[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 **[**———?**]**.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Troubled Asset Relief Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for 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.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the current United States financial crisis necessitates immediate action to stabilize the financial system, restore liquidity to financial institutions and the capital markets, protect savings and pensions, and preserve the availability of credit for individuals and businesses;

(2) actions taken to protect consumers and minimize mortgage foreclosures are equally important objectives in promoting a resolution to this crisis and will minimize any losses and maximize the ultimate return to the taxpayer on assets purchased under this program; and

(3) existing financial regulatory structures have clearly failed either to prevent the current crisis or to protect United States consumers and investors, and comprehensive regulatory reform is required to restore confidence in financial markets and institutions going forward.

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

(1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to United States financial markets;

(2) to ensure that this authority and these facilities are used in a manner that minimizes mortgage foreclosures, maximizes the ability of United States homeowners to remain in their homes, protects individual investors, including retirement fund investors, and minimizes initial costs and maximizes overall returns to United States taxpayers;

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

(4) to act as quickly as possible to comprehensively restructure the United States financial regulatory system to protect consumers and homeowners,

reform the mortgage lending and securitization process, enhance the transparency and fairness in financial markets, and ensure the future stability of the financial system.

SEC. 3. PURCHASES OF TROUBLED ASSETS.

(a) AUTHORITY TO PURCHASE.—The Secretary is authorized to purchase, and to make and fund commitments to purchase, on such terms and conditions as determined by the Secretary, troubled assets from any financial institution (as such terms are defined in section 26 of this Act).

(b) CONSULTATION.—In exercising the authority under this Act, the Secretary shall consult with the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the Federal Deposit Insurance Corporation, and the Secretary of Housing and Urban Development

(c) NECESSARY ACTIONS.—The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this Act, including, without limitation, the following:

(1) The Secretary shall have direct hiring authority with respect to the appointment of employees to administer this Act.

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

(3) Designating financial institutions as financial agents of the Federal Government, and they shall perform all such reasonable duties related to this Act as financial agents of the Federal Government as may be required of them.

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

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

SEC. 4. CONSIDERATIONS.

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

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

(2) protecting the taxpayers; and

(3) in determining whether to engage in a direct purchase from an individual financial institution, the strength of the financial institution in determining whether the purchase represents the most efficient use of funds under this Act.

SEC. 5. REPORTS TO CONGRESS.

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

[(b) PLAN.—Before the expiration of the 15-day period beginning upon the date of the enactment of this Act, the Secretary shall submit a plan to Congress detailing the expected use of the funds provided for administrative expenses by section 15. Before the expiration of the 45-day period beginning upon the date of the enactment of this Act, the Secretary shall submit a report to Congress detailing actual obligation and expenditure of the funds provided for administrative expenses by section 15 for the period ending 30 days after enactment of this Act. Beginning 90 days after enactment of this Act, the Secretary shall submit a quarterly report to Congress detailing the actual expenditure of funds provided for administrative expenses by section 15 and the expected expenditure of such funds in the subsequent quarter.**]**

SEC. 6. RIGHTS; MANAGEMENT; SALE OF TROUBLED ASSETS; REVENUES AND SALE PROCEEDS.

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

(b) MANAGEMENT OF TROUBLED ASSETS.—The Secretary shall have authority to manage troubled assets purchased under this Act, including revenues and portfolio risks therefrom.

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

(d) APPLICATION OF SUNSET TO TROUBLED ASSETS.—The authority of the Secretary to hold any troubled asset purchased under this Act before the termination date in section 17, or to purchase or fund the purchase of a troubled asset under a commitment entered into before the termination date in section 17, is not subject to the provisions of section 17.

(e) DISPOSITION OF REVENUES AND SALE PROCEEDS.—Revenues of, and proceeds from the sale of, troubled assets shall be deposited into the general fund of the United States Treasury.

SEC. 7. CONTRACTING PROCEDURES.

In awarding contracts to asset managers, the Secretary shall solicit proposals from a broad range of qualified firms or individuals and publish a request for information seeking information from qualified vendors interested in performing the work. In awarding such contracts, the Secretary shall take appropriate steps to manage conflicts of interest, including requiring potential firms to identify and disclose to the Secretary potential conflicts of interest and to submit a strategy to mitigate such conflicts, requiring such vendors to acknowledge that they have a fiduciary duty to the United States, and restricting staff from sharing information received from or on behalf of the United States or providing services to both the United States and other clients where a conflict exists. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation shall be eligible and shall be considered in the selection of asset managers for whole loans and shall be reimbursed by the Secretary for any services provided.

[SEC. 8. FORECLOSURE MITIGATION EFFORTS.]

[(a) RESIDENTIAL MORTGAGE LOAN SERVICING STANDARDS.—To the extent the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, the Secretary shall maximize assistance to the underlying mortgagors and use the

Secretary's authority as investor to encourage the servicers of the underlying mortgages, using net present value analysis, to take advantage of the Hope for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures.]

[(b) COORDINATION.—The Secretary shall coordinate with the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Department 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 Secretary's ability 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.]

[(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—For residential mortgages underlying troubled assets purchased under this Act, the Secretary shall request loan servicers servicing the mortgage loans to avoid preventable foreclosures, to the greatest extent possible, to the extent that the Secretary, as an investor, has discretion to do so under existing investment contracts. Upon any request arising under existing invest-

ment contracts, the Secretary shall consent, where appropriate, to reasonable requests 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.]

[SEC. 9. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.]

[(a) IN GENERAL.—The Secretary shall require that all financial institutions seeking to sell assets through the program under this Act meet appropriate standards for executive compensation and corporate governance in order to be eligible.]

[(b) CRITERIA FOR STANDARDS.—The standards under this section shall include with respect to any financial institution participating in the program under this Act, and effective for the two years after entry by the financial institution into such participation—]

[(1) limits on compensation to exclude incentives for executive officers to take risks that the Secretary deems to be inappropriate or excessive during such participation;]

[(2) a provision for the recovery by the financial institution of any bonus or other incentive compensation paid to a senior executive officer based on

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

[(3) a prohibition on the financial institution paying severance compensation to its senior executive officers during such period.]

[(c) ADDITIONAL STANDARD FOR DIRECT PURCHASES.—The standards prescribed by the Secretary under this section shall include additional standards with respect to financial institutions in which the Secretary makes a direct purchase from an individual financial institution. Such standards shall be effective for the duration of the holding by the Secretary of such equity position, and shall include—]

[(1) a requirement that the financial institution permit any shareholder or group of shareholders holding, in the aggregate, equity securities of the institution representing three percent or more of the equity securities of the financial institution, access to the proxy solicitation and shareholder vote for any election of the board of directors of the institution for the purposes of nominating and electing a designated individual to the board of directors of the institution;]

[(2) a requirement that the financial institution afford all shareholders the opportunity to cast a

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

[(3) a prohibition on the institution paying severance compensation to its senior executive officers during any period in which the Secretary continues to hold an equity position in the financial institution.]

[(d) SEVERANCE COMPENSATION.—For purposes of this section, the term ''severance compensation'' means any compensation that is awarded to a senior executive officer on the basis of the termination of such executive officer's service with the financial institution, other than a pension plan or a retirement plan in which the executive officer's rights were fully vested prior to the entry of such financial institution into participation in the program under this Act.]

SEC. 10. COORDINATION WITH FOREIGN AUTHORITIES AND CENTRAL BANKS.

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

thorities or banks hold troubled assets as a result of extending financing to financial institutions (as such term is defined in section 26) that have failed or have defaulted on such financing, such troubled assets qualify for purchase under section 3(a).

SEC. 11. MINIMIZATION OF LONG-TERM COSTS AND MAXIMIZATION OF BENEFITS FOR TAXPAYERS.

(a) LONG-TERM COSTS AND BENEFITS.—The Secretary shall use the authority under this Act in a manner that will minimize any potential long-term negative impact on the taxpayer, taking into account the direct outlays, potential long-term returns on assets purchased, and the overall economic benefits of the program, including through improving the economic activity and the availability of credit, limiting losses to the savings and pensions of individuals, and reducing losses to the Federal Government.

(b) USE OF MARKET MECHANISMS.—In making purchases under this Act, the Secretary shall maximize the efficiency of its use of taxpayer resources in making purchases by using market mechanisms, including auctions or reverse auctions, where appropriate.

(c) DIRECT PURCHASES.—Where the Secretary determines that the purposes of the Act are best met through direct purchases from an individual financial in-

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

(1) ensure that prices paid for assets are reasonable; and

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

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

SEC. 12. MARKET TRANSPARENCY.

To facilitate market transparency, the Secretary shall make available to the public, in electronic form, a description, amounts and pricing of assets acquired under this Act within 48 hours of purchase, trade, or other disposition.

SEC. 13. MAXIMUM AMOUNT OF AUTHORIZED PURCHASES.

The Secretary's authority to purchase troubled assets under this Act shall be limited to $700,000,000,000 outstanding at any one time.

SEC. 14. OVERSIGHT AND AUDITS.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) SCOPE OF OVERSIGHT.—The Comptroller General shall, upon establishment of the troubled assets relief program under this Act (in this section referred to as the ''TARP''), commence ongoing oversight of the activities and performance of the TARP and of any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act. The subjects of such oversight shall include, **[**but are not limited to,**]** the following:

(A) TARP's performance in meeting the goals set out in this Act, particularly those involving foreclosure mitigation, consumer protection, cost reduction, and stabilization of the financial system.

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

(C) Characteristics of transactions and commitments entered into, including: transaction type, frequency, size, prices paid, and all other relevant terms and conditions, and the timing, duration and terms of any future commitments to purchase assets.

(D) Characteristics and disposition of acquired assets, including type, acquisition price, current market value, sale prices and terms, and use of proceeds from sales.

(E) Efficiency of the TARP's operations in the use of appropriated funds.

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

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

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

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

(B) ACCESS TO RECORDS.—The Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the

TARP, or any vehicles established by the Secretary [under this Act] , and to the officers, directors, employees, independent public accountants, financial advisors, and other agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP) or any such vehicle at such reasonable time as the Comptroller General may request. The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

(C) REIMBURSEMENT OF COSTS.—The Treasury shall reimburse the Government Accountability Office for the full cost of any such oversight activities as billed therefor by the Comptroller General of the United States. Such reimbursements shall be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when

the payment is received and remain available until expended.

(3) REPORTING.—The Comptroller General shall submit reports of findings under this section, regularly and no less frequently than once every 60 days, to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Inspector General for the Department of the Treasury on the activities and performance of the TARP. The Comptroller may also submit special reports under this subsection as warranted by the findings of its oversight activities.

(b) COMPTROLLER GENERAL AUDITS.—

(1) ANNUAL AUDIT.—The TARP shall annually prepare and issue to the Congress and the public audited financial statements prepared in accordance with generally accepted accounting principles and the Comptroller General shall annually audit such statements in accordance with generally accepted auditing standards. The Treasury shall reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General of the United States. Such reimbursements shall be credited to the appropriation account ''Sala-

ries and Expenses, Government Accountability Office'' current when the payment is received and remain available until expended. The financial statements prepared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31, United States Code.

(2) AUTHORITY.—The Comptroller General of the United States may audit the programs, activities, receipts, expenditures, and financial transactions of the TARP and any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary [under this Act].

(3) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The TARP shall—

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

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

(c) INTERNAL CONTROL.—

(1) ESTABLISHMENT.—The TARP shall establish and maintain an effective system of internal

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

(A) the effectiveness and efficiency of operations, including the use of the TARP's resources;

(B) the reliability of financial reporting, including financial statements and other reports for internal and external use; and

(C) compliance with applicable laws and regulations.

(2) REPORTING.—In conjunction with each annual financial statement issued under this section, the TARP shall—

(A) state the responsibility of management for establishing and maintaining adequate internal control over financial reporting; and

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

SEC. 15. FUNDING.

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

rities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include actions authorized by this Act, including the payment of administrative expenses. Any funds expended or obligated for actions authorized by this Act, including the payment of administrative expenses, shall be deemed appropriated at the time of such expenditure or obligation.

SEC. 16. REVIEW.

(a) IN GENERAL.—In any review of actions taken under this Act, no injunction or other form of equitable relief may be issued by any court of law or any administrative agency.

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

SEC. 17. TERMINATION OF AUTHORITY.

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

SEC. 18. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $11,315,000,000,000.

SEC. 19. CREDIT REFORM.

The costs of purchases of troubled assets made under section 3(a) of this Act shall be determined as provided under the Federal Credit Reform Act of 1990, as applicable.

[SEC. 20. BANKRUPTCY PROVISIONS.]

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

[(1) by redesignating paragraphs (40A) and (40B) as paragraphs (40B) and (40C), respectively,]

[(2) by inserting after paragraph (40) the following:]

[''(40A) The term 'nontraditional mortgage' means a security interest in the debtor's principal residence that secures a debt for a loan that at any period during the term of such loan provides for the deferral of payment of principal or interest through permitting periodic payments that do not cover the

full amount of interest due or that cover only the interest rate, except that such term excludes—]

[“(A) a home equity line of credit that is in a subordinate position; and]

[“(B) a reverse mortgage.”,]

[(3) by redesignating paragraphs (53B) through (53D) as paragraphs (53C), (53D), (53E), and (53F), respectively, and]

[(4) by inserting after paragraph (53A) the following:]

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

[“(A) the sum of 3 percent plus the yield on United States Treasury securities having comparable periods of maturity, if such loan is secured by a first mortgage or first deed of trust; or]

[“(B) the sum of 5 percent plus the yield on United States Treasury securities having comparable periods of maturity, if such loan is secured by a subordinate mortgage or subordinate deed of trust.]

Without regard to whether such loan is subject to or reportable under the Home Mortgage Disclosure Act of 1975, the difference between the annual percentage rate of such loan and the yield on United States Treasury securities having comparable periods of maturity shall be determined using the procedures and calculation methods applicable to loans that are subject to the reporting requirements of such Act, except that such yield shall be determined as of the 15th day of the month preceding the month in which a completed application is submitted for such loan. If such loan provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable interest rate, the determination of the annual percentage rate shall be based on the greater of the introductory rate and the fully indexed rate. For purposes of this paragraph, the term 'fully indexed rate' means the prevailing index rate on a residential mortgage loan at the time the loan is made plus the margin that will apply after the expiration of an introductory interest rate.''.]

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

[''(5)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor in a case under chapter 13 commenced during the 7-year period beginning on the effective date of this paragraph who submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on the debtor's principal residence.]

[''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.''.]

[(c) AUTHORITY TO MODIFY CERTAIN MORTGAGES.— Section 1322(b) of title 11, United States Code, is amended—]

[(1) by redesignating paragraph (11) as paragraph (12),]

[(2) in paragraph (10) by striking ''and'' at the end, and]

[(3) by inserting after paragraph (10) the following:]

[''(11) notwithstanding paragraph (2) and otherwise applicable nonbankruptcy law, with respect to a claim for a debt incurred during the period begin-

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—]

[''(A) by reducing such claim to equal the value of the interest of the debtor in such residence securing such claim;]

[''(B) by waiving any otherwise applicable early repayment or prepayment penalties;]

[''©). if any applicable rate of interest is adjustable under the terms of such nontradi-

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

[''(D) by modifying the terms and conditions of such loan—]

[''(I) to extend the repayment period for a period that is the longer of 30 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and]

[''(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at an annual percentage rate calculated at a fixed annual percentage rate, in an amount equal to the then most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as of the applicable time set forth in the rules of the Board, plus a reasonable premium for risk; and''.]

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

[(1) in paragraph (1) by striking ''and'' at the end,]

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

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

[''(3) the debtor, the debtor's property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case is pending and arises from a debt that is secured by the debtor's principal residence except to the extent that—]

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

[''(I) 1 year after such fee, cost, or charge is incurred; or]

[''(ii) 60 days before the closing of the case; and]

[''(B) such fee, cost, or charge—]

[''(I) is lawful under applicable nonbankruptcy law, reasonable, and provided

for in the applicable security agreement; and]

[''(ii) is secured by property the value of which is greater than the amount of such claim, including such fee, cost, or charge;]

[''(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for fees, costs, or charges described in paragraph (3) for all purposes, and any attempt to collect such fees, costs, or charges shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and]

[''(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor's principal residence.''.]

[(e) CONFIRMATION OF PLAN.— Section 1325(a) of title 11, the United States Code, is amended—]

[(1) in paragraph (8) by striking ''and'' at the end,]

[(2) in paragraph (9) by striking the period at the end and inserting a semicolon, and]

[(3) by inserting after paragraph (9) the following:]

[“(10) notwithstanding subclause (I) of paragraph (5)(B)(I), the plan provides that the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retain the lien until the later of—]

[“(A) the payment of such claim as reduced and modified; or]

[“(B) discharge under section 1328; and]

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

[(f) DISCHARGE.— Section 1328 of title 11, the United States Code, is amended—]

[(1) in subsection (a)—]

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

[(B) in paragraph (1) by inserting “or, to the extent of the unpaid portion of the claim as reduced, provided for in section 1322(b)(11)” after “1322(b)(5)”, and]

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

duced, provided for in section 1322(b)(11)'' after ''1322(b)(5)''.**]**

[(g) STUDY AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.—**]**

[(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the impact of the amendments made by subsections (a), (b), (c), (d), (e), and (f).**]**

[(2) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required under paragraph (1).**]**

[(h) STUDY AND REPORT BY EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES.—**]**

[(1) STUDY.—The Director of the Executive Office for United States Trustees shall conduct a study to determine the impact of the amendments made by subsections (a), (b), (c), (d), (e), and (f).**]**

[(2) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Congress on the results of the study required under paragraph (1).**]**

[(I) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—]

[(1) EFFECTIVE DATE.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.]

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

SEC. 21. CONGRESSIONAL OVERSIGHT PANEL.

(a) ESTABLISHED.—There is hereby established the Congressional Oversight Panel (hereafter in this section referred to as the ''Panel'') as an establishment in the legislative branch.

(b) DUTIES.—The duties of the Panel shall be to review and report to the Congress on the following:

(1) The Secretary's use of the authority under this Act, including with respect to the use of contracting authority and administration of the program.

(2) The impact of purchases made under the Act on the financial markets and financial institutions.

(3) The extent to which information made available on transactions under the program have contributed to market transparency.

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

(c) MEMBERSHIP.—

(1) IN GENERAL.—3 members of the Panel shall be appointed by the Speaker of the House of Representatives, 2 on the basis of recommendations made by the majority leader of such House and 1 by the minority leader of such House, and 3 members of the Panel shall be appointed by the president pro tempore of the Senate, 2 on the basis of recommendations made by the majority leader of the Senate and 1 by the minority leader of the Senate.

(2) 7TH MEMBER.—The 7th member of the Panel shall be appointed by the members appointed under paragraph (1) and shall serve as the Chairperson of the Panel.

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

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

annual rate of basic pay for level ____ of the Executive Schedule] for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Panel.

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

(d) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at [a rate not to exceed $_____ per year.] [the rate of basic pay for level _____ of the Executive Schedule.] [the [minimum] [maximum] rate of basic pay for GS–____ of the General Schedule].

(2) STAFF.—Subject to rules prescribed by the Panel, and with the approval of the Chairperson, the Director may appoint and fix the pay of such additional personnel as the Panel considers appropriate.

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

(4) STAFF OF AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the

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

(e) POWERS OF PANEL.—

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

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

(3) OBTAINING OFFICIAL DATA.—The Panel may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Panel, the head of that department or agency shall furnish that information to the Panel.

(f) REPORTS.—The Panel shall submit an annual report to the Congress detailing the findings, conclusions, and recommendations of the Panel.

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

(f) after the last troubled asset acquired by the Secretary under this Act has been sold or transferred out of the ownership or control of the Federal Government.

(h) FUNDING FOR EXPENSES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Panel such sums as may be necessary for any fiscal year—

(A) ½ of which shall be derived from the applicable account of the House of Representatives; and

(B) ½ of which shall be derived from the contingent fund of the Senate.

(2) REIMBURSEMENT OF AMOUNTS.—An amount equal to the expenses of the Panel shall be promptly transferred by the Secretary, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Panel, from funds made available to the Secretary under this Act to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

SEC. 22. ADMINISTRATIVE REVIEW.

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

SEC. 23. ACCELERATION OF EFFECTIVE DATE.

Section 203 of the Financial Services Regulatory Relief Act of 2006 (12 U.S.C. 461 note) is amended by striking ''October 1, 2011'' and inserting ''October 1, 2008''.

SEC. 24. MORTGAGE DISCLOSURES.

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

(1) in subparagraph (A), by striking ''In the case'' and inserting ''Except as provided in subparagraph (G), in the case''; and

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

''(G)(i) In the case of an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code—

''(I) the requirements of subparagraphs (A) through (E) shall not apply; and

''(II) a good faith estimate of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before such credit is extended, or shall be delivered or placed in the mail not later than 3 business days after the date on which the creditor receives the consumer's written application for such credit, whichever is earlier.

''(ii) If a disclosure statement furnished within 3 business days of the written application (as provided under clause (i)(II)) contains an annual percentage rate which is subsequently rendered inaccurate, within the meaning of section 107(c), the creditor shall furnish another disclosure statement at the time of settlement or consummation of the transaction.''.

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

[SEC. 25. MAINTAINING INSURANCE PARITY.]

[(a) REIMBURSEMENT.—The Secretary shall reimburse the Exchange Stabilization Fund established under

section 5302 of title 31, United States Code, for any funds used for the temporary guaranty program for the United States money market mutual fund industry during the period when the Exchange Stabilization Fund was used as the source for the guarantee.]

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

[(c) MONEY MARKET FUND AUTHORITY.—]

[(1) IN GENERAL.—The Secretary is authorized to establish an insurance or guarantee program for money market mutual funds in connection with the program authorized by this Act.]

[(2) APPLICABILITY.—The authority of this subsection shall remain in effect—]

[(A) for 120 days following the date of enactment of this Act; or]

[(B) such longer period, not to exceed 365 days after the date of enactment of this Act, as the Secretary certifies in writing to Congress is necessary to continue the insurance or guarantee program for money market mutual funds.]

[(d) LIMITATION ON INSURED AMOUNTS.—]

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

[(2) PREMIUMS.—In exchange for providing such a guarantee or insurance, the Secretary shall charge premiums to those money market funds which receive the insurance. The rate charged by the Secretary shall be equivalent to the rate charged by the Federal Deposit Insurance Corporation to deposit insurance providers, respectively, for such insurance.**]**

[(e) CONSULTATIONS.—In carrying out the duties of the Secretary under this section, the Secretary shall consult with the Board of Directors of the Federal Deposit Insurance Corporation and the Securities and Exchange Commission.**]**

SEC. 26. DEFINITIONS.

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

(1) FINANCIAL INSTITUTION.—The term ''financial institutions'' means any institution including

[, but not limited to,] banks, savings associations, credit unions, broker-dealers, and insurance companies organized and regulated under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Marianas Islands, Guam, American Samoa, or the United States Virgin Islands, and having significant operations in the United States, but excluding any central bank of, or institution owned by, a foreign government.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(3) TROUBLED ASSETS.—The term ''troubled assets'' means residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before September 17, 2008, the purchase of which the Secretary determines promotes financial market stability; and, upon the determination of the Secretary in consultation with the Chairman of the Board of Governors of the Federal Reserve, any other financial instrument, the purchase of which the Secretary

determines necessary to promote financial market stability.