

[DISCUSSION DRAFT—Subject to Change]

SEPTEMBER 22, 2008

110TH CONGRESS
2D SESSION

H. R. _____

To [_____]?

IN THE HOUSE OF REPRESENTATIVES

M____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To [_____]?

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Troubled Asset Relief Act of 2008”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Purchases of troubled assets.
- Sec. 4. Considerations.
- Sec. 5. Reports to Congress.

- Sec. 6. Rights; management; sale of troubled assets; revenues and sale proceeds.
- Sec. 7. Contracting procedures.
- Sec. 8. Foreclosure mitigation efforts.
- Sec. 9. Executive compensation and corporate governance.
- Sec. 10. Coordination with foreign authorities and central banks.
- Sec. 11. Minimization of long-term costs and maximization of benefits for taxpayers.
- Sec. 12. Market transparency.
- Sec. 13. Maximum amount of authorized purchases.
- Sec. 14. Oversight and audits.
- Sec. 15. Funding.
- Sec. 16. Review.
- Sec. 17. Termination of authority.
- Sec. 18. Increase in statutory limit on the public debt.
- Sec. 19. Credit reform.
- Sec. 20. Bankruptcy provisions.
- Sec. 21. Congressional Oversight Panel.
- Sec. 22. Administrative review.
- Sec. 23. Acceleration of effective date.
- Sec. 24. Mortgage disclosures.
- Sec. 25. Maintaining insurance parity.
- Sec. 26. Definitions.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the current United States financial crisis
4 necessitates immediate action to stabilize the finan-
5 cial system, restore liquidity to financial institutions
6 and the capital markets, protect savings and pen-
7 sions, and preserve the availability of credit for indi-
8 viduals and businesses;

9 (2) actions taken to protect consumers and
10 minimize mortgage foreclosures are equally impor-
11 tant objectives in promoting a resolution to this cri-
12 sis and will minimize any losses and maximize the
13 ultimate return to the taxpayer on assets purchased
14 under this program; and

1 (3) existing financial regulatory structures have
2 clearly failed either to prevent the current crisis or
3 to protect United States consumers and investors,
4 and comprehensive regulatory reform is required to
5 restore confidence in financial markets and institu-
6 tions going forward.

7 (b) PURPOSES.— The purposes of this Act are—

8 (1) to immediately provide authority and facili-
9 ties that the Secretary of the Treasury can use to
10 restore liquidity and stability to United States finan-
11 cial markets;

12 (2) to ensure that this authority and these fa-
13 cilities are used in a manner that minimizes mort-
14 gage foreclosures, maximizes the ability of United
15 States homeowners to remain in their homes, pro-
16 tects individual investors, including retirement fund
17 investors, and minimizes initial costs and maximizes
18 overall returns to United States taxpayers;

19 (3) to review, on an expedited basis, the ways
20 that deficiencies and gaps in the current financial
21 regulatory system contributed to the current crisis;
22 and

23 (4) to act as quickly as possible to comprehen-
24 sively restructure the United States financial regu-
25 latory system to protect consumers and homeowners,

1 reform the mortgage lending and securitization proc-
2 ess, enhance the transparency and fairness in finan-
3 cial markets, and ensure the future stability of the
4 financial system.

5 **SEC. 3. PURCHASES OF TROUBLED ASSETS.**

6 (a) **AUTHORITY TO PURCHASE.**—The Secretary is
7 authorized to purchase, and to make and fund commit-
8 ments to purchase, on such terms and conditions as deter-
9 mined by the Secretary, troubled assets from any financial
10 institution (as such terms are defined in section 26 of this
11 Act).

12 (b) **CONSULTATION.**—In exercising the authority
13 under this Act, the Secretary shall consult with the Board
14 of Governors of the Federal Reserve System, the Federal
15 Reserve Bank of New York, the Federal Deposit Insur-
16 ance Corporation, and the Secretary of Housing and
17 Urban Development

18 (c) **NECESSARY ACTIONS.**—The Secretary is author-
19 ized to take such actions as the Secretary deems necessary
20 to carry out the authorities in this Act, including, without
21 limitation, the following:

22 (1) The Secretary shall have direct hiring au-
23 thority with respect to the appointment of employees
24 to administer this Act.

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

4 (3) Designating financial institutions as finan-
5 cial agents of the Federal Government, and they
6 shall perform all such reasonable duties related to
7 this Act as financial agents of the Federal Govern-
8 ment as may be required of them.

9 (4) Establishing vehicles that are authorized,
10 subject to supervision by the Secretary, to purchase
11 troubled assets and issue obligations.

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

15 **SEC. 4. CONSIDERATIONS.**

16 In exercising the authorities granted in this Act, the
17 Secretary shall take into consideration—

18 (1) providing stability or preventing disruption
19 to the financial markets or banking system;

20 (2) protecting the taxpayers; and

21 (3) in determining whether to engage in a di-
22 rect purchase from an individual financial institu-
23 tion, the strength of the financial institution in de-
24 termining whether the purchase represents the most
25 efficient use of funds under this Act.

1 **SEC. 5. REPORTS TO CONGRESS.**

2 (a) IN GENERAL.—Before the expiration of the 60-
3 day period beginning upon the first exercise of the author-
4 ity granted in section 3(a), and every 90 days thereafter,
5 the Secretary shall report to the Congress with respect to
6 the authorities exercised under this Act and the consider-
7 ations required by section 4 and efforts under section 8.

8 [(b) PLAN.—Before the expiration of the 15-day pe-
9 riod beginning upon the date of the enactment of this Act,
10 the Secretary shall submit a plan to Congress detailing
11 the expected use of the funds provided for administrative
12 expenses by section 15. Before the expiration of the 45-
13 day period beginning upon the date of the enactment of
14 this Act, the Secretary shall submit a report to Congress
15 detailing actual obligation and expenditure of the funds
16 provided for administrative expenses by section 15 for the
17 period ending 30 days after enactment of this Act. Begin-
18 ning 90 days after enactment of this Act, the Secretary
19 shall submit a quarterly report to Congress detailing the
20 actual expenditure of funds provided for administrative ex-
21 penses by section 15 and the expected expenditure of such
22 funds in the subsequent quarter.]

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

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

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

10 (c) SALE OF TROUBLED ASSETS.—The Secretary
11 may, at any time, upon terms and conditions and at prices
12 determined by the Secretary, sell, or enter into securities
13 loans, repurchase transactions or other financial trans-
14 actions in regard to, any troubled asset purchased under
15 this Act.

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

23 (e) DISPOSITION OF REVENUES AND SALE PRO-
24 CEEDS.—Revenues of, and proceeds from the sale of, trou-
25 bled assets shall be deposited into the general fund of the
26 United States Treasury.

1 SEC. 7. CONTRACTING PROCEDURES.

2 In awarding contracts to asset managers, the Sec-
3 retary shall solicit proposals from a broad range of quali-
4 fied firms or individuals and publish a request for infor-
5 mation seeking information from qualified vendors inter-
6 ested in performing the work. In awarding such contracts,
7 the Secretary shall take appropriate steps to manage con-
8 flicts of interest, including requiring potential firms to
9 identify and disclose to the Secretary potential conflicts
10 of interest and to submit a strategy to mitigate such con-
11 flicts, requiring such vendors to acknowledge that they
12 have a fiduciary duty to the United States, and restricting
13 staff from sharing information received from or on behalf
14 of the United States or providing services to both the
15 United States and other clients where a conflict exists.
16 Notwithstanding the foregoing, the Federal Deposit Insur-
17 ance Corporation shall be eligible and shall be considered
18 in the selection of asset managers for whole loans and
19 shall be reimbursed by the Secretary for any services pro-
20 vided.

21 [SEC. 8. FORECLOSURE MITIGATION EFFORTS.]

22 [(a) RESIDENTIAL MORTGAGE LOAN SERVICING
23 STANDARDS.—To the extent the Secretary acquires mort-
24 gages, mortgage backed securities, and other assets se-
25 cured by residential real estate, the Secretary shall maxi-
26 mize assistance to the underlying mortgagors and use the

1 Secretary's authority as investor to encourage the
2 servicers of the underlying mortgages, using net present
3 value analysis, to take advantage of the Hope for Home-
4 owners Program under section 257 of the National Hous-
5 ing Act or other available programs to minimize fore-
6 closures.】

7 【(b) COORDINATION.—The Secretary shall coordi-
8 nate with the Federal Deposit Insurance Corporation, the
9 Federal Housing Finance Agency, the Department of
10 Housing and Urban Development, and other Federal Gov-
11 ernment entities that hold troubled assets to attempt to
12 identify opportunities for the acquisition of classes of trou-
13 bled assets that will improve the Secretary's ability to im-
14 prove the loan modification and restructuring process and,
15 where permissible, to permit bona fide tenants who are
16 current on their rent to remain in their homes under the
17 terms of the lease.】

18 【(c) CONSENT TO REASONABLE LOAN MODIFICA-
19 TION REQUESTS.—For residential mortgages underlying
20 troubled assets purchased under this Act, the Secretary
21 shall request loan servicers servicing the mortgage loans
22 to avoid preventable foreclosures, to the greatest extent
23 possible, to the extent that the Secretary, as an investor,
24 has discretion to do so under existing investment con-
25 tracts. Upon any request arising under existing invest-

1 ment contracts, the Secretary shall consent, where appro-
2 priate, to reasonable requests for loss mitigation meas-
3 ures, including term extensions, rate reductions, principal
4 write downs, increases in the proportion of loans within
5 a trust or other structure allowed to be modified, or re-
6 moval of other limitation on modifications.】

7 **【SEC. 9. EXECUTIVE COMPENSATION AND CORPORATE**
8 **GOVERNANCE.】**

9 **【(a) IN GENERAL.—**The Secretary shall require that
10 all financial institutions seeking to sell assets through the
11 program under this Act meet appropriate standards for
12 executive compensation and corporate governance in order
13 to be eligible.】

14 **【(b) CRITERIA FOR STANDARDS.—**The standards
15 under this section shall include with respect to any finan-
16 cial institution participating in the program under this
17 Act, and effective for the two years after entry by the fi-
18 nancial institution into such participation—】

19 **【(1) limits on compensation to exclude incen-**
20 **tives for executive officers to take risks that the Sec-**
21 **retary deems to be inappropriate or excessive during**
22 **such participation;】**

23 **【(2) a provision for the recovery by the finan-**
24 **cial institution of any bonus or other incentive com-**
25 **penetration paid to a senior executive officer based on**

1 statements of earnings, gains, or other criteria that
2 are later proven to be false or inaccurate; and】

3 【(3) a prohibition on the financial institution
4 paying severance compensation to its senior execu-
5 tive officers during such period.】

6 【(c) ADDITIONAL STANDARD FOR DIRECT PUR-
7 CHASES.—The standards prescribed by the Secretary
8 under this section shall include additional standards with
9 respect to financial institutions in which the Secretary
10 makes a direct purchase from an individual financial insti-
11 tution. Such standards shall be effective for the duration
12 of the holding by the Secretary of such equity position,
13 and shall include—】

14 【(1) a requirement that the financial institution
15 permit any shareholder or group of shareholders
16 holding, in the aggregate, equity securities of the in-
17 stitution representing three percent or more of the
18 equity securities of the financial institution, access
19 to the proxy solicitation and shareholder vote for any
20 election of the board of directors of the institution
21 for the purposes of nominating and electing a des-
22 ignated individual to the board of directors of the in-
23 stitution;】

24 【(2) a requirement that the financial institution
25 afford all shareholders the opportunity to cast a

1 non-binding vote, in any annual proxy solicitation
2 and shareholder vote, on the executive compensation
3 to be provide to the executive officers of the financial
4 institution; and】

5 【(3) a prohibition on the institution paying sev-
6 erance compensation to its senior executive officers
7 during any period in which the Secretary continues
8 to hold an equity position in the financial institu-
9 tion.】

10 【(d) SEVERANCE COMPENSATION.—For purposes of
11 this section, the term “severance compensation” means
12 any compensation that is awarded to a senior executive
13 officer on the basis of the termination of such executive
14 officer’s service with the financial institution, other than
15 a pension plan or a retirement plan in which the executive
16 officer’s rights were fully vested prior to the entry of such
17 financial institution into participation in the program
18 under this Act.】

19 **SEC. 10. COORDINATION WITH FOREIGN AUTHORITIES AND**
20 **CENTRAL BANKS.**

21 The Secretary shall coordinate, as appropriate, with
22 foreign financial authorities and central banks to work to-
23 ward the establishment of similar programs by such au-
24 thorities and central banks and to maximize the impact
25 of purchases under this Act. To the extent that such au-

1 thorties or banks hold troubled assets as a result of ex-
2 tending financing to financial institutions (as such term
3 is defined in section 26) that have failed or have defaulted
4 on such financing, such troubled assets qualify for pur-
5 chase under section 3(a).

6 **SEC. 11. MINIMIZATION OF LONG-TERM COSTS AND MAXI-**
7 **MIZATION OF BENEFITS FOR TAXPAYERS.**

8 (a) **LONG-TERM COSTS AND BENEFITS.**—The Sec-
9 retary shall use the authority under this Act in a manner
10 that will minimize any potential long-term negative impact
11 on the taxpayer, taking into account the direct outlays,
12 potential long-term returns on assets purchased, and the
13 overall economic benefits of the program, including
14 through improving the economic activity and the avail-
15 ability of credit, limiting losses to the savings and pensions
16 of individuals, and reducing losses to the Federal Govern-
17 ment.

18 (b) **USE OF MARKET MECHANISMS.**—In making pur-
19 chases under this Act, the Secretary shall maximize the
20 efficiency of its use of taxpayer resources in making pur-
21 chases by using market mechanisms, including auctions
22 or reverse auctions, where appropriate.

23 (c) **DIRECT PURCHASES.**—Where the Secretary de-
24 termines that the purposes of the Act are best met
25 through direct purchases from an individual financial in-

1 stitution where no bidding process or market prices are
2 available, the Secretary shall pursue additional measures
3 to—

4 (1) ensure that prices paid for assets are rea-
5 sonable; and

6 (2) share potential benefits of the purchase to
7 the financial institution, including, [but not limited
8 to], warrants or other similar mechanisms.

9 Such measures are not required where purchases are made
10 from an individual financial institution for the purpose of
11 gaining greater control over a particular issue of securities
12 for the purposes of facilitating loan work-outs.

13 **SEC. 12. MARKET TRANSPARENCY.**

14 To facilitate market transparency, the Secretary shall
15 make available to the public, in electronic form, a descrip-
16 tion, amounts and pricing of assets acquired under this
17 Act within 48 hours of purchase, trade, or other disposi-
18 tion.

19 **SEC. 13. MAXIMUM AMOUNT OF AUTHORIZED PURCHASES.**

20 The Secretary's authority to purchase troubled assets
21 under this Act shall be limited to \$700,000,000,000 out-
22 standing at any one time.

23 **SEC. 14. OVERSIGHT AND AUDITS.**

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

1 (1) SCOPE OF OVERSIGHT.—The Comptroller
2 General shall, upon establishment of the troubled as-
3 sets relief program under this Act (in this section re-
4 ferred to as the “TARP”), commence ongoing over-
5 sight of the activities and performance of the TARP
6 and of any agents and representatives of the TARP
7 (as related to the agent or representative’s activities
8 on behalf of or under the authority of the TARP),
9 including vehicles established by the Secretary under
10 this Act. The subjects of such oversight shall in-
11 clude, **[but are not limited to,]** the following:

12 (A) TARP’s performance in meeting the
13 goals set out in this Act, particularly those in-
14 volving foreclosure mitigation, consumer protec-
15 tion, cost reduction, and stabilization of the fi-
16 nancial system.

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 TARP's operations in
6 the use of appropriated funds.

7 (F) Compliance with all applicable laws
8 and regulations by TARP, its agents and rep-
9 resentatives.

10 (G) TARP's efforts to prevent, identify,
11 and minimize conflicts of interest involving any
12 agent or representative performing activities on
13 behalf of or under the authority of the TARP.

14 (2) CONDUCT AND ADMINISTRATION OF OVER-
15 SIGHT.—

16 (A) GAO PRESENCE.—The Comptroller
17 General shall establish a permanent presence in
18 the offices of the TARP in order to facilitate its
19 oversight.

20 (B) ACCESS TO RECORDS.—The Comp-
21 troller General shall have access, upon request,
22 to any information, data, schedules, books, ac-
23 counts, financial records, reports, files, elec-
24 tronic communications, or other papers, things,
25 or property belonging to or in use by the

1 TARP, or any vehicles established by the Sec-
2 retary [under this Act] , and to the officers,
3 directors, employees, independent public ac-
4 countants, financial advisors, and other agents
5 and representatives of the TARP (as related to
6 the agent or representative’s activities on behalf
7 of or under the authority of the TARP) or any
8 such vehicle at such reasonable time as the
9 Comptroller General may request. The Comp-
10 troller General shall be afforded full facilities
11 for verifying transactions with the balances or
12 securities held by depositaries, fiscal agents,
13 and custodians. The Comptroller General may
14 make and retain copies of such books, accounts,
15 and other records as the Comptroller General
16 deems appropriate.

17 (C) REIMBURSEMENT OF COSTS.—The
18 Treasury shall reimburse the Government Ac-
19 countability Office for the full cost of any such
20 oversight activities as billed therefor by the
21 Comptroller General of the United States. Such
22 reimbursements shall be credited to the appro-
23 priation account “Salaries and Expenses, Gov-
24 ernment Accountability Office” current when

1 the payment is received and remain available
2 until expended.

3 (3) REPORTING.—The Comptroller General
4 shall submit reports of findings under this section,
5 regularly and no less frequently than once every 60
6 days, to the Committee on Financial Services of the
7 House of Representatives, the Committee on Bank-
8 ing, Housing, and Urban Affairs of the Senate, and
9 the Inspector General for the Department of the
10 Treasury on the activities and performance of the
11 TARP. The Comptroller may also submit special re-
12 ports under this subsection as warranted by the
13 findings of its oversight activities.

14 (b) COMPTROLLER GENERAL AUDITS.—

15 (1) ANNUAL AUDIT.—The TARP shall annually
16 prepare and issue to the Congress and the public au-
17 dited financial statements prepared in accordance
18 with generally accepted accounting principles and
19 the Comptroller General shall annually audit such
20 statements in accordance with generally accepted au-
21 diting standards. The Treasury shall reimburse the
22 Government Accountability Office for the full cost of
23 any such audit as billed therefor by the Comptroller
24 General of the United States. Such reimbursements
25 shall be credited to the appropriation account “Sala-

1 ries and Expenses, Government Accountability Of-
2 fice” current when the payment is received and re-
3 main available until expended. The financial state-
4 ments prepared under this paragraph shall be on the
5 fiscal year basis prescribed under section 1102 of
6 title 31, United States Code.

7 (2) **AUTHORITY.**—The Comptroller General of
8 the United States may audit the programs, activi-
9 ties, receipts, expenditures, and financial trans-
10 actions of the TARP and any agents and representa-
11 tives of the TARP (as related to the agent or rep-
12 resentative’s activities on behalf of or under the au-
13 thority of the TARP), including vehicles established
14 by the Secretary **[under this Act]**.

15 (3) **CORRECTIVE RESPONSES TO AUDIT PROB-**
16 **LEMS.**—The TARP shall—

17 (A) take action to address deficiencies
18 identified by the Comptroller General of the
19 United States or other auditor engaged by the
20 TARP; or

21 (B) certify to Congress that no action is
22 necessary or appropriate.

23 (c) **INTERNAL CONTROL.**—

24 (1) **ESTABLISHMENT.**—The TARP shall estab-
25 lish and maintain an effective system of internal

1 control, consistent with the standards prescribed
2 under section 3512(c)) of title 31, United States
3 Code, that provides reasonable assurance over—

4 (A) the effectiveness and efficiency of oper-
5 ations, including the use of the TARP's re-
6 sources;

7 (B) the reliability of financial reporting, in-
8 cluding financial statements and other reports
9 for internal and external use; and

10 (C) compliance with applicable laws and
11 regulations.

12 (2) REPORTING.—In conjunction with each an-
13 nual financial statement issued under this section,
14 the TARP shall—

15 (A) state the responsibility of management
16 for establishing and maintaining adequate in-
17 ternal control over financial reporting; and

18 (B) state its assessment, as of the end of
19 the most recent year covered by such financial
20 statement of the TARP, of the effectiveness of
21 the internal control over financial reporting.

22 **SEC. 15. FUNDING.**

23 For the purpose of the authorities granted in this
24 Act, and for the costs of administering those authorities,
25 the Secretary may use the proceeds of the sale of any secu-

1 rities issued under chapter 31 of title 31, United States
2 Code, and the purposes for which securities may be issued
3 under chapter 31 of title 31, United States Code, are ex-
4 tended to include actions authorized by this Act, including
5 the payment of administrative expenses. Any funds ex-
6 pended or obligated for actions authorized by this Act, in-
7 cluding the payment of administrative expenses, shall be
8 deemed appropriated at the time of such expenditure or
9 obligation.

10 **SEC. 16. REVIEW.**

11 (a) IN GENERAL.—In any review of actions taken
12 under this Act, no injunction or other form of equitable
13 relief may be issued by any court of law or any administra-
14 tive agency.

15 (b) TREATMENT OF HOMEOWNERS' RIGHTS.—The
16 exercise of Secretary's authority under this Act shall not
17 alter any rights of a homeowner whose residence is secured
18 by a troubled asset covered by this Act.

19 **SEC. 17. TERMINATION OF AUTHORITY.**

20 The authorities under this Act, with the exception of
21 authorities granted in sections 3(c)(5), 6, 7, 8, and 15,
22 shall terminate two years from the date of enactment of
23 this Act.

1 **SEC. 18. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**
2 **DEBT.**

3 Subsection (b) of section 3101 of title 31, United
4 States Code, is amended by striking out the dollar limita-
5 tion contained in such subsection and inserting in lieu
6 thereof \$11,315,000,000,000.

7 **SEC. 19. CREDIT REFORM.**

8 The costs of purchases of troubled assets made under
9 section 3(a) of this Act shall be determined as provided
10 under the Federal Credit Reform Act of 1990, as applica-
11 ble.

12 **[SEC. 20. BANKRUPTCY PROVISIONS.]**

13 **[(a) DEFINITIONS.—Section 101 of title 11, the**
14 **United States Code, is amended—]**

15 **[(1) by redesignating paragraphs (40A) and**
16 **(40B) as paragraphs (40B) and (40C), respec-**
17 **tively,]**

18 **[(2) by inserting after paragraph (40) the fol-**
19 **lowing:]**

20 **[“(40A) The term ‘nontraditional mortgage’**
21 **means a security interest in the debtor’s principal**
22 **residence that secures a debt for a loan that at any**
23 **period during the term of such loan provides for the**
24 **deferral of payment of principal or interest through**
25 **permitting periodic payments that do not cover the**

1 full amount of interest due or that cover only the in-
2 terest rate, except that such term excludes—】

3 【“(A) a home equity line of credit that is
4 in a subordinate position; and】

5 【“(B) a reverse mortgage.”,】

6 【(3) by redesignating paragraphs (53B)
7 through (53D) as paragraphs (53C), (53D), (53E),
8 and (53F), respectively, and】

9 【(4) by inserting after paragraph (53A) the fol-
10 lowing:】

11 【“(53B) The term ‘subprime mortgage’ means
12 a security interest in the debtor’s principal residence
13 that secures a debt for a loan that has an annual
14 percentage rate that is greater than—】

15 【“(A) the sum of 3 percent plus the yield
16 on United States Treasury securities having
17 comparable periods of maturity, if such loan is
18 secured by a first mortgage or first deed of
19 trust; or】

20 【“(B) the sum of 5 percent plus the yield
21 on United States Treasury securities having
22 comparable periods of maturity, if such loan is
23 secured by a subordinate mortgage or subordi-
24 nate deed of trust.】

1 Without regard to whether such loan is subject to or
2 reportable under the Home Mortgage Disclosure Act
3 of 1975, the difference between the annual percent-
4 age rate of such loan and the yield on United States
5 Treasury securities having comparable periods of
6 maturity shall be determined using the procedures
7 and calculation methods applicable to loans that are
8 subject to the reporting requirements of such Act,
9 except that such yield shall be determined as of the
10 15th day of the month preceding the month in which
11 a completed application is submitted for such loan.
12 If such loan provides for a fixed interest rate for an
13 introductory period and then resets or adjusts to a
14 variable interest rate, the determination of the an-
15 nual percentage rate shall be based on the greater
16 of the introductory rate and the fully indexed rate.
17 For purposes of this paragraph, the term ‘fully in-
18 dexed rate’ means the prevailing index rate on a res-
19 idential mortgage loan at the time the loan is made
20 plus the margin that will apply after the expiration
21 of an introductory interest rate.’.]

22 **[(b) DELAY OF COUNSELING REQUIREMENT WHEN**
23 **HOUSES ARE IN FORECLOSURE.—**Section 109(h) of title
24 11, United States Code, is amended by adding at the end
25 the following:.]

1 **【“(5)(A) Subject to subparagraph (B), the require-**
2 **ments of paragraph (1) shall not apply with respect to**
3 **a debtor in a case under chapter 13 commenced during**
4 **the 7-year period beginning on the effective date of this**
5 **paragraph who submits to the court a certification that**
6 **the debtor has received notice that the holder of a claim**
7 **secured by the debtor’s principal residence may commence**
8 **a foreclosure on the debtor’s principal residence.】**

9 **【“(B) With respect to a debtor, an exemption under**
10 **subparagraph (A) shall cease to apply to that debtor on**
11 **the date that is 30 days after the debtor files a petition,**
12 **except that the court, for cause, may order an additional**
13 **15 days.”.】**

14 **【(c) AUTHORITY TO MODIFY CERTAIN MORT-**
15 **GAGES.— Section 1322(b) of title 11, United States Code,**
16 **is amended—】**

17 **【(1) by redesignating paragraph (11) as para-**
18 **graph (12),】**

19 **【(2) in paragraph (10) by striking “and” at the**
20 **end, and】**

21 **【(3) by inserting after paragraph (10) the fol-**
22 **lowing:】**

23 **【“(11) notwithstanding paragraph (2) and oth-**
24 **erwise applicable nonbankruptcy law, with respect to**
25 **a claim for a debt incurred during the period begin-**

1 ning on January 1, 2000, and ending on the effective date of this paragraph, for a loan secured by a nontraditional mortgage, or a subprime mortgage, on the debtor's principal residence that is the subject of a notice that a foreclosure may be commenced, if the case is commenced under this title in the 7-year period beginning on the effective date of this paragraph and if the debtor's current monthly income reduced by the amounts determined in accordance with clauses (ii), (iii) and (iv) of subparagraph (A), and with subparagraph (B), of section 707(b)(2) (other than amounts scheduled as contractually due to the holder of such claim and additional payments necessary to maintain possession of such residence) is insufficient to cure all defaults on such claim and maintain all payments while the case is pending as provided in paragraph (5), modify the rights of the holder of such claim—】

2 【“(A) by reducing such claim to equal the value of the interest of the debtor in such residence securing such claim;】

3 【“(B) by waiving any otherwise applicable early repayment or prepayment penalties;】

4 【“(C). if any applicable rate of interest is adjustable under the terms of such nontradi-

1 tional mortgage, or such subprime mortgage, by
2 prohibiting, reducing, or delaying adjustments
3 to such rate of interest applicable on and after
4 the date of filing of the plan; and】

5 【“(D) by modifying the terms and condi-
6 tions of such loan—】

7 【“(I) to extend the repayment period
8 for a period that is the longer of 30 years
9 (reduced by the period for which such loan
10 has been outstanding) or the remaining
11 term of such loan, beginning on the date of
12 the order for relief under this chapter;
13 and】

14 【“(ii) to provide for the payment of
15 interest accruing after the date of the
16 order for relief under this chapter at an
17 annual percentage rate calculated at a
18 fixed annual percentage rate, in an amount
19 equal to the then most recently published
20 annual yield on conventional mortgages
21 published by the Board of Governors of the
22 Federal Reserve System, as of the applica-
23 ble time set forth in the rules of the
24 Board, plus a reasonable premium for risk;
25 and”.】

1 **[(d) COMBATING EXCESSIVE FEES.—**Section
2 1322(c) of title 11, the United States Code, is amended—
3 **]**

4 **[(1) in paragraph (1) by striking “and” at the**
5 **end,]**

6 **[(2) in paragraph (2) by striking the period at**
7 **the end and inserting a semicolon, and]**

8 **[(3) by adding at the end the following:]**

9 **["(3) the debtor, the debtor’s property, and**
10 **property of the estate are not liable for a fee, cost,**
11 **or charge that is incurred while the case is pending**
12 **and arises from a debt that is secured by the debt-**
13 **or’s principal residence except to the extent that—**
14 **]**

15 **["(A) the holder of the claim for such debt**
16 **files with the court notice of such fee, cost, or**
17 **charge before the earlier of—]**

18 **["(I) 1 year after such fee, cost, or**
19 **charge is incurred; or]**

20 **["(ii) 60 days before the closing of**
21 **the case; and]**

22 **["(B) such fee, cost, or charge—]**

23 **["(I) is lawful under applicable non-**
24 **bankruptcy law, reasonable, and provided**

1 for in the applicable security agreement;
2 and】

3 【“(ii) is secured by property the value
4 of which is greater than the amount of
5 such claim, including such fee, cost, or
6 charge;】

7 【“(4) the failure of a party to give notice de-
8 scribed in paragraph (3) shall be deemed a waiver
9 of any claim for fees, costs, or charges described in
10 paragraph (3) for all purposes, and any attempt to
11 collect such fees, costs, or charges shall constitute a
12 violation of section 524(a)(2) or, if the violation oc-
13 curs before the date of discharge, of section 362(a);
14 and】

15 【“(5) a plan may provide for the waiver of any
16 prepayment penalty on a claim secured by the debt-
17 or’s principal residence.”.】

18 【(e) CONFIRMATION OF PLAN.— Section 1325(a) of
19 title 11, the United States Code, is amended—】

20 【(1) in paragraph (8) by striking “and” at the
21 end,】

22 【(2) in paragraph (9) by striking the period at
23 the end and inserting a semicolon, and】

24 【(3) by inserting after paragraph (9) the fol-
25 lowing:】

1 【“(10) notwithstanding subclause (I) of para-
2 graph (5)(B)(I), the plan provides that the holder of
3 a claim whose rights are modified pursuant to sec-
4 tion 1322(b)(11) retain the lien until the later of—
5 】

6 【“(A) the payment of such claim as re-
7 duced and modified; or】

8 【“(B) discharge under section 1328; and】

9 【“(11) the plan modifies a claim in accordance
10 with section 1322(b)(11), and the court finds that
11 such modification is in good faith.”.】

12 【(f) DISCHARGE.— Section 1328 of title 11, the
13 United States Code, is amended—】

14 【(1) in subsection (a)—】

15 【(A) by inserting “(other than payments
16 to holders of claims whose rights are modified
17 under section 1322(b)(11)” after “paid” the
18 1st place it appears, and】

19 【(B) in paragraph (1) by inserting “or, to
20 the extent of the unpaid portion of the claim as
21 reduced, provided for in section 1322(b)(11)”
22 after “1322(b)(5)”, and】

23 【(2) in subsection (c)(1) by inserting “or, to
24 the extent of the unpaid portion of the claim as re-

1 duced, provided for in section 1322(b)(11)” after
2 “1322(b)(5)”.】

3 【(g) STUDY AND REPORT BY GOVERNMENT AC-
4 COUNTABILITY OFFICE.—】

5 【(1) STUDY.—The Comptroller General of the
6 United States shall conduct a study to determine the
7 impact of the amendments made by subsections (a),
8 (b), (c), (d), (e), and (f).】

9 【(2) REPORT TO CONGRESS.—Not later than
10 180 days after the date of enactment of this Act, the
11 Comptroller General shall submit a report to the
12 Congress on the results of the study required under
13 paragraph (1).】

14 【(h) STUDY AND REPORT BY EXECUTIVE OFFICE
15 FOR UNITED STATES TRUSTEES.—】

16 【(1) STUDY.—The Director of the Executive
17 Office for United States Trustees shall conduct a
18 study to determine the impact of the amendments
19 made by subsections (a), (b), (c), (d), (e), and (f).】

20 【(2) REPORT TO CONGRESS.—Not later than
21 180 days after the date of the enactment of this Act,
22 the Director of the Executive Office for United
23 States Trustees shall submit a report to the Con-
24 gress on the results of the study required under
25 paragraph (1).】

1 【(I) EFFECTIVE DATE; APPLICATION OF AMEND-
2 MENTS.—】

3 【(1) EFFECTIVE DATE.—Except as provided in
4 paragraph (2), this section and the amendments
5 made by this section shall take effect on the date of
6 the enactment of this Act.】

7 【(2) APPLICATION OF AMENDMENTS.—The
8 amendments made by this section shall apply only
9 with respect to cases commenced under title 11 of
10 the United States Code on or after the date of the
11 enactment of this Act.】

12 **SEC. 21. CONGRESSIONAL OVERSIGHT PANEL.**

13 (a) ESTABLISHED.—There is hereby established the
14 Congressional Oversight Panel (hereafter in this section
15 referred to as the “Panel”) as an establishment in the leg-
16 islative branch.

17 (b) DUTIES.—The duties of the Panel shall be to re-
18 view and report to the Congress on the following:

19 (1) The Secretary’s use of the authority under
20 this Act, including with respect to the use of con-
21 tracting authority and administration of the pro-
22 gram.

23 (2) The impact of purchases made under the
24 Act on the financial markets and financial institu-
25 tions.

1 (3) The extent to which information made avail-
2 able on transactions under the program have con-
3 tributed to market transparency.

4 (4) The effectiveness of foreclosure mitigation
5 efforts, and the effectiveness of the program from
6 the standpoint of minimizing long-term costs to the
7 taxpayers and maximizing of benefits for taxpayers.

8 (c) MEMBERSHIP.—

9 (1) IN GENERAL.—3 members of the Panel
10 shall be appointed by the Speaker of the House of
11 Representatives, 2 on the basis of recommendations
12 made by the majority leader of such House and 1
13 by the minority leader of such House, and 3 mem-
14 bers of the Panel shall be appointed by the president
15 pro tempore of the Senate, 2 on the basis of rec-
16 ommendations made by the majority leader of the
17 Senate and 1 by the minority leader of the Senate.

18 (2) 7TH MEMBER.—The 7th member of the
19 Panel shall be appointed by the members appointed
20 under paragraph (1) and shall serve as the Chair-
21 person of the Panel.

22 (3) TERMS.—The members of the Panel shall
23 be appointed for for a term of 4 years.

24 (4) PAY.—Each member of the Panel shall each
25 be paid at a rate equal to the daily equivalent of the

1 annual rate of basic pay for level ____ of the Execu-
2 tive Schedule] for each day (including travel time)
3 during which such member is engaged in the actual
4 performance of duties vested in the Panel.

5 (5) MEETINGS.—The Panel shall meet at the
6 call of the Chairperson or a majority of its members.

7 (d) DIRECTOR AND STAFF.—

8 (1) DIRECTOR.—The Panel shall have a Direc-
9 tor who shall be appointed by the Chairperson. The
10 Director shall be paid at [a rate not to exceed
11 \$_____ per year.] [the rate of basic pay
12 for level _____ of the Executive Sched-
13 ule.] [the [minimum] [maximum] rate of basic pay
14 for GS—____ of the General Schedule].

15 (2) STAFF.—Subject to rules prescribed by the
16 Panel, and with the approval of the Chairperson, the
17 Director may appoint and fix the pay of such addi-
18 tional personnel as the Panel considers appropriate.

19 (3) EXPERTS AND CONSULTANTS.—With the
20 approval of the Panel, the Director may procure
21 temporary and intermittent services under section
22 3109(b) of title 5, United States Code.

23 (4) STAFF OF AGENCIES.—Upon request of the
24 Panel, the head of any Federal department or agen-
25 cy may detail, on a reimbursable basis, any of the

1 personnel of that department or agency to the Panel
2 to assist it in carrying out its duties under this Act.

3 (e) POWERS OF PANEL.—

4 (1) HEARINGS AND SESSIONS.—The Panel may,
5 for the purpose of carrying out this section, hold
6 hearings, sit and act at times and places, take testi-
7 mony, and receive evidence as the Panel considers
8 appropriate and may administer oaths or affirma-
9 tions to witnesses appearing before it.

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

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

21 (f) REPORTS.—The Panel shall submit an annual re-
22 port to the Congress detailing the findings, conclusions,
23 and recommendations of the Panel.

24 (g) TERMINATION.—The Panel shall terminate as of
25 the date of the report filed by the Panel under subsection

1 (f) after the last troubled asset acquired by the Secretary
2 under this Act has been sold or transferred out of the own-
3 ership or control of the Federal Government.

4 (h) FUNDING FOR EXPENSES.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

6 There is authorized to be appropriated to the Panel
7 such sums as may be necessary for any fiscal year—

8 (A) $\frac{1}{2}$ of which shall be derived from the
9 applicable account of the House of Representa-
10 tives; and

11 (B) $\frac{1}{2}$ of which shall be derived from the
12 contingent fund of the Senate.

13 (2) REIMBURSEMENT OF AMOUNTS.—An
14 amount equal to the expenses of the Panel shall be
15 promptly transferred by the Secretary, from time to
16 time upon the presentment of a statement of such
17 expenses by the Chairperson of the Panel, from
18 funds made available to the Secretary under this Act
19 to the applicable fund of the House of Representa-
20 tives and the contingent fund of the Senate, as ap-
21 propriate, as reimbursement for amounts expended
22 from such account and fund under paragraph (1).

1 **SEC. 22. ADMINISTRATIVE REVIEW.**

2 For purposes of administrative review, decisions by
3 the Secretary pursuant to the authority of this Act are
4 final and committed to agency discretion.

5 **SEC. 23. ACCELERATION OF EFFECTIVE DATE.**

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

9 **SEC. 24. MORTGAGE DISCLOSURES.**

10 (a) TRUTH IN LENDING ACT AMENDMENTS.—Sec-
11 tion 128(b)(2) of the Truth in Lending Act (15 U.S.C.
12 1638(b)(2)), as amended by section 2502 of the Mortgage
13 Disclosure Improvement Act of 2008 (Public Law 110-
14 289), is amended—

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

18 (2) by amending subparagraph (G) to read as
19 follows:

20 “(G)(i) In the case of an extension of cred-
21 it relating to a plan described in section
22 101(53D) of title 11, United States Code—

23 “(I) the requirements of subpara-
24 graphs (A) through (E) shall not apply;
25 and

1 “(II) a good faith estimate of the dis-
2 losures required under subsection (a) shall
3 be made in accordance with regulations of
4 the Board under section 121(c) before
5 such credit is extended, or shall be deliv-
6 ered or placed in the mail not later than
7 3 business days after the date on which
8 the creditor receives the consumer’s writ-
9 ten application for such credit, whichever
10 is earlier.

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

19 (b) **EFFECTIVE DATE.**—The amendments made by
20 subsection (a) shall take effect as if included in the
21 amendments made by section 2502 of the Mortgage Dis-
22 closure Improvement Act of 2008 (Public Law 110-289).

23 **[SEC. 25. MAINTAINING INSURANCE PARITY.]**

24 **[(a) REIMBURSEMENT.**—The Secretary shall reim-
25 burse the Exchange Stabilization Fund established under

1 section 5302 of title 31, United States Code, for any funds
2 used for the temporary guaranty program for the United
3 States money market mutual fund industry during the pe-
4 riod when the Exchange Stabilization Fund was used as
5 the source for the guarantee.】

6 【(b) LIMITATION ON USE OF FUND.—The Secretary
7 is prohibited from using the Exchange Stabilization Fund
8 for the establishment of any guaranty programs for the
9 United States money market mutual fund industry.】

10 【(c) MONEY MARKET FUND AUTHORITY.—】

11 【(1) IN GENERAL.—The Secretary is author-
12 ized to establish an insurance or guarantee program
13 for money market mutual funds in connection with
14 the program authorized by this Act.】

15 【(2) APPLICABILITY.—The authority of this
16 subsection shall remain in effect—】

17 【(A) for 120 days following the date of en-
18 actment of this Act; or】

19 【(B) such longer period, not to exceed 365
20 days after the date of enactment of this Act, as
21 the Secretary certifies in writing to Congress is
22 necessary to continue the insurance or guar-
23 antee program for money market mutual
24 funds.】

25 【(d) LIMITATION ON INSURED AMOUNTS.—】

1 **[(1) DEPOSIT INSURANCE MODEL.—**Any action
2 by the Secretary or a program to provide guarantees
3 or insurance to the money market mutual fund in-
4 dustry shall not provide insurance in excess of the
5 amount of insurance provided to any depositor under
6 the Federal Deposit Insurance Act (12 U.S.C. 1811
7 et seq.).**]**

8 **[(2) PREMIUMS.—**In exchange for providing
9 such a guarantee or insurance, the Secretary shall
10 charge premiums to those money market funds
11 which receive the insurance. The rate charged by the
12 Secretary shall be equivalent to the rate charged by
13 the Federal Deposit Insurance Corporation to de-
14 posit insurance providers, respectively, for such in-
15 surance.**]**

16 **[(e) CONSULTATIONS.—**In carrying out the duties of
17 the Secretary under this section, the Secretary shall con-
18 sult with the Board of Directors of the Federal Deposit
19 Insurance Corporation and the Securities and Exchange
20 Commission.**]**

21 **SEC. 26. DEFINITIONS.**

22 For purposes of this Act, the following definitions
23 shall apply:

24 (1) **FINANCIAL INSTITUTION.—**The term “fi-
25 nancial institutions” means any institution including

1 **[**, but not limited to,**]** banks, savings associations,
2 credit unions, broker-dealers, and insurance compa-
3 nies organized and regulated under the laws of the
4 United States or any State, territory, or possession
5 of the United States, the District of Columbia, Com-
6 monwealth of Puerto Rico, Commonwealth of North-
7 ern Marianas Islands, Guam, American Samoa, or
8 the United States Virgin Islands, and having signifi-
9 cant operations in the United States, but excluding
10 any central bank of, or institution owned by, a for-
11 eign government.

12 (2) **SECRETARY.**—The term “Secretary” means
13 the Secretary of the Treasury.

14 (3) **TROUBLED ASSETS.**—The term “troubled
15 assets” means residential or commercial mortgages
16 and any securities, obligations, or other instruments
17 that are based on or related to such mortgages, that
18 in each case was originated or issued on or before
19 September 17, 2008, the purchase of which the Sec-
20 retary determines promotes financial market sta-
21 bility; and, upon the determination of the Secretary
22 in consultation with the Chairman of the Board of
23 Governors of the Federal Reserve, any other finan-
24 cial instrument, the purchase of which the Secretary

- 1 determines necessary to promote financial market
- 2 stability.