

Clients & Friends Memo

Treasury, Federal Reserve, & FDIC Credit and Liquidity Programs

April 23, 2009

The attached Summary of Treasury, Federal Reserve, & FDIC Credit and Liquidity Programs provides an overview of generally available financing facilities that the U.S. government has put in place since the start of the financial crisis to help ease tension in the credit markets. These facilities utilize funds appropriated as part of the Troubled Asset Relief Program ("TARP"), funds committed by the Federal Deposit Insurance Corporation ("FDIC"), and funding supported by the balance sheet of the Federal Reserve. The Summary does not address programs such as the Targeted Investment Program or Systemically Significant Failing Financial Institutions Program which are tailored to the specific needs of particular institutions. These programs continue to evolve and, as such, the terms of each program are subject to change periodically. Please refer to the websites of the regulatory authorities administering the programs for additional detail.

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Summary Of Treasury, Federal Reserve, & FDIC Credit and Liquidity Programs

April 23, 2009

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
Term Asset-Backed Securities Loan Facility (TALF)	Federal Reserve Bank of New York (NY Fed) , Treasury	NY Fed makes non-recourse loans, either fixed or floating, with a term of 3 yrs. to Eligible Borrowers secured by Covered Assets.	<i>Announced:</i> November 25, 2008 <i>Operational:</i> March 3, 2009 <i>Terminates:</i> December 31, 2009 (FRB may extend)	USD-denominated non-synthetic newly issued ABS backed by: auto loans, student loans, credit card loans, equipment loans, floorplan loans, mortgage-backed securities, premium finance, SBA loans, or receivables related to residential mortgage servicing advances. Certain legacy mortgage-backed securities (CMBS and RMBS) are also covered; the terms of which have yet to be finalized. See TALF Expanded to Cover Legacy MBS ABS must meet certain nationally recognized statistical rating organization (NRSRO) rating criteria. Substantially all underlying credit exposures of ABS must be to U.S.-domiciled obligors, and related underlying collateral must have been originated after certain specified dates.	<u>Eligible Borrowers:</u> All " U.S. Companies " that own Covered Assets may borrow from the TALF, provided they maintain an account relationship with a Primary Dealer . For purposes of the TALF, a U.S. Company must be (i) an entity organized under U.S. law that conducts significant operations or activities in the U.S., including any U.S.-organized subsidiary of such entity ; (ii) a U.S. branch or agency of a foreign bank (other than a foreign central bank) that maintains reserves at an FR Bank ; (iii) a U.S. insured depository institution; or (iv) an investment fund that is U.S. organized and managed by an investment manager with its principal place of business in the U.S. For purposes of clauses (i) and (ii) above, "U.S. Company" excludes any entity controlled by a foreign government.	FRA §13(3) (systemic risk determination)	The TALF Master Loan and Security Agreement, as well as NY Fed guidance and other certification forms, may be found on the NY Fed website . Cadwalader Clients&Friends Memo (February 2009) – Treasury's Financial Stability Plan Increases Access to TALF Cadwalader Clients&Friends Memo (March 2009) – Update: Understanding the TALF Cadwalader Clients&Friends Memo (May 2009) - TALF for New-Issue CMBS: New York Fed Releases Terms and Conditions, FAQs and Revised TALF FAQs

This Summary provides only an overview of the relevant Programs and is not intended as an exhaustive description of the terms and conditions of each Program. Please note that many of these Programs are subject to change on short notice and without public comment periods. Links to Cadwalader Clients&Friends Memoranda that provide more detail on certain programs are provided throughout this Summary. For further information, please contact the Cadwalader attorneys listed at the end of this Summary.

¹ This Summary does not address the Automotive Industry Financing Program, the Systemically Significant Failing Institutions Program, or the Targeted Investment Program, as those programs are tailored to the needs of the institutions receiving assistance.

² [Emergency Economic Stabilization Act of 2008](#) ("**EESA**"), H.R. 1424, 110th Cong. (2008); American Recovery and Reinvestment Act of 2009 ("**ARRA**"), H.R. 1, 111th Cong. (2009); Federal Deposit Insurance Act ("**FDIA**"); Federal Reserve Act ("**FRA**").

Program ¹		Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
					See TALF T&C and FAQ for details. The list of Covered Assets may be expanded.			
Public-Private Investment Program (PPIP)	Legacy Loans	Treasury, FRB, FDIC	FDIC conducts auctions for the purchase by Public-Private Investment Funds (PPIFs) of Legacy Loans from Eligible Sellers through the provision of FDIC debt guarantees and Treasury equity co-investment. Treasury must be receive warrants in the PPIF to satisfy the requirements of the EESA.	<i>Announced:</i> March 23, 2009	Legacy Loans: Whole loans and pools of loans that the Eligible Seller (in concert with the FDIC, Treasury, and the Eligible Seller's primary regulator) has identified for sale. The loans and any supporting collateral must be located predominantly in the U.S.	Eligible Seller: Any insured U.S. bank or savings association. Banks or savings associations owned or controlled by a foreign bank or company are not eligible. Legacy Loan PPIFs: Private investors participating in the PPIF must be approved by the FDIC. Cooperation between private investors is prohibited once the auction process begins. Legacy Loan PPIFs will be managed by asset managers selected by the FDIC and Treasury.	EESA	The PPIP Terms & Conditions and FAQs can be found on Treasury's FinancialStability.gov website . As of April 20, 2009, the terms and conditions of the PPIP had yet to be finalized. Cadwalader Clients&Friends Memo (March 2009) – The Public-Private Investment Program; Treasury's Plan to Cleanse Legacy Assets from Banks' Balance Sheets Cadwalader Clients&Friends Memo (April 2009) - The Public-Private Investment Program For Legacy Loans: Unanswered Questions For Loan Sellers and Investors and Request For Comments by the FDIC Cadwalader Clients&Friends Memo (April 2009) - Treasury Extends Deadline for PPIP Fund Manager Applications; Releases Additional Guidance on Legacy Securities Portion of PPIP FDIC Seeks Comment on Legacy Loans Program .
	Legacy Securities		Treasury co-invests in PPIFs to purchase Legacy Securities from Eligible Sellers. Purchases of Legacy Securities may be financed by TALF funds, non-recourse Treasury loans (in addition to the Treasury equity co-investment), or other privately-sourced debt. Treasury must be receive warrants in the PPIF to satisfy the requirements of the EESA.		Legacy Securities: CMBS and RMBS issued prior to 2009 that were originally rated AAA or an equivalent rating by two or more NRSROs without ratings enhancement. Assets must be secured directly by the actual mortgage loans, leases or other assets and not other securities.	Eligible Seller: Financial Institutions from which Treasury is authorized to purchase assets under EESA § 101(a)(1). Legacy Securities PPIFs: Private asset managers raise equity capital from private investors and receive matching Treasury equity funding. Private asset managers of PPIF must apply to Treasury to qualify as PPIF manager.		
Mortgage-Backed Securities Purchase Program (MBSPP)		FRB, NY Fed, Treasury	NY Fed purchases MBS for System Open Market Account (SOMA) through four selected investment managers: BlackRock Inc., Goldman Sachs Asset Management, PIMCO and Wellington Management Company, LLP. JPMorgan acts as custodian for the program. Up to \$500 billion will be deployed for purchases by the end of the second quarter of 2009.	<i>Announced:</i> November 25, 2008 <i>Operational:</i> January 5, 2009 <i>Terminates:</i> Program expected to	Fixed-rate agency MBS guaranteed by Fannie Mae, Freddie Mac and Ginnie Mae. Includes, but not limited to, 30-, 20-, and 15-year MBS. Program does not include CMOs, REMICs, Trust IOs/Trust POs and other mortgage derivatives or cash equivalents.	Eligible Participant: The investment managers initially will trade only with Primary Dealers . Primary dealers may submit offers on principal or agency basis.	FRA §14(b)	Although the purchase of "troubled" assets (e.g., MBS) by Treasury using TARP funds was originally contemplated by the EESA, the MBSPP cites §14(b) of the FRA as authority for open market MBS purchases. Cadwalader Clients&Friends Memo (December 2008) - U.S. Federal Reserve Announces Two New Programs To Ease Credit Markets

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
			continue for the first two quarters of 2009				
Primary Dealer Credit Facility (PDCF)	NY Fed	NY Fed provides overnight loans (on recourse basis) to Eligible Participants in exchange for a specified range of eligible collateral. Additional fees will be assessed against Eligible Participants that access the PDCF on more than 45 business days.	<i>Announced:</i> March 16, 2008 <i>Operational:</i> September 12, 2008 <i>Terminates:</i> October 30, 2009	Overnight funding at NY Fed discount window primary credit rate .	<u>Eligible Participant:</u> Primary Dealers via their clearing banks.	FRA §13(3) (systemic risk determination)	Cadwalader Clients&Friends Memo (March 2008) - Federal Reserve Invokes Depression-Era Law to Expand to Broker-Dealers Last Resort Lending
Term Auction Facility (TAF)	FRB (all FR banks)	FRB auctions term-funding to Eligible Participants via a bi-weekly competitive auction. Winning bidder (Eligible Participants) posts collateral (any type eligible to post at discount window) to FRB in exchange for 28-day or 84-day term loan.	<i>Announced:</i> December 12, 2007 <i>Operational:</i> December 14, 2007	Funding – e.g., required reserves for regulatory capital purposes.	<u>Eligible Participant:</u> Depository institutions; U.S. branches and agencies of foreign banks.	FRA §10B	
Term Securities Lending Facility (TSLF)	NY Fed	NY Fed auctions to Eligible Participants 28-day loans of Treasury bills, notes, bonds and inflation-indexed securities; loan auction winner (Eligible Participant) posts non-cash collateral currently eligible under Schedule 1 and Schedule 2. Auctions under Schedules 1 & 2 are held separately.	<i>Announced:</i> March 11, 2008 <i>Operational:</i> March 27, 2008 <i>Terminates:</i> October 30, 2009	Financing for open-market tri-party repo collateral and investment grade securities.	<u>Eligible Participant:</u> Primary Dealers	FRA §13(3) (systemic risk determination)	<u>Schedule 1:</u> All collateral eligible for tri-party repurchase agreements arranged by the Open Market Trading Desk. <u>Schedule 2:</u> All Schedule 1 collateral + Investment grade corporate securities, municipal securities, mortgage-backed securities, asset-backed securities.
TSLF Options Program (TOP)	NY Fed	NY Fed auctions to Eligible Participants options to draw on TSLF loans over targeted periods of market stress – typically quarter-end periods.	<i>Announced:</i> December 2, 2008 <i>Operational:</i> February 3, 2009 <i>Terminates:</i> October 30,	European option to draw on TSLF loans.	<u>Eligible Participant:</u> Primary Dealers	FRA §13(3) (systemic risk determination)	

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
			2009				
Temporary Liquidity Guarantee Program (TLGP)	FDIC	FDIC guarantees newly issued senior unsecured debt of Eligible Participants. The guarantee extends until the earliest of: the maturity of the debt; the mandatory conversion date (for convertible debt); June 30, 2012 (for senior unsecured debt issued before April 1, 2009); or December 31, 2012 (for senior unsecured debt issued on or after April 1, 2009).	<i>Announced:</i> October 14, 2008 <i>Operational:</i> November 21, 2008 <i>Terminates:</i> October 31, 2009	Senior unsecured debt maturing on or before June 30, 2012 and issued on or before October 31, 2009. Convertible debt with mandatory conversion date no later than June 30, 2012 (expiration of FDIC guarantee). See Interim Rule .	<u>Eligible Participant</u> : FDIC-insured depository institutions , BHCs, and S&L Holding Cos. that either engage only in activities permissible for financial holding companies or have at least one insured depository institution. Such Eligible Participants must not have opted out by deadline.	FDIA §13(c)(4)(G) (systemic risk determination)	A BHC that did not have senior unsecured debt outstanding as of Sept. 30, 2008 must obtain FDIC approval before issuing debt covered under the TLGP debt guarantee program. See FRB SR Letter 09-3 . TLGP Final Rule Increased surcharge on TLGP debt issued on or after April 1, 2009. See Interim Rule . Changes to Debt Guarantee Program Reporting Requirements, FIL-15-2009 (March 23, 2009).
Transaction Account Guarantee Program (TAGP)	FDIC	FDIC provides temporary full guarantee of funds held at Eligible Participant in "noninterest-bearing transaction accounts."	<i>Announced:</i> November 12, 2008 <i>Operational:</i> November 21, 2008 <i>Terminates:</i> December 31, 2009	"Noninterest-bearing transaction accounts." TAGP also covers some NOW accounts that pay 0.5% interest or lower, as well as Interest on Lawyer's Trust Accounts (IOLTAs).	<u>Eligible Participant</u> : FDIC-insured depository institutions that did not opt out by deadline .	FDIA §13(c)(4)(G) (systemic risk determination)	TLGP Final Rule (the TAGP is a component of the TLGP)
Money Market Investor Funding Facility (MMIFF)	NY Fed	MMIFF indirectly provides funding to Eligible Sellers by financing the purchase of Covered Assets from Eligible Sellers by third party special purpose vehicles (SPVs). The SPVs may only purchase instruments issued by Eligible Issuers. Eligible Sellers sell Covered Assets to SPVs, which obtain funding for such purchase by borrowing 90% of purchase price from NY Fed. The remaining 10% of purchase price is paid to Eligible Sellers in the form of	<i>Announced:</i> October 21, 2008 <i>Operational:</i> November 24, 2008 <i>Terminates:</i> October 30, 2009	USD denominated CDs, bank notes, and commercial paper (CP) with remaining maturity of at least 7 days and no more than 90 days. Assets must have a yield at least 60 bps above the primary credit rate at time of purchase by SPV.	<u>Eligible Sellers</u> : Rule 2a-7 money market mutual funds (MMMFs); U.S. dollar-denominated cash collateral reinvestment funds, accounts, or portfolios associated with securities lending transactions managed or owned by a U.S. bank, insurance company, pension fund, trust company, SEC-registered investment advisor or a U.S. state or local government entity. See expanded list of Eligible Participants . <u>Eligible Issuers</u> : The financial institutions designated as eligible issuers in the operational documents of the SPV. Not more	FRA §13(3) (systemic risk determination)	Five SPVs are currently purchasing Covered Assets under the MMIFF. The primary credit rate is the interest rate charged at the FRB discount window for short-term funding.

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
		asset-backed commercial paper (ABCP) issued by the SPV. NY Fed loans will be senior to the ABCP, with recourse to the SPV, and secured by all the assets of the SPV.			than 15% of assets of any SPV may be issued by any one Eligible Issuer.		
Temporary Guarantee Program for Money Market Funds (TGPMMF)	Treasury	Guarantees payment of at least \$1 per share upon liquidation of MMMF that is an Eligible Participant. Eligible Participant pays Treasury a fee based on stated calculation for coverage over life of guarantee; if guarantee is extended an additional fee will be assessed. Guarantee payment triggered if net asset value (NAV) of Eligible Participant declines below \$0.995/share. Eligible Participant must maintain stable NAV of \$1.00/share and comply with Rule 2a-7 under Investment Company Act.	<i>Announced:</i> September 19, 2008 <i>Operational:</i> September 29, 2008 <i>Terminates:</i> April 30, 2009 (Treasury may extend to September 18, 2009)	Shares of any shareholder of record as of September 19, 2008.	<u>Eligible Participant:</u> Rule 2a-7 MMMF. NAV of MMMF on September 19, 2008 must have been at least \$0.995.	Gold Reserve Act of 1934; Executive Order authorizing use of assets of Exchange Stabilization Fund .	Treasury may utilize the assets of the Exchange Stabilization Fund for purposes such as funding the TGPMMF after it has obtained the approval of the President. See Treasury TGPMMF Release .
ABCP Money Market Mutual Fund Liquidity Facility (AMLF)	Federal Reserve Bank of Boston (Boston Fed)	Boston Fed makes non-recourse loans to Eligible Participants to finance purchases of high-quality ABCP from MMMF.	<i>Announced & Operational:</i> September 18, 2008 <i>Terminates:</i> October 30, 2009	<u>ABCP must:</u> (i) have been purchased on or after 9/19/08 from a MMMF; (ii) have been purchased at the MMMF's acquisition cost; (iii) meet certain NRSRO ratings criteria; (iv) be issued by an entity organized under the laws of the United States under a program that was in existence on 9/18/08; and (v) have a stated maturity that does not exceed 120 days if the Eligible Participant is a bank or 270 days for non-bank Eligible Participants.	<u>Eligible Participant:</u> All U.S. depository institutions , bank holding companies (BHCs) (including U.S. b/d affiliates), or U.S. branches and agencies of foreign banks.	FRA §13(3) (systemic risk determination)	FRA §23A-B waivers for securities financing with affiliates. Form of Letter Agreement For Borrowing Under the AMLF .
Commercial Paper	NY Fed	NY Fed establishes SPV that will	<i>Announced:</i>	3 mo. USD-denominated CP with	<u>Eligible Participant:</u> U.S. issuers of	FRA §13(3)	Cadwalader Clients&Friends Memo

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
Funding Facility (CPFF)		purchase 3 mo. USD-denominated CP from Eligible Participants.	October 14, 2008 <i>Operational:</i> October 27, 2008 <i>Terminates:</i> October 30, 2009	minimum rating of at least A-1/P-1/F1 by an NRSRO and, if rated by multiple major NRSROs, at least A-1/P-1/F1 by two or more major NRSROs.	commercial paper , including U.S. issuers with foreign parent company. Eligible Participant must register with CPFF prior to participation.	(systemic risk determination)	(November 2008) – The Commercial Paper Funding Facility Program
Increase in Deposit Insurance Coverage (FIL-102-2008)	FDIC	Temporarily increases deposit insurance coverage for FDIC insured institutions from \$100,000 to \$250,000.	<i>Operational:</i> October 3, 2008 <i>Terminates:</i> December 31, 2009	Deposits held at FDIC-insured depository institutions.	Eligible Participant: FDIC-insured depository institutions ; automatic coverage.	EESA § 136	The increase may become permanent.
Payment of Interest on Reserve Deposits at Federal Reserve System Banks (FR Banks)	Federal Reserve Board (FRB)	The EESA accelerated the date on which FR banks would be permitted to pay interest on required reserve deposits.	<i>Announced:</i> October 1, 2008	Required reserve balances held at FR Banks.	Eligible Participant: Federal Reserve Member Banks.	EESA § 128	Proposed Amendments to Regulation D to authorize limited purpose “excess balance accounts” for earning interest on excess deposits held at FR Banks. See Press Release .
Capital Purchase Program (CPP)	Treasury	Eligible Participants may issue CPP Securities to Treasury. These equity interests will constitute Tier 1 capital.	<i>Announced:</i> October 14, 2008 <i>Operational:</i> October 20, 2008 <i>Terminates:</i> December 31, 2009 (Treasury may extend through 2012).	CPP Securities: Senior Preferred Stock and Warrants: (i) Senior Preferred Stock pays a 5% dividend for 5 yrs. and a 9% dividend thereafter. Senior Preferred Stock will constitute between 1% of risk-weighted assets of the Eligible Participant and the lesser of 3% of risk-weighted assets or \$25 billion. (ii) Warrants to purchase common stock of the Eligible Participant having an aggregate market value equal to 15% of the Senior Preferred amount on the date of Treasury’s investment.	Eligible Participant: “Qualified Financial Institutions:” (i) any U.S. bank or U.S savings association not controlled by a BHC or SLHC; (ii) any U.S. BHC, or any U.S. SLHC which engages solely or predominately in activities that are permitted for FHCs under relevant law; and (iii) any U.S bank or U.S savings association controlled by such a qualifying U.S. BHC or U.S. SLHC. BHC, SLHC, bank or savings association may not be controlled by a foreign bank or company. Application Deadlines: November 14, 2008 (public institution); December 8, 2008 (private institution); February 13, 2009 (S corporation).	EESA	Executive Compensation Restrictions of EESA § 111(b), 31 C.F.R. Part 30 apply, as amended by the ARRA and any Treasury guidance thereunder. For the first three years that Treasury holds preferred shares, a QFI must receive Treasury’s consent before increasing the common stock dividend rate. Participant in CPP may “convert” Treasury’s CPP investment into CAP Securities via a redemption. See FAQ Addressing CPP Changes under the ARRA . As of 3/16/2009, 525 banks had received CPP investments.
Capital Assistance Program (CAP)	Treasury	Treasury conducts “Coordinated Supervisory Assessments” (“stress	<i>Announced:</i> February 25,	CAP Securities: Mandatorily Convertible Preferred Stock and Warrants:	Eligible Participant. “Qualified Financial Institutions:” (i) any U.S. bank or U.S savings	EESA	Executive Compensation Restrictions of EESA § 111(b), 31 C.F.R. Part 30 apply, as

Program ¹	Responsible Agencies	What does the program do?	Lifespan	Covered Assets	Eligibility	Authorizing Legislation ²	Notes
		<p>tests”) of Eligible Participants with assets in excess of \$100 billion on a consolidated basis to determine whether the institution requires additional capital. Eligible Participants with consolidated assets below \$100 billion have the option of issuing CAP Securities to Treasury.</p> <p>Eligible Participants deemed to have inadequate capital will have the option of raising capital from private sources prior to Treasury’s investment in CAP Securities of the Eligible Participant.</p>	2009	<p>(i) Mandatorily Convertible Preferred Stock is convertible into common equity at a 10% discount to equity price prevailing prior to 2/9/09. Dividend is 9% and stock is convertible at issuer’s option (subject to regulatory approval). CAP Securities convert into common equity automatically after 7 years.</p> <p>(ii) Warrants to purchase common shares having an aggregate market value equal to 20% of the Mandatorily Convertible Preferred amount on date of investment. Warrants have a ten-year term.</p>	<p>association not controlled by a BHC or SLHC; (ii) any top-tier U.S. BHC, and (iii) any top-tier U.S. SLHC which engages solely or predominately in activities permitted for FHCs. BHC, SLHC, bank or savings association may not be controlled by a foreign bank or company.</p> <p>Application Deadlines: May 25, 2009 (public institutions). Application deadlines for private institutions and S corporations will be made available at a later date.</p>		<p>amended by the ARRA and any Treasury guidance thereunder. Pending further guidance from Treasury, it appears that CAP recipients will be subject to rules in line with those applicable to CPP recipients.</p> <p>Treasury consent required prior to any repurchases of equity securities or trust preferred securities of Eligible Participant. Restrictions on payment of dividend on certain securities junior to the CAP Securities.</p>
Asset Guarantee Program (AGP)	Treasury, FDIC, FRB	<p>Provides guarantees (of payment of principal and/or interest) on assets held by Eligible Participants. Treasury has leeway in determining the premium for providing such guarantee.</p> <p>Treasury conducts actuarial analysis to ensure the value of the guarantee premium is no less than the expected cost of providing the guarantee.</p> <p>Treasury provides the guarantee recipient a set of portfolio management guidelines to which the recipient must adhere during the term of the guarantee.</p>	<p><i>Announced:</i> December 31, 2008</p> <p><i>Operational:</i> December 31, 2008</p> <p><i>Terminates:</i> December 31, 2009 (Treasury may extend through 2012)</p>	<p>“Troubled” assets originated or issued prior to March 14, 2008, including mortgage-backed securities (MBS).</p>	<p><u>Eligible Participant</u>: “Systemically significant” financial institutions. “Financial Institution” is defined in the EESA as: “any institution, including, but not limited to, any bank, savings association, credit union, security broker or dealer, or insurance company, established and regulated under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands, and having significant operations in the United States, but excluding any central bank of, or institution owned by, a foreign government..”</p>	EESA §102	<p>Treasury has imposed mortgage modification conditions on some recipients of assistance under the AGP.</p> <p>Treasury has indicated it does not plan to use this method of financing extensively.</p>

Primary Dealer Reporting List:

BNP Paribas Securities Corp.
Banc of America Securities LLC
Barclays Capital Inc.
Cantor Fitzgerald & Co.
Citigroup Global Markets Inc.
Credit Suisse Securities (USA) LLC
Daiwa Securities America Inc.
Deutsche Bank Securities Inc.
Dresdner Kleinwort Securities LLC
Goldman, Sachs & Co.
HSBC Securities (USA) Inc.
J. P. Morgan Securities Inc.
Mizuho Securities USA Inc.
Morgan Stanley & Co. Incorporated
RBS Securities, Inc.
UBS Securities LLC.

[More Primary Dealers may soon be added](#)

Executive Compensation Restrictions:

[Summary of Executive Compensation Requirements Applicable to Recipients of TARP Funds](#)
[Title VII of the ARRA](#)
[Treasury's Executive Compensation Guidance](#)
[New Restrictions on Executive Compensation for Financial Institutions Needing "Exceptional Assistance."](#)

Other Useful Summaries:

[Forms of Federal Reserve Lending to Financial Institutions](#)
[Understanding Changes to the Federal Reserve System Lending Programs](#)
[Credit and Liquidity Programs and the Balance Sheet](#)

Statements from the Regulatory Authorities Regarding TARP & Fed Financing Programs:

[Fed Chairman Bernanke Speech: The Crisis and the Policy Response](#)
[Treasury Secretary Geithner Remarks Regarding the Financial Stability Plan](#)

Reports Regarding TARP:

[Warren Report](#)
[Report of Special Inspector General For the TARP \("SIGTARP"\)](#)

Other Relevant Websites:

www.financialstability.gov
www.sigtarp.gov

Related Cadwalader Clients&Friends Memoranda:

[Update: Understanding the TALF](#) (March 2009)
[Treasury's Financial Stability Plan Increases Access to TALF](#) (February 2009)
[The Public-Private Investment Program; Treasury's Plan to Cleanse Legacy Assets from Banks' Balance Sheets](#) (March 2009)
[Treasury Extends Deadline for PPIP Fund Manager Applications; Releases Additional Guidance on Legacy Securities Portion of PPIPs](#) (April 2009)
[U.S. Federal Reserve Announces Two New Programs To Ease Credit Markets](#) (December 2008)
[The Commercial Paper Funding Facility Program](#) (November 2008)
[The Proposed Troubled Asset Relief Program and the Emergency Economic Stabilization Act of 2008](#) (October 2008)
[Federal Reserve Invokes Depression-Era Law to Expand to Broker-Dealers Last Resort Lending](#) (March 2008)

Summary of Executive Compensation Requirements Applicable to Recipients of TARP Funds

April 23, 2009

Requirement	Emergency Economic Stabilization Act of 2008 ("EESA") ¹	Interim Final Rules For Capital Purchase Program ("CPP") ²	Treasury Guidelines ³	American Recovery and Reinvestment Act of 2009 ("ARRA") ⁴
\$500,000 Limit on Deductibility of Compensation	\$500,000 deduction limit for annual compensation paid to each senior executive officer ("SEO"). ⁵	\$500,000 deduction limit for annual compensation paid to senior executive officers. ⁶	Not specifically addressed.	Same as EESA.

This Summary provides only an overview of the applicable executive compensation requirements and is not intended as an exhaustive description of the requirements. Please note that these requirements are subject to change in response to any future Treasury guidance and/or rulemaking. For further information on the relevant programs referenced throughout this Summary, please refer to the Summary of Treasury, Federal Reserve, & FDIC Credit and Liquidity Programs, available at http://www.cadwalader.com/docs/Summary_of_Treasury,_Federal_Reserve,_&_FDIC_Credit_and_Liquidity_Programs.pdf.

¹ The EESA rules generally apply for the period that the Treasury Secretary (the "Secretary") holds an equity or debt position in the financial institution.

² The Treasury has released interim final rules, 31 C.F.R. Part 30, that provide guidance on the executive compensation provisions applicable to CPP participants. The CPP rules generally apply for the period that the Secretary holds an equity or debt position in the financial institution, and clarify that the EESA executive compensation requirements apply to any other entity in the participating financial institution's controlled group, disregarding the rules for brother-sister controlled groups and combined groups.

³ The Treasury guidelines, [released on February 4, 2009](#), generally provide separate executive compensation guidance for financial institutions receiving "exceptional assistance" and financial institutions participating in "generally available capital access programs." A financial institution receives exceptional assistance if it requires more assistance than a widely available standard program permits. Financial institutions receiving exceptional assistance generally have separately negotiated agreements with the Treasury, e.g., AIG, Bank of America and Citi.

⁴ The ARRA amends and restates the EESA's executive compensation provisions. The ARRA rules generally apply during the period in which any obligation arising from TARP financial assistance remains outstanding. The ARRA directs the Secretary to promulgate regulations to implement the revised executive compensation requirements and the Securities and Exchange Commission (the "SEC") to issue final rules and regulations regarding the "say on pay" vote requirement. The SEC has, in the interim, issued compliance disclosure interpretations for certain aspects of the ARRA. See [SEC Compliance and Disclosure Interpretations](#).

⁵ A senior executive officer ("SEO") under the EESA and ARRA is an individual who is one of the top five highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act") and any regulations thereunder, and non-public company counterparts.

⁶ Similarly, a "senior executive officer" under the CPP rules means the five highest compensated executive officers.

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Requirement	Emergency Economic Stabilization Act of 2008 ("EESA") ¹	Interim Final Rules For Capital Purchase Program ("CPP") ²	Treasury Guidelines ³	American Recovery and Reinvestment Act of 2009 ("ARRA") ⁴
Annual Compensation Cap	None.	None.	<u>Exceptional Assistance</u> : Caps annual compensation for SEOs at \$500,000, except for restricted stock awards ("Annual Cap"). <u>Capital Access Programs</u> : Subject to Annual Cap. Companies can waive Annual Cap (i) by disclosing their compensation, and, (ii) upon request, having a non-binding, "say on pay" shareholder resolution.	None.
Compensation Clawbacks	Required for bonus and incentive compensation paid to an SEO based on statements of earnings, gains or other criteria later proven to be materially inaccurate.	Required for bonus and incentive compensation paid to a senior executive officer if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria.	<u>Exceptional Assistance & Capital Access Programs</u> : Required for bonus and incentive compensation paid to an SEO and the next 20 senior executives if they have knowingly provided inaccurate information relating to financial statements or performance metrics used to calculate their own incentive pay.	Required for bonus, retention award and incentive compensation paid to an SEO and the next 20 most highly compensated employees if payments were based on statements of earnings, revenues, gains or other criteria later determined to be materially inaccurate. ⁷
Prohibition on Certain Golden Parachute Payments	Prohibited from making any golden parachute payment ⁸ to an SEO.	Prohibited from making any golden parachute payment to a senior executive officer.	<u>Exceptional Assistance</u> : Prohibited from making any golden parachute payment to top 10 SEOs. Limits golden parachute payments for next 25 executives (at a minimum) to 1 year's compensation. <u>Capital Access Programs</u> : Limits golden parachute payments to SEOs to 1 year's compensation.	Prohibited from making any golden parachute payment ⁹ to an SEO or any of the next 5 most highly compensated employees.
Limits on Incentive Compensation	None.	None.	<u>Exceptional Assistance</u> : Any compensation paid to an SEO above \$500,000 must be made in restricted stock or other similar long-term incentive arrangements. ¹⁰ <u>Capital Access Programs</u> : None.	Prohibited from paying any bonus, retention award or incentive compensation to or for certain executives, other than long-term restricted stock that does not vest during the period the financial assistance remains outstanding, and the value of which is not greater than one-third of the executive's annual compensation. ¹¹

⁷ The Secretary must review bonuses, retention awards, and other compensation paid to SEOs and the next 20 most highly compensated employees prior to the enactment of the ARRA. If any of those payments were inconsistent with the ARRA's or TARP's purpose or otherwise contrary to the public interest, the Secretary will negotiate with the TARP recipient and employee for appropriate reimbursement.

⁸ For purposes of the EESA and CPP, a golden parachute payment is defined as any payment in the nature of compensation to (or for the benefit of) an SEO made on account of an applicable severance from employment to the extent the aggregate present value of such payments equals or exceeds an amount equal to three times the SEO's base amount.

⁹ The ARRA defines a golden parachute payment as any payment to an SEO for departure from a company for any reason, except payments for services performed or benefits accrued.

¹⁰ The SEO receiving restricted stock may only "cash in" after the Treasury capital investment has been repaid, including the contractual dividend payments that ensure taxpayers are compensated for the time value of money, or, after a specified period according to conditions that consider, among other factors, the degree to which a company has satisfied repayment obligations, protected taxpayer interests or satisfied lending and stability standards.

¹¹ This limitation is subject to any other terms and conditions that the Secretary prescribes and applies to certain executives based on the amount of financial assistance the institution has received. If a financial institution receives TARP financial assistance of (i) less than \$25 million, the prohibition applies only to the most highly compensated employee; (ii) at least \$25 million but less than \$250 million, the prohibition applies to at least the 5 most highly compensated employees; (iii) at least \$250 million but less than \$500 million, the prohibition applies to the SEOs and at least the 10 next most highly compensated employees; and (iv) \$500 million or more, the prohibition applies to the SEOs and at least the 20 next most highly compensated employees. The Secretary can generally increase the number of employees subject to the prohibition for all institutions receiving \$25 million or more in financial assistance. The ARRA permits payment of any bonus required to be paid pursuant to a written employment contract executed before February 12, 2009.

Requirement	Emergency Economic Stabilization Act of 2008 ("EESA") ¹	Interim Final Rules For Capital Purchase Program ("CPP") ²	Treasury Guidelines ³	American Recovery and Reinvestment Act of 2009 ("ARRA") ⁴
Compensation Committee Requirements	None.	<p>Compensation committee must meet at least annually with senior risk officers to discuss and review the relationship between the financial institution's risk management policies and practices and the senior executive officers' compensation arrangements.</p> <p>Committee should (i) discuss with the senior risk officers the long-term and short-term risks that could threaten the financial institution's value and (ii) identify and limit the features in the senior executive officers' incentive compensation arrangements that could lead the officers to take such risks.</p>	Compensation committee must explain how CEO compensation arrangements do not encourage unnecessary or excessive risks.	Compensation committee must establish a board compensation committee comprised entirely of independent directors to review employee compensation plans. Committee must meet at least semiannually to discuss, evaluate and assess any risk the plans pose to the TARP recipient. ¹²
Limits on Incentives for Encouraging Risk / Restrictions on Plans Encouraging Earnings Manipulation	Must provide limits on compensation that exclude incentives for CEOs to take unnecessary and excessive risks that threaten the financial institution's value.	No later than 90 days after the Treasury's purchase under the CPP, the compensation committee must review the senior executive officers' incentive compensation arrangements with the senior risk officers to ensure that the incentive compensation arrangements do not encourage the officers to take unnecessary and excessive risks that threaten the financial institution's value. ¹³	See Compensation Committee Requirements above.	<p>Same as EESA.</p> <p>Compensation plans cannot encourage manipulation of reported earnings to enhance any employee's compensation.</p>
Reporting and Certification	None.	Compensation committee must certify that it has reviewed the senior executive officers' incentive compensation arrangements. ¹⁴	CEOs must certify that the company has strictly complied with statutory, Treasury and contractual executive compensation restrictions and annually re-certify compliance with these restrictions.	CEOs and CFOs must certify in writing that the company has complied with ARRA executive compensation provisions. ¹⁵

¹² A TARP recipient that receives no more than \$25 million of financial assistance and whose common or preferred stock is not registered under the Exchange Act must satisfy this obligation with its board of directors.

¹³ The principal executive officer is required to provide to the TARP Chief Compliance Officer and the CPP transfer agent, copies of certain certifications (i) within (a) 120 days of the agreement's closing date, (b) 135 days of the completion of the financial institution's first annual fiscal year during any part of which the financial institution has participated in the CPP, and (c) 135 days of the completion of each financial institution's annual fiscal year after the first fiscal year during any part of which the financial institution has participated in the CPP, or (ii) an explanation of the reason the recipient has not provided the certification.

¹⁴ For financial institutions with securities registered with the SEC pursuant to the federal securities laws, the compensation committee should include the certifications in the Compensation Committee Report required under Item 407(e) of Regulation S-K.

¹⁵ A publicly traded company must include this certification in the company's required annual SEC filings, and a non-publicly traded company must deliver the certification to the Secretary.

Requirement	Emergency Economic Stabilization Act of 2008 ("EESA") ¹	Interim Final Rules For Capital Purchase Program ("CPP") ²	Treasury Guidelines ³	American Recovery and Reinvestment Act of 2009 ("ARRA") ⁴
Shareholder Vote on "Say on Pay"	None.	None.	<p><u>Exceptional Assistance:</u> Must submit the SEO compensation structure to a non-binding shareholder resolution and explain how compensation is tied to sound risk management.</p> <p><u>Capital Access Programs:</u> A shareholder resolution is only required, upon request, to waive the Annual Cap.</p>	Any proxy or consent or authorization for an annual or other shareholder meeting must permit a separate non-binding shareholder vote to approve executive compensation that the recipient is required to disclose under SEC rules. ¹⁶
Luxury Expenditure Limits	None.	None.	<p><u>Exceptional Assistance:</u> Boards of directors must adopt a company-wide policy on any expenditures related to aviation services, office and facility renovations, entertainment and holiday parties, and conferences and events.¹⁷</p> <p><u>Capital Access Programs:</u> Same as Exceptional Assistance above.</p>	Boards of directors must adopt a company-wide policy regarding excessive or luxury expenditures, which may include entertainment or events, office and facility renovations, aviation or other transportation services, or other activities or events that are not reasonable expenditures for staff development, reasonable performance incentives, or other similar measures conducted in the normal course of business operations. ¹⁸

This chart was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

¹⁶ The shareholder vote will not (i) be binding on the board of directors, (ii) be construed as overruling a decision made by the board of directors, (iii) create or imply any additional fiduciary duty of the board of directors, or (iv) restrict or limit the shareholders' ability to make proposals for inclusion in proxy materials related to executive compensation.

¹⁷ This policy is not intended to include reasonable expenditures for sales conferences, staff development, reasonable performance incentives and other measures tied to a company's normal business operations.

¹⁸ The ARRA authorizes the Secretary to identify additional excessive or luxury expenditures.

C A D W A L A D E R

Summary of Executive Compensation Requirements Applicable to Recipients of TARP Funds

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