

Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (c)(2)(C), (D), is div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, which is classified principally to this chapter. Paragraphs (1) and (2) of section 115(a) of the Act are classified to paragraphs (1) and (2), respectively, of subsec. (a) of this section. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(3). Pub. L. 111-203, §1302(1)(B), struck out “outstanding at any one time” before the period at the end.

Pub. L. 111-203, §1302(1)(A), which directed substitution of “\$475,000,000,000” for “\$, \$700,000,000,000, as such amount is reduced by \$1,259,000,000, as such amount is reduced by \$1,244,000,000”, was executed by making the substitution for “\$700,000,000,000, as such amount is reduced by \$1,259,000,000., as such amount is reduced by \$1,244,000,000,”, to reflect the probable intent of Congress.

Subsec. (a)(4), (5). Pub. L. 111-203, §1302(2), added pars. (4) and (5).

2009—Subsec. (a)(3). Pub. L. 111-22, §402(f), inserted “, as such amount is reduced by \$1,259,000,000,” after “\$700,000,000,000”.

Pub. L. 111-22, §202(b), inserted of “, as such amount is reduced by \$1,244,000,000,” after “\$700,000,000,000”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

§ 5226. Oversight and audits

(a) Comptroller General oversight

(1) Scope of oversight

The Comptroller General of the United States shall, upon establishment of the troubled assets relief program¹ under this chapter (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 chapter. The subjects of such oversight shall include the following:

(A) The performance of the TARP in meeting the purposes of this chapter, particularly those involving—

- (i) foreclosure mitigation;
- (ii) cost reduction;
- (iii) whether it has provided stability or prevented disruption to the financial markets or the banking system;
- (iv) whether it has protected taxpayers; and

(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this chapter.

(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 operations of the TARP in the use of appropriated funds.

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

(G) The efforts of the TARP 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.

(H) The efficacy of contracting procedures pursuant to section 5217(b) of this title, including, as applicable, the efforts of the TARP in evaluating proposals for inclusion and contracting to the maximum extent possible of minorities (as such term is defined in 1204(c)² of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989³ (12 U.S.C. 1811 note), women, and minority- and women-owned businesses, including ascertaining and reporting the total amount of fees paid and other value delivered by the TARP to all of its agents and representatives, and such amounts paid or delivered to such firms that are minority- and women-owned businesses (as such terms are defined in section 1441a³ of this title).

(2) Conduct and administration of oversight

(A) Definition

In this paragraph, the term “governmental unit” has the meaning given under section 101(27) of title 11, and does not include any insured depository institution as defined under section 1813 of this title.

(B) GAO presence

The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230³ of this title.

(C) Access to records

(i) In general

Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, 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, any entity established

¹So in original. Probably should be “Troubled Asset Relief Program”.

²So in original. Probably should be preceded by “section”.

³See References in Text note below.

by the Secretary under this chapter, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this chapter, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

(ii) Verification

The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

(iii) Copies

The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

(D) Agreement by entities

Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this chapter shall provide for access by the Comptroller General in accordance with this section.

(E) Restriction on public disclosure

(i) In general

The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

(ii) Exception for congressional committees

This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

(iii) Rule of construction

Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, section 714(c) of title 31, or other applicable provisions of law.

(F) 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 appropriate committees of Congress, and the Special Inspector General for the Troubled Asset Relief Program established under this chapter 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 appropriate committees of 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. 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. The financial statements prepared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31.

(2) Authority

The Comptroller General 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 chapter.

(3) Corrective responses to audit problems

The TARP shall—

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

(B) certify to appropriate committees of 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, that provides reasonable assurance of—

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

(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.

(d) Sharing of information

Any report or audit required under this section shall also be submitted to the Congressional Oversight Panel established under section 5233 of this title.

(e) Termination

Any oversight, reporting, or audit requirement under this section shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 5211 of this title has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 5212 of this title.

(Pub. L. 110-343, div. A, title I, § 116, Oct. 3, 2008, 122 Stat. 3783; Pub. L. 111-22, div. A, title VI, § 601, May 20, 2009, 123 Stat. 1659.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

Section 1204 of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989, referred to in subsec. (a)(1)(H), probably means section 1204 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, which is set out as a note under section 1811 of this title.

Section 1441a of this title, referred to in subsec. (a)(1)(H), was repealed by Pub. L. 111-203, title III, § 364(b), July 21, 2010, 124 Stat. 1555.

Section 5230 of this title, referred to in subsec. (a)(2)(B), was so in the original, but probably should have been a reference to section 120 of title I of div. A of Pub. L. 110-343, which is classified to section 5230 of this title.

AMENDMENTS

2009—Subsec. (a)(1)(A)(v). Pub. L. 111-22, § 601(1), added cl. (v).

Subsec. (a)(2). Pub. L. 111-22, § 601(2), added subpars. (A) to (E), redesignated former subpar. (C) as (F), and struck out former subpars. (A) and (B) which related to GAO presence and access to records, respectively.

§ 5227. Study and report on margin authority

(a) Study

The Comptroller General shall undertake a study to determine the extent to which leverage and sudden deleveraging of financial institutions was a factor behind the current financial crisis.

(b) Content

The study required by this section shall include—

(1) an analysis of the roles and responsibilities of the Board, the Securities and Ex-

change Commission, the Secretary, and other Federal banking agencies with respect to monitoring leverage and acting to curtail excessive leveraging;

(2) an analysis of the authority of the Board to regulate leverage, including by setting margin requirements, and what process the Board used to decide whether or not to use its authority;

(3) an analysis of any usage of the margin authority by the Board; and

(4) recommendations for the Board and appropriate committees of Congress with respect to the existing authority of the Board.

(c) Report

Not later than June 1, 2009, the Comptroller General shall complete and submit a report on the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(d) Sharing of information

Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 5233 of this title.

(Pub. L. 110-343, div. A, title I, § 117, Oct. 3, 2008, 122 Stat. 3786.)

§ 5228. Funding

For the purpose of the authorities granted in this chapter, and for the costs of administering those authorities, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include actions authorized by this chapter, including the payment of administrative expenses. Any funds expended or obligated by the Secretary for actions authorized by this chapter, including the payment of administrative expenses, shall be deemed appropriated at the time of such expenditure or obligation.

(Pub. L. 110-343, div. A, title I, § 118, Oct. 3, 2008, 122 Stat. 3786.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

§ 5229. Judicial review and related matters

(a) Judicial review

(1) Standard

Actions by the Secretary pursuant to the authority of this chapter shall be subject to chapter 7 of title 5, including that such final actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(2) Limitations on equitable relief

(A) Injunction

No injunction or other form of equitable relief shall be issued against the Secretary