



Outline Summary of Representative Barney Frank's TARP Reform and Accountability Act January 9, 2009

This bill will amend the Troubled Assets Relief Program (TARP) provisions of the Emergency Economic Stabilization Act of 2008 (EESA) to strengthen accountability, close loopholes, increase transparency, and require Treasury to take significant steps on foreclosure mitigation.

Title I - Modification to TARP and TARP Oversight

- Reporting, Monitoring and Accountability
 - Treasury will require any existing or future institution getting TARP funds to provide at least quarterly public reporting on its use of the funds.
 - Treasury may establish additional reporting/information requirements.
 - Treasury must establish mechanisms to ensure appropriate use and compliance.
 - Insured depositories receiving TARP funds required to report quarterly on the amount of any increased (or decreased) lending and related activity. Non depository institutions may be subject to similar requirements.
 - Treasury is required to reach agreement with the institution and its primary federal regulator on how the funds are to be used and benchmarks to meet.
 - Primary federal regulator must examine use of funds and compliance. Non depository institutions are examined by Treasury or Federal Reserve.
 - TARP fund recipients may not acquire another financial institution unless: (1) the acquisition reduces the risk to taxpayers, or (2) the transaction could have been accomplished without funds provided under the TARP.
 - Establishes new executive compensation restrictions for TARP fund recipients which Treasury has authority to apply retroactively.
 - Directive to make TARP funds available to smaller community institutions.
 - Financial Stability Oversight Board expanded to include FDIC Chair and two other non-federal employees to be appointed by the President and confirmed by the Senate. [FSOB has authority to overrule Treasury Secretary by 2/3 vote.]
 - Treasury must obtain warrants equal to no less than 15% of any financing.
 - The \$100M de minimus exclusion from the warrant requirement is removed.
 - Eases TARP withdrawal procedures by permitting repayment of TARP funds, whether or not the recipient has replaced those funds with private capital, as is currently required.

Title II - Foreclosure relief

- Use of the second \$350 billion is conditioned on the use of a minimum of \$50 billion for foreclosure mitigation, with such a plan required by March 15, 2009.
- Treasury shall begin committing TARP funds to implement the plan no later than April 1.
- Foreclosure mitigation plans must apply only to owner-occupied residences and leverage private capital to the maximum extent possible consistent with maximizing prevention of foreclosures.
- Treasury must use some combination of the following program alternatives:
 - guarantee program for qualifying loan modifications under a systematic plan, which may be delegated to the FDIC or other contractor
 - bringing costs of Hope for Homeowner loans down, either through coverage of fees, purchasing H4H mortgages to ensure affordable rates, or both
 - program for loans to pay down second lien mortgages that are impeding a loan modification subject to any write-down by existing lender Treasury may require
 - Servicer incentives/assistance - payments to servicers in connection with implementation of qualifying loan modifications
 - Purchase of whole loans for the purpose of modifying or refinancing the loans.
- Provides a safe harbor from liability to servicers who engage in loan modifications, regardless of any provisions in a servicing agreement, so long as the servicer acts in a manner consistent with the duty established in Homeowner Emergency Relief Act.
- Requires persons who bring suit unsuccessfully against servicers for engaging in loan modifications under the Act to pay the servicers' court costs and legal fees.
- Requires Servicers who modify loans under the safe harbor to regularly report to the Treasury on the extent, scope and results of the servicer's modification activities.
- Report is required to Congress by July 1 on Treasury's actions on foreclosure mitigation.

Title III - Automobile manufacturers

- Clarifies and confirms Treasury authorization to provide assistance to automobile manufacturers under the TARP.
- Includes conditions of the House auto bill, including long-term restructuring requirements for those already receiving assistance.
- Clarifies Treasury's authority to provide support to the financing arms of automakers.

Title IV - Clarification of Treasury's authority under TARP for additional uses

- Clarifies authority to establish facilities to support the availability of consumer loans.
- Clarifies authority to provide support for commercial real estate loans and MBS.
- Clarifies Treasury's authority to provide support to issuers of municipal securities for new issuance or remarketing of existing auction rate securities.

Title V - Hope for Homeowners Improvements

- Eliminates 3% upfront premium.
- Reduces 1.5% annual premium to a range between .55% and .75%, based on risk-based pricing (also makes technical fix to permit discontinuation of fees when loan balance drops below certain levels, consistent with normal FHA policy).
- Raises maximum loan to value (LTV) from 90% to 93% for borrowers above a 31% mortgage debt to income (DTI) ratio or above a 43% ratio.
- Eliminates government profit sharing of appreciation over market value of home at time of refi. Retains government declining share (from 100% to 50% after five years) of equity created by the refi, to be paid at time of sale or refi as an exit fee.
- Authorizes payments to servicers participating in successful refis.
- Administrative simplification: (a) eliminates borrower certifications regarding not intentionally defaulting on any debt, (b) eliminates special requirement to collect 2 years of tax returns, (c) eliminates originator liability for first payment default, (d) eliminates March 1, 2008 31% DTI test, (e) eliminates prohibition against taking out future second loans, (f) requires Board to make documents, forms, and procedures conform to those under normal FHA loans to the maximum extent possible consistent with statute.

Title VI - Home Buyer Stimulus

- Requires Treasury to develop a program, outside TARP, to stimulate demand for home purchases and clear inventory of properties.
- Treasury shall provide mechanisms to ensure availability of such reduced rate loans through financial institutions that act as either originators or as portfolio lenders.
- Treasury shall make the affordable rates available under this program available in connection with Hope for Homeowner refinancing program.