

Summary: Dodd Legislative Changes to Treasury Proposal

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The breadth of the Treasury proposal is extraordinary: the Department is asking for \$700 billion to purchase any asset without any transparency as to the process; without any oversight by any court or administrative agency; and without any commitment to helping homeowners with troubled mortgages. Senator Dodd has offered a number of proposals that will address these concerns, as follows:

A. Transparency and Accountability

1. **Establish an Oversight Board**: We intend to establish an oversight board to make sure that the Treasury Secretary is not acting completely alone.
2. **Require Program Transparency**: We would require the Treasury to lay out its program, policies and procedures to ensure that the new authority is not used on a completely *ad hoc* basis. The Congress, the markets, and the American people deserve to understand how the Treasury is using these funds.
3. **Significantly Improve Reporting Requirements**: We add a strengthened reporting provision to require monthly rather than semi-annual reports to Congress regarding the exercise of authority under the Act. The provision requires financial statements describing all agreements and transactions entered into. Again, transparency is good for the markets and the economy.
4. **GAO Audit**: In order to ensure proper use of funds, and prevent waste, fraud, and abuse, we add a new provision to require the Office to annually issue financial statements prepared in accordance with generally accepted accounting principles and to require the Government Accountability Office to annually audit the Office and to assess internal financial controls.
5. **Warrants**: In the case of AIG and the GSEs, the government took warrants in the companies in exchange for our assistance. We include a provision to ensure the federal government gets warrants from companies that sell their bad assets to us.
6. **Minimize Conflicts of Interest**: Treasury intends to hire large asset management firms to organize the purchases of the “toxic” assets as well as their sale. However, many of these firms, such as PIMCO and Blackrock, have large positions in the same assets. Those positions could be affected by the way they manage the federal government’s portfolio. The Treasury proposal largely ignores this issue. We would add a provision to require the Secretary to issue rules on conflicts of interest that may arise in connection with the administration of the authorities provided in the Act. The conflicts include, but are not limited to hiring contractors or advisors, management of assets, bidding or purchasing of assets, and employees leaving the Office to work for an institution that has benefitted from the program.

7. Integrity of Deposit Insurance: This week the Treasury Department announced that it was offering temporary, unlimited deposit insurance for funds in participating money markets. This has caused considerable concern among banks (especially smaller banks) that it will precipitate a run on the banks by large depositors, who can now access unlimited deposit insurance in money markets. We add a provision to create parity between banks and money markets in terms of insured deposits during the period in which Treasury offers the insurance.
8. Executive Compensation: We add a provision to require the Secretary to have executive compensation standards for entities that seek to sell assets through the program. Such standards shall include limits on incentives and severance and a requirement for a claw-back provision.

B. Assistance for Homeowners

1. Court-Supervised Loan Modifications: After a year of efforts to get servicers and lenders to modify loans, the industry's voluntary HOPE Now program has fallen far short of what is needed. This is because of the extreme complexity surrounding the securitization of mortgages. The only way to really help homeowners keep their homes is to allow borrowers to get the mortgages on their first homes reduced to the market value of those homes through bankruptcy. Second homes already have this benefit. We expect that very few homeowners will actually have to go into bankruptcy; however, this provision will finally give homeowners and servicers some leverage so that real modifications can move forward.
2. FDIC-Management of Mortgage Assets: The FDIC has shown a commitment to modifying mortgages both to ensure long-term affordability and to protect the taxpayer. FDIC staff estimate that performing loans are worth about 87% of par, while non-performing loans are worth only about 36% of par. Modifying loans to ensure affordability increases the value of the loans. For that reason, we would require the Treasury to shift the whole mortgages and residential MBS it purchases to the FDIC to manage, and add the requirement that the FDIC modify those loans where possible. We also require other federal agencies that hold or control mortgages or residential MBS to modify whenever possible. In addition to FDIC, this includes FHFA, which controls Fannie and Freddie's portfolios, and the Federal Reserve Bank of NY, which owns a portfolio of mortgages acquired from Bear Stearns.
3. Affordable Housing Funds: The *Housing and Economic Recovery Act of 2008 (HERA)* created two important housing funds – the Affordable Housing Fund and the Capital Magnet Fund. These entities were to be financed by the GSEs. Given the uncertainty of that source, we include a provision that requires that 20% of the profit of any assets purchased and sold by the Treasury through this program go to these two funds.
4. Expansion of HOPE for Homeowners: The *HOPE for Homeowners* program passed as part of *HERA* should help about 400,000 families keep their homes. However, it includes

some restrictions that narrow the eligibility for the program. We propose to loosen the criteria modestly, so that more distressed homeowners can participate.