

Department of the Treasury, the following Departmental Offices
Request for Emergency Processing and Approval
Executive Compensation

1. Circumstances necessitating the collection of information

Authorized under the Emergency Economic Stabilization Act of 2008 (EESA), Public Law 110-343, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, the Department of the Treasury (Treasury) established the Troubled Asset Relief Program (TARP) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution on such terms and conditions determined by the Secretary. Section 111 of EESA, as amended by ARRA, provides that certain entities receiving financial assistance from Treasury under TARP (TARP recipients) will be subject to specified executive compensation and corporate governance standards established by the Secretary. These standards were set forth in the interim final rule published on June 15, 2009 (74 Fed Reg. 28394), as corrected on December 7, 2009 (74 Fed. Reg. 63990) (the Interim Final Rule).

The standards implemented in the Interim Final Rule require that TARP recipients submit certain information pertaining to their executive compensation and corporate governance practices. Specifically, the Interim Final Rule includes the following reporting and recordkeeping requirements:

- (1) The compensation committee of the board of directors of the TARP recipient (or the entire board of directors in the case of certain private TARP recipients) must annually certify that it has reviewed with senior risk officers certain employee compensation plans to ensure that such plans do not encourage employees to take unnecessary and excessive risks that threaten the value of the TARP recipient, and to eliminate any features of these plans that would encourage the manipulation of reported earnings of the TARP recipient to enhance the compensation of any employee. The compensation committee must also provide a narrative description identifying each plan and how these plans do not encourage such risks or encourage such manipulation. For a TARP recipient with securities registered with the SEC pursuant to federal securities laws, the disclosures must be made as part of the TARP recipient's securities filings and to Treasury. For a TARP recipient that is a smaller reporting company, or that is a private company, the disclosures must be made to Treasury and to its primary regulatory agency.
- (2) TARP recipients that receive exceptional financial assistance must make submissions to the Special Master for TARP Executive Compensation (Special Master) to receive approval of all compensation payments to, and compensation structures for, senior executive officers and the number of most highly compensated employees subject to certain bonus prohibitions under the statute. TARP recipients that receive exceptional financial assistance must also make submissions to the Special Master to receive approval of the compensation structures for any employee who is either an executive officer or one of the top

100 most highly compensated employees and is not subject to the bonus prohibitions under the statute.

- (3) TARP recipients must annually disclose for each of the senior executive officers and the most highly compensated employees subject to certain bonus prohibitions under the statute any perquisite whose total value for the fiscal year exceeds \$25,000. The TARP recipient must also provide a narrative description of the amount and nature of these perquisites, the recipient of these perquisites, and a justification for offering these perquisites. This disclosure must be made to Treasury and to the TARP recipient's primary regulatory agency.
- (4) The compensation committee of the board of directors of the TARP recipient (or the entire board of directors in the case of certain private TARP recipients) must annually provide a narrative description concerning any engagement of a compensation consultant, including whether such consultant has provided certain types of compensation comparisons and whether such consultant was independent. This disclosure must be made to Treasury and to the TARP recipient's primary regulatory agency.
- (5) The primary executive officer and the primary financial officer of a TARP recipient must each provide an annual certification that, based on that person's knowledge, the following has occurred:
 - a. the compensation committee has reviewed every six months certain compensation plans to ensure that such plans do not encourage excessive or unnecessary risk;
 - b. the compensation committee has reviewed every six months certain compensation plans to ensure that such plans do not encourage the manipulation of reported earnings;
 - c. the compensation committee will certify to the reviews under (a) and (b);
 - d. the compensation committee will provide a narrative of how it limited any features in such plans that encouraged excessive or unnecessary risk or encouraged the manipulation of reported earnings;
 - e. the TARP recipient has required that bonus payments to the senior executive officers and the next twenty most highly compensated employees be subject to recovery if the bonus payments were based on materially inaccurate financial statements of other performance metric criteria;
 - f. the TARP recipient has prohibited any golden parachute payments to a senior executive officer or any of the next five most highly compensated employees;
 - g. the TARP recipient has limited bonus payments to its applicable employees in accordance with the bonus prohibitions under the statute and the Interim Final Rule;
 - h. in the case of a TARP recipient that has received exceptional financial assistance, the TARP recipient has received the required approvals from the Special Master for compensation payments and structures as required under the Interim Final Rule;

- i. the board of directors of the TARP recipient has established a luxury and excessive expenditures policy, has provided the policy to Treasury and its primary regulator, and the TARP recipient and its employees have complied with the policy;
- j. the TARP recipient will permit a non-binding shareholder resolution on the disclosures provided under federal securities laws related to senior executive officer compensation;
- k. the TARP recipient will disclose the amount, nature, and justification for the offering of perquisites who total value exceeds \$25,000 for a certain number of senior executive officers and most highly compensated employees;
- l. the TARP recipient will disclose whether a compensation consultant has been engaged during any part of the most recent fiscal year, whether such compensation consultant provided certain types of comparisons, and whether such compensation consultant was independent;
- m. the TARP recipient has prohibited tax gross-ups with respect to certain employees;
- n. the TARP recipient has substantially complied with all other requirements related to employee compensation that are provided in an agreement between the TARP recipient and Treasury; and
- o. the TARP recipient has submitted to Treasury a complete and accurate list of the senior executive officers and the 20 next most highly compensated employees.

A TARP recipient with securities registered with the SEC pursuant to the federal securities law must provide these certifications as part of certain SEC filings and to the Treasury. A private TARP recipient must provide these certifications to its primary regulatory agency and to Treasury. The TARP recipient must preserve appropriate documentation and records to substantiate the certifications provided above for a minimum of 6 years, the first 2 in a readily-accessible location.

- (6) A TARP recipient that received TARP financial assistance before February 17, 2009, must submit any information requested in writing by the Special Master for purposes of reviewing bonuses, retention awards, and other compensation paid to employees before February 17, 2009, to determine whether any of such payments were inconsistent with the purposes of EESA or TARP, or otherwise contrary to the public interest.
- (7) In the case of a TARP recipient or employee of a TARP recipient that has requested an advisory opinion from the Special Master as to whether a compensation structure has resulted in, or may result in, a payment that is inconsistent with the purposes of EESA or TARP, or otherwise contrary to the public interest, the TARP recipient or employee must submit such information as the Special Master determines necessary to render such an opinion.

2. Use of the data

For items (1) and (5), the information will be used to monitor compliance with the executive compensation requirements of EESA and the implementing regulations. For

items (3) and (4), the information will be used to monitor and evaluate the compensation practices of the TARP recipient. For items (2), (6) and (7), the information will be used by the Special Master as a basis for rendering compensation determinations and advisory opinions, as authorized by the implementing regulations.

3. Use of information technology

In most cases, executive compensation related information collections will be transmitted electronically.

4. Efforts to identify duplication

The information will be collected on a one-time basis or periodically, as required by the implementing regulations, or as determined by the Special Master in the case of items (2), (6), and (7). The information is not collected or reported in any other information collection.

5. Impact on small entities

All TARP recipients, including some small privately-held entities, will be affected by this collection. Although all TARP recipients are subject to the same EESA standards for executive compensation and corporate governance regardless of size, certain standards, such as the prohibition against bonus payments, apply to larger or smaller groups of employees depending on the amount of TARP financial assistance received by the TARP recipient. Hence, smaller entities that received smaller levels of financial assistance generally will have fewer employees subject to such standards than larger entities that received larger levels of financial assistance.

6. Consequences of less frequent collection and obstacles to burden reduction

If the information is not collected, Treasury will not be able to adequately ensure compliance with EESA's executive compensation requirements.

7. Circumstances requiring special information collection

Not applicable.

8. Solicitation of comments on information collection

A notice soliciting public comments was published in the Federal Register on July 16, 2010, at 75 FR 41572 and no comments were received.

9. Provision of payments to recordkeepers

Not applicable.

10. Assurance of confidentiality

Any confidential information provided voluntarily by TARP recipients will be maintained as confidential consistent with applicable provisions of the Trade Secrets Act, Freedom of Information Act, and the Privacy Act.

11. Justification of sensitive questions

Not applicable.

12. Estimated burden of information collection

Summary of Burden		# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Annual Hours
1	Compensation Committee Risk Certification	650	1	650	2	1,300
2	Special Master for TARP Executive Compensation Submission Top 25" and "26-100" Executive Officers and Most Highly Compensated Employees	7	1	7	240	1,680
3	Senior Executive Officers and Highly Compensated Employees Disclosure	650	1	650	3	1,950
4	Engagement of Compensation Consultant Narrative Description	650	1	650	2	1,300
5	Primary Executive and Financial Officers Annual Certification	650	1	650	3	1,950
6	Review of Prior Bonus, Retention Awards, and Other Compensation Submission (note some companies it took 2 hours and others 14 hours)	419	1	419	9	3,771
7	Special Master for TARP Executive Compensation Advisory Opinion Request	50	1	50	4	200
TOTALS		650	1	3,076		12,151

13. Estimated total annual cost burden to respondents

The Department estimates that there will be no annualized capital/start-up costs for the respondents to collect and submit this information.

14. Estimated cost to the federal government.

There will be no annualized capital/start-up costs for the government to receive this information.

15. Reasons for change in burden

The number of TARP recipients who received assistance from Treasury and awarded executive compensation before February 17, 2009, was 419 firms – rather than 300 firms as first estimated. With more firms, the total annual burden hours required for the firms to complete their submissions increased. Additionally, the burden hours required per response were significantly higher than initially estimated for the seven exceptional assistance firms to complete their submissions regarding the approval of all compensation payments to, and compensation structures for, senior executive officers and the most highly compensated employees subject to certain bonus prohibitions under the statute, as well as the approval of the compensation structures for any employee who is either an executive officer or one of the top 100 most highly compensated employees and is not subject to the bonus prohibitions under the statute.

16. Plans for tabulation, statistical analysis and publication

The executive compensation data that was collected from TARP recipients regarding compensation in 2008 and 2009 was input into a database. Totals for payments that conformed with the statute and payments that did not conform with the statute were tabulated by company and for all TARP recipients as part of a look back review of firms that received taxpayer assistance prior to February 17, 2009. Data provided by TARP recipients for 2010 and beyond will also be entered into a database and may be reviewed for conformity with the executive compensation standards provided in the Interim Final Rule.

17. Reasons why displaying the OMB expiration date is inappropriate

We believe that display of the OMB expiration date is inappropriate because it could cause confusion by leading the respondent to believe that the requirements conclude as of the expiration date.

18. Exceptions to certification requirement of OMB Form 83-I

Regarding this request for OMB approval, there are no exceptions to the certification statement in item 19 of Form 83-I.