

AMENDMENTS

2009—Subsec. (c)(4). Pub. L. 111-15, §2(1), added par. (4).

Subsec. (d)(2). Pub. L. 111-15, §2(2)(A), substituted “subsection (c)(1) and (4)” for “subsection (c)(1)”.

Subsec. (d)(3). Pub. L. 111-15, §2(2)(B), added par. (3).

Subsec. (e)(1). Pub. L. 111-15, §3(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e)(5). Pub. L. 111-15, §3(2), added par. (5).

Subsecs. (f) to (h). Pub. L. 111-15, §4(2), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 111-15, §4(1), redesignated subsec. (f) as (i).

Subsec. (i)(1). Pub. L. 111-15, §5(1), substituted “Not later than 60 days after the confirmation of the Special Inspector General, and not later than 30 days following the end of each fiscal quarter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during that fiscal quarter.” for “Not later than 60 days after the confirmation of the Special Inspector General, and every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 120-day period ending on the date of such report.”

Subsec. (i)(2) to (4). Pub. L. 111-15, §5(2), (3), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (i)(5). Pub. L. 111-15, §5(4), added par. (5).

Subsec. (j). Pub. L. 111-15, §4(1), redesignated subsec. (g) as (j).

Subsec. (j)(1). Pub. L. 111-15, §6, inserted “, not later than 7 days after April 24, 2009” before period at end.

Subsec. (k). Pub. L. 111-15, §4(1), redesignated subsec. (h) as (k).

§ 5231a. Public-Private Investment Program; additional appropriations for the Special Inspector General for the Troubled Asset Relief Program

(a) Short title

This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) Public-Private Investment Program

(1) In general

Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble¹ Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section re-

ferred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private fund to identify for the Secretary, on a periodic basis, each investor that, individually or together with affiliates, directly or indirectly, holds equity interests equal to at least 10 percent of the equity interest of the fund including if such interests are held in a vehicle formed for the purpose of directly or indirectly investing in the fund.

(2) Interaction between public-private investment funds and the Term-Asset Backed Securities Loan Facility

The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) Report

Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) Additional appropriations for the Special Inspector General

(1) In general

Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) [12 U.S.C. 5225(a)], \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) Priorities

In utilizing funds made available under this section, the Special Inspector General shall

¹ So in original. Probably should be “Troubled”.

prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under any program that is funded in whole or in part by funds appropriated under the Emergency Economic Stabilization Act of 2008 [12 U.S.C. 5201 et seq.], to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) Rule of construction

Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 1823(c)(2)(B) of this title.

(e) Definition

In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008 [12 U.S.C. 5201 et seq.].

(f) Omitted

(g) Regulations

The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this section.

(Pub. L. 111-22, div. A, title IV, §402, May 20, 2009, 123 Stat. 1656.)

REFERENCES IN TEXT

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

CODIFICATION

Section was enacted as part of the Helping Families Save Their Homes Act of 2009, and not as part of the Emergency Economic Stabilization Act of 2008 which comprises this chapter.

Section is comprised of section 402 of Pub. L. 111-22. Subsec. (f) of section 402 of Pub. L. 111-22 amended section 5225 of this title.

§ 5232. Credit reform

(a) In general

Subject to subsection (b), the costs of purchases of troubled assets made under section 5211(a) of this title and guarantees of troubled

assets under section 5212 of this title, and any cash flows associated with the activities authorized in section 5212 of this title and subsections (a), (b), and (c) of section 5216 of this title shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).¹

(b) Costs

For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

(Pub. L. 110-343, div. A, title I, §123, Oct. 3, 2008, 122 Stat. 3790.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (a), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

§ 5233. Congressional Oversight Panel

(a) Establishment

There is hereby established the Congressional Oversight Panel (hereafter in this section referred to as the “Oversight Panel”) as an establishment in the legislative branch.

(b) Duties

The Oversight Panel shall review the current state of the financial markets and the regulatory system and submit the following reports to Congress:

(1) Regular reports

(A) In general

Regular reports of the Oversight Panel shall include the following:

(i) The use by the Secretary of authority under this chapter, including with respect to the use of contracting authority and administration of the program.

(ii) The impact of purchases made under the¹ chapter on the financial markets and financial institutions.

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

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

¹ So in original.

¹ So in original. Probably should be “this”.