



Government Assistance for AIG: Summary and Cost

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February 7, 2013

Congressional Research Service

7-5700

www.crs.gov

R42953

CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

American International Group (AIG), one of the world's major insurers, was the largest beneficiary of government financial assistance during the recent financial crisis. At the maximum, the Federal Reserve (Fed) and the Treasury committed approximately \$182.3 billion in specific extraordinary assistance for AIG and another \$15.9 billion through a more widely available lending facility. The amount actually disbursed to assist AIG reached a maximum of \$184.6 billion in April 2009. In return, AIG paid interest and dividends on the funding and the U.S. Treasury ultimately received a 92% ownership share in the company. As of December 14, 2012, the government assistance for AIG ended. All Federal Reserve loans have been repaid and the Treasury has sold all of the common equity that resulted from the assistance.

Going into the financial crisis, the overarching AIG holding company was regulated by the Office of Thrift Supervision (OTS), but most of its U.S. operating subsidiaries were regulated by various states. Because AIG was primarily an insurer, it was largely outside of the normal Federal Reserve facilities that lend to thrifts facing liquidity difficulties and it was also outside of the normal Federal Deposit Insurance Corporation (FDIC) receivership provisions that apply to banking institutions. September 2008 saw a panic in financial markets marked by the failure of large financial institutions, such as Fannie Mae, Freddie Mac, and Lehman Brothers. In addition to suffering from the general market downturn, AIG faced extraordinary losses resulting largely from two sources: (1) the AIG Financial Products subsidiary, which specialized in financial derivatives and was primarily the regulatory responsibility of the OTS; and (2) a securities lending program, which used securities originating in the state-regulated insurance subsidiaries. In the panic conditions prevailing at the time, the Federal Reserve determined that "a disorderly failure of AIG could add to already significant levels of financial market fragility" and stepped in to support the company. Had AIG not been given assistance by the government, bankruptcy seemed a near certainty. The Federal Reserve support was later supplemented and ultimately replaced by assistance from the U.S. Treasury's Troubled Asset Relief Program (TARP).

The AIG rescue produced unexpected financial returns for the government. The Fed loans were completely repaid and it directly received \$18.1 billion in interest, dividends, and capital gains. In addition, another \$17.5 billion in capital gains from the Fed assistance accrued to the Treasury. The \$67.8 billion in TARP assistance, however, resulted in a negative return to the government, as only \$54.4 billion was recouped from asset sales and \$0.9 billion was received in dividend payments. If one offsets the negative return to TARP of \$12.5 billion with the \$35.6 billion in positive returns for the Fed assistance, the entire assistance for AIG showed a positive return of approximately \$23.1 billion. It should be noted that these figures are the simple cash returns from the AIG transactions and do not take into account the full economic costs of the assistance. Fully accounting for these costs would result in lower returns to the government, although no agency has performed such a full assessment of the AIG assistance. The latest Congressional Budget Office (CBO) estimate of the budgetary cost of the TARP assistance for AIG, which is a broader economic analysis of the cost, found a loss of \$14 billion compared with the \$12.5 billion cash loss. CBO does not, however, regularly perform cost estimates on Federal Reserve actions.

Congressional interest in the AIG intervention relates to the oversight of the Federal Reserve and TARP, as well as general policy measures to promote financial ability. Specific attention has focused on perceived corporate profligacy, particularly bonuses for AIG employees, with the House, though not the Senate, passing legislation in the 111th Congress that would have placed specific taxes on or otherwise restricted bonuses for AIG employees.

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Introduction

In 2007, American International Group (AIG) was the fifth-largest insurer in the world with \$110 billion in overall revenues. In the United States, it ranked second in property/casualty insurance premiums (\$37.7 billion/7.5% market share) and first in life insurance premiums (\$53.0 billion/8.9%). For particular lines, AIG ranked first in surplus lines, ninth in private passenger auto, first in overall commercial lines (fifth in commercial auto), and fourth in mortgage guaranty. It was outside the top 10 in homeowners insurance.¹ According to the National Association of Insurance Commissioners (NAIC), AIG had more than 70 state-regulated insurance subsidiaries in the United States, with more than 175 non-insurance or foreign entities under the general holding company.

Although primarily operating as an insurer, prior to the crisis AIG was overseen at the holding company level by the federal Office of Thrift Supervision (OTS) because the company owned a relatively small thrift subsidiary. The bulk of the company's insurance operations were regulated by the individual state regulators as, per the 1945 McCarran-Ferguson Act,² the states act as the primary regulators of the business of insurance. Because AIG was primarily an insurer, it was largely outside of the normal Federal Reserve (Fed) facilities that lend to thrifts (and banks) facing liquidity difficulties and it was also outside of the normal Federal Deposit Insurance Corporation (FDIC) receivership provisions that apply to FDIC-insured depository institutions.

AIG, as did most financial institutions, suffered losses on a wide variety of financial instruments in 2008. The exceptional losses which resulted in the essential failure of AIG arose primarily from two sources: the derivative activities of the AIG Financial Products (AIGFP) subsidiary and the securities lending activities managed by AIG Investments with securities largely from the AIG insurance subsidiaries. Regulatory oversight of these sources was split. The OTS was responsible for oversight of AIGFP, while the state insurance regulators were responsible for oversight of the insurance subsidiaries which supplied the securities lending operations, and would ultimately bear losses if the securities, or their equivalent value, could not be returned.

With the company facing losses on various operations, AIG experienced a significant decline in its stock price and downgrades from the major credit rating agencies in 2008.³ These downgrades led to immediate demands for significant amounts of collateral (approximately \$14 billion to \$15 billion in collateral payments, according to contemporary press reports).⁴ As financial demands on the company mounted, bankruptcy appeared a possibility, as occurred with Lehman Brothers in the same timeframe. Fears about the spillover effects from such a failure brought calls for government action to avert such a failure. Many feared that AIG was "too big to fail"⁵ due to the

¹ Statistics from *The I.I.I. Insurance Fact Book 2009*, (New York: Insurance Information Institute, 2009).

² P.L. 79-15, 15 U.S.C. §§1011-1015.

³ In 2005, amid accounting irregularities that ultimately led to the resignation of then-CEO Maurice Greenberg, AIG was downgraded by S&P from AAA to AA+. Further downgrades followed in June 2005 and May 2008. In September 2008, S&P downgraded AIG to A-.

⁴ See, for example, "U.S. to Take Over AIG in \$85 Billion Bailout; Central Banks Inject Cash as Credit Dries Up," *Wall Street Journal*, September 17, 2008, pp. A1-A6.

⁵ Institutions that are too big to fail are ones that are deemed to be big enough, or interconnected enough, that their failure could create systemic risk, the risk that the financial system as a whole would cease to function smoothly. See CRS Report R40877, *Financial Regulatory Reform: Systemic Risk and the Federal Reserve*, by Marc Labonte and CRS Report R40417, *Macroprudential Oversight: Monitoring Systemic Risk in the Financial System*, by Darryl E. Getter for (continued...)

potential for widespread disruption to financial markets resulting from such a failure. AIG's size was not the only concern in this regard, but also its innumerable connections to other financial institutions.

The New York Insurance Superintendent, primary regulator of many of the AIG insurance subsidiaries, led an effort to provide the parent AIG holding company with access to up to \$20 billion in cash from AIG's insurance subsidiaries, which were perceived as solvent and relatively liquid. Ultimately, this transfer did not take place and efforts to find private funding for AIG failed as well; instead, the Federal Reserve approved an extraordinary loan of up to \$85 billion in September 2008. As AIG's financial position weakened following the initial Fed loan, several rounds of additional funding were provided to AIG by both the Fed and the Treasury's Troubled Asset Relief Program (TARP). Assistance to AIG was restructured several times, including loosening of the terms of the assistance⁶ (see **Appendix A** below for more complete discussion of the changes to AIG's assistance).

The 2010 Dodd-Frank Act⁷ overhauled the financial regulatory structure in the United States. Of particular note with regard to AIG, the act moved all federal financial holding company regulation to the Federal Reserve and moved the oversight of thrift subsidiaries to the Office of the Comptroller of the Currency. Thus, both the AIG holding company and the AIG thrift subsidiary are currently overseen by different agencies than before the crisis.⁸ In addition, the act created a Financial Stability Oversight Council (FSOC) and the possibility of enhanced regulation by the Fed of institutions deemed systemically important. AIG announced in October 2012 that it had received notice that the company was being considered for such designation,⁹ though a decision has yet to be released by FSOC. The act also put restrictions on the Federal Reserve's lending authority that would limit its ability to make future extraordinary assistance available to individual companies, as was done in the case of AIG. The Dodd-Frank Act did not create a federal insurance regulator; thus the states continue to be the primary regulators of the various insurance operations of AIG.

The assistance for AIG has provoked controversy on several different levels. Significant attention, and anger, has been directed at questions of employee compensation. Following reports of bonuses being paid for employees of AIGFP, the House passed legislation (H.R. 1664, 111th Congress) aimed at prohibiting "unreasonable and excessive compensation and compensation not based on performance standards" for TARP recipients, including AIG (see **Appendix B** for additional information on executive compensation restrictions under TARP). Issues around TARP compensation continue today, with the Special Inspector General for TARP (SIGTARP) releasing

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more information on systemic risk and "too big to fail."

⁶ The revisions point to a fundamental trade-off between making the terms of the assistance undesirable enough to deter other firms from seeking government assistance and making the terms of assistance so punitive that they exacerbate the financial problems of the recipient firm. It also points to the risk that once a firm has been identified as too big to fail, government assistance to the firm can become open-ended.

⁷ P.L. 111-203.

⁸ The AIGFP derivatives operation was wound down and largely discontinued. If AIG were to again undertake such an operation, it would fall under the oversight of the Fed.

⁹ American International Group, Inc., "AIG Statement Regarding Receipt of Financial Stability Oversight Council Notice of Consideration," press release, October 2, 2012, http://www.aig.com/press-releases_3171_438003.html.

a report on January 28, 2013, questioning the executive pay at a number of TARP recipients, including AIG.¹⁰

Questions have also been raised about the transparency and legality of the assistance. Although the billions of dollars in government assistance went to the AIG, in many cases, it can be argued that AIG has acted as an intermediary for this assistance. In short order after drawing on government assistance, substantial funds flowed out of AIG to entities on the other side of AIG's financial transactions, such as securities lending or credit default swaps. Seen from this view, the true beneficiary of many of the federal funds that flowed to AIG was not AIG itself, but instead AIG's counterparties, who may not have received full payment in the event of a bankruptcy. In the interest of transparency, many argued that AIG's counterparties, particularly those who received payments facilitated by government assistance, should be identified. Many of these counterparties were only identified after public and congressional pressure.¹¹

Lawsuits challenging the legality of the government actions relating to the assistance, particularly the equity taken as part of this assistance, have been filed by Starr International Company, Inc. (Starr). This company is owned by Maurice "Hank" Greenberg, formerly the CEO of AIG and a major stockholder in the company. Starr has sought compensation for the allegedly unconstitutional taking of AIG shareholder property without compensation in connection with the federal assistance package rescuing AIG from bankruptcy. The Board of Directors of AIG declined to join this suit in January 2013, but it is still pending before the Court of Federal Claims.¹²

Summary of Government Assistance to AIG

The extraordinary direct government assistance for AIG that began in September 2008 has ended. All loans to assist AIG have been repaid and the assets purchased from AIG by Federal Reserve entities have been sold. The common equity holdings in AIG that resulted from both Federal Reserve and U.S. Treasury TARP assistance for AIG have been sold. With the sale of the TARP equity, the TARP corporate governance and executive compensation restrictions imposed on AIG were lifted. The sole remaining TARP holdings resulting from the assistance for AIG is a relatively small number of warrants for the purchase of AIG stock. Although these warrants are currently "under water,"¹³ they extend for several years and thus may still result in additional positive return for the government.

¹⁰ SIGTARP, *Treasury Continues Approving Excessive Pay for Top Executives at Bailed-Out Companies*, January 28, 2013, available at http://www.sig tarp.gov/Audit%20Reports/2013_SIGTARP_Bailout_Pay_Report.pdf.

¹¹ For additional detail, please see the section entitled "Who Has Benefited from Assistance to AIG?," in CRS Report R40438, *Federal Government Assistance for American International Group (AIG)*, by Baird Webel, pp. 14-15.

¹² For more information on the Starr lawsuits see CRS Sidebar WSLG271, *AIG's Former CEO's \$20 Billion Illegal Exaction Claim Based on Federal Reserve's "Illegal" Financial Assistance*, by M. Maureen Murphy and CRS Report WSLG366, *AIG's Board Will Not Join Shareholder Suits Against Treasury and Federal Reserve*, by M. Maureen Murphy.

¹³ These AIG warrants are financial instruments which give the U.S. Treasury the right to purchase approximately 2.7 million shares of AIG stock at a strike price of \$50 per share at any time until April 2019. Warrants are said to be "underwater" when the current stock price is under the strike price as the case with these warrants. AIG's stock has recently traded for around \$35 per share. In such a situation, it is generally not financially advantageous to exercise warrants; the warrants, however, may still have a positive value based on the expectation that the stock price may increase above the strike price at some future date prior to the expiration of the warrants. The warrants are tradable, so (continued...)

The government assistance for AIG took a variety of different forms, with the initial Federal Reserve loans followed by TARP assistance in three major restructurings in November 2008, March 2009, and September 2010. The following briefly summarizes the primary types of assistance (see **Appendix A** for more complete details).

Federal Reserve Loans to AIG

The initial assistance for AIG came in the form of an \$85 billion loan commitment announced on September 16, 2008. In addition to a high, variable interest rate,¹⁴ the government received a nearly 80% share of the common equity in AIG. This loan was augmented by an additional \$37.8 billion loan commitment in October 2008, which was collateralized by securities from the AIG securities lending program. The maximum amount outstanding under these loans was over \$90 billion in October 2008. The limit on the Fed loan was reduced to \$60 billion in November 2008 and \$35 billion in March 2009. The 2009 reduction occurred as the Fed accepted \$25 billion in AIG subsidiary equity as partial repayment of the loans. The loans were eventually repaid in January 2011, primarily through cash gained by AIG from sales of various assets and from TARP assistance. The Fed received a total of \$8.2 billion in interest and dividends from these loans and the common equity stake resulting from the loans was sold by the Treasury for \$17.5 billion. Federal Reserve profits are mostly remitted to the Treasury and such remittances more than doubled from 2007 to 2010.¹⁵

Federal Reserve Loans to Finance Asset Purchases from AIG

In November 2008, the Fed loan to AIG was partially replaced by Fed loans to Limited Liability Corporations (LLCs) created and controlled by the Fed, which were known as Maiden Lane II and Maiden Lane III.¹⁶ Up to \$52.5 billion in loans from the Fed were committed to Maiden Lanes II and III with \$43.8 billion actually disbursed.¹⁷ These LLCs purchased various securities, which were an ongoing financial drain on AIG at the time. After purchase, these securities were held by the LLCs and then sold as market conditions improved. All the loans were repaid by June 2012, and the facilities ultimately returned an additional \$9.5 billion in interest and other gains to the Fed.

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the Treasury may sell them to a third party rather than hold them until expiration.

¹⁴ The rate varied between 12% and 12.55% before it was reduced after November 2008.

¹⁵ See CRS Report RL30354, *Monetary Policy and the Federal Reserve: Current Policy and Conditions*, by Marc Labonte for more information on the Federal Reserve.

¹⁶ A similar LLC, known simply as Maiden Lane, was created to address the failure of the investment bank Bear Stearns in March 2008. The name “Maiden Lane” derives from one of the streets bordering the Federal Reserve Bank of New York headquarters in Manhattan.

¹⁷ AIG also contributed a total of \$6 billion to the LLCs and they were structured so that AIG’s contribution would bear initial losses, should losses occur. Because of this contribution, AIG shared in the gains that eventually occurred as well. AIG’s share was one-sixth of the gains in Maiden Lane II and one-third in Maiden Lane III.

AIG Commercial Paper Funding Facility Borrowing

The Commercial Paper Funding Facility (CPFF) was created by the Federal Reserve in 2008 as a widely available vehicle to provide liquidity during the financial crisis.¹⁸ AIG and its subsidiaries were approved to borrow up to a maximum of \$20.9 billion, with actual borrowing reaching \$16.1 billion in January 2009. AIG's CPFF borrowing is typically not included in the reporting of AIG assistance done by the Fed and Treasury. This borrowing, however, occurred at the same time as AIG was accessing the other Fed loans and TARP assistance and likely was preferred over these sources because CPFF charged lower interest rates¹⁹ and individual CPFF borrowers and borrowing amounts were not reported by the Fed at the time. The Dodd-Frank Act required the Fed to report full details of the CPFF and other Fed facilities.²⁰ This reporting shows AIG borrowing beginning in October 2008 and extending until April 2010. Although interest amounts were not reported, according to CRS estimates based on the principal amounts and interest rates that were reported, the Fed appears to have received approximately \$0.4 billion in interest from AIG's CPFF borrowing.

TARP Assistance for AIG

In November 2008, \$40 billion in TARP assistance was committed to AIG, and it was disbursed through Treasury purchase of AIG preferred equity.²¹ The commitment was increased to nearly \$70 billion in March 2009, and the maximum level of disbursement of \$67.8 billion was reached in January 2011, primarily to facilitate the withdrawal of Federal Reserve involvement with AIG.²² Although TARP assistance took the form of preferred equity purchases, \$47.5 billion in AIG preferred equity was converted into common equity, which brought the government ownership stake in AIG to a high of 92% in January 2011. The Treasury began selling the common equity in May 2011 and completed the sales in December 2012. The Treasury received \$34.1 billion from its sales of the TARP common equity. AIG completely redeemed the \$20.3 billion in unconverted preferred equity in March 2012, and the company paid a total \$0.9 billion in cash dividends to the government on this equity. Comparing the total amount disbursed to the total amount recouped shows a \$12.5 billion shortfall on the TARP portion of the assistance for AIG.

Table 1 below summarizes the direct government assistance for AIG, including maximum amounts committed by the government, the amounts actually disbursed, and the returns from this assistance.

¹⁸ See CRS Report RL34427, *Financial Turmoil: Federal Reserve Policy Responses*, by Marc Labonte for more information on CPFF.

¹⁹ The CPFF interest rates ranged from 2% to 3% compared to as high as 12.5% on the regular Fed loan facility.

²⁰ This reporting can be found on the Federal Reserve webpage at http://www.federalreserve.gov/newsevents/reform_cpff.htm and the figures presented here are based on this data.

²¹ Preferred equity is a "hybrid" form of equity that confers no management rights with respect to the company and pays some form of dividend. It performs similarly to a loan in economic terms, but is accounted for as equity, thus improves the capital position of an institution more than a loan. As equity, preferred shares would be junior to debt, thus holdings in preferred equity would be riskier than the equivalent amount of a loan.

²² The second large tranche of TARP assistance was used to transfer to the Treasury the AIG subsidiary equity, which the Fed had previously accepted as partial loan repayment and to partially repay the outstanding cash balance on the Fed loan.

Indirect Assistance for AIG

Although the loans and preferred equity purchase directly aided AIG, the company also benefited from other actions taken by the U.S. government to address the financial crisis. For example, TARP provided nearly \$205 billion in additional capital to U.S. banks in 2008 and early 2009. To the extent that AIG had assets that depended on the health of these banks, or liabilities, such as CDS, that might have increased with the failure of these banks, the TARP assistance for banks would have aided AIG's financial position as well as the financial position of most other financial institutions. If AIG was perceived as being "too big to fail" due to the government assistance, the company may also have received an advantage in insurance markets and in debt markets compared to other firms competing with AIG. The reputational effect of government-backing, however, also had negative effects on the company to the degree that AIG even changed the name of its primary insurance subsidiary. Such second-order effects from the government actions are difficult to quantify and typically are not included in assessments of the assistance for AIG.

Another indirect, but more definite, benefit to AIG from government action during the crisis came from policy rulings by the Internal Revenue Service (IRS).²³ Under normal circumstances, a corporation undergoing a change in control is not able to carry forward previous tax losses.²⁴ Government holdings gained through TARP, however, generally have not been treated by the IRS as causing such a change in control. AIG was able to report a \$17.7 billion accounting gain from these tax benefits in 2011.²⁵ Economic theory would suggest that these tax benefits resulted in the government receiving a higher price for the AIG shares when they were sold, so the final result may not have been to increase the overall cost of the AIG assistance. Whether or not one includes these tax rulings as specific assistance for AIG, however, would significantly change the assessment of the overall financial results from the assistance. Neither the Treasury nor CBO have included these tax rulings in their assessments of the assistance for AIG.

What Did the Assistance for AIG Cost?

From the above accounting, which largely follows that offered by the Treasury in its announcements,²⁶ the cost of the AIG assistance seems relatively straightforward. Summing the various amounts of interest, dividends, and equity sales, one arrives at a total of \$207.7 billion returned to the Treasury and Federal Reserve compared with a total maximum disbursement of \$184.1 billion, for a positive return of \$23.1 billion. This cash accounting, however, falls short of a full economic assessment of the assistance for AIG. Such assessments typically include other factors, such as the time value of money (a dollar in 2008 was not worth the same as a dollar in 2012) and the opportunity cost of the funds involved (what would the returns have been if the money involved had been used for other purposes?).

²³ The IRS issued several notices on this issue, including Notice 2008-100, I.R.B. 2008-44, October 14, 2008; Notice 2009-14, I.R.B. 2009-7, January 30, 2009; Notice 2009-38, I.R.B. 2009-18, April 13, 2009; and Notice 2010-2, I.R.B. 2010-2, December 14, 2009.

²⁴ The tax code generally does not permit such assumption of tax losses in order to discourage companies from making acquisitions solely for the purpose of assuming tax losses.

²⁵ American International Group, Inc., *2011 Annual Report (SEC Form 10-K)*, February 23, 2012, p. 62

²⁶ See, for example, <http://www.treasury.gov/connect/blog/Pages/AIG-wrapup.aspx>.

The budgetary cost estimates undertaken by the Congressional Budget Office (CBO) incorporate some broader economic principles in assessing the costs of government actions. In particular, CBO's official budgetary cost estimates for TARP must follow not only the Federal Credit Reform Act,²⁷ which requires that the present value of the full long-term cost of loans and loan guarantees be recognized, but also that market rates be used in these calculations rather than the lower Treasury borrowing costs.²⁸ These requirements have the effect of lowering the returns. This effect can be seen by comparing the CBO estimates with the more simple cash accounting above. The latest CBO estimates, which occurred after most of the AIG equity had been sold, saw a budgetary cost of \$14 billion attributed to the TARP portion of the AIG assistance,²⁹ compared to a negative return of \$12.5 billion using the simple cash accounting.

The Federal Reserve actions which make up a majority of the returns from the government assistance for AIG are not subject to regular CBO or OMB budgetary cost assessment. CBO did publish a study of the budgetary impact and subsidy cost of the Federal Reserve's response to the financial crisis in May 2010. CBO estimated a cost of \$2 billion from the Federal Reserve loans to AIG at their inception,³⁰ compared to a final positive return of \$35.6 billion on a cash accounting basis. The CBO estimates for TARP have become significantly more positive over time, and it is quite possible that, were CBO to redo the estimates at the current date, the estimate for the Federal Reserve actions would become more positive as well.

Table I. Summary of Direct AIG Assistance

| Type of Assistance | Maximum Amount Committed | Maximum Amount Actually Disbursed | Date of Repayment | Gain or Loss (-) on Assistance |
|--------------------------------|------------------------------|-----------------------------------|-------------------|--------------------------------|
| Extraordinary Fed Loans to AIG | \$122.8 billion (Oct. 2008) | \$90.3 billion (Oct. 22, 2008) | Jan. 2011 | \$25.7 billion |
| Fed Loans for Asset Purchases | \$52.5 billion (Nov. 2008) | \$43.8 billion (Dec. 2008) | June 2012 | \$9.5 billion |
| Fed Loans through CPFF | \$20.9 billion (Nov. 2008) | \$16.1 billion (Jan. 2009) | April 2010 | \$0.4 billion |
| TARP Preferred Share Purchases | \$69.8 billion (March 2009) | \$67.8 billion (Jan. 2011) | Dec. 2012 | -\$12.5 billion |
| Totals | \$198.2 billion (March 2009) | \$184.6 billion (April 2009) | Dec. 2012 | \$23.1 billion |

Source: Federal Reserve weekly H.4.1 statistical release; Federal Reserve Board and Federal Reserve Bank of NY data releases; U.S. Treasury TARP Monthly Reports; CRS calculations.

²⁷ 2 U.S.C. 661 *et seq*; more information available in CRS Report RL30346, Federal Credit Reform: Implementation of the Changed Budgetary Treatment of Direct Loans and Loan Guarantees, by James M. Bickley (out of print, but available from the author). This law requires the present value of the full long-term cost of loans and loan guarantees be recognized in the federal budget when the loans or loan guarantees are made.

²⁸ These requirements were contained in the Emergency Economic Stabilization Act (P.L. 110-343, codified at 12 U.S.C. 5233) and apply to all TARP assistance.

²⁹ CBO, *Report on the Troubled Asset Relief Program—October 2012*, October 11, 2012, p. 6, available at http://cbo.gov/sites/default/files/cbofiles/attachments/TARP10-2012_0.pdf.

³⁰ CBO, *The Budgetary Impact And Subsidy Costs Of The Federal Reserve's Actions During The Financial Crisis*, May 24, 2010, p. 8, available at <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/115xx/doc11524/05-24-federalreserve.pdf>.

Appendix A. Details of Government Assistance for AIG

Assistance Prior to TARP Involvement

Initial Loan

On September 16, 2008, the Fed announced, after consultation with the Treasury Department, that it would lend up to \$85 billion to AIG over the next two years. Drawing from the loan facility would only occur at the discretion of the Fed. A new CEO was installed after the initial intervention and Fed staff was put on site with the company to oversee operations. The interest rate on the funds drawn from the Fed was 8.5 percentage points above the London Interbank Offered Rate (LIBOR), a rate that banks charge to lend to each other. AIG also was to pay a flat 8.5% interest rate on any funds that it did not draw from the facility. The government received warrants that, if exercised, would give the government a 79.9% ownership stake in AIG. Three independent trustees were to be named by the Fed to oversee the firm for the duration of the loan. The trustees for the AIG Credit Trust were announced on January 16, 2009, and the warrants were later exercised.³¹

This lending facility (and its successors) was secured by the assets of AIG's holding company and non-regulated subsidiaries.³² In other words, the Fed could seize AIG's assets if AIG failed to honor the terms of the loan. This reduced the risk that the Fed, and the taxpayers, would suffer a loss, assuming, of course, that the Fed would have been willing to seize these assets. The risk still remained that if AIG turned out to be insolvent, its assets might be insufficient to cover the amount it had borrowed from the Fed.

On September 18, 2008, the Fed announced that it had initially lent \$28 billion of the \$85 billion possible. This amount grew to approximately \$61 billion on November 5, 2008, shortly before the restructuring of the loan discussed below in "Federal Reserve Loan Restructuring."³³

Securities Borrowing Facility³⁴

On October 8, 2008, the Fed announced that it was expanding its assistance to AIG by swapping cash for up to \$37.8 billion of AIG's investment-grade, fixed-income securities. These securities

³¹ See <http://www.newyorkfed.org/newsevents/news/markets/2009/an090116.html>.

³² The regulated subsidiaries were primarily the state-chartered insurance subsidiaries. Thus, if AIG had defaulted on the loan, the Fed could have seized the insurance subsidiary stock held by the holding company, but not the actual assets held by the insurance companies.

³³ Federal Reserve, "Factors Affecting Reserve Balances," Statistical Release H.4.1, September 18, 2008. See <http://www.federalreserve.gov/releases/h41/20080918/>; and "Report Pursuant to Section 129 of the Emergency Economic Stabilization Act of 2008: Restructuring of the Government's Financial Support to the American International Group, Inc. on November 10, 2008, p. 4. See <http://www.federalreserve.gov/monetarypolicy/files/129aigrestructure.pdf>.

³⁴ Terms detailed by the Federal Reserve in "Report Pursuant to Section 129 of the Emergency Economic Stabilization Act of 2008: Securities Borrowing Facility for American International Group, Inc.," available at <http://www.federalreserve.gov/monetarypolicy/files/129aigsecborrowfacility.pdf>.

stemmed from the AIG securities lending program. As some counterparties stopped participating in the lending program, AIG was forced to incur losses on its securities lending investments.³⁵ AIG needed liquidity from the Fed to cover these losses and counterparty withdrawals. This lending facility was to extend for nearly two years, until September 16, 2010, and advances from the securities borrowing facility to AIG paid an interest rate of 1% over the average overnight repo rate.³⁶ As of November 5, 2008, shortly before the facility was restructured, \$19.9 billion of the \$37.8 billion was outstanding.

Although this assistance resembled a typical collateralized loan (the lender receives assets as collateral, and the borrower receives cash), the Fed characterized the agreement as a loan of securities from AIG to the Fed in exchange for cash collateral. The arrangement may have been structured this way due to New York state insurance law provisions regarding insurers using securities as collateral in a loan.³⁷

Commercial Paper Funding Facility

The Commercial Paper Funding Facility (CPFF) was initially announced by the Fed on October 7, 2008, as a measure to restore liquidity in the commercial paper market.³⁸ It was a general facility, open to many recipients, not only AIG. Through the CPFF, the Fed purchased both asset-backed and unsecured commercial paper. Rather than charging an interest rate, the Fed purchased the paper at a discount based on the three-month overnight index swap rate (OIS). Unsecured paper was discounted by 3%, whereas secured paper was discounted by 1%.

AIG announced that, as of November 5, 2008, it had been authorized to issue up to \$20.9 billion of commercial paper to the CPFF and had actually issued approximately \$15.3 billion of this amount. Subsequent downgrades of AIG's airline leasing subsidiary (ILFC) reduced the maximum amount AIG could access from the CPFF to \$15.2 billion in early January 2009. ILFC had approximately \$1.7 billion outstanding to the CPFF when it was downgraded; this amount was repaid by January 28, 2009.³⁹

On February 17, 2010, the reported total CPFF borrowing outstanding was \$2.3 billion.⁴⁰ CPFF new purchase of commercial paper expired February 1, 2010, with maximum maturities extending 90 days from this point. Thus, by the end of April 2010, all AIG borrowing from the CPFF was repaid.

³⁵ Liam Pleven et al, "AIG Bailout Hit by New Cash Woes," *Wall Street Journal*, October 9, 2008, p. A1.

³⁶ A "repo" is an agreement for the sale and repurchase of a particular security, with an overnight repo being a short term example of such a contract.

³⁷ N.Y. Ins. Law, Sec. 1410.

³⁸ Commercial paper is an unsecured promissory note with relatively short term maturity, typically 1 to 15 days, sold by corporations to meet immediate funding needs.

³⁹ American International Group, Inc., *2008 Annual Report (SEC Form 10-K)*, March 2, 2009.

⁴⁰ American International Group, Inc., "AIG Reports Fourth Quarter and Full Year 2009 Results," press release, February 26, 2010, p. 5, available at <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MzM3MjR8Q2hpbGRJRDR0tMXxUeXBIPtM=&t=1>.

Table A-1. Summary of AIG Assistance Before TARP

| Program | Maximum Committed Amount of Government Assistance | Government Assistance Outstanding (as Nov. 5, 2008) | Recompense to the Government | Expiration Date |
|---|--|--|---|------------------------|
| Federal Reserve Loan | \$85 billion | \$61 billion: (includes principal and interest) | LIBOR+8.5% (drawn amounts); 8.5% (undrawn amounts); 79.9% of AIG equity | September 2010 |
| Federal Reserve Securities Borrowing Facility | \$37.8 billion | \$19.9 billion: (includes principal and interest) | Overnight repo rate +1% | September 2010 |
| Commercial Paper Funding Facility | \$20.9 billion | \$15.3 billion | OIS rate+1%; OIS+3% | February 2010 |

Source: Federal Reserve EESA Section 129 reports; AIG SEC filings.

November 2008 Revision of Assistance to AIG

On November 10, 2008, the Federal Reserve and the U.S. Treasury announced a restructuring of the federal intervention to support AIG. Following the initial loan, some, notably AIG's former CEO Maurice Greenberg, criticized the terms as overly harsh, arguing that the loan itself might be contributing to AIG's eventual failure as a company. As evidenced by the additional borrowing after the September 16 loan, AIG had continued to see cash flow out of the company.

The revised agreement eased the payment terms for AIG and had three primary parts: (1) restructuring of the initial \$85 billion Fed loan, (2) a \$40 billion direct capital injection from the Treasury, and (3) up to \$52.5 billion in Fed loans used to purchase troubled assets. Separately, AIG continued to access the Fed CPFF as described above.

Federal Reserve Loan Restructuring

The Fed reduced the \$85 billion loan facility to \$60 billion, extended the time period to five years, and eased the financial terms considerably. Specifically, the interest rate on the amount outstanding was reduced by 5.5 percentage points (to LIBOR plus 3%), and the fee on undrawn funds was reduced by 7.75 percentage points (to 0.75%).

Troubled Asset Relief Program Assistance

Through TARP, the Treasury purchased \$40 billion in preferred shares of AIG. In addition to the preferred shares, the Treasury also received warrants for common shares equal to 2% of the outstanding AIG shares. AIG was the first announced non-bank to receive TARP funds. The \$40 billion in preferred AIG shares held by the Treasury were slated to pay a 10% dividend per annum, accrued quarterly.⁴¹ The amount of shares held in trust for the benefit of the U.S. Treasury

⁴¹ Full details of the preferred shares can be found on the Treasury website at <http://ustreas.gov/press/releases/reports/111008aigtermsheet.pdf>.

under the previous Fed loan was also reduced so that the total government equity interest in AIG (trust shares plus Treasury warrants) remained under 80% after the TARP intervention.

Purchase of Troubled Assets

Although EESA provided for Treasury purchase of troubled assets under TARP, the troubled asset purchases related to AIG were done by LLCs created and controlled by the Federal Reserve. This structure was similar to that created by the Fed to facilitate the purchase of Bear Stearns by JPMorgan Chase in March 2008. Two LLCs were set up for AIG—Maiden Lane II for residential mortgage-backed securities (RMBS) and Maiden Lane III for collateralized debt obligations (CDO).⁴²

Residential Mortgage-Backed Securities/Maiden Lane II

Under the November 2008 restructuring, the RMBS LLC/Maiden Lane II could receive loans up to \$22.5 billion by the Fed and \$1 billion from AIG to purchase RMBS from AIG's securities lending portfolio. The previous \$37.8 billion securities lending loan facility was repaid and terminated following the creation of this LLC. The Fed was credited with interest from its loan to Maiden Lane II at a rate of LIBOR plus 1% for a term of six years, extendable by the Fed. The \$1 billion loan from AIG was credited with interest at a rate of LIBOR plus 3%. The AIG loan, however, was subordinate to the Fed's. Any proceeds from Maiden Lane II were to be distributed in the following order: (1) operating expenses of the LLC, (2) principal due to the Fed, (3) interest due to the Fed, and (4) deferred payment and interest due to AIG. Should additional funds remain at the liquidation of the LLC, these remaining funds were to be shared by the Fed and AIG with AIG receiving one-sixth of the value. Ultimately the securities in Maiden Lane II were sufficient to fully repay the loans, with interest. The Fed received approximately \$2.3 billion in capital gains, with AIG receiving approximately \$460 million.

The actual amount of Fed loan made to Maiden Lane II totaled \$19.5 billion of the \$22.5 billion maximum. Maiden Lane II purchased RMBS with this amount along with the \$1 billion loan from AIG. The securities purchased had a face value of nearly double the purchase price (\$39.3 billion).⁴³

Collateralized Debt Obligations/Maiden Lane III

Under the November 2008 restructuring, the CDO LLC/Maiden Lane III could receive loans up to \$30 billion from the Fed and \$5 billion from AIG to purchase CDOs on which AIG had written credit default swaps. At the same time that the CDOs were purchased, the CDS written on these CDOs were terminated, relieving financial pressure on AIG. The Fed and AIG were to be credited with interest from the loans at a rate of LIBOR plus 3% until repaid. The proceeds from Maiden Lane III were to be distributed in the following order: (1) operating expenses of the LLC, (2) principal due to the Fed, (3) interest due to the Fed, and (4) deferred payment and interest due to AIG. Should any funds remain after this distribution, they were to go two-thirds to the Fed and

⁴² The headquarters of the Federal Reserve Bank of New York sits between Maiden Lane and Liberty Street in downtown New York City.

⁴³ "Maiden Lane Transactions" on the webpage of the Federal Reserve Bank of New York, available at <http://www.newyorkfed.org/markets/maidenlane.html#maidenlane2>.

one-third to AIG. Ultimately the securities in Maiden Lane III were sufficient to fully repay the loans, with interest. The Fed received approximately \$5.9 billion in capital gains, with AIG receiving approximately \$2.9 billion.

The actual amount of the Fed loan to Maiden Lane III was \$24.3 billion of the \$30 billion maximum, while AIG loaned the LLC \$5 billion. In addition to these loans, Maiden Lane III purchase of CDOs was also funded by approximately \$35 billion in cash collateral previously posted to holders of CDS by AIGFP. In return for the use of this collateral, AIGFP received approximately \$2.5 billion from the LLC. The total par value of CDOs purchased by Maiden Lane III was approximately \$62.1 billion.

A summary of the assistance under the November 2008 plan is presented in **Table A-2**.

Table A-2. Summary of AIG Assistance Under November 2008 Plan
(amounts as of March 2009)

| Program | Maximum Committed Amount of Government Assistance | Government Assistance Outstanding | Recompense to the Government | Expiration Date |
|-----------------------------------|---|---|--|--|
| TARP Share Purchase | \$40 billion | \$40 billion (principal); \$1.6 billion (dividends) | 10% quarterly dividend; warrants for 2% of AIG equity; | Preferred shares outstanding until repurchased. |
| Federal Reserve Loan | \$60 billion | \$42.0 billion (includes principal and interest) | 3 month LIBOR+3%; 77.9% of AIG equity | September 2013 |
| Commercial Paper Funding Facility | \$20.9 billion | \$12.2 billion | OIS rate+1%; OIS+3% | October 2009 |
| Maiden Lane II | \$22.5 billion | \$18.4 billion (principal); \$91 million (interest) | 5/6 of equity remaining after loan repayment | November 2014 (loan); assets held until disposed of. |
| Maiden Lane III | \$30 billion | \$24.0 billion (principal); \$127 million (interest) | 2/3 of equity remaining after loan repayment | November 2014 (loan); assets held until disposed of. |

Source: Federal Reserve weekly H.I.4 statistical release; Federal Reserve Bank of NY website; U.S. Treasury TARP reports; AIG SEC filings; CRS calculations.

Notes: CPFF and TARP values as of March 31, 2009, other Fed values as of March 25, 2009. The loan amounts to Maiden Lane II and III were from these entities to the Fed, and were not to be repaid by AIG. AIG also had outstanding loans Maiden Lane II and III, which were junior in priority to the Fed loans. The dividends on the TARP share purchase and the interest on the loans were generally allowed to accrue rather than being immediately paid.

March 2009 Revision of Assistance to AIG

On March 2, 2009, the Treasury and Fed announced another revision of the financial assistance to AIG. On the same day, AIG announced a loss of more than \$60 billion in the fourth quarter of 2008. In response to the poor results and ongoing financial turmoil, private credit ratings agencies

were reportedly considering further downgrading AIG, which would most likely have resulted in further significant cash demands due to collateral calls.⁴⁴ According to the Treasury, AIG “continues to face significant challenges, driven by the rapid deterioration in certain financial markets in the last two months of the year and continued turbulence in the markets generally.” The revised assistance was intended to “enhance the company’s capital and liquidity in order to facilitate the orderly completion of the company’s global divestiture program.”⁴⁵

The announced revised assistance included the following:

- Exchange of the previous \$40 billion in preferred shares purchased through the TARP program for \$41.6 billion in preferred shares that more closely resembled common equity, thus improving AIG’s financial position. Dividends paid on these new shares remained at 10%, but were non-cumulative and only paid when declared by AIG’s Board of Directors. Should dividends not be paid for four consecutive quarters, the government would have had the right to appoint at least two new directors to the board.
- Commitment of up to \$29.8 billion⁴⁶ in additional preferred share purchases from TARP. Timing of these share purchases was at the discretion of AIG.
- Reduction of interest rate on the existing Fed loan facility by removing the floor of 3.5% over the LIBOR portion of the rate. The rate became three-month LIBOR plus 3%, which was approximately 4.25% at the time.
- Limit on Fed revolving credit facility was reduced from \$60 billion to as low as \$25 billion.
- Up to \$34.5 billion of the approximately \$38 billion outstanding on the Fed credit facility was to be repaid by asset transfers from AIG to the Fed. Specifically, (1) \$8.5 billion in ongoing life insurance cash flows were to be securitized by AIG and transferred to the Fed; and (2) approximately \$26 billion in equity interests in two of AIG’s large foreign life insurance subsidiaries (ALICO and AIA) are to be issued to the Fed. This would effectively transfer a majority stake in these companies to the Fed, but the companies would still be managed by AIG.

A \$25 billion repayment of the Fed loan through the transfer of equity interest worth \$16 billion in AIA and \$9 billion in ALICO was completed on December 1, 2009, with a corresponding reduction in the Fed loan maximum to \$35 billion. According to AIG’s 2009 annual 10-K filing with the SEC, the repayment through securitization of life insurance cash flows was no longer expected to occur and has not occurred.

Separately, AIG continued to access the Fed’s Commercial Paper Funding Facility, which was extended to February 2010.

A summary of assistance under the March 2009 plan is presented in **Table A-3**.

⁴⁴ See, for example, “A.I.G. Reports Loss of \$61.7 Billion as U.S. Gives More Aid,” *New York Times*, March 2, 2009, p. A1.

⁴⁵ U.S. Treasury, “U.S. Treasury and Federal Reserve Board Announce Participation in AIG Restructuring Plan,” press release, March 2, 2009.

⁴⁶ The amount was reduced from \$30 billion following controversy over \$165 million in employee bonuses paid to AIGFP employees in March 2009.

Table A-3. Summary of AIG Assistance Under March 2009 Plan

(amounts as of September 2010)

| Program | Maximum Committed Amount of Government Assistance | Government Assistance Outstanding | Recompense to the Government | Expiration Date |
|--|---|---|---|--|
| TARP Share Purchase | \$69.8 billion | \$47.5 billion (principal); \$1.6 billion (dividends) | 10% quarterly dividend; warrants for 2% of AIG equity | March 2014; preferred shares outstanding until repurchased |
| Federal Reserve Loan | \$35 billion | \$18.9 billion: (includes principal and interest) | 3 month LIBOR+3%; 77.9% of AIG equity | September 2013 |
| AIG Subsidiary Equity (accepted as repayment for Fed Loan) | \$25 billion | \$25 billion (principal); \$1 billion (dividends) | 5% quarterly dividends | none |
| Commercial Paper Funding Facility | \$15.9 billion | \$0 (facility expired) | OIS rate+1%; OIS+3% | February 2010 |
| Maiden Lane II | \$22.5 billion | \$13.7 billion (principal); \$408 million (interest) | 5/6 of equity remaining after loan repayment | November 2014 (loan); assets held until disposed of |
| Maiden Lane III | \$30 billion | \$14.6 billion (principal); \$499 million (interest) | 2/3 of equity remaining after loan repayment | November 2014 (loan); assets held until disposed of |

Source: Federal Reserve weekly H.1.4 statistical release; Federal Reserve Bank of NY website; U.S. Treasury TARP reports; AIG SEC filings; CRS calculations.

Notes: Fed amounts as of September 29, 2010; Treasury amounts as of September 30, 2010. The loan amounts to Maiden Lane II and III were from these entities to the Fed, and were not to be repaid by AIG. AIG also has outstanding loans Maiden Lane II and III which were junior in priority to the Fed loans. Quarterly TARP dividends were non-cumulative and paid at AIG's discretion. The dividends on the TARP share purchase and the interest on the loans were generally allowed to accrue rather than being immediately paid.

September 2010 Revision of Assistance for AIG

The structure under which AIG's assistance was ultimately wound down was announced in September 2010 with the multiple transactions involved closing on January 14, 2011. The essence of this restructuring was to (1) end the Fed's direct involvement with AIG through loan repayment and transfer of the Fed's equity interests to the Treasury and (2) convert the government's preferred shares into common shares, which could then be more easily sold. The specific steps included the following:

- *Repayment and termination of the Fed loan facility.* AIG repaid \$19.5 billion to the Fed with cash from the disposal of various assets.
- *Transfer to the Treasury of the Fed's preferred equity interests resulting from AIG subsidiaries AIA and Alico.* AIG drew \$20.3 billion of TARP funds to purchase the Fed's equity in AIG's subsidiaries. This equity was transferred to the Treasury to redeem the TARP funds. The remaining equity (approximately \$5.7 billion) was redeemed by funds from sales of other AIG assets. As was the plan when the

- Fed held the assets, the equity interests held by the Treasury following the transfer were to be redeemed by AIG following further asset sales.
- *Conversion of TARP preferred shares into common equity.* \$49.1 billion in TARP preferred share holdings were converted into approximately 1.1 billion common shares worth approximately \$43 billion in September 2010.⁴⁷ After combining this with the approximately 562.9 million shares (then worth \$22 billion) resulting from the initial Fed loan,⁴⁸ the Treasury held 1.655 billion shares of AIG common stock, or 92.1% of the AIG common stock.
 - *Reduced TARP funding facility.* At AIG's discretion, \$2 billion of new Series G preferred shares could be issued by AIG and purchased by the Treasury. These shares would have paid a 5% dividend and any outstanding shares were to convert to common shares at the end of March 2012. None of these shares were issued and this facility was cancelled.
 - *Issuance of warrants to private shareholders.* Through an exceptional dividend, AIG issued warrants to existing private shareholders. They extend for 10 years and allow for the purchase of up to 75 million new shares of common stock at the price of \$45 a share. These warrants provided a direct benefit to private AIG stockholders while potentially reducing the return on the government's assistance to AIG. This benefit was approximately \$1.2 billion at the warrant's initial trading price.⁴⁹

Table 5 summarizes the assistance for AIG after the latest restructuring plan was completed in January 2011, but before any further asset sales or loan repayments.

⁴⁷ According to *The Wall Street Journal*, AIG's common stock closed at a price of \$39.10 on September 30, 2010.

⁴⁸ This equity was previously held by the AIG Credit Trust and was transferred to the Treasury with the dissolution of the trust.

⁴⁹ The warrants were trading for approximately \$16.05 on January 20, 2011. See <http://dealbook.nytimes.com/2011/01/20/about-a-i-g-s-stock-price/>.

Table A-4. Summary of AIG Assistance Under Final September 2010 Plan
(after closing in mid-January 2011)

| Agency | Holdings | Amount | Planned Disposition | Original Source |
|-----------------|-----------------------|--|--|---|
| Treasury | AIG common equity | 1.655 billion shares (worth approximately \$71.5 billion) | Open market sales | \$49.1 billion in TARP preferred shares were converted to 1.1 billion shares; 563 million shares were compensation for Fed loan to AIG (transferred through AIG Credit Trust) |
| | AIG subsidiary equity | \$20.3 billion | Redemption by AIG through equity sales | Fed loan to AIG (transferred using TARP preferred shares) |
| | AIG preferred shares | \$0 (of up to \$2 billion) | Redemption by AIG or conversion to common equity | Purchased through TARP |
| Federal Reserve | Maiden Lane II | \$12.8 billion (principal); \$460 million (interest); \$1.4 billion (equity) | Hold to maturity or open market sale | Fed loan to Maiden Lane II |
| | Maiden Lane III | \$12.7 billion (principal); \$555 million (interest); \$2.6 billion (equity) | Hold to maturity or open market sale | Fed loan to Maiden Lane III |

Source: Federal Reserve weekly H.4.1 statistical release; Federal Reserve Bank of NY website; U.S. Treasury TARP reports and press releases; AIG SEC filings; CRS calculations.

Note: Values from January 20, 2011.

Appendix B. Executive Compensation Restrictions Under TARP

By accepting TARP assistance, AIG became subject to the executive compensation standards for their senior executive officers (SEOs, generally the chief executive officer, the chief financial, and the three next most highly compensated officials) generally required under Section 111 of EESA. In addition to these general restrictions, Treasury imposed additional executive compensation restrictions on AIG that are more stringent than for other participants in TARP in recognition of the special assistance received by AIG.⁵⁰

The TARP executive compensation restrictions were amended and strengthened by the 111th Congress in the American Recovery and Reinvestment Act of 2009,⁵¹ which amended Section 111 of EESA to further limit executive compensation for financial institutions receiving assistance under that act. Among other things, for applicable companies, the new language requires the adoption of standards by Treasury that

1. prohibit paying certain executives any bonus, retention, or incentive compensation other than certain long-term restricted stock that has a value not greater than one-third of the total annual compensation of the employee receiving the stock (the determination of how many executives will be subject to these limitations depends on the amount of funds received by the TARP recipient);
2. require the recovery of any bonus, retention award, or incentive compensation paid to CEOs and the next 20 most highly compensated employees based on earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;
3. prohibit any compensation plan that would encourage manipulation of the reported earnings of the firm to enhance the compensation of any of its employees;
4. prohibit the provision of “golden parachute” payment to an CEO and the next five most highly compensated employees for departure from a company for any reason, except for payments for services performed or benefits accrued; and
5. prohibit any compensation plan that would encourage manipulation of the reported earnings of the firm to enhance the compensation of any of its employees.

Although Section 111(b)(1) of the amended EESA indicated that these standards applied all TARP recipients until they repay TARP funding, later language (Section 111(b)(3)(iii)) specifically allows bonuses required to be paid under employment contracts executed before February 11, 2009, to go forward notwithstanding the new requirements. The Special Master for TARP Executive Compensation released several specific determinations for AIG compensation.⁵²

⁵⁰ U.S. Treasury, “Treasury to Invest in AIG Restructuring under the Emergency Economic Stabilization Act,” hp-1261, November 10, 2008, available at <http://www.ustreas.gov/press/releases/hp1261.htm>.

⁵¹ Section 7001 of P.L. 111-5.

⁵² See “Executive Compensation” on the Treasury Financialstability.gov website available at <http://www.financialstability.gov/about/executivecompensation.html>.

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