAGE.—The vote on pas-
15 sage shall occur immediately following the con-
16 clusion of the debate on a joint resolution, and
17 a single quorum call at the conclusion of the de-
18 bate if requested in accordance with the rules of
19 the Senate.

20 (D) RULINGS OF THE CHAIR ON PROCE-
21 DURE.—Appeals from the decisions of the Chair
22 relating to the application of the rules of the
23 Senate, as the case may be, to the procedure re-
24 lating to a joint resolution shall be decided
25 without debate.

1 (f) RULES RELATING TO SENATE AND HOUSE OF
2 REPRESENTATIVES.—

3 (1) COORDINATION WITH ACTION BY OTHER
4 HOUSE.—If, before the passage by one House of a
5 joint resolution of that House, that House receives
6 from the other House a joint resolution, then the fol-
7 lowing procedures shall apply:

8 (A) The joint resolution of the other House
9 shall not be referred to a committee.

10 (B) With respect to a joint resolution of
11 the House receiving the resolution—

12 (i) the procedure in that House shall
13 be the same as if no joint resolution had
14 been received from the other House; but

15 (ii) the vote on passage shall be on
16 the joint resolution of the other House.

17 (2) TREATMENT OF JOINT RESOLUTION OF
18 OTHER HOUSE.—If one House fails to introduce or
19 consider a joint resolution under this section, the
20 joint resolution of the other House shall be entitled
21 to expedited floor procedures under this section.

22 (3) TREATMENT OF COMPANION MEASURES.—
23 If, following passage of the joint resolution in the
24 Senate, the Senate then receives the companion

1 measure from the House of Representatives, the
2 companion measure shall not be debatable.

3 (4) CONSIDERATION AFTER PASSAGE.—

4 (A) IN GENERAL.—If Congress passes a
5 joint resolution, the period beginning on the
6 date the President is presented with the joint
7 resolution and ending on the date the President
8 takes action with respect to the joint resolution
9 shall be disregarded in computing the 15-cal-
10 endar day period described in subsection (a)(3).

11 (B) VETOES.—If the President vetoes the
12 joint resolution—

13 (i) the period beginning on the date
14 the President vetoes the joint resolution
15 and ending on the date the Congress re-
16 ceives the veto message with respect to the
17 joint resolution shall be disregarded in
18 computing the 15-calendar day period de-
19 scribed in subsection (a)(3), and

20 (ii) debate on a veto message in the
21 Senate under this section shall be 1 hour
22 equally divided between the majority and
23 minority leaders or their designees.

1 (5) RULES OF HOUSE OF REPRESENTATIVES
2 AND SENATE.—This subsection and subsections (c),
3 (d), and (e) are enacted by Congress—

4 (A) as an exercise of the rulemaking power
5 of the Senate and House of Representatives, re-
6 spectively, and as such it is deemed a part of
7 the rules of each House, respectively, but appli-
8 cable only with respect to the procedure to be
9 followed in that House in the case of a joint
10 resolution, and it supersedes other rules only to
11 the extent that it is inconsistent with such
12 rules; and

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

19 **SEC. 116. OVERSIGHT AND AUDITS.**

20 (a) COMPTROLLER GENERAL OVERSIGHT.—

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

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

7 (A) The performance of the TARP in
8 meeting the purposes of this Act, particularly
9 those involving—

10 (i) foreclosure mitigation;

11 (ii) cost reduction;

12 (iii) whether it has provided stability
13 or prevented disruption to the financial
14 markets or the banking system; and

15 (iv) whether it has protected tax-
16 payers.

17 (B) The financial condition and internal
18 controls of the TARP, its representatives and
19 agents.

20 (C) Characteristics of transactions and
21 commitments entered into, including trans-
22 action type, frequency, size, prices paid, and all
23 other relevant terms and conditions, and the
24 timing, duration and terms of any future com-
25 mitments to purchase assets.

1 (D) Characteristics and disposition of ac-
2 quired assets, including type, acquisition price,
3 current market value, sale prices and terms,
4 and use of proceeds from sales.

5 (E) Efficiency of the operations of the
6 TARP in the use of appropriated funds.

7 (F) Compliance with all applicable laws
8 and regulations by the TARP, its agents and
9 representatives.

10 (G) The efforts of the TARP to prevent,
11 identify, and minimize conflicts of interest in-
12 volving any agent or representative performing
13 activities on behalf of or under the authority of
14 the TARP.

15 (H) The efficacy of contracting procedures
16 pursuant to section 107(b), including, as appli-
17 cable, the efforts of the TARP in evaluating
18 proposals for inclusion and contracting to the
19 maximum extent possible of minorities (as such
20 term is defined in 1204(c) of the Financial In-
21 stitutions Reform, Recovery, and Enhancement
22 Act of 1989 (12 U.S.C. 1811 note), women,
23 and minority- and women-owned businesses, in-
24 cluding ascertaining and reporting the total
25 amount of fees paid and other value delivered

1 by the TARP to all of its agents and represent-
2 atives, and such amounts paid or delivered to
3 such firms that are minority- and women-owned
4 businesses (as such terms are defined in section
5 21A of the Federal Home Loan Bank Act (12
6 U.S.C. 1441a)).

7 (2) CONDUCT AND ADMINISTRATION OF OVER-
8 SIGHT.—

9 (A) GAO PRESENCE.—The Secretary shall
10 provide the Comptroller General with appro-
11 priate space and facilities in the Department of
12 the Treasury as necessary to facilitate oversight
13 of the TARP until the termination date estab-
14 lished in section 120.

15 (B) ACCESS TO RECORDS.—To the extent
16 otherwise consistent with law, the Comptroller
17 General shall have access, upon request, to any
18 information, data, schedules, books, accounts,
19 financial records, reports, files, electronic com-
20 munications, or other papers, things, or prop-
21 erty belonging to or in use by the TARP, or
22 any vehicles established by the Secretary under
23 this Act, and to the officers, directors, employ-
24 ees, independent public accountants, financial
25 advisors, and other agents and representatives

1 of the TARP (as related to the agent or rep-
2 resentative's activities on behalf of or under the
3 authority of the TARP) or any such vehicle at
4 such reasonable time as the Comptroller Gen-
5 eral may request. The Comptroller General
6 shall be afforded full facilities for verifying
7 transactions with the balances or securities held
8 by depositaries, fiscal agents, and custodians.
9 The Comptroller General may make and retain
10 copies of such books, accounts, and other
11 records as the Comptroller General deems ap-
12 propriate.

13 (C) REIMBURSEMENT OF COSTS.—The
14 Treasury shall reimburse the Government Ac-
15 countability Office for the full cost of any such
16 oversight activities as billed therefor by the
17 Comptroller General of the United States. Such
18 reimbursements shall be credited to the appro-
19 priation account "Salaries and Expenses, Gov-
20 ernment Accountability Office" current when
21 the payment is received and remain available
22 until expended.

23 (3) REPORTING.—The Comptroller General
24 shall submit reports of findings under this section,
25 regularly and no less frequently than once every 60

1 days, to the appropriate committees of Congress,
2 and the Special Inspector General for the Troubled
3 Asset Relief Program established under this Act on
4 the activities and performance of the TARP. The
5 Comptroller may also submit special reports under
6 this subsection as warranted by the findings of its
7 oversight activities.

8 (b) COMPTROLLER GENERAL AUDITS.—

9 (1) ANNUAL AUDIT.—The TARP shall annually
10 prepare and issue to the appropriate committees of
11 Congress and the public audited financial statements
12 prepared in accordance with generally accepted ac-
13 counting principles, and the Comptroller General
14 shall annually audit such statements in accordance
15 with generally accepted auditing standards. The
16 Treasury shall reimburse the Government Account-
17 ability Office for the full cost of any such audit as
18 billed therefor by the Comptroller General. Such re-
19 imbursements shall be credited to the appropriation
20 account “Salaries and Expenses, Government Ac-
21 countability Office” current when the payment is re-
22 ceived and remain available until expended. The fi-
23 nancial statements prepared under this paragraph
24 shall be on the fiscal year basis prescribed under
25 section 1102 of title 31, United States Code.

1 (2) AUTHORITY.—The Comptroller General
2 may audit the programs, activities, receipts, expendi-
3 tures, and financial transactions of the TARP and
4 any agents and representatives of the TARP (as re-
5 lated to the agent or representative’s activities on
6 behalf of or under the authority of the TARP), in-
7 cluding vehicles established by the Secretary under
8 this Act.

9 (3) CORRECTIVE RESPONSES TO AUDIT PROB-
10 LEMS.—The TARP shall—

11 (A) take action to address deficiencies
12 identified by the Comptroller General or other
13 auditor engaged by the TARP; or

14 (B) certify to appropriate committees of
15 Congress that no action is necessary or appro-
16 priate.

17 (c) INTERNAL CONTROL.—

18 (1) ESTABLISHMENT.—The TARP shall estab-
19 lish and maintain an effective system of internal
20 control, consistent with the standards prescribed
21 under section 3512(c) of title 31, United States
22 Code, that provides reasonable assurance of—

23 (A) the effectiveness and efficiency of oper-
24 ations, including the use of the resources of the
25 TARP;

1 (B) the reliability of financial reporting, in-
2 cluding financial statements and other reports
3 for internal and external use; and

4 (C) compliance with applicable laws and
5 regulations.

6 (2) REPORTING.—In conjunction with each an-
7 nual financial statement issued under this section,
8 the TARP shall—

9 (A) state the responsibility of management
10 for establishing and maintaining adequate in-
11 ternal control over financial reporting; and

12 (B) state its assessment, as of the end of
13 the most recent year covered by such financial
14 statement of the TARP, of the effectiveness of
15 the internal control over financial reporting.

16 (d) SHARING OF INFORMATION.—Any report or audit
17 required under this section shall also be submitted to the
18 Congressional Oversight Panel established under section
19 125.

20 (e) TERMINATION.—Any oversight, reporting, or
21 audit requirement under this section shall terminate on
22 the later of—

23 (1) 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; or

3 (2) the date of expiration of the last insurance
4 contract issued under section 102.

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

6 (a) STUDY.—The Comptroller General shall under-
7 take a study to determine the extent to which leverage
8 and sudden deleveraging of financial institutions was a
9 factor behind the current financial crisis.

10 (b) CONTENT.—The study required by this section
11 shall include—

12 (1) an analysis of the roles and responsibilities
13 of the Board, the Securities and Exchange Commis-
14 sion, the Secretary, and other Federal banking agen-
15 cies with respect to monitoring leverage and acting
16 to curtail excessive leveraging;

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

21 (3) an analysis of any usage of the margin au-
22 thority by the Board; and

23 (4) recommendations for the Board and appro-
24 priate committees of Congress with respect to the
25 existing authority of the Board.

1 (c) REPORT.—Not later than June 1, 2009, the
2 Comptroller General shall complete and submit a report
3 on the study required by this section to the Committee
4 on Banking, Housing, and Urban Affairs of the Senate
5 and the Committee on Financial Services of the House of
6 Representatives.

7 (d) SHARING OF INFORMATION.—Any reports re-
8 quired under this section shall also be submitted to the
9 Congressional Oversight Panel established under section
10 125.

11 **SEC. 118. FUNDING.**

12 For the purpose of the authorities granted in this
13 Act, and for the costs of administering those authorities,
14 the Secretary may use the proceeds of the sale of any secu-
15 rities issued under chapter 31 of title 31, United States
16 Code, and the purposes for which securities may be issued
17 under chapter 31 of title 31, United States Code, are ex-
18 tended to include actions authorized by this Act, including
19 the payment of administrative expenses. Any funds ex-
20 pended or obligated by the Secretary for actions author-
21 ized by this Act, including the payment of administrative
22 expenses, shall be deemed appropriated at the time of such
23 expenditure or obligation.

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

25 (a) JUDICIAL REVIEW.—

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

7 (2) LIMITATIONS ON EQUITABLE RELIEF.—

8 (A) INJUNCTION.—No injunction or other
9 form of equitable relief shall be issued against
10 the Secretary for actions pursuant to section
11 101, 102, 106, and 109, other than to remedy
12 a violation of the Constitution.

13 (B) TEMPORARY RESTRAINING ORDER.—
14 Any request for a temporary restraining order
15 against the Secretary for actions pursuant to
16 this Act shall be considered and granted or de-
17 nied by the court within 3 days of the date of
18 the request.

19 (C) PRELIMINARY INJUNCTION.—Any re-
20 quest for a preliminary 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 consistent with the
24 provisions of rule 65(b)(3) of the Federal Rules
25 of Civil Procedure, or any successor thereto.

1 (D) PERMANENT INJUNCTION.—Any re-
2 quest for a permanent injunction against the
3 Secretary for actions pursuant to this Act shall
4 be considered and granted or denied by the
5 court on an expedited basis. Whenever possible,
6 the court shall consolidate trial on the merits
7 with any hearing on a request for a preliminary
8 injunction, consistent with the provisions of rule
9 65(a)(2) of the Federal Rules of Civil Proce-
10 dure, or any successor thereto.

11 (3) LIMITATION ON ACTIONS BY PARTICIPATING
12 COMPANIES.—No action or claims may be brought
13 against the Secretary by any person that divests its
14 assets with respect to its participation in a program
15 under this Act, except as provided in paragraph (1),
16 other than as expressly provided in a written con-
17 tract with the Secretary.

18 (4) STAYS.—Any injunction or other form of
19 equitable relief issued against the Secretary for ac-
20 tions pursuant to section 101, 102, 106, and 109,
21 shall be automatically stayed. The stay shall be lift-
22 ed unless the Secretary seeks a stay from a higher
23 court within 3 calendar days after the date on which
24 the relief is issued.

25 (b) RELATED MATTERS.—

1 (1) TREATMENT OF HOMEOWNERS' RIGHTS.—

2 The terms of any residential mortgage loan that is
3 part of any purchase by the Secretary under this Act
4 shall remain subject to all claims and defenses that
5 would otherwise apply, notwithstanding the exercise
6 of authority by the Secretary under this Act.

7 (2) SAVINGS CLAUSE.—Any exercise of the au-
8 thority of the Secretary pursuant to this Act shall
9 not impair the claims or defenses that would other-
10 wise apply with respect to persons other than the
11 Secretary. Except as established in any contract, a
12 servicer of pooled residential mortgages owes any
13 duty to determine whether the net present value of
14 the payments on the loan, as modified, is likely to
15 be greater than the anticipated net recovery that
16 would result from foreclosure to all investors and
17 holders of beneficial interests in such investment,
18 but not to any individual or groups of investors or
19 beneficial interest holders, and shall be deemed to
20 act in the best interests of all such investors or hold-
21 ers of beneficial interests if the servicer agrees to or
22 implements a modification or workout plan when the
23 servicer takes reasonable loss mitigation actions, in-
24 cluding partial payments.

1 **SEC. 120. TERMINATION OF AUTHORITY.**

2 (a) **TERMINATION.**—The authorities provided under
3 sections 101(a), excluding section 101(a)(3), and 102
4 shall terminate on December 31, 2009.

5 (b) **EXTENSION UPON CERTIFICATION.**—The Sec-
6 retary, upon submission of a written certification to Con-
7 gress, may extend the authority provided under this Act
8 to expire not later than 2 years from the date of enact-
9 ment of this Act. Such certification shall include a jus-
10 tification of why the extension is necessary to assist Amer-
11 ican families and stabilize financial markets, as well as
12 the expected cost to the taxpayers for such an extension.

13 **SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROU-**
14 **BLED ASSET RELIEF PROGRAM.**

15 (a) **OFFICE OF INSPECTOR GENERAL.**—There is
16 hereby established the Office of the Special Inspector Gen-
17 eral for the Troubled Asset Relief Program.

18 (b) **APPOINTMENT OF INSPECTOR GENERAL; RE-**
19 **MOVAL.**—(1) The head of the Office of the Special Inspec-
20 tor General for the Troubled Asset Relief Program is the
21 Special Inspector General for the Troubled Asset Relief
22 Program (in this section referred to as the “Special In-
23 spector General”), who shall be appointed by the Presi-
24 dent, by and with the advice and consent of the Senate.

25 (2) The appointment of the Special Inspector General
26 shall be made on the basis of integrity and demonstrated

1 ability in accounting, auditing, financial analysis, law,
2 management analysis, public administration, or investiga-
3 tions.

4 (3) The nomination of an individual as Special In-
5 spector General shall be made as soon as practicable after
6 the establishment of any program under sections 101 and
7 102.

8 (4) The Special Inspector General shall be removable
9 from office in accordance with the provisions of section
10 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

11 (5) For purposes of section 7324 of title 5, United
12 States Code, the Special Inspector General shall not be
13 considered an employee who determines policies to be pur-
14 sued by the United States in the nationwide administra-
15 tion of Federal law.

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

20 (c) DUTIES.—(1) It shall be the duty of the Special
21 Inspector General to conduct, supervise, and coordinate
22 audits and investigations of the purchase, management,
23 and sale of assets by the Secretary of the Treasury under
24 any program established by the Secretary under section
25 101, and the management by the Secretary of any pro-

1 gram established under section 102, including by col-
2 lecting and summarizing the following information:

3 (A) A description of the categories of troubled
4 assets purchased or otherwise procured by the Sec-
5 retary.

6 (B) A listing of the troubled assets purchased
7 in each such category described under subparagraph
8 (A).

9 (C) An explanation of the reasons the Secretary
10 deemed it necessary to purchase each such troubled
11 asset.

12 (D) A listing of each financial institution that
13 such troubled assets were purchased from.

14 (E) A listing of and detailed biographical infor-
15 mation on each person or entity hired to manage
16 such troubled assets.

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

24 (G) A listing of the insurance contracts issued
25 under section 102.

1 (2) The Special Inspector General shall establish,
2 maintain, and oversee such systems, procedures, and con-
3 trols as the Special Inspector General considers appro-
4 priate to discharge the duty under paragraph (1).

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

9 (d) POWERS AND AUTHORITIES.—(1) In carrying out
10 the duties specified in subsection (c), the Special Inspector
11 General shall have the authorities provided in section 6
12 of the Inspector General Act of 1978.

13 (2) The Special Inspector General shall carry out the
14 duties specified in subsection (c)(1) in accordance with
15 section 4(b)(1) of the Inspector General Act of 1978.

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

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

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

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

18 (B) Whenever information or assistance requested by
19 the Special Inspector General is, in the judgment of the
20 Special Inspector General, unreasonably refused or not
21 provided, the Special Inspector General shall report the
22 circumstances to the appropriate committees of Congress
23 without delay.

24 (f) REPORTS.—(1) Not later than 60 days after the
25 confirmation of the Special Inspector General, and every

1 calendar quarter thereafter, the Special Inspector General
2 shall submit to the appropriate committees of Congress
3 a report summarizing the activities of the Special Inspec-
4 tor General during the 120-day period ending on the date
5 of such report. Each report shall include, for the period
6 covered by such report, a detailed statement of all pur-
7 chases, obligations, expenditures, and revenues associated
8 with any program established by the Secretary of the
9 Treasury under sections 101 and 102, as well as the infor-
10 mation collected under subsection (c)(1).

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

13 (A) specifically prohibited from disclosure by
14 any other provision of law;

15 (B) specifically required by Executive order to
16 be protected from disclosure in the interest of na-
17 tional defense or national security or in the conduct
18 of foreign affairs; or

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

20 (3) Any reports required under this section shall also
21 be submitted to the Congressional Oversight Panel estab-
22 lished under section 125.

23 (g) FUNDING.—(1) Of the amounts made available
24 to the Secretary of the Treasury under section 118,

1 \$50,000,000 shall be available to the Special Inspector
2 General to carry out this section.

3 (2) The amount available under paragraph (1) shall
4 remain available until expended.

5 (h) TERMINATION.—The Office of the Special Inspec-
6 tor General shall terminate on the later of—

7 (1) the date that the last troubled asset ac-
8 quired by the Secretary under section 101 has been
9 sold or transferred out of the ownership or control
10 of the Federal Government; or

11 (2) the date of expiration of the last insurance
12 contract issued under section 102.

13 **SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**
14 **DEBT.**

15 Subsection (b) of section 3101 of title 31, United
16 States Code, is amended by striking out the dollar limita-
17 tion contained in such subsection and inserting
18 “\$11,315,000,000,000”.

19 **SEC. 123. CREDIT REFORM.**

20 (a) IN GENERAL.—Subject to subsection (b), the
21 costs of purchases of troubled assets made under section
22 101(a) and guarantees of troubled assets under section
23 102, and any cash flows associated with the activities au-
24 thorized in section 102 and subsections (a), (b), and (c)
25 of section 106 shall be determined as provided under the

1 Federal Credit Reform Act of 1990 (2 U.S.C. 661 et.
2 seq.).

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

6 (1) the cost of troubled assets and guarantees
7 of troubled assets shall be calculated by adjusting
8 the discount rate in section 502(5)(E) (2 U.S.C.
9 661a(5)(E)) for market risks; and

10 (2) the cost of a modification of a troubled
11 asset or guarantee of a troubled asset shall be the
12 difference between the current estimate consistent
13 with paragraph (1) under the terms of the troubled
14 asset or guarantee of the troubled asset and the cur-
15 rent estimate consistent with paragraph (1) under
16 the terms of the troubled asset or guarantee of the
17 troubled asset, as modified.

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

19 Section 257 of the National Housing Act (12 U.S.C.
20 1715z-23) is amended—

21 (1) in subsection (e)—

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

1 (B) in paragraph (2)(B), by inserting be-
2 fore the period at the end “(or such higher per-
3 centage as the Board determines, in the discre-
4 tion of the Board)”;

5 (C) in paragraph (4)(A)—

6 (i) in the first sentence, by inserting
7 after “insured loan” the following: “and
8 any payments made under this para-
9 graph,”; and

10 (ii) by adding at the end the fol-
11 lowing: “Such actions may include making
12 payments, which shall be accepted as pay-
13 ment in full of all indebtedness under the
14 eligible mortgage, to any holder of an ex-
15 isting subordinate mortgage, in lieu of any
16 future appreciation payments authorized
17 under subparagraph (B).”; and

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

21 **SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.**

22 (a) ESTABLISHMENT.—There is hereby established
23 the Congressional Oversight Panel (hereafter in this sec-
24 tion referred to as the “Oversight Panel”) as an establish-
25 ment in the legislative branch.

1 (b) DUTIES.—The Oversight Panel shall review the
2 current state of the financial markets and the regulatory
3 system and submit the following reports to Congress:

4 (1) REGULAR REPORTS.—

5 (A) IN GENERAL.—Regular reports of the
6 Oversight Panel shall include the following:

7 (i) The use by the Secretary of au-
8 thority under this Act, including with re-
9 spect to the use of contracting authority
10 and administration of the program.

11 (ii) The impact of purchases made
12 under the Act on the financial markets and
13 financial institutions.

14 (iii) The extent to which the informa-
15 tion made available on transactions under
16 the program has contributed to market
17 transparency.

18 (iv) The effectiveness of foreclosure
19 mitigation efforts, and the effectiveness of
20 the program from the standpoint of mini-
21 mizing long-term costs to the taxpayers
22 and maximizing the benefits for taxpayers.

23 (B) TIMING.—The reports required under
24 this paragraph shall be submitted not later
25 than 30 days after the first exercise by the Sec-

1 retary of the authority under section 101(a) or
2 102, and every 30 days thereafter.

3 (2) SPECIAL REPORT ON REGULATORY RE-
4 FORM.—The Oversight Panel shall submit a special
5 report on regulatory reform not later than January
6 20, 2009, analyzing the current state of the regu-
7 latory system and its effectiveness at overseeing the
8 participants in the financial system and protecting
9 consumers, and providing recommendations for im-
10 provement, including recommendations regarding
11 whether any participants in the financial markets
12 that are currently outside the regulatory system
13 should become subject to the regulatory system, the
14 rationale underlying such recommendation, and
15 whether there are any gaps in existing consumer
16 protections.

17 (c) MEMBERSHIP.—

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

20 (A) 1 member appointed by the Speaker of
21 the House of Representatives.

22 (B) 1 member appointed by the minority
23 leader of the House of Representatives.

24 (C) 1 member appointed by the majority
25 leader of the Senate.

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

3 (E) 1 member appointed by the Speaker of
4 the House of Representatives and the majority
5 leader of the Senate, after consultation with the
6 minority leader of the Senate and the minority
7 leader of the House of Representatives.

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

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

21 (4) TRAVEL EXPENSES.—Each member shall
22 receive travel expenses, including per diem in lieu of
23 subsistence, in accordance with applicable provisions
24 under subchapter I of chapter 57 of title 5, United
25 States Code.

1 (5) QUORUM.—Four members of the Oversight
2 Panel shall constitute a quorum but a lesser number
3 may hold hearings.

4 (6) VACANCIES.—A vacancy on the Oversight
5 Panel shall be filled in the manner in which the
6 original appointment was made.

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

10 (d) STAFF.—

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

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

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

24 (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 AUTHORITY.**

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) UNENFORCEABILITY OF CERTAIN AGREE-
21 MENTS.—Section 13(c) of the Federal Deposit Insurance
22 Act (12 U.S.C. 1823(c)) is amended by adding at the end
23 the following new paragraph:

24 “(11) UNENFORCEABILITY OF CERTAIN AGREE-
25 MENTS.—No provision contained in any existing or

1 future standstill, confidentiality, or other agreement
2 that, directly or indirectly—

3 “(A) affects, restricts, or limits the ability
4 of any person to offer to acquire or acquire,

5 “(B) prohibits any person from offering to
6 acquire or acquiring, or

7 “(C) prohibits any person from using any
8 previously disclosed information in connection
9 with any such offer to acquire or acquisition of,
10 all or part of any insured depository institution, in-
11 cluding any liabilities, assets, or interest therein, in
12 connection with any transaction in which the Cor-
13 poration exercises its authority under section 11 or
14 13, shall be enforceable against or impose any liabil-
15 ity on such person, as such enforcement or liability
16 shall be contrary to public policy.”.

17 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
18 Section 18 of the Federal Deposit Insurance Act (12
19 U.S.C. 1828) is amended—

20 (1) in subsection (a)(3)—

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

1 (B) by striking “this subsection” the sec-
2 ond place that term appears and inserting
3 “paragraph (2)”; and
4 (2) in the heading for subsection (a), by strik-
5 ing “INSURANCE LOGO.—” and inserting “REP-
6 RESENTATIONS OF DEPOSIT INSURANCE.—”.

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

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

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

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

17 **SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHOR-**
18 **ITY.**

19 (a) IN GENERAL.—Not later than 7 days after the
20 date on which the Board exercises its authority under the
21 third paragraph of section 13 of the Federal Reserve Act
22 (12 U.S.C. 343; relating to discounts for individuals, part-
23 nerships, and corporations) the Board shall provide to the
24 Committee on Banking, Housing, and Urban Affairs of

1 the Senate and the Committee on Financial Services of
2 the House of Representatives a report which includes—

3 (1) the justification for exercising the authority;

4 and

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

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

16 (1) the status of the loan;

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

19 (3) the projected cost to the taxpayers of the
20 loan.

21 (c) CONFIDENTIALITY.—The information submitted
22 to the Congress under this section may be kept confiden-
23 tial, upon the written request of the Chairman of the
24 Board, in which case it shall made available only to the

1 Chairpersons and Ranking Members of the Committees
2 described in subsection (a).

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

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

15 **SEC. 130. TECHNICAL CORRECTIONS.**

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

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

23 (2) by amending subparagraph (G) to read as
24 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 that are used for the Treasury Money Market Funds
11 Guaranty Program for the United States money market
12 mutual fund industry, from funds 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 **SEC. 132. AUTHORITY TO SUSPEND MARK-TO-MARKET AC-**
19 **COUNTING.**

20 (a) AUTHORITY.—The Securities and Exchange Com-
21 mission shall have the authority under the securities laws
22 (as such term is defined in section 3(a)(47) of the Securi-
23 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to sus-
24 pend, by rule, regulation, or order, the application of
25 Statement Number 157 of the Financial Accounting

1 Standards Board for any issuer (as such term is defined
2 in section 3(a)(8) of such Act) or with respect to any class
3 or category of transaction if the Commission determines
4 that is necessary or appropriate in the public interest and
5 is consistent with the protection of investors.

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

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

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

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

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

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

1 (4) the process used by the Financial Account-
2 ing Standards Board in developing accounting
3 standards;

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

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

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

15 **SEC. 134. RECOUPMENT.**

16 Upon the expiration of the 5-year period beginning
17 upon the date of the enactment of this Act, the Director
18 of the Office of Management and Budget, in consultation
19 with the Director of the Congressional Budget Office, shall
20 submit a report to the Congress on the net amount within
21 the Troubled Asset Relief Program under this Act. In any
22 case where there is a shortfall, the President shall submit
23 a legislative proposal that recoups from the financial in-
24 dustry an amount equal to the shortfall in order to ensure

1 that the Troubled Asset Relief Program does not add to
2 the deficit or national debt.

3 **SEC. 135. PRESERVATION OF AUTHORITY.**

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

7 **TITLE II—BUDGET-RELATED**
8 **PROVISIONS**

9 **SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT**
10 **AGENCIES.**

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

21 **SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND**
22 **BUDGET AND THE CONGRESSIONAL BUDGET**
23 **OFFICE.**

24 (a) **REPORTS BY THE OFFICE OF MANAGEMENT AND**
25 **BUDGET.**—Within 60 days of the first exercise of the au-

1 thority granted in section 101(a), but in no case later than
2 December 31, 2008, and semiannually thereafter, the Of-
3 fice of Management and Budget shall report to the Presi-
4 dent and the Congress—

5 (1) the estimate, notwithstanding section
6 502(5)(F) of the Federal Credit Reform Act of 1990
7 (2 U.S.C. 661a(5)(F)), as of the first business day
8 that is at least 30 days prior to the issuance of the
9 report, of the cost of the troubled assets, and guar-
10 antees of the troubled assets, determined in accord-
11 ance with section 123;

12 (2) the information used to derive the estimate,
13 including assets purchased or guaranteed, prices
14 paid, revenues received, the impact on the deficit
15 and debt, and a description of any outstanding com-
16 mitments to purchase troubled assets; and

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

19 Beginning with the second report under subsection (a), the
20 Office of Management and Budget shall explain the dif-
21 ferences between the Congressional Budget Office esti-
22 mates delivered in accordance with subsection (b) and
23 prior Office of Management and Budget estimates.

24 (b) REPORTS BY THE CONGRESSIONAL BUDGET OF-
25 FICE.—Within 45 days of receipt by the Congress of each

1 report from the Office of Management and Budget under
2 subsection (a), the Congressional Budget Office shall re-
3 port to the Congress the Congressional Budget Office's
4 assessment of the report submitted by the Office of Man-
5 agement and Budget, including—

6 (1) the cost of the troubled assets and guaran-
7 tees of the troubled assets,

8 (2) the information and valuation methods used
9 to calculate such cost, and

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

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

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

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

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

23 “(35) as supplementary materials, a separate
24 analysis of the budgetary effects for all prior fiscal
25 years, the current fiscal year, the fiscal year for

1 which the budget is submitted, and ensuing fiscal
2 years of the actions the Secretary of the Treasury
3 has taken or plans to take using any authority pro-
4 vided in the Emergency Economic Stabilization Act
5 of 2008, including—

6 “(A) an estimate of the current value of all
7 assets purchased, sold, and guaranteed under
8 the authority provided in the Emergency Eco-
9 nomic Stabilization Act of 2008 using method-
10 ology required by the Federal Credit Reform
11 Act of 1990 (2 U.S.C. 661 et seq.) and section
12 123 of the Emergency Economic Stabilization
13 Act of 2008;

14 “(B) an estimate of the deficit, the debt
15 held by the public, and the gross Federal debt
16 using methodology required by the Federal
17 Credit Reform Act of 1990 and section 123 of
18 the Emergency Economic Stabilization Act of
19 2008;

20 “(C) an estimate of the current value of all
21 assets purchased, sold, and guaranteed under
22 the authority provided in the Emergency Eco-
23 nomic Stabilization Act of 2008 calculated on a
24 cash basis;

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

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

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

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

5 **SEC. 204. EMERGENCY TREATMENT.**

6 All provisions of this Act are designated as an emer-
7 gency requirement and necessary to meet emergency needs
8 pursuant to section 204(a) of S. Con. Res 21 (110th Con-
9 gress), the concurrent resolution on the budget for fiscal
10 year 2008 and rescissions of any amounts provided in this
11 Act shall not be counted for purposes of budget enforce-
12 ment.

13 **TITLE III—TAX PROVISIONS**

14 **SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF**
15 **CERTAIN PREFERRED STOCK.**

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

20 (b) APPLICABLE PREFERRED STOCK.—For purposes
21 of this section, the term “applicable preferred stock”
22 means any stock—

23 (1) which is preferred stock in—

24 (A) the Federal National Mortgage Asso-
25 ciation, established pursuant to the Federal Na-

1 tional Mortgage Association Charter Act (12
2 U.S.C. 1716 et seq.), or

3 (B) the Federal Home Loan Mortgage
4 Corporation, established pursuant to the Fed-
5 eral Home Loan Mortgage Corporation Act (12
6 U.S.C. 1451 et seq.), and

7 (2) which—

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

10 (B) was sold or exchanged by the applica-
11 ble financial institution on or after January 1,
12 2008, and before September 7, 2008.

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

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

18 (A) a financial institution referred to in
19 section 582(e)(2) of the Internal Revenue Code
20 of 1986, or

21 (B) a depository institution holding com-
22 pany (as defined in section 3(w)(1) of the Fed-
23 eral Deposit Insurance Act (12 U.S.C.
24 1813(w)(1))).

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

3 (A) a sale or exchange described in sub-
4 section (b)(2)(B), an entity shall be treated as
5 an applicable financial institution only if it was
6 an entity described in subparagraph (A) or (B)
7 of paragraph (1) at the time of the sale or ex-
8 change, and

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

18 (d) SPECIAL RULE FOR CERTAIN PROPERTY NOT
19 HELD ON SEPTEMBER 6, 2008.—The Secretary of the
20 Treasury or the Secretary's delegate may extend the appli-
21 cation of this section to all or a portion of the gain or
22 loss from a sale or exchange in any case where—

23 (1) an applicable financial institution sells or
24 exchanges applicable preferred stock after Sep-
25 tember 6, 2008, which the applicable financial insti-

1 tution did not hold on such date, but the basis of
2 which in the hands of the applicable financial insti-
3 tution at the time of the sale or exchange is the
4 same as the basis in the hands of the person which
5 held such stock on such date, or

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

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

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

12 (e) REGULATORY AUTHORITY.—The Secretary of the
13 Treasury or the Secretary's delegate may prescribe such
14 guidance, rules, or regulations as are necessary to carry
15 out the purposes of this section.

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

19 **SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECU-**
20 **TIVE COMPENSATION OF EMPLOYERS PAR-**
21 **TICIPATING IN THE TROUBLED ASSETS RE-**
22 **LIEF PROGRAM.**

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

1 “(5) SPECIAL RULE FOR APPLICATION TO EM-
2 PLOYERS PARTICIPATING IN THE TROUBLED ASSETS
3 RELIEF PROGRAM.—

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

7 “(i) in the case of executive remunera-
8 tion for any applicable taxable year which
9 is attributable to services performed by a
10 covered executive during such applicable
11 taxable year, to the extent that the amount
12 of such remuneration exceeds \$500,000, or

13 “(ii) in the case of deferred deduction
14 executive remuneration for any taxable
15 year for services performed during any ap-
16 plicable taxable year by a covered execu-
17 tive, to the extent that the amount of such
18 remuneration exceeds \$500,000 reduced
19 (but not below zero) by the sum of—

20 “(I) the executive remuneration
21 for such applicable taxable year, plus

22 “(II) the portion of the deferred
23 deduction executive remuneration for
24 such services which was taken into ac-

1 count under this clause in a preceding
2 taxable year.

3 “(B) APPLICABLE EMPLOYER.—For pur-
4 poses of this paragraph—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), the term ‘applicable
7 employer’ means any employer from whom
8 1 or more troubled assets are acquired
9 under a program established by the Sec-
10 retary under section 101(a) of the Emer-
11 gency Economic Stabilization Act of 2008
12 if the aggregate amount of the assets so
13 acquired for all taxable years exceeds
14 \$300,000,000.

15 “(ii) DISREGARD OF CERTAIN ASSETS
16 SOLD THROUGH DIRECT PURCHASE.—If
17 the only sales of troubled assets by an em-
18 ployer under the program described in
19 clause (i) are through 1 or more direct
20 purchases (within the meaning of section
21 113(c) of the Emergency Economic Sta-
22 bilization Act of 2008), such assets shall
23 not be taken into account under clause (i)
24 in determining whether the employer is an

1 applicable employer for purposes of this
2 paragraph.

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

11 “(C) APPLICABLE TAXABLE YEAR.—For
12 purposes of this paragraph, the term ‘applicable
13 taxable year’ means, with respect to any em-
14 ployer—

15 “(i) the first taxable year of the em-
16 ployer—

17 “(I) which includes any portion
18 of the period during which the au-
19 thorities under section 101(a) of the
20 Emergency Economic Stabilization
21 Act of 2008 are in effect (determined
22 under section 120 thereof), and

23 “(II) in which the aggregate
24 amount of troubled assets acquired
25 from the employer during the taxable

1 year pursuant to such authorities
2 (other than assets to which subpara-
3 graph (B)(ii) applies), when added to
4 the aggregate amount so acquired for
5 all preceding taxable years, exceeds
6 \$300,000,000, and

7 “(ii) any subsequent taxable year
8 which includes any portion of such period.

9 “(D) COVERED EXECUTIVE.—For pur-
10 poses of this paragraph—

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

14 “(I) who, at any time during the
15 portion of the taxable year during
16 which the authorities under section
17 101(a) of the Emergency Economic
18 Stabilization Act of 2008 are in effect
19 (determined under section 120 there-
20 of), is the chief executive officer of the
21 applicable employer or the chief finan-
22 cial officer of the applicable employer,
23 or an individual acting in either such
24 capacity, or

1 “(II) who is described in clause
2 (ii).

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

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

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

20 “(iii) EMPLOYEE REMAINS COVERED
21 EXECUTIVE.—If an employee is a covered
22 executive with respect to an applicable em-
23 ployer for any applicable taxable year, such
24 employee shall be treated as a covered ex-
25 ecutive with respect to such employer for

1 all subsequent applicable taxable years and
2 for all subsequent taxable years in which
3 deferred deduction executive remuneration
4 with respect to services performed in all
5 such applicable taxable years would (but
6 for this paragraph) be deductible.

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

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

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

5 “(H) REGULATORY AUTHORITY.—The Sec-
6 retary may prescribe such guidance, rules, or
7 regulations as are necessary to carry out the
8 purposes of this paragraph and the Emergency
9 Economic Stabilization Act of 2008, including
10 the extent to which this paragraph applies in
11 the case of any acquisition, merger, or reorga-
12 nization of an applicable employer.”.

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

15 (1) by redesignating subsection (e) as sub-
16 section (f), and

17 (2) by inserting after subsection (d) the fol-
18 lowing new subsection:

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

22 “(1) IN GENERAL.—In the case of the sever-
23 ance from employment of a covered executive of an
24 applicable employer during the period during which
25 the authorities under section 101(a) of the Emer-

1 agency Economic Stabilization Act of 2008 are in ef-
2 fect (determined under section 120 of such Act), this
3 section shall be applied to payments to such execu-
4 tive with the following modifications:

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

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

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

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

23 “(2) DEFINITIONS AND SPECIAL RULES.—For
24 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—

9 “(i) by reason of an involuntary ter-
10 mination of the executive by the employer,
11 or

12 “(ii) in connection with any bank-
13 ruptcy, liquidation, or receivership of the
14 employer.

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

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

23 “(ii) REGULATORY AUTHORITY.—The
24 Secretary may prescribe such guidance,
25 rules, or regulations as are necessary—

1 “(I) to carry out the purposes of
2 this subsection and the Emergency
3 Economic Stabilization Act of 2008,
4 including the extent to which this sub-
5 section applies in the case of any ac-
6 quisition, merger, or reorganization of
7 an applicable employer,

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

17 “(III) to prevent the avoidance of
18 the application of this section through
19 the mischaracterization of a severance
20 from employment as other than an
21 applicable severance from employ-
22 ment.”.

23 (c) EFFECTIVE DATES.—

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

4 (2) GOLDEN PARACHUTE RULE.—The amend-
5 ments made by subsection (b) shall apply to pay-
6 ments with respect to severances occurring during
7 the period during which the authorities under sec-
8 tion 101(a) of this Act are in effect (determined
9 under section 120 of this Act).

10 **SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM**
11 **DISCHARGE OF QUALIFIED PRINCIPAL RESI-**
12 **DENCE INDEBTEDNESS.**

13 (a) EXTENSION.—Subparagraph (E) of section
14 108(a)(1) of the Internal Revenue Code of 1986 is amend-
15 ed by striking “January 1, 2010” and inserting “January
16 1, 2013”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this subsection shall apply to discharges of indebtedness
19 occurring on or after January 1, 2010.

