

holder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

**(2) Nonbinding vote**

A shareholder vote described in paragraph (1) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

**(3) Deadline for rulemaking**

Not later than 1 year after February 17, 2009, the Commission shall issue any final rules and regulations required by this subsection.

**(f) Review of prior payments to executives**

**(1) In general**

The Secretary shall review bonuses, retention awards, and other compensation paid to the senior executive officers and the next 20 most highly-compensated employees of each entity receiving TARP assistance before February 17, 2009, to determine whether any such payments were inconsistent with the purposes of this section or the TARP or were otherwise contrary to the public interest.

**(2) Negotiations for reimbursement**

If the Secretary makes a determination described in paragraph (1), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

**(g) No impediment to withdrawal by TARP recipients**

Subject to consultation with the appropriate Federal banking agency (as that term is defined in section 1813 of this title), if any, the Secretary shall permit a TARP recipient to repay any assistance previously provided under the TARP to such financial institution, without regard to whether the financial institution has replaced such funds from any other source or to any waiting period, and when such assistance is repaid, the Secretary, at the market price, may liquidate warrants associated with such assistance.

**(h) Regulations**

The Secretary shall promulgate regulations to implement this section.

(Pub. L. 110-343, div. A, title I, §111, Oct. 3, 2008, 122 Stat. 3776; Pub. L. 111-5, div. B, title VII, §7001, Feb. 17, 2009, 123 Stat. 516; Pub. L. 111-22, div. A, title IV, §403, May 20, 2009, 123 Stat. 1658.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsecs. (a)(1) and (c)(3), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2009—Pub. L. 111-5 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to applicability of requirements, direct purchases of troubled assets, auction purchases of troubled assets, and sunset of provisions, respectively.

Subsec. (g). Pub. L. 111-22 substituted “, at the market price, may liquidate warrants associated with such assistance” for “shall liquidate warrants associated with such assistance at the current market price”.

**§ 5222. 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. To the extent that such foreign financial authorities or banks hold troubled assets as a result of extending financing to financial institutions that have failed or defaulted on such financing, such troubled assets qualify for purchase under section 5211 of this title.

(Pub. L. 110-343, div. A, title I, §112, Oct. 3, 2008, 122 Stat. 3777.)

**§ 5223. Minimization of long-term costs and maximization of benefits for taxpayers**

**(a) Long-term costs and benefits**

**(1) Minimizing negative impact**

The Secretary shall use the authority under this chapter 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 economic benefits due to improvements in economic activity and the availability of credit, the impact on the savings and pensions of individuals, and reductions in losses to the Federal Government.

**(2) Authority**

In carrying out paragraph (1), the Secretary shall—

(A) hold the assets to maturity or for resale for and until such time as the Secretary determines that the market is optimal for selling such assets, in order to maximize the value for taxpayers; and

(B) sell such assets at a price that the Secretary determines, based on available financial analysis, will maximize return on investment for the Federal Government.

**(3) Private sector participation**

The Secretary shall encourage the private sector to participate in purchases of troubled assets, and to invest in financial institutions, consistent with the provisions of this section.

**(b) Use of market mechanisms**

In making purchases under this chapter, the Secretary shall—

(1) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this chapter; and

(2) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.