.....

(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. R. _____

To suspend the capital gains tax, schedule the government-sponsored enterprises for privatization, repeal the Humphrey-Hawkins Full Employment Act, and suspend mark-to-market accounting requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HENSARLING introduced the following bill; which was referred to the Committee on _____

A BILL

To suspend the capital gains tax, schedule the government-sponsored enterprises for privatization, repeal the Humphrey-Hawkins Full Employment Act, and suspend mark-to-market accounting requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 SHORT TITLE.—This Act may be cited as the
5 "Free Market Protection Act of 2008".

6 TITLE I—PRIVATIZATION OF
7 GOVERNMENT-SPONSORED
8 ENTERPRISES

9 **SEC. 101. SHORT TITLE.**

10 This title may be cited as the "Government-Spon-
11 sored Enterprises Free Market Reform Act of 2008".

12 **SEC. 102. DEFINITIONS.**

13 For purposes of this title, the following definitions
14 shall apply:

15 (1) CHARTER.—The term "charter" means—

1 (A) with respect to the Federal National
2 Mortgage Association, the Federal National
3 Mortgage Association Charter Act (12 U.S.C.
4 1716 et seq.); and
5 (B) with respect to the Federal Home
6 Loan Mortgage Corporation, the Federal Home
7 Loan Mortgage Corporation Act (12 U.S.C.
8 1451 et seq.).
9 (2) DIRECTOR.—The term "Director" means
10 the Director of the Federal Housing Finance Agency
11 (3) ENTERPRISE.—The term "enterprise"
12 means—
13 (A) the Federal National Mortgage Asso-
14 ciation; and
15 (B) the Federal Home Loan Mortgage
16 Corporation.
17 (4) GUARANTEE.—The term "guarantee"
18 means, with respect to an enterprise, the credit sup-
19 port of the enterprise that is provided by the Fed-
20 eral Government through its charter as a govern-
21 ment-sponsored enterprise.
22 **SEC. 103. TERMINATION OF CURRENT CONSERVATORSHIP.**
23 (a) IN GENERAL.—Upon the expiration of the period
24 referred to in subsection (b), the Director of the Federal
25 Housing Finance Agency shall determine, with respect to

1 each enterprise, if the enterprise is financially viable at
2 that time and—
3 (1) if the Director determines that the enter-
4 prise is financially viable, immediately take all ac-
5 tions necessary to terminate the conservatorship for
6 each of the enterprises; or
7 (2) if the Director determines that the enter-
8 prise is not financially viable, immediately appoint
9 the Federal Housing Finance Agency as receiver
10 under section 1367 of the Federal Housing Enter-
11 prises Financial Safety and Soundness Act of 1992
12 and carry out such receivership under the authority
13 of such section.
14 (b) TIMING.—The period referred to in this sub-
15 section is, with respect to an enterprise—
16 (1) except as provided in paragraph (2), the 24-
17 month beginning upon the date of the enactment of
18 this Act; or
19 (2) if the Director determines before the expira-
20 tion of the period referred to in paragraph (1) that
21 the financial markets would be adversely affected
22 without the extension of such period under this
23 paragraph with respect to that enterprise, the 30-
24 month period beginning upon the date of the enact-
25 ment of this Act.

1 (c) FINANCIAL VIABILITY.—The Director may not
2 determine that an enterprise is financially viable for pur-
3 poses of subsection (a) if the Director determines that any
4 of the conditions for receivership set forth in paragraph
5 (3) or (4) of section 1367(a) of the Federal Housing En-
6 terprises Financial Safety and Soundness Act of 1992 (12
7 U.S.C. 4617(a)) exists at the time with respect to the en-
8 terprise.

9 **SEC. 104. LIMITATION OF ENTERPRISE AUTHORITY UPON**
10 **EMERGENCE FROM CONSERVATORSHIP.**

11 (a) REVISED AUTHORITY.—Upon the expiration of
12 the period referred to in section 103(b), if the Director
13 makes the determination under section 103(a)(1), the fol-
14 lowing provisions shall take effect:

15 (1) PORTFOLIO LIMITATIONS.—Subtitle B of
16 title XIII of the Housing and Community Develop-
17 ment Act of 1992 (12 U.S.C. 4611 et seq.) is
18 amended by adding at the end the following new sec-
19 tion:

20 **"SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF EN-**
21 **TERPRISES.**

22 "(a) RESTRICTION.—No enterprise shall own, as of
23 any applicable date in this subsection or thereafter, mort-
24 gage assets in excess of—

1 "(1) upon the expiration of the period referred
2 to in section 103(b) of the Government-Sponsored
3 Enterprises Free Market Reform Act of 2008,
4 $850,000,000,000; or
5 "(2) on December 31 of each year thereafter,
6 80.0 percent of the aggregate amount of mortgage
7 assets of the enterprise as of December 31 of the
8 immediately preceding calendar year;
9 except that in no event shall an enterprise be required
10 under this section to own less than $250,000,000,000 in
11 mortgage assets.
12 "(b) DEFINITION OF MORTGAGE ASSETS.—For pur-
13 poses of this section, the term 'mortgage assets' means,
14 with respect to an enterprise, assets of such enterprise
15 consisting of mortgages, mortgage loans, mortgage-related
16 securities, participation certificates, mortgage-backed
17 commercial paper, obligations of real estate mortgage in-
18 vestment conduits and similar assets, in each case to the
19 extent such assets would appear on the balance sheet of
20 such enterprise in accordance with generally accepted ac-
21 counting principles in effect in the United States as of
22 September 7, 2008 (as set forth in the opinions and pro-
23 nouncements of the Accounting Principles Board and the
24 American Institute of Certified Public Accountants and
25 statements and pronouncements of the Financial Account-

1 ing Standards Board from time to time; and without giv-
2 ing any effect to any change that may be made after Sep-
3 tember 7, 2008, in respect of Statement of Financial Ac-
4 counting Standards No. 140 or any similar accounting
5 standard).".

6 (2) INCREASE IN MINIMUM CAPITAL REQUIRE-
7 MENT.—Section 1362 of the Federal Housing En-
8 terprises Financial Safety and Soundness Act of
9 1992 (12 U.S.C. 4612), as amended by section 1111
10 of the Housing and Economic Recovery Act of 2008
11 (Public Law 110-289), is amended—

12 (A) in subsection (a), by striking "For
13 purposes of this subtitle, the minimum capital
14 level for each enterprise shall be" and inserting
15 "The minimum capital level established under
16 subsection (g) for each enterprise may not be
17 lower than";

18 (B) in subsection (c)—

19 (i) by striking "subsections (a) and"
20 and inserting "subsection";

21 (ii) by striking "regulated entities"
22 the first place such term appears and in-
23 serting "Federal Home Loan Banks";

24 (iii) by striking "for the enterprises,";

1 (iv) by striking ", or for both the en-
2 terprises and the banks,";
3 (v) by striking "the level specified in
4 subsection (a) for the enterprises or"; and
5 (vi) by striking "the regulated entities
6 operate" and inserting "such banks oper-
7 ate";
8 (C) in subsection (d)(1)—
9 (i) by striking "subsections (a) and"
10 and inserting "subsection"; and
11 (ii) by striking "regulated entity"
12 each place such term appears and inserting
13 "Federal home loan bank";
14 (D) in subsection (e), by striking "regu-
15 lated entity" each place such term appears and
16 inserting "Federal home loan bank";
17 (E) in subsection (f)—
18 (i) by striking "the amount of core
19 capital maintained by the enterprises,";
20 and
21 (ii) by striking "regulated entities"
22 and inserting "banks"; and
23 (F) by adding at the end the following new
24 subsection:

1 "(g) ESTABLISHMENT OF REVISED MINIMUM CAP-
2 ITAL LEVELS.—
3 "(1) IN GENERAL.—The Director shall cause
4 the enterprises to achieve and maintain adequate
5 capital by establishing minimum levels of capital for
6 such the enterprises and by using such other meth-
7 ods as the Director deems appropriate.
8 "(2) AUTHORITY.— The Director shall have the
9 authority to establish such minimum level of capital
10 for an enterprise in excess of the level specified
11 under subsection (a) as the Director, in the Direc-
12 tor's discretion, deems to be necessary or appro-
13 priate in light of the particular circumstances of the
14 enterprise.
15 "(h) FAILURE TO MAINTAIN REVISED MINIMUM
16 CAPITAL LEVELS.—
17 "(1) UNSAFE AND UNSOUND PRACTICE OR CON-
18 DITION.—Failure of a enterprise to maintain capital
19 at or above its minimum level as established pursu-
20 ant to subsection (c) of this section may be deemed
21 by the Director, in his discretion, to constitute an
22 unsafe and unsound practice or condition within the
23 meaning of this title.
24 "(2) DIRECTIVE TO ACHIEVE CAPITAL
25 LEVEL.—

1 "(A) AUTHORITY.—In addition to, or in
2 lieu of, any other action authorized by law, in-
3 cluding paragraph (1), the Director may issue
4 a directive to an enterprise that fails to main-
5 tain capital at or above its required level as es-
6 tablished pursuant to subsection (c) of this sec-
7 tion.
8 "(B) PLAN.—Such directive may require
9 the enterprise to submit and adhere to a plan
10 acceptable to the Director describing the means
11 and timing by which the enterprise shall achieve
12 its required capital level.
13 "(C) ENFORCEMENT.—Any such directive
14 issued pursuant to this paragraph, including
15 plans submitted pursuant thereto, shall be en-
16 forceable under the provisions of subtitle C of
17 this title to the same extent as an effective and
18 outstanding order issued pursuant to subtitle C
19 of this title which has become final.
20 "(3) ADHERENCE TO PLAN.—
21 "(A) CONSIDERATION.—The Director may
22 consider such enterprise's progress in adhering
23 to any plan required under this subsection
24 whenever such enterprise seeks the requisite ap-
25 proval of the Director for any proposal which

1 would divert earnings, diminish capital, or oth-
2 erwise impede such enterprise's progress in
3 achieving its minimum capital level.
4 "(B) DENIAL.—The Director may deny
5 such approval where it determines that such
6 proposal would adversely affect the ability of
7 the enterprise to comply with such plan.".".
8 (3) REPEAL OF INCREASES TO CONFORMING
9 LOAN LIMITS.—
10 (A) REPEAL OF TEMPORARY INCREASE IN
11 ECONOMIC STIMULUS ACT.—Section 201 of the
12 Economic Stimulus Act of 2008 (Public Law
13 110–185) is hereby repealed.
14 (B) REPEAL OF GENERAL LIMIT AND PER-
15 MANENT HIGH-COST AREA INCREASE.—Para-
16 graph (2) of section 302(b) of the Federal Na-
17 tional Mortgage Association Charter Act (12
18 U.S.C. 1717(b)(2)) and paragraph (2) of sec-
19 tion 305(a) of the Federal Home Loan Mort-
20 gage Corporation Act (12 U.S.C. 1454(a)(2))
21 are each amended to read as such sections were
22 in effect immediately before the enactment of
23 the Housing and Economic Recovery Act of
24 2008 (Public Law 110–289).

1 (C) REPEAL OF NEW HOUSING PRICE
2 INDEX.—Section 1322 of the Federal Housing
3 Enterprises Financial Safety and Soundness
4 Act of 1992, as added by section 1124(d) of the
5 Housing and Economic Recovery Act of 2008
6 (Public Law 110–289), is hereby repealed.
7 (D) REPEAL.—Section 1124 of the Hous-
8 ing and Economic Recovery Act of 2008 (Public
9 Law 110–289) is hereby repealed.
10 (E) ESTABLISHMENT OF CONFORMING
11 LOAN LIMIT.—For the year in which the expira-
12 tion of the period referred to in section 103(b)
13 of this title occurs, the limitations governing the
14 maximum original principal obligation of con-
15 ventional mortgages that may be purchased by
16 the Federal National Mortgage Association and
17 the Federal Home Loan Mortgage Corporation,
18 referred to in section 302(b)(2) of the Federal
19 National Mortgage Association Charter Act (12
20 U.S.C. 1717(b)(2)) and section 305(a)(2) of the
21 Federal Home Loan Mortgage Corporation Act
22 (12 U.S.C. 1454(a)(2)), respectively, shall be
23 considered to be—
24 (i) $417,000 for a mortgage secured
25 by a single-family residence,

1 (ii) $533,850 for a mortgage secured
2 by a 2-family residence,
3 (iii) $645,300 for a mortgage secured
4 by a 3-family residence, and
5 (iv) $801,950 for a mortgage secured
6 by a 4-family residence,
7 and such limits shall be adjusted effective each
8 January 1 thereafter in accordance with such
9 sections 302(b)(2) and 305(a)(2).
10 (F) PROHIBITION OF PURCHASE OF MORT-
11 GAGES EXCEEDING MEDIAN AREA HOME
12 PRICE.—
13 (i) FANNIE MAE.—Section 302(b)(2)
14 of the Federal National Mortgage Associa-
15 tion Charter Act (12 U.S.C. 1717(b)(2)) is
16 amended by adding at the end the fol-
17 lowing new sentence: "Notwithstanding
18 any other provision of this title, the cor-
19 poration may not purchase any mortgage
20 for a property having a principal obligation
21 that exceeds the median home price, for
22 properties of the same size, for the area in
23 which such property subject to the mort-
24 gage is located.".

1 (ii) FREDDIE MAC.—Section
2 305(a)(2) of the Federal Home Loan
3 Mortgage Corporation Act (12 U.S.C.
4 1454(a)(2)) is amended by adding at the
5 end the following new sentence: "Notwith-
6 standing any other provision of this title,
7 the Corporation may not purchase any
8 mortgage for a property having a principal
9 obligation that exceeds the median home
10 price, for properties of the same size, for
11 the area in which such property subject to
12 the mortgage is located.".
13 (4) REQUIREMENT TO PAY STATE AND LOCAL
14 TAXES.—
15 (A) FANNIE MAE.—Paragraph (2) of sec-
16 tion 309(c) of the Federal National Mortgage
17 Association Charter Act (12 U.S.C.
18 1723a(c)(2)) is amended—
19 (i) by striking "shall be exempt from"
20 and inserting "shall be subject to"; and
21 (ii) by striking "except that any" and
22 inserting "and any".
23 (B) FREDDIE MAC.—Section 303(e) of the
24 Federal Home Loan Mortgage Corporation Act
25 (12 U.S.C. 1452(e)) is amended—

1 (i) by striking "shall be exempt from"
2 and inserting "shall be subject to"; and
3 (ii) by striking "except that any" and
4 inserting "and any".
5 (5) REPEALS RELATING TO REGISTRATION OF
6 SECURITIES.—
7 (A) FANNIE MAE.—
8 (i) MORTGAGE-BACKED SECURI-
9 TIES.—Section 304(d) of the Federal Na-
10 tional Mortgage Association Charter Act
11 (12 U.S.C. 1719(d)) is amended by strik-
12 ing the fourth sentence.
13 (ii) SUBORDINATE OBLIGATIONS.—
14 Section 304(e) of the Federal National
15 Mortgage Association Charter Act (12
16 U.S.C. 1719(e)) is amended by striking the
17 fourth sentence.
18 (B) FREDDIE MAC.—Section 306 of the
19 Federal Home Loan Mortgage Corporation Act
20 (12 U.S.C. 1455) is amended by striking sub-
21 section (g).
22 (6) RECOUPMENT OF COSTS FOR FEDERAL
23 GUARANTEE.—
24 (A) ASSESSMENTS.—The Director of the
25 Federal Housing Finance Agency shall establish

1 and collect from each enterprise assessments in
2 the amount determined under subparagraph
3 (B). In determining the method and timing for
4 making such assessments, the Director shall
5 take into consideration the determinations and
6 conclusions of the study under subsection (b) of
7 this section.

8 (B) DETERMINATION OF COSTS OF GUAR-
9 ANTEE.—Assessments under subparagraph (A)
10 with respect to an enterprise shall be in such
11 amount as the Director determines necessary to
12 recoup to the Federal Government the full value
13 of the benefit the enterprise receives from the
14 guarantee provided by the Federal Government
15 for the obligations and financial viability of the
16 enterprise, based upon the dollar value of such
17 benefit in the market to such enterprise when
18 not operating under conservatorship or receiver-
19 ship. To determine such amount, the Director
20 shall establish a risk-based pricing mechanism
21 as the Director considers appropriate, taking
22 into consideration the determinations and con-
23 clusions of the study under subsection (b) of
24 this section.

1 (C) TREATMENT OF RECOUPED
2 AMOUNTS.—The Director shall cover into the
3 general fund of the Treasury any amounts re-
4 ceived from assessments made under this para-
5 graph.
6 (b) GAO STUDY REGARDING RECOUPMENT OF
7 COSTS FOR FEDERAL GOVERNMENT GUARANTEE.—The
8 Comptroller General of the United States shall conduct
9 a study to determine a risk-based pricing mechanism to
10 accurately determine the value of the benefit the enter-
11 prises receive from the guarantee provided by the Federal
12 Government for the obligations and financial viability of
13 the enterprises. Such study shall establish a dollar value
14 of such benefit in the market to each enterprise when not
15 operating under conservatorship or receivership, shall ana-
16 lyze various methods of the Federal Government assessing
17 a charge for such value received (including methods involv-
18 ing an annual fee or a fee for each mortgage purchased
19 or securitized), and shall make a recommendation of the
20 best such method for assessing such charge. Not later
21 than 12 months after the date of the enactment of this
22 Act, the Comptroller General shall submit to the Congress
23 a report setting forth the determinations and conclusions
24 of such study.

1 **SEC. 105. REQUIREMENT TO PERIODICALLY RENEW CHAR-**
2 **TER UNTIL WIND DOWN AND DISSOLUTION.**

3 (a) REQUIRED RENEWAL; WIND DOWN AND DIS-
4 SOLUTION UPON NON-RENEWAL.—Upon the expiration of
5 the 3-year period that begins upon the expiration of the
6 period referred to in section 103(b), unless the charter of
7 an enterprise is renewed pursuant to subsection (b) of this
8 section, section 106 (relating to wind down of operations
9 and dissolution of enterprise) shall apply to the enterprise.

10 (b) RENEWAL PROCEDURE.—

11 (1) APPLICATION; TIMING.—The Director shall
12 provide for each enterprise to apply to the Director,
13 before the expiration of the 3-year period under sub-
14 section (a), for renewal of the charter of the enter-
15 prise.

16 (2) STANDARD.—The Director shall approve
17 the application of an enterprise for the renewal of
18 the charter of the enterprise if—

19 (A) the application includes a certification
20 by the enterprise that the enterprise is finan-
21 cially sound and is complying with all provisions
22 of, and amendments made by, section 104 of
23 this title applicable to such enterprise; and

24 (B) the Director verifies that the certifi-
25 cation made pursuant to subparagraph (A) is
26 accurate.

1 (c) OPTION TO REAPPLY.—Nothing in this section
2 may be construed to require an enterprise to apply under
3 this section for renewal of the charter of the enterprise.

4 **SEC. 106. REQUIRED WIND DOWN OF OPERATIONS AND DIS-**
5 **SOLUTION OF ENTERPRISE.**

6 (a) APPLICABILITY.—This section shall apply to an
7 enterprise—
8 (1) upon the expiration of the 3-year period re-
9 ferred to in such section 105(a), to the extent pro-
10 vided in such section; and
11 (2) if this section has not previously applied to
12 the enterprise, upon the expiration of the 6-year pe-
13 riod that begins upon the expiration of the period re-
14 ferred to in section 103(b).
15 (b) WIND DOWN.—Upon the applicability of this sec-
16 tion to an enterprise, the Director and the Secretary of
17 the Treasury shall jointly take such action, and may pre-
18 scribe such regulations and procedures, as may be nec-
19 essary to wind down the operations of an enterprise as
20 an entity chartered by the United States Government over
21 the duration of the 10-year period beginning upon the ap-
22 plicability of this section to the enterprise (pursuant to
23 subsection (a)) in an orderly manner consistent with this
24 title and the ongoing obligations of the enterprise.

1 (c) DIVISION OF ASSETS AND LIABILITIES; AUTHOR-
2 ITY TO ESTABLISH HOLDING CORPORATION AND DIS-
3 SOLUTION TRUST FUND.—The action and procedures re-
4 quired under subsection (b)—
5 (1) shall include the establishment and execu-
6 tion of plans to provide for an equitable division and
7 distribution of assets and liabilities of the enterprise,
8 including any liability of the enterprise to the United
9 States Government or a Federal reserve bank that
10 may continue after the end of the period described
11 in subsection(b); and
12 (2) may provide for establishment of—
13 (A) a holding corporation organized under
14 the laws of any State of the United States or
15 the District of Columbia for the purposes of the
16 reorganization and restructuring of the enter-
17 prise; and
18 (B) one or more trusts to which to trans-
19 fer—
20 (i) remaining debt obligations of the
21 enterprise, for the benefit of holders of
22 such remaining obligations; or
23 (ii) remaining mortgages held for the
24 purpose of backing mortgage-backed secu-

1 rities, for the benefit of holders of such re-
2 maining securities.
3 (d) REPEAL OF CHARTER.—Effective upon the expi-
4 ration of the 10-year period referred to in subsection (b)
5 for an enterprise, the charter for the enterprise is re-
6 pealed, except that the provisions of such charter in effect
7 immediately before such repeal shall continue to apply
8 with respect to the rights and obligations of any holders
9 of outstanding debt obligations and mortgage-backed secu-
10 rities of the enterprise.

11 TITLE II—PRICE STABILITY

12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the "Price Stability Act
14 of 2008".

15 **SEC. 202. FINDINGS; STATEMENT OF POLICY.**

16 (a) FINDINGS.—The Congress finds the following:
17 (1) Price stability is a prerequisite for sustain-
18 able long-term economic growth, job creation, and
19 moderate interest rates.
20 (2) Inflation erodes the value of Americans' in-
21 come and savings.
22 (3) Inflation distorts the pricing system and the
23 efficient allocation of resources in the economy.

1 (4) Inflation makes long-term planning difficult
2 and raises the effective tax rate on capital, thereby
3 impeding investment.
4 (5) Through its determination of monetary pol-
5 icy, the Board of Governors of the Federal Reserve
6 System is ultimately responsible for controlling the
7 long-run rate of inflation in the economy.
8 (6) The multiple policy goals of the Full Em-
9 ployment and Balanced Growth Act of 1978 cause
10 confusion and ambiguity about the appropriate role
11 and aims of monetary policy, which can add to vola-
12 tility in economic activity and financial markets.
13 (7) There is a need for the Congress to clarify
14 the proper role of the Board of Governors of the
15 Federal Reserve System in economic policymaking,
16 in order to achieve the best environment for long-
17 term economic growth and job creation.
18 (8) An explicit price stability goal would pro-
19 mote transparency, accountability and credibility in
20 monetary policy.
21 (9) Price stability should be the primary long-
22 term goal of the Board of Governors of the Federal
23 Reserve.
24 (b) STATEMENT OF POLICY.—It is the policy of the
25 United States that—

1 (1) the principal economic responsibilities of the
2 Government are to establish and ensure an environ-
3 ment that is conducive to both long-term economic
4 growth and increases in living standards, by estab-
5 lishing and maintaining free markets, low taxes, re-
6 spect for private property, and the stable, long-term
7 purchasing power of the United States currency; and
8 (2) the primary long-term goal of the Board of
9 Governors of the Federal Reserve System should be
10 to promote price stability.

11 **SEC. 203. MONETARY POLICY.**

12 (a) AMENDMENT TO THE FEDERAL RESERVE ACT.—
13 Section 2A of the Federal Reserve Act (12 U.S.C. 225a)
14 is amended to read as follows:

15 **"SEC. 2A. MONETARY POLICY.**

16 "(a) PRICE STABILITY.—The Board and the Federal
17 Open Market Committee (hereafter in this section referred
18 to as the 'Committee') shall—
19 "(1) establish an explicit numerical definition of
20 the term 'price stability'; and
21 "(2) maintain a monetary policy that effectively
22 promotes long-term price stability.
23 "(b) MARKET STABILITY AND LIQUIDITY.—Sub-
24 section (a) shall not be construed as a limitation on the
25 authority or responsibility of the Board—

1 "(1) to provide liquidity to markets in the event
2 of a disruption that threatens the smooth func-
3 tioning and stability of the financial sector; or
4 "(2) to serve as a lender of last resort under
5 this Act when the Board determines such action is
6 necessary.
7 "(c) CONGRESSIONAL CONSULTATION.—Not later
8 than February 20 and July 20 of each year, the Board
9 shall consult with the Congress at semiannual hearings be-
10 fore the Committee on Banking, Housing, and Urban Af-
11 fairs of the Senate and the Committee on Financial Serv-
12 ices of the House of Representatives, about the objectives
13 and plans of the Board and the Committee with respect
14 to achieving and maintaining price stability.
15 "(d) CONGRESSIONAL OVERSIGHT.—The Board
16 shall, concurrent with each semiannual hearing required
17 by subsection (c), submit a written report to the Congress
18 containing—
19 "(1) numerical measures to help assess the ex-
20 tent to which the Board and the Committee are
21 achieving and maintaining price stability in accord-
22 ance with subsection (a);
23 "(2) a description of the intermediate variables
24 used by the Board to gauge the prospects for achiev-
25 ing the objective of price stability; and

1 "(3) the definition, or any modifications there-
2 to, of the term 'price stability' established in accord-
3 ance with subsection (a)(1).".

4 (b) COMPLIANCE ESTIMATE.—Concurrent with the
5 first semiannual hearing required by section 2A(b) of the
6 Federal Reserve Act (as amended by subsection (a) of this
7 section) following the date of enactment of this Act, the
8 Board of Governors of the Federal Reserve System shall
9 submit to the Congress a written estimate of the length
10 of time it will take for the Board and the Federal Open
11 Market Committee to fully achieve price stability. The
12 Board and the Committee shall take into account any po-
13 tential short-term effects on employment and output in
14 complying with the goal of price stability.

15 **SEC. 204. REPEAL OF OBSOLETE PROVISIONS.**

16 (a) FULL EMPLOYMENT AND BALANCED GROWTH
17 ACT OF 1978.—The Full Employment and Balanced
18 Growth Act of 1978 (15 U.S.C. 3101 et seq.) is hereby
19 repealed.

20 (b) EMPLOYMENT ACT OF 1946.—The Employment
21 Act of 1946 (15 U.S.C. 1021 et seq.) is amended—

22 (1) in section 3 (15 U.S.C. 1022)—

23 (A) in the section heading, by striking
24 "**AND SHORT-TERM ECONOMIC GOALS AND**
25 **POLICIES**";

1 (B) by striking "(a)"; and
2 (C) by striking "in accord with section
3 11(c) of this Act" and all that follows through
4 the end of the section and inserting "in accord-
5 ance with section 5(c).";
6 (2) in section 9(b) (15 U.S.C. 1022f(b)), by
7 striking ", the Full Employment and Balanced
8 Growth Act of 1978,";
9 (3) in section 10 (15 U.S.C. 1023)—
10 (A) in subsection (a), by striking "in the
11 light of the policy declared in section 2";
12 (B) in subsection (e)(1), by striking "sec-
13 tion 9" and inserting "section 3"; and
14 (C) in the matter immediately following
15 paragraph (2) of subsection (e), by striking
16 "and the Full Employment and Balanced
17 Growth Act of 1978";
18 (4) by striking section 2;
19 (5) by striking sections 4, 5, 6, 7, and 8; and
20 (6) by redesignating sections 3, 9, 10, and 11
21 as sections 2, 3, 4, and 5, respectively.
22 (c) CONGRESSIONAL BUDGET ACT OF 1974.—Title
23 III of the Congressional Budget Act of 1974 (2 U.S.C.
24 631 et seq.) is amended—
25 (1) in section 301—

1 (A) in subsection (b), by striking para-
2 graph (1) and redesignating paragraphs (2)
3 through (9) as paragraphs (1) through (8), re-
4 spectively;
5 (B) in subsection (d), in the second sen-
6 tence, by striking "the fiscal policy" and all
7 that follows through the end of the sentence
8 and inserting "fiscal policy.";
9 (C) in subsection (e)(1), in the second sen-
10 tence, by striking "as to short-term and me-
11 dium-term goals"; and
12 (D) by striking subsection (f) and inserting
13 the following:
14 "(f) Repealed"; and
15 (2) in section 305—
16 (A) in subsection (a)(3), by inserting be-
17 fore the period at the end ", as described in
18 section 2 of the Price Stability Act of 2008";
19 (B) in subsection (a)(4)—
20 (i) by striking "House sets forth the
21 economic goals" and all that follows
22 through "designed to achieve," and insert-
23 ing "House of Representatives sets forth
24 the economic goals and policies, as de-

1 scribed in section 2 of the Price Stability
2 Act of 2008,"; and
3 (ii) by striking "such goals," and all
4 that follows through the end of the para-
5 graph and inserting "such goals and poli-
6 cies.";
7 (C) in subsection (b)(3), by inserting be-
8 fore the period at the end ", as described in
9 section 2 of the Price Stability Act of 2008";
10 and
11 (D) in subsection (b)(4)—
12 (i) by striking "goals (as" and all that
13 follows through "designed to achieve," and
14 inserting "goals and policies, as described
15 in section 2 of the Price Stability Act of
16 2008,"; and
17 (ii) by striking "such goals," and all
18 that follows through the end of the para-
19 graph and inserting "such goals and poli-
20 cies.".

TITLE III—TAX PROVISIONS

SEC. 301. TEMPORARY ZERO PERCENT CAPITAL GAINS RATE FOR INDIVIDUALS AND CORPORATIONS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VIII—TEMPORARY ZERO PERCENT CAPITAL GAINS RATE FOR INDIVIDUALS AND CORPORATIONS

"Sec. 59B. Temporary zero percent capital gains rate for individuals and corporations.

"SEC. 59B. TEMPORARY ZERO PERCENT CAPITAL GAINS RATE FOR INDIVIDUALS AND CORPORATIONS.

"(a) APPLICATION TO INDIVIDUALS.—In the case of a specified recognition event occurring on or after September 22, 2008, and on or before December 31, 2010—

"(1) IN GENERAL.—Section 1(h)(1) shall be applied by substituting 'shall not exceed a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the net capital gain.' for 'shall not exceed' and all that follows.

"(2) ALTERNATIVE MINIMUM TAX.—Section 55(b)(3) shall be applied by substituting 'shall not

1 exceed the amount determined under such first sen-
2 tence computed at the rates and in the same manner
3 as if this paragraph had not been enacted on the
4 taxable excess reduced by the net capital gain.' for
5 'shall not exceed' and all that follows through the
6 end of the first sentence.

7 "(b) APPLICATION TO CORPORATIONS.—In the case
8 of a specified recognition event occurring on or after Sep-
9 tember 22, 2008, and on or before December 31, 2010—

10 "(1) IN GENERAL.—Section 1201 shall be ap-
11 plied—

12 "(A) by substituting '0 percent' for '35
13 percent' both places it appears, and

14 "(B) by treating 'net capital gain' as hav-
15 ing the meaning given such term by section
16 1(h)(11).

17 "(2) ALTERNATIVE MINIMUM TAX.—For pur-
18 poses of section 55, the amount determined under
19 subsection (b)(1)(B)(i) of such section shall not ex-
20 ceed the sum of—

21 "(A) the amount determined under such
22 subsection computed at the rates and in the
23 same manner as if this paragraph had not been
24 enacted on the taxable excess reduced by the

1 net capital gain (as defined in section
2 1(h)(11)), plus
3 "(B) the amount determined under section
4 1201.
5 "(c) TECHNICAL PROVISIONS.—In the case of a spec-
6 ified recognition event occurring on or after September 22,
7 2008, and on or before December 31, 2010—
8 "(1) Section 1445(e)(1) shall be applied by sub-
9 stituting '0 percent' for '35 percent (or, to the ex-
10 tent provided in regulations, 15 percent)'.
11 "(2) Section 1445(e)(2) shall be applied by sub-
12 stituting '0 percent' for '35 percent'.
13 "(3) Section 7518(g)(6)(A) shall be applied by
14 substituting '0 percent' for '15 percent (34 percent
15 in the case of a corporation)'.
16 "(4) Section 607(h)(6)(A) of the Merchant Ma-
17 rine Act, 1936 shall be applied by substituting '0
18 percent' for '15 percent (34 percent in the case of
19 a corporation)'.
20 "(d) SPECIFIED RECOGNITION EVENT.—For pur-
21 poses of this section, the term 'specified recognition event'
22 means—
23 "(1) the sale or exchange of a capital asset held
24 for more than 1 year, and

1 "(2) the receipt of qualified dividend income (as
2 defined in section 1(h)(11)).
3 "(e) APPLICATION TO TRANSITIONAL YEARS.—The
4 Secretary shall issue regulations providing appropriate
5 transition rules for the application of the provisions of this
6 title referred to in subsections (a) or (b) for taxable years
7 which include September 22, 2008, or December 31,
8 2010.".
9 (b) CONFORMING AMENDMENT.—The table of parts
10 for subchapter A of chapter 1 of such Code is amended
11 by adding at the end the following new item:

"PART VIII—TEMPORARY ZERO PERCENT CAPITAL GAINS RATE FOR INDIVIDUALS AND CORPORATIONS.".

12 (c) EFFECTIVE DATE.—
13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall apply to taxable years ending after September
16 22, 2008.
17 (2) WITHHOLDING.—Paragraphs (1) and (2) of
18 section 59B(c) of the Internal Revenue Code of
19 1986, as added by this section, shall apply to dis-
20 positions and distributions after such date.

21 **SEC. 302. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
22 **OF DETERMINING GAIN OR LOSS.**

23 (a) IN GENERAL.—Part II of subchapter O of chap-
24 ter 1 (relating to basis rules of general application) is

1 amended by redesignating section 1023 as section 1024
2 and by inserting after section 1022 the following new sec-
3 tion:

4 **"SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
5 **OF DETERMINING GAIN OR LOSS.**

6 "(a) GENERAL RULE.—

7 "(1) INDEXED BASIS SUBSTITUTED FOR AD-
8 JUSTED BASIS.—Solely for purposes of determining
9 gain or loss on the sale or other disposition by a tax-
10 payer (other than a corporation) of an indexed asset
11 which has been held for more than 3 years, the in-
12 dexed basis of the asset shall be substituted for its
13 adjusted basis.

14 "(2) EXCEPTION FOR DEPRECIATION, ETC.—
15 The deductions for depreciation, depletion, and am-
16 ortization shall be determined without regard to the
17 application of paragraph (1) to the taxpayer or any
18 other person.

19 "(3) WRITTEN DOCUMENTATION REQUIRE-
20 MENT.—Paragraph (1) shall apply only with respect
21 to indexed assets for which the taxpayer has written
22 documentation of the original purchase price paid or
23 incurred by the taxpayer to acquire such asset.

24 "(b) INDEXED ASSET.—

1 "(1) IN GENERAL.—For purposes of this sec-
2 tion, the term 'indexed asset' means—
3 "(A) common stock in a C corporation
4 (other than a foreign corporation), or
5 "(B) tangible property,
6 which is a capital asset or property used in the trade
7 or business (as defined in section 1231(b)).
8 "(2) STOCK IN CERTAIN FOREIGN CORPORA-
9 TIONS INCLUDED.—For purposes of this section—
10 "(A) IN GENERAL.—The term 'indexed
11 asset' includes common stock in a foreign cor-
12 poration which is regularly traded on an estab-
13 lished securities market.
14 "(B) EXCEPTION.—Subparagraph (A)
15 shall not apply to—
16 "(i) stock of a foreign investment
17 company,
18 "(ii) stock in a passive foreign invest-
19 ment company (as defined in section
20 1296),
21 "(iii) stock in a foreign corporation
22 held by a United States person who meets
23 the requirements of section 1248(a)(2),
24 and

1 "(iv) stock in a foreign personal hold-
2 ing company.
3 "(C) TREATMENT OF AMERICAN DEPOSI-
4 TORY RECEIPTS.—An American depository re-
5 ceipt for common stock in a foreign corporation
6 shall be treated as common stock in such cor-
7 poration.
8 "(c) INDEXED BASIS.—For purposes of this sec-
9 tion—
10 "(1) GENERAL RULE.—The indexed basis for
11 any asset is—
12 "(A) the adjusted basis of the asset, in-
13 creased by
14 "(B) the applicable inflation adjustment.
15 "(2) APPLICABLE INFLATION ADJUSTMENT.—
16 The applicable inflation adjustment for any asset is
17 an amount equal to—
18 "(A) the adjusted basis of the asset, multi-
19 plied by
20 "(B) the percentage (if any) by which—
21 "(i) the gross domestic product
22 deflator for the last calendar quarter end-
23 ing before the asset is disposed of, exceeds
24 "(ii) the gross domestic product
25 deflator for the last calendar quarter end-

1 ing before the asset was acquired by the
2 taxpayer.
3 The percentage under subparagraph (B) shall be
4 rounded to the nearest 1/10 of 1 percentage point.
5 "(3) GROSS DOMESTIC PRODUCT DEFLATOR.—
6 The gross domestic product deflator for any cal-
7 endar quarter is the implicit price deflator for the
8 gross domestic product for such quarter (as shown
9 in the last revision thereof released by the Secretary
10 of Commerce before the close of the following cal-
11 endar quarter).
12 "(d) SUSPENSION OF HOLDING PERIOD WHERE DI-
13 MINISHED RISK OF LOSS; TREATMENT OF SHORT
14 SALES.—
15 "(1) IN GENERAL.—If the taxpayer (or a re-
16 lated person) enters into any transaction which sub-
17 stantially reduces the risk of loss from holding any
18 asset, such asset shall not be treated as an indexed
19 asset for the period of such reduced risk.
20 "(2) SHORT SALES.—
21 "(A) IN GENERAL.—In the case of a short
22 sale of an indexed asset with a short sale period
23 in excess of 3 years, for purposes of this title,
24 the amount realized shall be an amount equal
25 to the amount realized (determined without re-

1 gard to this paragraph) increased by the appli-
2 cable inflation adjustment. In applying sub-
3 section (c)(2) for purposes of the preceding sen-
4 tence, the date on which the property is sold
5 short shall be treated as the date of acquisition
6 and the closing date for the sale shall be treat-
7 ed as the date of disposition.
8 "(B) SHORT SALE PERIOD.—For purposes
9 of subparagraph (A), the short sale period be-
10 gins on the day that the property is sold and
11 ends on the closing date for the sale.
12 "(e) TREATMENT OF REGULATED INVESTMENT
13 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—
14 "(1) ADJUSTMENTS AT ENTITY LEVEL.—
15 "(A) IN GENERAL.—Except as otherwise
16 provided in this paragraph, the adjustment
17 under subsection (a) shall be allowed to any
18 qualified investment entity (including for pur-
19 poses of determining the earnings and profits of
20 such entity).
21 "(B) EXCEPTION FOR CORPORATE SHARE-
22 HOLDERS.—Under regulations—
23 "(i) in the case of a distribution by a
24 qualified investment entity (directly or in-
25 directly) to a corporation—

1 "(I) the determination of whether
2 such distribution is a dividend shall be
3 made without regard to this section,
4 and
5 "(II) the amount treated as gain
6 by reason of the receipt of any capital
7 gain dividend shall be increased by the
8 percentage by which the entity's net
9 capital gain for the taxable year (de-
10 termined without regard to this sec-
11 tion) exceeds the entity's net capital
12 gain for such year determined with re-
13 gard to this section, and
14 "(ii) there shall be other appropriate
15 adjustments (including deemed distribu-
16 tions) so as to ensure that the benefits of
17 this section are not allowed (directly or in-
18 directly) to corporate shareholders of quali-
19 fied investment entities.
20 For purposes of the preceding sentence, any
21 amount includible in gross income under section
22 852(b)(3)(D) shall be treated as a capital gain
23 dividend and an S corporation shall not be
24 treated as a corporation.

1 "(C) EXCEPTION FOR QUALIFICATION
2 PURPOSES.—This section shall not apply for
3 purposes of sections 851(b) and 856(c).
4 "(D) EXCEPTION FOR CERTAIN TAXES IM-
5 POSED AT ENTITY LEVEL.—
6 "(i) TAX ON FAILURE TO DISTRIBUTE
7 ENTIRE GAIN.—If any amount is subject to
8 tax under section 852(b)(3)(A) for any
9 taxable year, the amount on which tax is
10 imposed under such section shall be in-
11 creased by the percentage determined
12 under subparagraph (B)(i)(II). A similar
13 rule shall apply in the case of any amount
14 subject to tax under paragraph (2) or (3)
15 of section 857(b) to the extent attributable
16 to the excess of the net capital gain over
17 the deduction for dividends paid deter-
18 mined with reference to capital gain divi-
19 dends only. The first sentence of this
20 clause shall not apply to so much of the
21 amount subject to tax under section
22 852(b)(3)(A) as is designated by the com-
23 pany under section 852(b)(3)(D).
24 "(ii) OTHER TAXES.—This section
25 shall not apply for purposes of determining

1 the amount of any tax imposed by para-
2 graph (4), (5), or (6) of section 857(b).
3 "(2) ADJUSTMENTS TO INTERESTS HELD IN
4 ENTITY.—
5 "(A) REGULATED INVESTMENT COMPA-
6 NIES.—Stock in a regulated investment com-
7 pany (within the meaning of section 851) shall
8 be an indexed asset for any calendar quarter in
9 the same ratio as—
10 "(i) the average of the fair market
11 values of the indexed assets held by such
12 company at the close of each month during
13 such quarter, bears to
14 "(ii) the average of the fair market
15 values of all assets held by such company
16 at the close of each such month.
17 "(B) REAL ESTATE INVESTMENT
18 TRUSTS.—Stock in a real estate investment
19 trust (within the meaning of section 856) shall
20 be an indexed asset for any calendar quarter in
21 the same ratio as—
22 "(i) the fair market value of the in-
23 dexed assets held by such trust at the close
24 of such quarter, bears to

1 "(ii) the fair market value of all as-
2 sets held by such trust at the close of such
3 quarter.
4 "(C) RATIO OF 80 PERCENT OR MORE.—If
5 the ratio for any calendar quarter determined
6 under subparagraph (A) or (B) would (but for
7 this subparagraph) be 80 percent or more, such
8 ratio for such quarter shall be 100 percent.
9 "(D) RATIO OF 20 PERCENT OR LESS.—If
10 the ratio for any calendar quarter determined
11 under subparagraph (A) or (B) would (but for
12 this subparagraph) be 20 percent or less, such
13 ratio for such quarter shall be zero.
14 "(E) LOOK-THRU OF PARTNERSHIPS.—For
15 purposes of this paragraph, a qualified invest-
16 ment entity which holds a partnership interest
17 shall be treated (in lieu of holding a partnership
18 interest) as holding its proportionate share of
19 the assets held by the partnership.
20 "(3) TREATMENT OF RETURN OF CAPITAL DIS-
21 TRIBUTIONS.—Except as otherwise provided by the
22 Secretary, a distribution with respect to stock in a
23 qualified investment entity which is not a dividend
24 and which results in a reduction in the adjusted
25 basis of such stock shall be treated as allocable to

1 stock acquired by the taxpayer in the order in which
2 such stock was acquired.
3 "(4) QUALIFIED INVESTMENT ENTITY.—For
4 purposes of this subsection, the term 'qualified in-
5 vestment entity' means—
6 "(A) a regulated investment company
7 (within the meaning of section 851), and
8 "(B) a real estate investment trust (within
9 the meaning of section 856).
10 "(f) OTHER PASS-THRU ENTITIES.—
11 "(1) PARTNERSHIPS.—
12 "(A) IN GENERAL.—In the case of a part-
13 nership, the adjustment made under subsection
14 (a) at the partnership level shall be passed
15 through to the partners.
16 "(B) SPECIAL RULE IN THE CASE OF SEC-
17 TION 754 ELECTIONS.—In the case of a transfer
18 of an interest in a partnership with respect to
19 which the election provided in section 754 is in
20 effect—
21 "(i) the adjustment under section
22 743(b)(1) shall, with respect to the trans-
23 feror partner, be treated as a sale of the
24 partnership assets for purposes of applying
25 this section, and

1 "(ii) with respect to the transferee
2 partner, the partnership's holding period
3 for purposes of this section in such assets
4 shall be treated as beginning on the date
5 of such adjustment.
6 "(2) S CORPORATIONS.—In the case of an S
7 corporation, the adjustment made under subsection
8 (a) at the corporate level shall be passed through to
9 the shareholders. This section shall not apply for
10 purposes of determining the amount of any tax im-
11 posed by section 1374 or 1375.
12 "(3) COMMON TRUST FUNDS.—In the case of a
13 common trust fund, the adjustment made under sub-
14 section (a) at the trust level shall be passed through
15 to the participants.
16 "(4) INDEXING ADJUSTMENT DISREGARDED IN
17 DETERMINING LOSS ON SALE OF INTEREST IN ENTI-
18 TY.—Notwithstanding the preceding provisions of
19 this subsection, for purposes of determining the
20 amount of any loss on a sale or exchange of an in-
21 terest in a partnership, S corporation, or common
22 trust fund, the adjustment made under subsection
23 (a) shall not be taken into account in determining
24 the adjusted basis of such interest.
25 "(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

1 "(1) IN GENERAL.—This section shall not apply
2 to any sale or other disposition of property between
3 related persons except to the extent that the basis
4 of such property in the hands of the transferee is a
5 substituted basis.
6 "(2) RELATED PERSONS DEFINED.—For pur-
7 poses of this section, the term 'related persons'
8 means—
9 "(A) persons bearing a relationship set
10 forth in section 267(b), and
11 "(B) persons treated as single employer
12 under subsection (b) or (c) of section 414.
13 "(h) TRANSFERS TO INCREASE INDEXING ADJUST-
14 MENT.—If any person transfers cash, debt, or any other
15 property to another person and the principal purpose of
16 such transfer is to secure or increase an adjustment under
17 subsection (a), the Secretary may disallow part or all of
18 such adjustment or increase.
19 "(i) SPECIAL RULES.—For purposes of this section—
20 "(1) TREATMENT OF IMPROVEMENTS, ETC.—If
21 there is an addition to the adjusted basis of any tan-
22 gible property or of any stock in a corporation dur-
23 ing the taxable year by reason of an improvement to
24 such property or a contribution to capital of such
25 corporation—

1 "(A) such addition shall never be taken
2 into account under subsection (c)(1)(A) if the
3 aggregate amount thereof during the taxable
4 year with respect to such property or stock is
5 less than $1,000, and
6 "(B) such addition shall be treated as a
7 separate asset acquired at the close of such tax-
8 able year if the aggregate amount thereof dur-
9 ing the taxable year with respect to such prop-
10 erty or stock is $1,000 or more.
11 A rule similar to the rule of the preceding sentence
12 shall apply to any other portion of an asset to the
13 extent that separate treatment of such portion is ap-
14 propriate to carry out the purposes of this section.
15 "(2) ASSETS WHICH ARE NOT INDEXED ASSETS
16 THROUGHOUT HOLDING PERIOD.—The applicable in-
17 flation adjustment shall be appropriately reduced for
18 periods during which the asset was not an indexed
19 asset.
20 "(3) TREATMENT OF CERTAIN DISTRIBU-
21 TIONS.—A distribution with respect to stock in a
22 corporation which is not a dividend shall be treated
23 as a disposition.
24 "(4) SECTION CANNOT INCREASE ORDINARY
25 LOSS.—To the extent that (but for this paragraph)

1 this section would create or increase a net ordinary
2 loss to which section 1231(a)(2) applies or an ordi-
3 nary loss to which any other provision of this title
4 applies, such provision shall not apply. The taxpayer
5 shall be treated as having a long-term capital loss in
6 an amount equal to the amount of the ordinary loss
7 to which the preceding sentence applies.

8 "(5) ACQUISITION DATE WHERE THERE HAS
9 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
10 WITH RESPECT TO THE TAXPAYER.—If there has
11 been a prior application of subsection (a)(1) to an
12 asset while such asset was held by the taxpayer, the
13 date of acquisition of such asset by the taxpayer
14 shall be treated as not earlier than the date of the
15 most recent such prior application.

16 "(j) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary or appropriate to
18 carry out the purposes of this section.".

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for part II of subchapter O of chapter 1 is amended by
21 striking the item relating to section 1023 and by inserting
22 after the item relating to section 1022 the following new
23 item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.
"Sec. 1023. Cross references.".

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to sales and other dispositions of
3 indexed assets after the date of the enactment of this Act,
4 in taxable years ending after such date.

TITLE IV—FAIR VALUE ACCOUNTING REFORM ACT

Sec. 401. Findings and Purpose. –

(a) Findings. – The Congress finds that –

(1) For many purposes, fair value accounting requirements can inform and protect investors;

(2) In periods of market turmoil when there is an inactive market, fair value accounting requirements can force financial institutions to write down the value of a long term, non-trading asset below its true economic value even though the cash flow on the asset remains unimpaired and other indicia of value of the asset reflect value consistent with the cash flow; and

(3) The application of fair value accounting requirements on assets for which there is an inactive market has the unintended effect of exacerbating economic downturns by reducing the ability of financial institutions to provide credit to consumers and businesses.

(b) Purpose. – The purpose of this Act is to:

(1) maintain the ability of all financial institutions to provide credit in periods of market stress;

(2) permit financial institutions to maintain the economic value of long term, non-trading assets in an inactive market; and

(3) continue to provide transparency to investors.

1 **Sec. 402. Definitions**

2 For purposes of this legislation, "long term, non-trading assets"
3 are defined as all instances in which fair value measurement is
4 required under US Generally Accepted Accounting Principles
5 for which the company is not actively trading and for which the
6 company has the ability to hold those financial instruments for
7 an extended period of time.

8 **Sec. 403. Temporary Suspension of Fair Value Accounting.**

9 (a) In General. – Effective on the date of enactment of
10 the Troubled Asset Relief Act of 2008, the Securities and
11 Exchange Commission shall suspend the application of fair
12 value reporting standards to troubled assets held by financial
13 institutions, as those terms are defined in such Act. The
14 suspension required by this subsection shall remain in effect
15 until the issuance of the guidance required in subsection (b).
16 Until such guidance is issued, the fair value of these assets
17 should be estimated using the best available information of the
18 instrument's value, including the entity's intended use of that
19 asset, from the point of view of the holder of that instrument.

20 (b) Guidance. – Within 90 days of the date of enactment
21 of this Act, the Securities and Exchange Commission shall
22 issue guidance on the reporting requirements for long term,
23 non-trading assets during periods in which there is no active
24 market for such assets. Such guidance shall:

25 (1) define "market participants" eligible for such
26 guidance;

27 (2) define an inactive market which will trigger

1 such guidance;
2 (3) specify a valuation method that reflects the
3 economic value of such assets; and
4 (4) determine the period in which such assets
5 should be evaluated under this method.
6 **Sec. 404. GAO Analysis of Fair Value Accounting. –**
7 (a) In General. – The General Accountability Office shall
8 prepare an analysis of the effect of fair value accounting
9 standards on financial institutions. Such analysis shall
10 (1) describe the current impact of fair value
11 accounting on financial institutions during different
12 economic cycles and under different market conditions,
13 including periods in which there is an inactive market for
14 long term, non-trading assets held by such institutions;
15 (2) evaluate auditors' practices and procedures in
16 reviewing the application of fair value accounting on
17 long term, non-trading assets in an inactive market; and
18 (3) describe the impact of the Securities and
19 Exchange Commission's application of fair value
20 accounting, as prescribed by such guidance required in
21 Section 4 (b).
22 (b) Timing. – The analysis required by subsection (a)
23 shall be completed within one year of the date of enactment of
24 this Act, and shall be submitted to the Committee on Financial
25 Services of the House of Representatives and the Committee on
26 Banking, Housing and Urban Affairs of the Senate.

TITLE V. MORTGAGE-BACKED SECURITIES

SEC. 501. THE INSURANCE OF MORTGAGE-BACKED SECURITIES.

(a) MORTGAGE-BACKED SECURITY INSURANCE.—Upon the enactment of this Act, the timely payment of up to 100 percent of principal of and interest on each mortgage-backed security held by a financial institution on or before September 24, 2008 is hereby insured on such terms and conditions as determined by the Secretary consistent with this Title, as those terms are defined in Section 111.

(b) NECESSARY ACTIONS.—The Secretary is authorized to take such actions as he deems necessary to carry out the authorities in this Title, including: —

(1) appointing such employees as may be required to carry out the authorities in this Title and defining their duties;

(2) entering into contracts, including contracts for the services of experts and consultants as authorized by section 3109 of title 5, United States Code, without regard to any other provision of law regarding public contracts;

(3) designating financial institutions as financial agents of the Government, and they shall per-

1 form all such reasonable duties related to this Title
2 as financial agents of the Government as may be re-
3 quired of them;
4 (4) establishing vehicles that are authorized,
5 subject to supervision by the Secretary, to provide,
6 and make payments on, the insures referred to in
7 subsection (a) and issue obligations; and
8 (5) issuing such regulations and other guidance
9 as may be necessary or appropriate to define terms
10 or carry out the authorities of this Title.

11 **SEC. 502. CONSIDERATIONS.**

12 (a) SECRETARY CONSIDERATION.—In exercising the
13 authorities granted in this Title, the Secretary shall take
14 into consideration means for—
15 (1) protecting the taxpayer;
16 (2) providing stability or preventing disruption
17 to the financial markets or banking system; and
18 (3) taking appropriate steps to manage any
19 conflicts of interest in the hiring of contractors or
20 advisors.
21 (b) RULEMAKING EXEMPTION.—Any regulation
22 issued under the authority provided in this Title shall not
23 be subject to the rulemaking provisions as set forth in sec-
24 tion 553 of title 5, United States Code.

1 **SEC. 503. INSURANCE PREMIUMS.**

2 (a) INSURANCE PREMIUMS.—The Secretary shall col-
3 lect premiums from each financial institution, as such
4 term is defined in section 111 of this Title, in order to
5 fund the Morgtage-Backed Securities Fund established in
6 section 105 and used to satisfy obligations incurred under
7 this Title.

8 (b) PREMIUM COLLECTION.—The premium collected
9 pursuant to subsection (a) shall be collected from each fi-
10 nancial institution notwithstanding such institution's ap-
11 plication, if any, for insures set forth in section 101(a).

12 (c) AUTHORITY TO BASE INSURANCE PREMIUM ON
13 PRODUCT RISK.—In establishing the insurance premium
14 under subsection (a), the Secretary may provide for vari-
15 ations in such rates according to the credit risk associated
16 with the mortgage-backed security held by a financial in-
17 stitution as such term is defined in section 111.

18 (d) SUFFICIENT LEVEL.—The premium referred to
19 in subsection (a) shall be set by the Secretary at a level
20 necessary to maintain a level of funding in the Mortgage-
21 Backed Securities Fund, as established in section 104,
22 sufficient to meet anticipated claims based upon actuarial
23 analysis.

24 (e) EXPIRATION.—The Secretary may cease col-
25 lecting premiums set forth in subsection (a) if he deter-
26 mines the Mortgage-Backed Securities Fund has sufficient
27 reserves to meet anticipated claims as described in sub-
28 section (d).

1 **SEC. 504. MORTGAGE-BACKED SECURITIES FUND.**

2 (a) COLLECTED PREMIUMS.—The Secretary shall de-
3 posit premiums collected pursuant to section 103(a) of
4 this Title into the Mortgage-Backed Securities Fund as
5 established in subsection (b).

6 (b) MORTGAGE-BACKED SECURITIES FUND.—There
7 is hereby established a Mortgage-Backed Securities Fund
8 (in this title referred to as the "Fund").

9 (c) AUTHORITY.—Premiums deposited in the Fund
10 pursuant to subsection section (a) shall be invested in obli-
11 gations of the United States, or kept in cash on hand or
12 on deposit, as necessary.

13 (d) PAYMENTS FROM THE FUND.—The Secretary
14 shall make payments from amounts deposited in the Fund
15 to fulfill the obligations of the insurance provided to finan-
16 cial institutions as set forth in section 101(a).

17 (e) FUND SUFFICIENCY.—The Secretary shall in-
18 crease insurance premiums if he determines, after con-
19 sultation with the Government Accountability Office, to a
20 level sufficient to assure reserves in the Fund will meet
21 anticipated needs.

22 (f) TRANSFER AUTHORITY.—The Secretary of the
23 Treasury is authorized and directed to loan to the Fund,
24 on such terms as may be fixed by the Secretary, such
25 funds as in the Secretary's judgment are from time to
26 time required for purposes of this Title.

1 **SEC. 505. PAYMENT OF INSURANCE PREMIUMS.**

2 (a) PAYMENT AND SUBROGATION.—If a financial in-
3 stitution that holds a mortgage-backed security on Sep-
4 tember 24, 2008, for which insurance is provided pursuant
5 to this Title, is unable to make any payment of principal
6 of or interest on such security, the Secretary shall make
7 such payment as and when due, in cash, and upon such
8 payment shall be subrogated fully to the rights satisfied
9 by such payment.

10 (b) CONTRACT.—The Secretary is hereby authorized,
11 in connection with any insurance under this Title, whether
12 before or after any default, to provide by contract with
13 the holder, referred to in subsection (a), for the extin-
14 guishment, upon default by the holder, of any redemption,
15 equitable, legal, or other right, title, or interest of the
16 holder in any mortgage or mortgages constituting the
17 trust or pool against which the mortgage-backed securities
18 insured under this Title are issued; and with respect to
19 any issue of such insured securities, in the event of default
20 and pursuant otherwise to the terms of the contract, the
21 mortgages that constitute such trust or pool backing the
22 security shall become the absolute property of the U.S.
23 Treasury, subject only to the unsatisfied rights of the
24 holders of the mortgage-backed securities based on and
25 backed by such trust or pool.

1 (c) LIMITATION ON APPLICATION OF LAW.—No
2 State or local law, and no Federal law, shall preclude or
3 limit the exercise of the Secretary's (A) power to contract
4 with the issuer on the terms set forth in subsection (b),
5 or (B) authorization to enforce any such contract with the
6 holder; or (C) the rights, as provided in subsection (b),
7 in the mortgages constituting the trust or pool against
8 which such insured securities are issued.

9 (d) FULL FAITH AND CREDIT.—The full faith and
10 credit of the United States is pledged to the payment of
11 all amounts which may be required to be paid under any
12 insurance under this Title.

13 **SEC. 506. FUNDING.**

14 For the purpose of the authorities granted in this
15 Title, and for the costs of administering those authorities,
16 the Secretary may use funds from the amounts in the
17 Mortgage-Backed Securities Fund. Any funds expended
18 from the Fund for actions authorized by this Title, includ-
19 ing the payment of administrative expenses, shall be
20 deemed appropriated at the time of such expenditure.

21 **SEC. 507. JUDICIAL REVIEW AND RELATED MATTERS.**

22 (a) JUDICIAL REVIEW.—

23 (1) STANDARD.—Actions by the Secretary pur-
24 suant to the authority of this Act shall be subject to
25 chapter 7 of title 5, United States Code, including

1 that such final actions shall be held unlawful and set
2 aside if found to be arbitrary, capricious, an abuse
3 of discretion, or not in accordance with law.
4 (2) LIMITATIONS ON EQUITABLE RELIEF.—
5 (A) INJUNCTION.—No injunction or other
6 form of equitable relief shall be issued against
7 the Secretary for actions pursuant to section
8 101, 102, 106, and 109, other than to remedy
9 a violation of the Constitution.
10 (B) TEMPORARY RESTRAINING ORDER.—
11 Any request for a temporary restraining order
12 against the Secretary for actions pursuant to
13 this Act shall be considered and granted or de-
14 nied by the court within 3 days of the date of
15 the request.
16 (C) PRELIMINARY INJUNCTION.—Any re-
17 quest for a preliminary injunction against the
18 Secretary for actions pursuant to this Act shall
19 be considered and granted or denied by the
20 court on an expedited basis consistent with the
21 provisions of rule 65(b)(3) of the Federal Rules
22 of Civil Procedure, or any successor thereto.
23 (D) PERMANENT INJUNCTION.—Any re-
24 quest for a permanent injunction against the
25 Secretary for actions pursuant to this Act shall

1 be considered and granted or denied by the
2 court on an expedited basis. Whenever possible,
3 the court shall consolidate trial on the merits
4 with any hearing on a request for a preliminary
5 injunction, consistent with the provisions of rule
6 65(a)(2) of the Federal Rules of Civil Proce-
7 dure, or any successor thereto.

8 (3) LIMITATION ON ACTIONS BY PARTICIPATING
9 COMPANIES.—No action or claims may be brought
10 against the Secretary by any person that divests its
11 assets with respect to its participation in a program
12 under this Act, except as provided in paragraph (1),
13 other than as expressly provided in a written con-
14 tract with the Secretary.

15 (4) STAYS.—Any injunction or other form of
16 equitable relief issued against the Secretary for ac-
17 tions pursuant to section 101, 102, 106, and 109,
18 shall be automatically stayed. The stay shall be lift-
19 ed unless the Secretary seeks a stay from a higher
20 court within 3 calendar days after the date on which
21 the relief is issued.

22 (b) RELATED MATTERS.—

23 (1) TREATMENT OF HOMEOWNERS' RIGHTS.—
24 The terms of any residential mortgage loan that is
25 part of any purchase by the Secretary under this Act

1 shall remain subject to all claims and defenses that
2 would otherwise apply, notwithstanding the exercise
3 of authority by the Secretary under this Act.
4 (2) SAVINGS CLAUSE.—Any exercise of the au-
5 thority of the Secretary pursuant to this Act shall
6 not impair the claims or defenses that would other-
7 wise apply with respect to persons other than the
8 Secretary. Except as established in any contract, a
9 servicer of pooled residential mortgages owes any
10 duty to determine whether the net present value of
11 the payments on the loan, as modified, is likely to
12 be greater than the anticipated net recovery that
13 would result from foreclosure to all investors and
14 holders of beneficial interests in such investment,
15 but not to any individual or groups of investors or
16 beneficial interest holders, and shall be deemed to
17 act in the best interests of all such investors or hold-
18 ers of beneficial interests if the servicer agrees to or
19 implements a modification or workout plan when the
20 servicer takes reasonable loss mitigation actions, in-
21 cluding partial payments.

1 **SEC. 508. CREDIT REFORM .**

2 (a) IN GENERAL.— Subject to subsection (b), the
3 costs of insures made under this Title shall be determined
4 as provided under the Federal Credit Reform Act of 1990
5 (2 U.S.C. 661 et. seq.), as applicable.

6 (b) COSTS.—For the purposes of Section 502(5) of
7 the Federal Credit Reform Act of 1990 (2 U.S.C.
8 661a(5)), the cost of each guarantee of a mortgage-backed
9 security under this Title shall be calculated by—

10 (1) adjusting the discount rate in section
11 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks,
12 and

13 (2) using the difference between the current es-
14 timate, consistent with subparagraph (b)(1) under
15 the terms of the insured mortgage-backed security
16 and the current estimate consistent with subpara-
17 graph (b)(1) under the terms of the insured.

18 **SEC. 509. REPORTS TO CONGRESS.**

19 Within 60 days of the first exercise of the authority
20 set forth in section 101(a), and semiannually thereafter,
21 the Secretary shall report to the Committees on the Budg-
22 et, Financial Services, and Ways and Means of the House
23 of Representatives and the Committees on the Budget, Fi-
24 nance, and Banking, Housing, and Urban Affairs of the
25 Senate with respect to the authorities exercised under this
26 Title and the considerations required by section 102.

1 **SEC. 510. DEFINITIONS.**

2 For purposes of this Title, the following definitions
3 shall apply:

4 (1) Financial Institution.—The term "financial
5 institution" means any institution including, but not
6 limited to, banks, thrifts, credit unions, broker-deal-
7 ers, insurance companies, and the trustees admin-
8 istering mortgage-backed securities trusts, having
9 significant operations in the United States; and,
10 upon the Secretary's determination in consultation
11 with the Chairman of the Board of Governors of the
12 Federal Reserve, holds or has issued applicable
13 mortgage-backed securities;

14 (2) Secretary.—The term "Secretary" means
15 the Secretary of the Treasury;

16 (3) Mortgage-Backed Security.—The "term
17 mortgage-backed security" means securities, obliga-
18 tions, other instruments, or other securities, other
19 than those guaranteed by the Government National
20 Mortgage Association, as shall be based on and
21 backed by a trust or pool composed of mortgages
22 that in each case was originated or issued on or be-
23 fore September 24, 2008;

24 (4) United States.—The term "United States"
25 means the States, territories, and possessions of the
26 United States and the District of Columbia.

1 **SEC. 511. ANNUAL REPORT AND AUDIT BY THE GOVERN-**
2 **MENT ACCOUNTABILITY OFFICE.**

3 (a) ANNUAL REPORT ON THE MORTGAGE-BACKED
4 SECURITIES FUND.—The Secretary shall annually submit
5 to Congress a full report of its operations, activities, budg-
6 et, receipts, and expenditures for the preceding 12-month
7 period. The report shall include, with respect to the Mort-
8 gage-Backed Securities Fund, an analysis of—

9 (1) the current financial condition of such fund;
10 (2) the purpose, effect, and estimated cost of
11 each resolution action taken for payment of insur-
12 ance during the preceding year;
13 (3) the extent to which the actual costs pro-
14 vided to, or for the benefit of, resulting from insur-
15 ance during the preceding year exceeded the esti-
16 mated costs of such costs reported in a previous
17 year, as applicable;
18 (4) the exposure of the Mortgage-Backed Secu-
19 rities Fund to changes in those economic factors
20 most likely to affect the condition of that fund;
21 (5) a current estimate of the resources needed
22 for the Mortgage-Backed Securities Fund to achieve
23 the purposes of this Title;
24 (6) an analysis of the sufficiency of the pre-
25 mium collections, actual and projected, in meeting
26 the costs of the Fund.

1 (7) any findings, conclusions, and recommenda-
2 tions for legislative and administrative actions con-
3 sidered appropriate to future activities of the Mort-
4 gage-Backed Securities Fund.
5 (b) SPECIAL REPORT.—Within 45 days of the enact-
6 ment of this Act, the Comptroller General shall provide
7 to the committees of Congress referred to in subsection
8 (d), and other relevant committes, an initial report on the
9 Fund.
10 (c) ANNUAL AUDIT OF THE MORTGAGE-BACKED SE-
11 CURITIES FUND.—
12 (1) AUDIT REQUIRED.—The Comptroller Gen-
13 eral shall audit annually the financial transactions of
14 the Mortgage-Backed Securities Fund (the "Fund")
15 in accordance with generally accepted government
16 auditing standards.
17 (2) ACCESS TO BOOKS AND RECORDS.—All
18 books, records, accounts, reports, files, and property
19 belonging to or used by the Department of the
20 Treasury that are directly related to the operations
21 and determination as to the amounts in the Fund,
22 or by an independent certified public accountant re-
23 tained to audit the Fund's financial statements,
24 shall be made available to the Comptroller General.

1 (d) REPORT OF THE AUDIT.—A report of the audit
2 conducted under subsection (c) of this section shall be
3 made by the Comptroller General to the Congress not later
4 than July 15th of the year following the year covered by
5 such audit. The report to the Congress shall set forth the
6 scope of the audit and shall include a statement of assets
7 and liabilities and surplus or deficit of the Fund; a state-
8 ment of surplus or deficit analysis; a statement of income
9 and expenses; a statement of sources and application of
10 funds and such comments and information as may be
11 deemed necessary to inform Congress, together with such
12 recommendations with respect thereto as the Comptroller
13 General may deem advisable. The report shall also show
14 specifically any program, expenditure, or other financial
15 transaction or undertaking observed in the course of the
16 audit, which, in the opinion of the Comptroller General,
17 has been carried on or made without authority of law. A
18 copy of each report shall be furnished to the President,
19 to the Secretary of the Treasury, and to Committee on
20 Banking, Housing, and Urban Affairs, the Committee on
21 the Budget, and the Committee on Finance of the Senate
22 and the Committee on Financial Services, the Committee
23 on the Budget, and the Committee on Ways and Means
24 of the House of Representatives.

1 (e) ASSISTANCE IN AUDIT.—For the purpose of con-
2 ducting such audit the Comptroller General is authorized
3 in his discretion to employ by contract, without regard to
4 section 5 of title 41 of the United States Code, profes-
5 sional services of firms and organizations of certified pub-
6 lic accountants, with the concurrence of the Secretary, for
7 temporary periods or for special purposes.

TITLE VI—UNLEASHING PRIVATE CAPITAL

SECTION 601. 5-YEAR CARRYBACK OF LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

"(H) 5-YEAR CARRYBACK OF CERTAIN LOSSES.—

1 "(i) TAXABLE YEARS ENDING DURING
2 2001 AND 2002.—In the case of a net oper-
3 ating loss for any taxable year ending dur-
4 ing 2001 or 2002, subparagraph (A)(i)
5 shall be applied by substituting '5' for '2'
6 and subparagraph (F) shall not apply.
7 "(ii) TAXABLE YEARS ENDING DUR-
8 ING 2007, 2008, AND 2009.—In the case of
9 a net operating loss for any taxable year
10 ending during 2007, 2008, or 2009—
11 "(I) subparagraph (A)(i) shall be
12 applied by substituting '5' for '2',
13 "(II) subparagraph (E)(ii) shall
14 be applied by substituting '4' for '2',
15 and
16 "(III) subparagraph (F) shall not
17 apply.".
18 (b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT
19 ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—
20 (1) IN GENERAL.—Subclause (I) of section
21 56(d)(1)(A)(ii) of such Code is amended—
22 (A) by inserting "and 2007, 2008, or
23 2009" after "2001 or 2002", and
24 (B) by inserting "and 2007, 2008, and
25 2009" after "2001 and 2002".

1 (2) CONFORMING AMENDMENT.—Subclause (I)
2 of section 56(d)(1)(A)(i) of such Code is amended by
3 inserting "amount of such" before "deduction de-
4 scribed in clause (ii)(I)".
5 (c) ANTI-ABUSE RULES.—The Secretary of the
6 Treasury or the Secretary's designee shall prescribe such
7 rules as are necessary to prevent the abuse of the purposes
8 of the amendments made by this section, including
9 antistuffing rules, antichurning rules (including rules re-
10 lating to sale-leasebacks), and rules similar to the rules
11 under section 1091 of the Internal Revenue Code of 1986
12 relating to losses from wash sales.
13 (d) EFFECTIVE DATES.—
14 (1) SUBSECTION (a).—
15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the amendments made by
17 subsection (a) shall apply to net operating
18 losses arising in taxable years ending in 2007,
19 2008, or 2009.
20 (B) ELECTION.—In the case of any tax-
21 payer with a net operating loss for a taxable
22 year ending during 2007 or 2008—
23 (i) any election made under section
24 172(b)(3) of the Internal Revenue Code of

1986 may not withstanding such section) be revoked before October 15, 2009, and

(ii) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before October 15, 2009.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years ending after December 31, 2006.

SEC. 602. INCENTIVES TO REINVEST FOREIGN EARNINGS IN UNITED STATES.

(a) IN GENERAL.—Section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 965. DEDUCTION FOR DIVIDENDS RECEIVED.

"(a) DEDUCTION.—

"(1) IN GENERAL.—In the case of a corporation which is a United States shareholder and for which the election under this section is in effect for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of cash dividends which are received during such taxable year by such shareholder from controlled foreign corporations.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

1 "(A) IN GENERAL.—Except as provided by
2 subparagraph (B), the term 'applicable percent-
3 age' means 85 percent.
4 "(B) DISTRESSED DEBT.—In the case of
5 dividends received with respect to which the re-
6 quirements of subsection (b)(4)(B) are met,
7 such term means 100 percent.
8 "(3) DIVIDENDS PAID INDIRECTLY FROM CON-
9 TROLLED FOREIGN CORPORATIONS.—If, within the
10 taxable year for which the election under this section
11 is in effect, a United States shareholder receives a
12 cash distribution from a controlled foreign corpora-
13 tion which is excluded from gross income under sec-
14 tion 959(a), such distribution shall be treated for
15 purposes of this section as a cash dividend to the ex-
16 tent of any amount included in income by such
17 United States shareholder under section
18 951(a)(1)(A) as a result of any cash dividend during
19 such taxable year to—
20 "(A) such controlled foreign corporation
21 from another controlled foreign corporation that
22 is in a chain of ownership described in section
23 958(a), or
24 "(B) any other controlled foreign corpora-
25 tion in such chain of ownership, but only to the

1 extent of cash distributions described in section
2 959(b) which are made during such taxable
3 year to the controlled foreign corporation from
4 which such United States shareholder received
5 such distribution.
6 "(b) LIMITATIONS.—
7 "(1) IN GENERAL.—The amount of dividends
8 taken into account under subsection (a) shall not ex-
9 ceed the greater of—
10 "(A) $500,000,000,
11 "(B) the amount shown on the applicable
12 financial statement as earnings permanently re-
13 invested outside the United States, or
14 "(C) in the case of an applicable financial
15 statement which fails to show a specific amount
16 of earnings permanently reinvested outside the
17 United States and which shows a specific
18 amount of tax liability attributable to such
19 earnings, the amount equal to the amount of
20 such liability divided by 0.35.
21 The amounts described in subparagraphs (B) and
22 (C) shall be treated as being zero if there is no such
23 statement or such statement fails to show a specific
24 amount of such earnings or liability, as the case may
25 be.

1 "(2) DIVIDENDS MUST BE EXTRAORDINARY.—
2 The amount of dividends taken into account under
3 subsection (a) shall not exceed the excess (if any)
4 of—
5 "(A) the cash dividends received during
6 the taxable year by such shareholder from con-
7 trolled foreign corporations, over
8 "(B) the sum of—
9 "(i) the dividends received during the
10 base period year by such shareholder from
11 controlled foreign corporations,
12 "(ii) the amounts includible in such
13 shareholder's gross income for the base pe-
14 riod year under section 951(a)(1)(B) with
15 respect to controlled foreign corporations,
16 and
17 "(iii) the amounts that would have
18 been included for the base period year but
19 for section 959(a) with respect to con-
20 trolled foreign corporations.
21 The amount taken into account under clause
22 (iii) for the base period year shall not include
23 any amount which is not includible in gross in-
24 come by reason of an amount described in
25 clause (ii) with respect to a prior taxable year.

1 Amounts described in subparagraph (B) for the
2 base period year shall be such amounts as
3 shown on the most recent return filed for such
4 year; except that amended returns filed after
5 June 30, 2007, shall not be taken into account.
6 "(3) REDUCTION OF BENEFIT IF INCREASE IN
7 RELATED PARTY INDEBTEDNESS.—The amount of
8 dividends which would (but for this paragraph) be
9 taken into account under subsection (a) shall be re-
10 duced by the excess (if any) of—
11 "(A) the amount of indebtedness of the
12 controlled foreign corporation to any related
13 person (as defined in section 954(d)(3)) as of
14 the close of the taxable year for which the elec-
15 tion under this section is in effect, over
16 "(B) the amount of indebtedness of the
17 controlled foreign corporation to any related
18 person (as so defined) as of the close of Sep-
19 tember 26, 2008.
20 All controlled foreign corporations with respect to
21 which the taxpayer is a United States shareholder
22 shall be treated as 1 controlled foreign corporation
23 for purposes of this paragraph. The Secretary may
24 prescribe such regulations as may be necessary or
25 appropriate to prevent the avoidance of the purposes

1 of this paragraph, including regulations which pro-
2 vide that cash dividends shall not be taken into ac-
3 count under subsection (a) to the extent such divi-
4 dends are attributable to the direct or indirect trans-
5 fer (including through the use of intervening entities
6 or capital contributions) of cash or other property
7 from a related person (as so defined) to a controlled
8 foreign corporation.

9 "(4) REQUIREMENTS.—

10 "(A) REQUIREMENT TO INVEST IN UNITED
11 STATES.—Except as provided by subparagraph
12 (B), subsection (a) shall not apply to any divi-
13 dend received by a United States shareholder
14 unless the amount of the dividend is invested in
15 the United States pursuant to a domestic rein-
16 vestment plan which—

17 "(i) is approved by the taxpayer's
18 president, chief executive officer, or com-
19 parable official before the payment of such
20 dividend and subsequently approved by the
21 taxpayer's board of directors, management
22 committee, executive committee, or similar
23 body, and

24 "(ii) provides for the reinvestment of
25 such dividend in the United States (other

1 than as payment for executive compensa-
2 tion), including as a source for the funding
3 of worker hiring and training, infrastruc-
4 ture, research and development, capital in-
5 vestments, or the financial stabilization of
6 the corporation for the purposes of job re-
7 tention or creation.
8 "(B) DISTRESSED DEBT.—The require-
9 ments of this subparagraph are met if amounts
10 repatriated are invested in distressed debt (as
11 defined by the Secretary) for at least one year.
12 "(c) DEFINITIONS AND SPECIAL RULES.—For pur-
13 poses of this section—
14 "(1) APPLICABLE FINANCIAL STATEMENT.—
15 The term 'applicable financial statement' means—
16 "(A) with respect to a United States
17 shareholder which is required to file a financial
18 statement with the Securities and Exchange
19 Commission (or which is included in such a
20 statement so filed by another person), the most
21 recent audited annual financial statement (in-
22 cluding the notes which form an integral part
23 of such statement) of such shareholder (or
24 which includes such shareholder)—

1 "(i) which was so filed on or before
2 June 30, 2007, and
3 "(ii) which was certified on or before
4 June 30, 2007, as being prepared in ac-
5 cordance with generally accepted account-
6 ing principles, and
7 "(B) with respect to any other United
8 States shareholder, the most recent audited fi-
9 nancial statement (including the notes which
10 form an integral part of such statement) of
11 such shareholder (or which includes such share-
12 holder)—
13 "(i) which was certified on or before
14 June 30, 2007, as being prepared in ac-
15 cordance with generally accepted account-
16 ing principles, and
17 "(ii) which is used for the purposes of
18 a statement or report—
19 "(I) to creditors,
20 "(II) to shareholders, or
21 "(III) for any other substantial
22 nontax purpose.
23 "(2) BASE PERIOD YEAR.—
24 "(A) IN GENERAL.—The base period year
25 is the first taxable year ending in 2007.

1 "(B) MERGERS, ACQUISITIONS, ETC..—

2 "(i) IN GENERAL.—Rules similar to

3 the rules of subparagraphs (A) and (B) of

4 section 41(f)(3) shall apply for purposes of

5 this paragraph.

6 "(ii) SPIN-OFFS, ETC.—If there is a

7 distribution to which section 355 (or so

8 much of section 356 as relates to section

9 355) applies during the base period year

10 and the controlled corporation (within the

11 meaning of section 355) is a United States

12 shareholder—

13 "(I) the controlled corporation

14 shall be treated as being in existence

15 during the period that the distributing

16 corporation (within the meaning of

17 section 355) is in existence, and

18 "(II) for purposes of applying

19 subsection (b)(2) to the controlled cor-

20 poration and the distributing corpora-

21 tion, amounts described in subsection

22 (b)(2)(B) which are received or in-

23 cludible by the distributing corpora-

24 tion or controlled corporation (as the

25 case may be) before the distribution

1 referred to in subclause (I) from a
2 controlled foreign corporation shall be
3 allocated between such corporations in
4 proportion to their respective interests
5 as United States shareholders of such
6 controlled foreign corporation imme-
7 diately after such distribution.
8 Subclause (II) shall not apply if neither
9 the controlled corporation nor the distrib-
10 uting corporation is a United States share-
11 holder of such controlled foreign corpora-
12 tion immediately after such distribution.
13 "(3) DIVIDEND.—The term 'dividend' shall not
14 include amounts includible in gross income as a divi-
15 dend under section 78, 367, or 1248. In the case of
16 a liquidation under section 332 to which section
17 367(b) applies, the preceding sentence shall not
18 apply to the extent the United States shareholder
19 actually receives cash as part of the liquidation.
20 "(4) COORDINATION WITH DIVIDENDS RE-
21 CEIVED DEDUCTION.—No deduction shall be allowed
22 under section 243 or 245 for any dividend for which
23 a deduction is allowed under this section.
24 "(5) CONTROLLED GROUPS.—

1 "(A) IN GENERAL.—All United States
2 shareholders which are members of an affiliated
3 group filing a consolidated return under section
4 1501 shall be treated as one United States
5 shareholder.
6 "(B) APPLICATION OF $500,000,000
7 LIMIT.—All corporations which are treated as a
8 single employer under section 52(a) shall be
9 limited to one $500,000,000 amount in sub-
10 section (b)(1)(A), and such amount shall be di-
11 vided among such corporations under regula-
12 tions prescribed by the Secretary.
13 "(C) PERMANENTLY REINVESTED EARN-
14 INGS.—If a financial statement is an applicable
15 financial statement for more than 1 United
16 States shareholder, the amount applicable
17 under subparagraph (B) or (C) of subsection
18 (b)(1) shall be divided among such shareholders
19 under regulations prescribed by the Secretary.
20 "(d) DENIAL OF FOREIGN TAX CREDIT; DENIAL OF
21 CERTAIN EXPENSES.—
22 "(1) FOREIGN TAX CREDIT.—No credit shall be
23 allowed under section 901 for any taxes paid or ac-
24 crued (or treated as paid or accrued) with respect to
25 the deductible portion of—

1 "(A) any dividend, or

2 "(B) any amount described in subsection

3 (a)(2) which is included in income under section

4 951(a)(1)(A).

5 No deduction shall be allowed under this chapter for

6 any tax for which credit is not allowable by reason

7 of the preceding sentence.

8 "(2) EXPENSES.—No deduction shall be al-

9 lowed for expenses properly allocated and appor-

10 tioned to the deductible portion described in para-

11 graph (1).

12 "(3) DEDUCTIBLE PORTION.—For purposes of

13 paragraph (1), unless the taxpayer otherwise speci-

14 fies, the deductible portion of any dividend or other

15 amount is the amount which bears the same ratio to

16 the amount of such dividend or other amount as the

17 amount allowed as a deduction under subsection (a)

18 for the taxable year bears to the amount described

19 in subsection (b)(2)(A) for such year.

20 "(4) COORDINATION WITH SECTION 78.—Sec-

21 tion 78 shall not apply to any tax which is not allow-

22 able as a credit under section 901 by reason of this

23 subsection.

24 "(e) INCREASE IN TAX ON INCLUDED AMOUNTS NOT

25 REDUCED BY CREDITS, ETC.—

1 "(1) IN GENERAL.—Any tax under this chapter
2 by reason of nondeductible CFC dividends shall not
3 be treated as tax imposed by this chapter for pur-
4 poses of determining—
5 "(A) the amount of any credit allowable
6 under this chapter, or
7 "(B) the amount of the tax imposed by
8 section 55.
9 Subparagraph (A) shall not apply to the credit
10 under section 53 or to the credit under section 27(a)
11 with respect to taxes which are imposed by foreign
12 countries and possessions of the United States and
13 are attributable to such dividends.
14 "(2) LIMITATION ON REDUCTION IN TAXABLE
15 INCOME, ETC.—
16 "(A) IN GENERAL.—The taxable income of
17 any United States shareholder for any taxable
18 year shall in no event be less than the amount
19 of nondeductible CFC dividends received during
20 such year.
21 "(B) COORDINATION WITH SECTION 172.—
22 The nondeductible CFC dividends for any tax-
23 able year shall not be taken into account—

1 "(i) in determining under section 172
2 the amount of any net operating loss for
3 such taxable year, and
4 "(ii) in determining taxable income
5 for such taxable year for purposes of the
6 2nd sentence of section 172(b)(2).
7 "(3) NONDEDUCTIBLE CFC DIVIDENDS.—For
8 purposes of this subsection, the term 'nondeductible
9 CFC dividends' means the excess of the amount of
10 dividends taken into account under subsection (a)
11 over the deduction allowed under subsection (a) for
12 such dividends.
13 "(f) ELECTION.—The taxpayer may elect to apply
14 this section to—
15 "(1) the taxpayer's last taxable year which be-
16 gins before the date of the enactment of this section,
17 or
18 "(2) the taxpayer's first taxable year which be-
19 gins during the 1-year period beginning on such
20 date.
21 Such election may be made for a taxable year only if made
22 before the due date (including extensions) for filing the
23 return of tax for such taxable year.".
24 (b) CLERICAL AMENDMENT.—The item in the table
25 of sections for subpart F of part III of subchapter N of

1 chapter 1 of such Code relating to section 965 is amended
2 to read as follows:

"Sec. 965. Deduction for dividends received.".

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending on or after
5 the date of the enactment of this Act.

6 **SEC. 603. GAIN OR LOSS FROM SALE OR EXCHANGE OF CER-**
7 **TAIN PREFERRED STOCK.**

8 (a) IN GENERAL.—For purposes of the Internal Rev-
9 enue Code of 1986, gain or loss from the sale or exchange
10 of any applicable preferred stock by any applicable finan-
11 cial institution shall be treated as ordinary income or loss.

12 (b) APPLICABLE PREFERRED STOCK.—For purposes
13 of this section, the term "applicable preferred stock"
14 means any stock—

15 (1) which is preferred stock in—

16 (A) the Federal National Mortgage Asso-
17 ciation, established pursuant to the Federal Na-
18 tional Mortgage Association Charter Act (12
19 U.S.C. 1716 et seq.), or

20 (B) the Federal Home Loan Mortgage
21 Corporation, established pursuant to the Fed-
22 eral Home Loan Mortgage Corporation Act (12
23 U.S.C. 1451 et seq.), and

24 (2) which—

1 (A) was held by the applicable financial in-
2 stitution on September 6, 2008, or
3 (B) was sold or exchanged by the applica-
4 ble financial institution on or after January 1,
5 2008, and before September 7, 2008.
6 (c) APPLICABLE FINANCIAL INSTITUTION.—For pur-
7 poses of this section:
8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the term "applicable financial institution"
10 means—
11 (A) a financial institution referred to in
12 section 582(c)(2) of the Internal Revenue Code
13 of 1986, or
14 (B) a depository institution holding com-
15 pany (as defined in section 3(w)(1) of the Fed-
16 eral Deposit Insurance Act (12 U.S.C.
17 1813(w)(1))).
18 (2) SPECIAL RULES FOR CERTAIN SALES.—In
19 the case of —
20 (A) a sale or exchange described in sub-
21 section (b)(2)(B), an entity shall be treated as
22 an applicable financial institution only if it was
23 an entity described in subparagraph (A) or (B)
24 of paragraph (1) at the time of the sale or ex-
25 change, and

1 (B) a sale or exchange after September 6,
2 2008, of preferred stock described in subsection
3 (b)(2)(A), an entity shall be treated as an appli-
4 cable financial institution only if it was an enti-
5 ty described in subparagraph (A) or (B) of
6 paragraph (1) at all times during the period be-
7 ginning on September 6, 2008, and ending on
8 the date of the sale or exchange of the pre-
9 ferred stock.

10 (d) SPECIAL RULE FOR CERTAIN PROPERTY NOT
11 HELD ON SEPTEMBER 6, 2008.—The Secretary of the
12 Treasury or the Secretary's delegate may extend the appli-
13 cation of this section to all or a portion of the gain or
14 loss from a sale or exchange in any case where—

15 (1) an applicable financial institution sells or
16 exchanges applicable preferred stock after Sep-
17 tember 6, 2008, which the applicable financial insti-
18 tution did not hold on such date, but the basis of
19 which in the hands of the applicable financial insti-
20 tution at the time of the sale or exchange is the
21 same as the basis in the hands of the person which
22 held such stock on such date, or

23 (2) the applicable financial institution is a part-
24 ner in a partnership which—

1 (A) held such stock on September 6, 2008,
2 and later sold or exchanged such stock, or
3 (B) sold or exchanged such stock during
4 the period described in subsection (b)(2)(B).
5 (e) REGULATORY AUTHORITY.—The Secretary of the
6 Treasury or the Secretary's delegate may prescribe such
7 guidance, rules, or regulations as are necessary to carry
8 out the purposes of this section.
9 (f) EFFECTIVE DATE.—This section shall apply to
10 sales or exchanges occurring after December 31, 2007, in
11 taxable years ending after such date.

TITLE VII—EXECUTIVE COMPENSATION ADJUSTMENTS AND MISCELLANEOUS PROVISIONS

SEC. 701. COMPENSATION ADJUSTMENT.

(a) COMPENSATION ADJUSTMENT DUE TO GOVERNMENT INTERVENTION.—

(1) IN GENERAL.—An officer of an institution shall pay to the Department of the Treasury any amounts received by such officer during a year as a bonus or other incentive-based or equity-based compensation from the institution during—

(A) a year in which the institution is subject to a government intervention; and

(B) the two years prior to a year in which the institution is subject to a government intervention.

1 (2) COMPENSATION ADJUSTMENT DEFINED.—
2 For purposes of this subsection, and with respect to
3 an issuer, the term "government intervention"
4 means—
5 (A) the placement of the issuer under con-
6 servatorship, receivership, or other assumption
7 of the management, governance, and control of
8 the issuer by the Department of the Treasury
9 or the Board of Governors of the Federal Re-
10 serve; or
11 (B) an emergency loan of public funds
12 made to the issuer by the Department of the
13 Treasury or the Board of Governors of the Fed-
14 eral Reserve, if the Chairman of the Board of
15 Governors of the Federal Reserve determines
16 that such a loan is necessary to prevent the im-
17 minent failure of the issuer.
18 (b) EFFECTIVE DATE.—This compensation adjust-
19 ment shall take effect on enactment of this Act, and shall
20 have no effect after the September 30, 2009.

1 **SEC. 702. LIMITATIONS ON GSE SECURITIZATION AUTHOR-**
2 **ITY.**

3 Part 2 of subtitle A of the Federal Housing Enter-
4 prise Financial Safety and Soundness Act of 1992 (12
5 U.S.C. 4541 et seq.), as amended by the Housing and
6 Economic Recovery Act of 2008 (Public Law 110-289) is
7 amended by adding at the end the following new section:

8 **"SEC. 1327. LIMITATIONS ON GSE SECURITIZATION AU-**
9 **THORITY.**

10 "(a) PROHIBITION.—The director shall, by regula-
11 tion, prohibit each enterprise from issuing, guaranteeing,
12 or selling securities based on or backed by mortgages de-
13 scribed in subsection (b).

14 "(b) COVERED MORTGAGES.—The mortgages de-
15 scribed in this subsection are—

16 "(1) mortgages commonly known as Alt-A or
17 Alternative A-paper mortgages, as defined by the Di-
18 rector, which shall include mortgages that the Direc-
19 tor determines to have an increased level of credit
20 risk due to borrower's not meeting traditional or
21 standard underwriting guidelines, including guide-
22 lines with respect to—

23 "(A) documentation of amount or source
24 of income or assets;

25 "(B) debt-to-income ratio;

1 "(C) assets and type of property being fi-
2 nanced;
3 "(D) credit history;
4 "(E) loan to value ratios; and
5 "(F) occupancy of the property being fi-
6 nanced or borrower characteristics involved; and
7 "(2) mortgages having characteristics that are
8 not typical of the lending practices of the mortgages
9 that are made to comply with a provision of Federal
10 or State law or regulation.".

1 **SEC. 703. FINANCIAL STATEMENT REVIEW.**

2 (a) IN GENERAL.—The Securities and Exchange
3 Commission shall—

4 (1) review any financial statements required
5 under section 13 of the Securities Exchange Act of
6 1934 (15 U.S.C. 78m) of any rescued issuer for the
7 rescued issuer's fiscal year 2005 and each suc-
8 ceeding fiscal year up to and including the fiscal
9 year in which such issuer became a rescued issuer;
10 and

11 (2) examine each of the audits that were the
12 basis of such financial statements, and all the sup-
13 porting books, papers, correspondence, memoranda,
14 or other records or materials on which such audits
15 were performed.

16 (b) ADDITIONAL ACTION.—The Commission shall—

17 (1) if the Commission determines there was a
18 material misstatement made in any financial state-
19 ment reviewed under subsection (a), require the
20 issuer to file with the Commission a financial state-
21 ment correcting such misstatement; and

22 (2) take all other appropriate actions under the
23 Securities Exchange Act of 1934 (15 U.S.C. 78a et
24 seq.).

25 (c) DEFINITION.—For purposes of this section, the
26 term "rescued issuer" means any issuer (as such term is

1 defined in section 3(a)(8) of the Securities Exchange Act
2 of 1934 (15 U.S.C. 78c(a)(8)) that has received, prior to
3 the date of 5 enactment of this Act, Federal Government
4 intervention through sale negotiation assistance, loan
5 guarantee, placement under conservatorship or receiver-
6 ship, or other assumption of the management, governance,
7 and control of the issuer by the Department of the Treas-
8 ury or the Board of Governors of the Federal Reserve,
9 an emergency loan of public funds made to the issuer by
10 the Department of the Treasury or the Board of Gov-
11 ernors of the Federal Reserve, or other similar Federal
12 Government intervention.