

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 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.).

**(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 ad-

<sup>1</sup> So in original.

justing 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 the<sup>1</sup> 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.

###### (B) Timing

The reports required under this paragraph shall be submitted not later than 30 days after the first exercise by the Secretary of the authority under section 5211(a) or 5212 of this title, and every 30 days thereafter.

##### (2) Special report on regulatory reform

The Oversight Panel shall submit a special report on regulatory reform not later than January 20, 2009, analyzing the current state of the regulatory system and its effectiveness

at overseeing the participants in the financial system and protecting consumers, and providing recommendations for improvement, including recommendations regarding whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system, the rationale underlying such recommendation, and whether there are any gaps in existing consumer protections.

##### (3) Special report on farm loan restructuring

Not later than 60 days after May 20, 2009, the Oversight Panel shall submit a special report on farm loan restructuring that—

(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.

#### (c) Membership

##### (1) In general

The Oversight Panel shall consist of 5 members, as follows:

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives.

##### (2) Pay

Each member of the Oversight Panel shall each<sup>2</sup> be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I 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 Commission.

##### (3) Prohibition of compensation of Federal employees

Members of the Oversight Panel who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Panel.

##### (4) Travel expenses

Each member shall receive travel expenses, including per diem in lieu of subsistence, in

<sup>1</sup> So in original. Probably should be “this”.

<sup>2</sup> So in original.