

PROVIDING FOR FURTHER CONSIDERATION OF THE BILL (H.R. 384) TO REFORM THE TROUBLED ASSETS RELIEF PROGRAM OF THE SECRETARY OF THE TREASURY AND ENSURE ACCOUNTABILITY UNDER SUCH PROGRAM, AND FOR OTHER PURPOSES

JANUARY 14, 2009.—Referred to the House Calendar and ordered to be printed

Mr. MCGOVERN, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 62]

The Committee on Rules, having had under consideration House Resolution 62, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for further consideration of H.R. 384, the TARP Reform and Accountability Act of 2009, under a structured rule. No further general debate shall be in order. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The resolution makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions. The resolution provides a motion to proceed under section 115 of the Emergency Economic Stabilization Act if offered by the Majority Leader or his designee which may be offered not later than the legislative day of January 22, 2009.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against provisions in the bill, the committee is not aware of any waivers. The waiver of all points of order is prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 2

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide the appropriate waivers for amendment #29 by Rep. Dent that would require Congressional approval for release of the remaining TARP funds after the President submits a request.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 3

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mr. Dreier

Summary of motion: To make in order and provide the appropriate waivers for amendment #6 by Rep. Price (GA) that would permanently suspend the HOPE for Homeowners program if, after a 30-day period, the Comptroller General of the United States determines the number of successfully modified mortgages within the period was less than 140,000.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 4

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mr. Dreier.

Summary of motion: To make in order en bloc and provide the appropriate waivers for an amendment in the nature of a substitute #15 by Rep. Gohmert that would establish a two-month period suspending federal income tax based on wages earned for services performed and FICA withholding, and the amendment #23 by Rep. Gingrey that would require that 30% of the remaining TARP funds be dedicated to assisting smaller, local community financial institutions, or otherwise would prevent the release of the remaining funds.

Results: Defeated 2–9

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 5

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Ms. Foxx.

Summary of motion: To make in order and provide the appropriate waivers for amendment #44 by Rep. DeFazio that would revise the release of the remaining \$350 billion in TARP funds in three tranches: \$125 billion immediately, \$50 billion with Presidential request to Congress, and \$175 billion with a Presidential report sent to Congress unless within 15 days a joint resolution of disapproval is enacted.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 6

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mrs. Foxx.

Summary of motion: To make in order and provide the appropriate waivers for amendment #70 by Rep. Inslee that would designate \$5 billion of TARP funds for renewable energy companies that have been heavily impacted by the economic downturn.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 7

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mrs. Foxx.

Summary of motion: To make in order and provide the appropriate waivers for amendment #57 by Rep. Hinchey that would require that GAO conduct a study that determines the causes of the financial crisis, require that no TARP funds be used by Treasury until the report has been issued and Treasury issues an overall strategy and timeline for implementing recommendations by GAO with the goal of financial stability and the well-being of taxpayers.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 8

Date: January 14, 2009.

Measure: H.R. 384.

Motion by: Mrs. Foxx.

Summary of motion: To make in order and provide appropriate waivers for amendment #67 by Rep. Kaptur that would suspend

the expenditure current remaining funds and the release of the final \$350 billion of TARP funds until the Congressional Oversight Panel has forensically accounted for each dollar of the initial \$350 billion, and has examined the effect of TARP and Federal Reserve policies on the economy.

Results: Defeated 2–9.

Vote by Members: McGovern—Nay; Hastings—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Frank (MA): Clarifies that the agreements on use of TARP funds do not apply to the small community institutions designated in Section 105; clarifies that the agreements on use of TARP assistance apply after date of enactment; requires protection of renters living in properties for which foreclosure proceedings have begun; clarifies that Treasury must permit insured depositories that are TARP recipients to repay any assistance provided without regard to replacement of the funds; strikes provision requiring divestiture of private passenger aircraft and leases; clarifies that the Secretary may apply new executive compensation restrictions retroactively to institutions that have already received TARP assistance; clarifies that the warrant requirements for new TARP assistance shall be in an amount at least equal to 15% of the aggregate amount of the assistance; clarifies that the Secretary shall take actions to make TARP available to smaller community financial institutions, including those that are privately held; requires reporting, data collection, and analysis of use of TARP funds by participants and establishment of an online publicly available database; requires the OCC and the OTS to collect and report to Congress mortgage modification data; requires the Secretary to facilitate auctions of troubled assets by institutions to third-party purchasers; requires that the Secretary, within 7 days of enactment, commit at least \$100 billion, but in no case less than \$40 billion, to foreclosure mitigation efforts. At least \$20 billion must be dedicated to the systematic foreclosure mitigation plan described in section 205; clarifies authority of Treasury Secretary to assist consumer, automobile fleet, commercial real estate, commercial, small business, farm, minority and disadvantaged businesses, and debtor-in-possession financing loans; adds term “below market” to describe the interest rates to be achieved under the home buyer stimulus program, including for the Hope for Homeowners program; imposes new requirements and reporting on Treasury and recipients of TARP assistance regarding inclusion of minorities and women; adds a new Title VIII requiring new reporting on guarantees made to Citigroup; and adds a new Title IX requiring a GAO study of the financial crisis and Treasury strategy for implementing GAO recommendations. (40 Minutes)

2. Matsui (CA): Would provide a sense of Congress stating that TARP participants, who receive from future TARP funds, should not initiate a foreclosure proceeding or foreclosure sale on any principal homeowner until the new systematic loan modification plan is implemented and deemed fully operational by the Secretary and Chair of FDIC. (10 Minutes)

3. Hensarling (TX): Would remove the Secretary's authority to delegate an observer to attend meetings of the board of directors of any assisted institution. (10 Minutes)

4. Holt (NJ): Would amend the EESA to require that, provided TARP funds are not used for their purchase, the Secretary shall facilitate an auction of troubled assets by third party purchases and, if such auction does not take place within 3 months from enactment, the Secretary must report to Congress on the mechanism the Secretary deems best to use to value and liquidate such assets. (10 Minutes)

5. Bachmann (MN): Would remove the authority of the Secretary, under TARP, to assist in financing and restructuring the domestic vehicle manufacturers in the United States. (10 Minutes)

6. Bachmann (MN): Would eliminate changes and additional funding for the HOPE for Homeowners program. (10 Minutes)

7. Murphy, Patrick (PA): Would require the Federal Reserve to disclose detailed information regarding the Federal Reserve's Mortgage-Backed Securities purchase program. (10 Minutes)

8. Myrick (NC): Would prohibit TARP fund recipients from outsourcing new customer service or call center jobs to foreign companies. (10 Minutes)

9. Walz (MN): Would require that any assisted institution publicly report, not less than quarterly, on the institution's use of the assistance, and would require the Treasury to make those reports readily available online. (10 Minutes)

10. Flake (AZ): Would clarify that the TARP Special Inspector General has oversight power over any actions taken by Treasury under this legislation that he deems appropriate, with certain exceptions. (10 Minutes)

11. Hinchey (NY): Would require Treasury to immediately obtain information from recipients of TARP funds and their precise use of funds allocated prior to January 1, 2009, and require the Treasury to conduct an analysis of the use of those funds within 30 days of enactment. (10 Minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FRANK OF MASSACHUSETTS, OR HIS DESIGNEE, DEBATABLE FOR 40 MINUTES

Page 3, line 16, after the period insert the following: "Such reporting may be required directly for nondepository institutions or through the appropriate Federal banking agency, as provided in section 103."

Page 4, line 15, strike "As" and insert "Except as provided in section 105, as".

Page 4, line 18, before the second comma insert "made after the date of the enactment of the TARP Reform and Accountability Act of 2009".

Page 5, line 1, strike "funding" and insert "assistance".

Page 5, line 10, strike "funds" and insert "assistance".

Page 6, line 23, strike "funds" and insert "assistance".

Page 7, after line 11, insert the following:

(4) RENTER PROTECTION.—In the case of any foreclosure on any dwelling or residential real property securing an extension

of credit made under a contract entered into after the date of the enactment of this Act, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate; and

(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or

(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A).

(5) BONA FIDE LEASE OR TENANCY.—For purposes of this paragraph (1), a lease or tenancy shall be considered bona fide only if—

(A) the mortgagor under the contract is not the tenant;

(B) the lease or tenancy was the result of an arms-length transaction; or

(C) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

Page 7, line 14, strike “may permit an” and insert “shall permit an assisted”.

Page 7, line 18, before the first period insert the following: “, and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price”.

Page 8, line 6, strike “means” and insert “mean”.

Page 8, strike lines 19 through 21 and insert the following:

“(1) STANDARDS REQUIRED.—Notwithstanding any”.

Page 8, line 25, strike “assisted institution” and insert “institution that became an assisted institution after the date of the enactment of the TARP Reform and Accountability Act of 2009”.

Page 9, lines 6 through 8, strike “an assisted institution which received assistance under this title” and insert “such institution”.

Page 10, strike lines 5 through 16.

Page 10, line 17, strike “(4)” and insert “(3)”.

Page 10, line 23, strike “on or after” and insert “before”.

Page 12, line 24, before the first period, insert “, and shall require such reports to be provided to the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act)”.

Page 13, line 4 and 5, strike “striking paragraph (1) and inserting” and inserting “adding at the end”.

Strike line 6 on page 13 and all that follows through page 16, line 18, and insert the following:

“(4) AMOUNT.—For assistance provided after the date of the enactment of the TARP Reform and Accountability Act of 2009, and except as provided in title III of such Act, the warrants or instruments described in this section shall have a value at least equal to 15 percent of the aggregate amount of such assistance.”.

Strike line 23 on page 16 and all that follows through page 17, line 2.

Page 17, line 6, strike “make available funds” and insert “provide assistance”.

Page 17, line 8, before the period insert “, including such institutions that are privately held”.

Page 17, strike lines 9 through 12 and insert the following:

(b) COMPARABLE TERMS.—An institution that receives assistance after the date of the enactment of the TARP Reform and Accountability Act of 2009, shall do so on terms comparable to the terms applicable to institutions that received assistance prior to the date of the enactment of such Act of 2009: *Provided*, That the institution—

Page 17, line 13, strike “have submitted applications” and inserting “has submitted an application”.

Page 17, line 18, strike “are” and insert “is”.

Page 17, line 25, strike the comma and insert a period.

Page 18, strike lines 1 through 3.

Page 19, after line 12, insert the following:

SEC. 107. INCLUSION OF WOMEN AND MINORITIES.

(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—The Secretary of the Treasury shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and ensuring compliance by the Secretary and each assisted institution (as such term is defined in section 3 of the Emergency Economic Stabilization Act of 2008) with the requirements of this section. The Office shall be responsible for all matters of the entity relating to diversity in management, employment, and business activities in accordance with such standards and requirements as the Secretary shall establish regarding the use of assistance provided under title I of such Act.

(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—The Secretary and each assisted institution shall develop and implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority-and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the Secretary and each assisted institution at all levels, including in procurement, insurance, and all types of contracts (including contracts for the issuance or

guarantee of any debt, equity, or mortgage-related securities, the management of its mortgage and securities portfolios, the making of its equity investments, the purchase, sale and servicing of single- and multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by the Secretary and each assisted institution for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

(c) **APPLICABILITY.**—This section shall apply to all contracts of the Secretary of the Treasury and assisted institutions for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

(d) **REPORTS TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Congress detailed information describing the actions taken by the Office and assisted institutions pursuant to this section, which shall include a statement of the total amounts provided by the Secretary and assisted institutions under title I of the Emergency Economic Stabilization Act of 2008 to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section.

SEC. 108. ANALYSIS OF USE OF ASSISTANCE.

(a) **REQUIREMENT.**—The Secretary of the Treasury shall regularly analyze timely and detailed information concerning the use of assistance provided under title I of the Emergency Economic Stabilization Act of 2008 by assisted institutions to ensure that the program established under title I of such Act is meeting the goals of the program.

(b) **AGENCY COLLECTION.**—The Secretary of the Treasury shall require the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other Federal agency the Secretary chooses to report detailed information to the Secretary on the use of assistance provided by the Secretary under the Emergency Economic Stabilization Act of 2008 in a standard electronic form on no less than a quarterly basis.

(c) **SOURCE OF INFORMATION.**—The data collected and analyzed under subsections (a) and (b)—

(1) shall come from existing reports filed by all assisted institutions where possible, including depository institutions and nondepository institutions, with the principal Federal regulator of each such institution, if any; and

(2) and should be sufficiently detailed and timely to enable the Secretary to determine the effectiveness of the program established under title I of the Emergency Economic Stabilization Act of 2008 in stimulating prudent lending and strengthening bank capital.

(d) **ADJUSTMENTS AND RECOMMENDATIONS.**—If the Secretary of the Treasury determines that—

(1) the goals of the program established under title I of the Emergency Economic Stabilization Act of 2008 are not being met, the Secretary shall work with the Federal agencies supplying the information under subsection (b) to encourage such

agencies to provide the recipients of assistance under such title with recommendations for better meeting the goals of the program; and

(2) the goals of the program are not being met following the recommendations and adjustments made in accordance with paragraph (1), the Secretary shall adjust the future uses of assistance provided under such title.

SEC. 109. DATABASE OF USE OF TARP FUNDS.

The Secretary of the Treasury shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains the name of each entity receiving funds made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) and the purpose for which such entity is receiving such funds.

Page 19, line 13, strike “¹⁰⁷” and insert “¹¹⁰”.

Page 19, line 16, strike “subsection” and insert “subsections”.

Page 19, line 20, strike the quotation marks and the last period.

Page 19, line after line 20, insert the following:

“(g) QUALIFIED PROPERTY.—

“(1) GUARANTEE.—Upon the request of a lessee of qualified property in leases where the lessee economically defeased its rent and purchase option payments, the Secretary may serve as a guarantor with respect to all payment obligations of such lessee with respect to any defeased lease transaction that is in technical default because of a downgrade of a financial guarantor. Such guarantee shall be on such terms and conditions as are determined by the Secretary.

“(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) QUALIFIED PROPERTY.—The term ‘qualified property’ means domestic property subject to a lease entered into prior to November 1, 2007, in which a State or local government authority (as defined in section 5302(a) of title 49, United States Code) is the lessee.

“(B) GUARANTOR.—The term ‘guarantor’ includes any guarantor, surety, and payment undertaker.”.

Page 20, before line 1 insert the following new section:

SEC. 111. INVESTMENT OF TARP FUNDS IN CREDIT UNIONS TAKEN INTO ACCOUNT IN DETERMINATION OF NET WORTH.

(a) IN GENERAL.—Section 216(o)(2) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

“(A) with respect to any insured credit union, means—

“(i) the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously the retained earnings of any other credit union with which the credit union has combined; and

“(ii) any donated equity, permanent, and perpetual capital deposits, or other primary capital made available under Title I of the Emergency Economic Stabilization Act of 2008, as determined by regulation or

order of the Board with due regard for the accepted capital standards for United States depository institutions generally; and”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 112. TREASURY FACILITATED AUCTION.

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) USE OF MARKET MECHANISMS.—

“(1) IN GENERAL.—In making purchases under this Act, the Secretary shall—

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

“(B) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

“(2) AUCTION FACILITATION.—

“(A) IN GENERAL.—The Secretary shall, in coordination with institutions that volunteer to participate, and not using any funds under this title for purchases, facilitate an auction of troubled assets owned by such institutions to third party purchasers.

“(B) REPORT.—If the auction described in subparagraph (A) does not take place within the 3 month period following the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary shall issue a report to the Congress stating—

“(i) why such auction has not taken place; and

“(ii) by what mechanism the Secretary feels that troubled assets could most expeditiously be valued and liquidated.”.

Page 20, after line 4, insert the following:

(a) COMMITMENT OF RESOURCES.—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, not later than seven days after the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary of the Treasury (in this title referred to as the “Secretary”) shall commit funds made available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 in an amount of at least \$100,000,000,000, unless the Secretary certifies otherwise under subsection (d), but in no case less than \$40,000,000,000, for the purposes of foreclosure mitigation. Not less than \$20,000,000,000 of this amount shall be dedicated to the program described under section 204 of this Act. The Secretary shall consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation regarding the administration of the program.

Page 20, line 5, strike “(a)” and insert “(b)”.

Page 20, strike “of the Treasury” in line 8 and all that follows through “Secretary”)” in line 9.

Page 20, line 11, after “to” insert “use the funds committed under subparagraph (a) to”.

Page 20, strike lines 16 through 21.

Strike “committing funds” in line 23 of page 20 and all that follows through “of 2008” on page 21, line 1.

Page 21, line 2, strike “(a)” and insert “(b)”.

Page 21, line 3, strike “by May 1, 2009,”.

Page 21, lines 4 and 5, strike “more than the minimum of \$40,000,000,000 as required” and insert “at least \$100,000,000,000 in the plan established”.

Page 21, lines 6 and 7, strike “, no later than May 15, 2009,” and insert “in the plan”.

Page 21, line 7, strike “additional funds” and insert “amounts”.

Page 21, after line 8, insert the following:

(e) CLARIFICATION.—For purposes of this title, the term “residential properties” shall include 1- to 4-family residential properties.

Page 21, line 11, strike “201(a)” and insert “201(b)”.

Page 21, lines 23 and 24, strike “one, or a combination of more than one,” and insert “the systematic foreclosure prevention and mortgage modification program under section 204 and a combination”.

Page 21, after line 25, insert the following:

(4) WORKFORCE AND OUTREACH.—The plan shall set forth how the Secretary intends to develop, second, or contract for appropriate staffing to carry out the plan and the component programs and to ensure that private mortgage servicers utilizing the programs established by the Secretary will provide sufficient staffing and resources to engage in the outreach, loss mitigation activities, and homeowner education necessary for successful foreclosure mitigation.

Page 22, line 2, strike “201(a)” and insert “201(b)”.

Page 22, strike lines 9 through 11.

Page 22, line 12, strike “(2)” and insert “(1)”.

Page 22, line 23, strike “(3)” and insert “(2)”.

Page 23, line 8, strike “(4)” and insert “(3)”.

Page 23, line 13, strike “(5)” and insert “(4)”.

Page 23, line 10, after “servicers” insert the following: “, including servicers that are not affiliated with a depository institution,”.

Page 23, line 19, after “Corporation” insert “, regional public-private partnerships,”.

Page 23, after line 22, insert the following:

(5) SUBSTITUTION OF TRUST.—A program under which modifications are allowed to the securitization trust agreements with respect to securities secured by pools of mortgages to allow a new qualified buyer to be substituted on a foreclosed property or a delinquent mortgage without seeking new financing.

Page 24, line 18, after “with” insert “the Chairperson of the Federal Deposit Insurance Corporation and”.

Page 27, line 19, strike “201(a)” and insert “201(b)”.

Page 28, line 3, strike “118” and insert “title I”.

Page 28, line 12, strike “204” and insert “205”.

Page 28, line 18, strike “201(a)” and insert “201(b)”.

Page 29, line 1, strike “205” and insert “206”.

Strike line 21 on page 31 and all that follows through page 32, line 2.

Page 32, line 3, strike “(c)” and insert “(b)”.

Page 32, line 10, strike “(d)” and insert “(c)”.

Page 32, after line 19, insert the following:

SEC. 207. FORECLOSURE PREVENTION FOR AFFORDABLE HOUSING.

Section 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended to read as follows:

“SEC. 109. FORECLOSURE MITIGATION EFFORTS.

“(a) RESIDENTIAL MORTGAGE SERVICING STANDARDS.—To the extent that the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and renters and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures on single-family and multifamily housing.

“(b) COORDINATION.—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 110(a)(1)(C)), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and restructuring process and, where permissible, to permit bona fide tenants who are current on their rent to remain in their homes under the terms of the lease. In the case of a mortgage on a residential rental property, including a qualified low-income building under section 42 of the Internal Revenue Code of 1986, the plan required under this section shall include protecting Federal, State, and local rental subsidies and protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

“(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate and considering net present value to the taxpayer, to reasonable requests by homeowners and owners of multifamily housing, including qualified low-income buildings under section 42 of the Internal Revenue Code of 1986, for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.”.

Page 32, line 20, strike “206” and insert “208”.

Page 33, after line 6, insert the following (and conform the Table of Contents accordingly):

SEC. 209. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.

(a) **REPORTING REQUIREMENTS.**—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency, in coordination with the Director of the Office of Thrift Supervision, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Joint Economic Committee on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) The total number of mortgage modifications resulting in each of the following:

- (A) Additions of delinquent payments and fees to loan balances.
- (B) Interest rate reductions and freezes.
- (C) Term extensions.
- (D) Reductions of principal.
- (E) Deferrals of principal.
- (F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(2) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

- (A) An increase.
- (B) Remained the same.
- (C) Decreased less than 10 percent.
- (D) Decreased 10 percent or more.

(b) **DATA COLLECTION.**—

(1) **REQUIRED.**—

(A) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) **INCLUSIVENESS OF COLLECTIONS.**—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) **REPORT.**—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

Page 52, strike “obligation” in line 19 and all that follows through “2008” in line 21 and insert “existing vested legal rights and the Constitution”.

Page 63, line 9, after the first period insert the following: “In determining which classes of consumer loans to support, the Secretary may consider the applicable regulatory structure and level of consumer protection afforded to such loans.”.

Page 63, line 11, strike “103” and insert “101”.

Page 63, line 13, strike “(f)” and insert “(g)”.

Page 63, line 13, strike “401” and insert “110”.

Page 63, line 15, strike “(g)” and insert “(h)”.

Page 64, line 8, before the first period insert the following: “or any other entity eligible to issue bonds the interest on which is excludable from gross income for Federal income tax purposes.”.

Page 64, line 19, after “estate loans,” insert “including loans for multifamily housing.”.

Page 64, after line 22, insert the following new sections:

SEC. 404. SMALL BUSINESS LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 138 (as added by section 403 of this title) the following new section:

“SEC. 139. CLARIFICATION OF AUTHORITY REGARDING SMALL BUSINESS LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of small business loans, including farm loans, loans to minority and disadvantaged businesses, debtor-in-possession financing, dealer floor plan financing, and any other small business loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

SEC. 405. COMMERCIAL LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 139 (as added by section 404 of this title) the following new section:

“SEC. 140. CLARIFICATION OF AUTHORITY REGARDING COMMERCIAL LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of commercial loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

SEC. 406. AUTOMOBILE FLEET PURCHASE LOANS.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 140 (as added by section 405 of this title) the following new section:

“SEC. 140. CLARIFICATION OF AUTHORITY REGARDING AUTOMOBILE FLEET PURCHASE LOANS.

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of automobile fleet purchase loans, including loans for the automobile rental industry and other fleet purchasers, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

SEC. 407. CERTIFICATION.

Subsection (a) of section 105 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5215(a)) is amended—

- (1) in paragraph (2), by striking “and” at the end;
- (2) in paragraph (3), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
 “(4) the use of the authority for the purposes specified in the amendments made by title IV of the TARP Reform and Accountability Act of 2009.”.

Strike line 1 on page 68 and all that follows through page 69, line 2.

Page 69, line 7, strike “carry out” and insert “establish and implement, within 60 days of the date of the enactment of the TARP Reform and Accountability Act of 2009,”.

Page 69, lines 8 and 9, strike “using the authority made available by section 1117 of the Housing and Economic Recovery Act of 2008”.

Page 69, lines 11 and 12, strike “which shall include ensuring” and insert “by providing mechanisms to ensure”.

Page 69, line 12, after “affordable” insert “, below-market”.

Strike line 15 on page 69 and all that follows through page 70, line 13, and insert the following:

(b) IMPLEMENTATION.—The Secretary shall execute the program under this section using the authority to purchase obligations and other securities issued by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks made available by the Housing and Economic Recovery Act of 2008 and such other authority as the Secretary may have (other than that provided by title I of the Emergency Economic Stabilization Act of 2008) to make affordable, below-market interest rates available directly through portfolio lenders.

Page 70, line 14, strike “(d)” and insert “(c)”.

Page 70, line 17, after “affordable” insert “, below-market”.

Strike line 24 on page 70 and all that follows through page 71, line 3, and insert the following:

(e) TARGETING FOR HOUSING DISASTER AREAS.—

(1) IN GENERAL.—In carrying out the program under this section, the Secretary shall take into consideration impact of activities under the program on housing disaster areas.

(2) REPORT.—Not later than 60 days after the Secretary first has authority to purchase troubled assets pursuant to section 115(a)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)(3)), the Secretary shall—

(A) evaluate the impact of existing Federal foreclosure prevention activities on housing disaster areas;

(B) make a determination of whether the foreclosure rates and anticipated default rates in such areas have been adequately reduced; and

(C) submit a report to the Congress that describes the impact of such activities and the determination of the Secretary under subparagraph (B).

(3) **ALTERNATIVE PROPOSALS.**—If the Secretary determines that the foreclosure rates and anticipated default rates in housing disaster areas have not been adequately reduced, the Secretary shall—

(A) consider carrying out alternative proposals, including a proposal under which the Federal Government makes available affordable mortgages, including refinancings, through subsidized financing or mortgage purchases; and

(B) establish and carry out alternative programs as the Secretary considers necessary to ensure that foreclosure prevention efforts are most effective in the areas of greatest need, including housing disaster areas.

(4) **HOUSING DISASTER AREAS.**—For purposes of this section, the term “housing disaster area” means a geographic area having both—

(A) a high foreclosure rate during the 12 months preceding the date of the enactment of this Act, as measured by percentages of homes in or having gone through foreclosure during such period and compared to other areas; and

(B) a substantial decline in home prices during the 12 months preceding the date of the enactment of this Act, as measured by the Office of Federal Housing Enterprise and Oversight and compared to other areas.

Page 72, line 20, strike “1814(a)” and insert “1824(a)”.

At the end of the bill, add the following new title:

TITLE VIII—REPORTS ON THE GUARANTEE OF CERTAIN CITIGROUP ASSETS

SEC. 801. REPORTS REQUIRED.

(a) **TREASURY REPORTS.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury, in coordination with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, shall issue a report to the Committee on Financial Services of the House of Representatives, the Committee on Banking of the Senate, and to the Comptroller General of the United States containing the following:

(1) The authority under which the Citigroup guarantee and purchases were made.

(2) A complete accounting of the specific loans, securities, and any other financial instruments in the asset pool covered by the Citigroup guarantee.

(b) **GAO REPORT.**—Not later than 60 days after the date the Secretary of the Treasury issues the report required by subsection (a), the Comptroller General of the United States shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking of the Senate examining the probable long-term cost to the Federal Government of the Citigroup guarantee.

(c) **CITIGROUP GUARANTEE DEFINED.**—For the purpose of this section, the term “Citigroup guarantee” means the agreement an-

nounced November 23, 2008, between Citigroup and the Treasury and the Federal Deposit Insurance Corporation to guarantee or purchase, partly through the use of funds authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), an asset pool of approximately \$306 billion of loans and securities backed by residential and commercial real estate and other such assets on Citigroup's balance sheet.

TITLE IX—GAO STUDY OF FINANCIAL CRISIS

SEC. 901. STUDY REQUIRED.

The Comptroller General of the United States shall—

- (1) conduct an in-depth study of the root causes of the financial crisis; and
- (2) submit a report to the Congress and the President, and transmit a copy to the Secretary of the Treasury, containing the findings and conclusions of the Comptroller General with respect to the study under paragraph (1), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate before the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 902. TREASURY STRATEGY AND TIMELINE.

Using the findings and conclusions of the Comptroller General in the report under section 901(2), within 30 days, the Secretary of the Treasury shall issue an overall strategy and timeline for implementing the recommendations contained in the report with the goal of financial stability and the well-being of taxpayers.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MATSUI OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 32, after line 19 insert the following new section (and redesignate the subsequent section and conform the table of contents accordingly):

SEC. 206. FORECLOSURE MORATORIUM RECOMMENDATION.

(a) **FORECLOSURE DEFERMENT.**—It is the sense of the Congress that any institution which becomes an assisted institution on or after the date of the enactment of this Act should not initiate, or allow to continue, a foreclosure proceeding or a foreclosure sale on any with respect to any principal homeowner mortgage, until the earliest of the following:

- (1) The date by which the comprehensive plan to prevent and mitigate foreclosures has been developed by the Secretary and the Federal Deposit Insurance Corporation and approved by the Financial Stability Oversight Board under section 201 and become fully operational.
- (2) The date by which the systematic foreclosure prevention and mortgage modification plan has been established by the Secretary in accordance with section 204 and become fully operational.

(3) The end of the 9-month period beginning on the date of the enactment of this Act.

(b) **FHA-REGULATED LOAN MODIFICATION AGREEMENTS.**—If an assisted institution to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in paragraph (1) or (2) of such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(c) **DUTY OF CONSUMER TO MAINTAIN PROPERTY.**—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage may not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(d) **DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.**—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage shall respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HENSARLING OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, strike lines 1 through 7.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOLT OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 19, after line 20, insert the following:

SEC. 108. TREASURY FACILITATED AUCTION.

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) **USE OF MARKET MECHANISMS.**—

“(1) **IN GENERAL.**—In making purchases under this Act, the Secretary shall—

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

“(B) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

“(2) **AUCTION FACILITATION.**—

“(A) **IN GENERAL.**—The Secretary shall, in coordination with institutions that volunteer to participate, and not using any funds under this title for purchases, facilitate an auction of troubled assets owned by such institutions to third party purchasers.

“(B) **REPORT.**—If the auction described in subparagraph (A) does not take place within the 3 month period fol-

lowing the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary shall issue a report to the Congress stating—

- “(i) why such auction has not taken place; and
- “(ii) by what mechanism the Secretary feels that troubled assets could most expeditiously be valued and liquidated.”.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BACHMANN OF MINNESOTA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike line 1 on page 65 and all that follows through page 69, line 2.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BACHMANN OF MINNESOTA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike title III (and conform the Table of Contents accordingly).

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PATRICK MURPHY OF PENNSYLVANIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 74, after line 17, add the following new title (and conform the Table of Contents accordingly):

TITLE VIII—AGENCY MBS PURCHASE PROGRAM DISCLOSURE

SEC. 801. DISCLOSURE REQUIRED.

Not later than 1 month after the date of the enactment of this Act, the Chairman of the Board of Governors of the Federal Reserve System shall issue to the Congress a report disclosing—

- (1) the details of the competitive request for proposal process that was used to select the investment managers of the Federal Reserve System’s Agency Mortgage-Backed Security Purchase Program announced by the Federal Reserve System on November 25, 2008;
- (2) all details of the contracts, including contract price, made between the Federal Reserve System and such investment managers; and
- (3) steps that each such investment manager has taken to ensure that the investment manager has appropriately segregated the investment management team that implements the Agency Mortgage-Backed Security Purchase Program from other advisory and propriety trading activities undertaken by the investment manager and the members of the investment management team.

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8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MYRICK OF NORTH CAROLINA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, after line 11, insert the following:

“(4) PROHIBITION ON USE OF TARP FUNDS FOR FOREIGN CUSTOMER SERVICE POSITIONS.—Effective as of the date of the enactment of the TARP Reform and Accountability Act of 2009, no assisted institution that became an assisted institution on or after October 3, 2008, may enter into a new agreement, or expand a current agreement, with any foreign company for provision of customer service functions, including call-center services, while any of such assistance is outstanding.”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALZ OF MINNESOTA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In subsection (e) of section 113 of the Emergency Economic Stabilization Act of 2008, as proposed to be added by section 101(a) of the bill, add at the end the following new paragraph:

“(4) ONLINE PUBLICATION OF PERIODIC REPORTS.—The Secretary shall make publicly available on the Internet each report made in accordance with paragraph (1).”.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title I, insert the following:

SEC. 108. BROADENED INSPECTOR GENERAL AUTHORITY.

Section 121(c) of the Emergency Economic Stabilization Act (12 U.S.C. 5231(c)) is amended by striking “the purchase, management, and sale of assets” and all that follows through “under section 102” and inserting “any action taken by the Secretary of the Treasury under this title (except sections 115, 116, 117, and 125), as the Special Inspector General determines appropriate”.

In the table of contents in section 1(b), insert after the item relating to section 107 the following new item:

Sec. 108. Broadened Inspector General Authority.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HINCHEY OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 9, insert the following new paragraph:

“(4) USE OF 2008 ASSISTANCE.—

“(A) COLLECTION OF INFORMATION.—Effective upon enactment of this paragraph, the Secretary shall require any assisted institution which received assistance under this title before January 1, 2009, to provide sufficient information with regard to such assistance as to inform the Secretary of the precise use of such assistance by the institution and the purpose for the use.

“(B) ANALYSIS.—The Secretary shall conduct an analysis of the use of the assistance for which information was received under subparagraph (A).

“(C) REPORT TO THE CONGRESS.—Within 30 days after the enactment of this paragraph, the Secretary shall promptly submit a report containing the findings and conclusion of the Secretary on the use of the assistance re-

ferred to in subparagraph (A), together with such recommendations for legislative or administrative action as the Secretary may determine to be appropriate, to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.”.

