

(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; Pub. L. 114-301, §3(a), Dec. 16, 2016, 130 Stat. 1514.)

#### 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 (a)(1)(H), was repealed by Pub.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

2016—Subsec. (a)(3). Pub. L. 114-301 substituted “annually” for “, regularly and no less frequently than once every 60 days.”.

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 Exchange 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 for actions pursuant to section<sup>1</sup> 5211, 5212, 5216, and 5219 of this title, other than to remedy a violation of the Constitution.

###### (B) Temporary restraining order

Any request for a temporary restraining order against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court within 3 days of the date of the request.

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

**(C) Preliminary injunction**

Any request for a preliminary injunction against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

**(D) Permanent injunction**

Any request for a permanent injunction against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor thereto.

**(3) Limitation on actions by participating companies**

No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this chapter, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

**(4) Stays**

Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section<sup>1</sup> 5211, 5212, 5216, and 5219 of this title, shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued.

**(b) Related matters****(1) Treatment of homeowners' rights**

The terms of any residential mortgage loan that is part of any purchase by the Secretary under this chapter shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this chapter.

**(2) Savings clause**

Any exercise of the authority of the Secretary pursuant to this chapter shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary. Except as established in any contract, a servicer of pooled residential mortgages owes any<sup>2</sup> duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer

takes reasonable loss mitigation actions, including partial payments.

(Pub. L. 110-343, div. A, title I, § 119, Oct. 3, 2008, 122 Stat. 3787.)

## 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.

The Federal Rules of Civil Procedure, referred to in subsec. (a)(2)(C), (D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**§ 5230. Termination of authority****(a) Termination**

The authorities provided under sections 5211(a), excluding section 5211(a)(3), and 5212 of this title shall terminate on December 31, 2009.

**(b) Extension upon certification**

The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this chapter to expire not later than 2 years from October 3, 2008. Such certification shall include a justification of why the extension is necessary to assist American families and stabilize financial markets, as well as the expected cost to the taxpayers for such an extension. Notwithstanding the foregoing, the Secretary may further extend the authority provided under this chapter to expire on December 31, 2017, provided that (1) any such extension shall apply only with respect to current program participants in the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, and (2) funds obligated following such extension shall not exceed \$2,000,000,000.

(Pub. L. 110-343, div. A, title I, § 120, Oct. 3, 2008, 122 Stat. 3788; Pub. L. 114-113, div. O, title VII, § 709(a), Dec. 18, 2015, 129 Stat. 3030.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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.

## AMENDMENTS

2015—Subsec. (b). Pub. L. 114-113 inserted at end “Notwithstanding the foregoing, the Secretary may further extend the authority provided under this chapter to expire on December 31, 2017, provided that (1) any such extension shall apply only with respect to current program participants in the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, and (2) funds obligated following such extension shall not exceed \$2,000,000,000.”

## TERMINATION OF THE MAKING HOME AFFORDABLE INITIATIVE

Pub. L. 114-113, div. O, title VII, § 709(b), Dec. 18, 2015, 129 Stat. 3030, provided that:

“(1) IN GENERAL.—The Making Home Affordable initiative of the Secretary of the Treasury, as authorized

<sup>2</sup>So in original. Probably should be “a”.