



Recent Government Actions Related to Financial Markets

November 13, 2008

On October 3, 2008, the Emergency Economic Stabilization Act of 2008 ("EESA" or "Act"), was enacted giving authority to the Secretary of Treasury of the U.S. Department of Treasury ("Treasury") to implement various provisions of the Act. Under EESA:

- ▶ Treasury is authorized to implement the Troubled Assets Relief Program ("TARP") by purchasing mortgage-related and other financial instruments from any financial institution (as defined in the Act) through December 31, 2009 and no longer than through October 3, 2010, if the program is extended. However, Treasury recently announced it will not move forward at this time to implement this program because it is not the most effective use of funds. For more information, go to <http://www.ustreas.gov/initiatives/eesa/>.
- ▶ Treasury has announced another strategy to mitigate foreclosures and assist homeowners now that it is not planning to purchase troubled assets, including mortgages. In coordination with the Federal Housing Finance Agency, Fannie Mae, Freddie Mac and HOPE NOW, Treasury will implement an industry-wide mortgage modification program for delinquent borrowers who are already 90 days or more past due on their loan or in the process of foreclosure. This program includes options for extension of the repayment period (up to 40 years), reduction of interest rates and reduction of principal (with the balance added on the backend of the loan). For more information, go to <http://www.treas.gov/news/index2.html>.
- ▶ Treasury is authorized to establish a voluntary, self-funded guarantee program for the kinds of assets covered by TARP. Treasury requested comments which were due October 28, 2008 on such a program. For more information, go to <http://www.ustreas.gov/press/releases/hp1212.htm>.
- ▶ Treasury is authorized to implement the Capital Purchase Program ("CPP") by purchasing equity positions in U.S. banks and thrifts and their holding companies. Treasury implemented the \$250 billion program on October 14, 2008 and more than two dozen banks now participate in it. The application deadline for the CPP is November 14, 2008 for public institutions and will be extended for private banks. For more information, go to <http://www.ustreas.gov/initiatives/eesa/application-documents.shtml>.
- ▶ The Securities and Exchange Commission ("SEC") is required to conduct a study of mark-to-market accounting rules and submit a report to Congress by January 1, 2009 (90 days after the enactment of EESA). The SEC is also authorized to suspend application of the mark-to-market accounting rules to classes of transactions as appropriate. The SEC conducted a roundtable on these rules on October 29, 2008. For more information, go to <http://www.sec.gov/spotlight/fairvalue.htm>.
- ▶ Treasury is authorized to provide direct assistance to "Systematically Significant Failing Institutions" on terms negotiated on a case-by-case basis. The details on this program have been very limited thus far as Treasury has not yet taken steps to implement a program of this kind. For more information, go to www.ustreas.gov/initiatives/eesa/docs/Exec%20Comp%20PSSFI%20Notice.pdf.

Outside of EESA, Treasury also implemented the Temporary Money Market Mutual Fund Program which guarantees the value as of September 19, 2008 of accounts in money market mutual funds that joined the program by October 8 or 10, 2008 depending on the type of money market mutual fund. The initial guarantee period ends December 18, 2008 and may be extended until September 18, 2009. For more information, go to <http://www.treas.gov/offices/domestic-finance/key-initiatives/money-market-fund.shtml>.

The Federal Deposit Insurance Corporation (“FDIC”) implemented the Temporary Liquidity Guarantee Program. Under the program, the FDIC guarantees until June 2012 senior, unsecured debt issued by banks, thrifts and their holding companies by the end of June 2009. Participation is automatic until December 6, 2008 and will continue through June 2012 for each covered entity unless it opts out by December 5, 2008. Participants as of December 6, 2008 must pay a fee. Additionally, the FDIC guarantees all non-interest bearing deposit accounts of FDIC depository institutions until December 31, 2009. For more information, go to <http://www.fdic.gov/regulations/resources/tlgp/index.html>.

The Federal Reserve Bank of Boston implemented the Asset Backed Commercial Paper Money Market Mutual Fund Liquidity Facility by making non-recourse loans to banks to permit them to purchase commercial paper from money market mutual funds. Purchases under the program are scheduled to stop on January 30, 2009. For more information, go to <http://www.frbdiscountwindow.org/mmmf.cfm?hdrID=14>.

The Federal Reserve Bank of New York implemented the Commercial Paper Funding Facility by organizing special purpose vehicles and providing them with financing to purchase commercial paper from U.S. issuers. Purchases under the program are scheduled to stop on April 30, 2009. For more information, go to <http://www.newyorkfed.org/markets/cpff.html>.

The Federal Reserve Bank of New York will also implement the Money Market Investor Funding Facility by facilitating the organization of private sector special purpose vehicles and providing them with financing to purchase commercial paper from money market mutual funds. The program is not yet in operation. Purchases under the program are scheduled to stop on April 30, 2009. For more information, go to <http://www.newyorkfed.org/markets/mmiff.html>.

NOTE – Details on government intervention in financial markets continue to change and develop rapidly. Please contact us for the most up-to-date information.

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