

Capital Purchase Program (CPP)

(See Department of Treasury Interim Final Rule at 31 CFR Part 30 (effective upon publication in the Federal Register) and Public Term Sheet for TARP Capital Purchase Program Senior Preferred Stock and Warrants (each released October 14, 2008))

Event That Triggers Restriction	Executives Covered	Compensation Restriction	Effect	Time Period Covered
<p>Participation by qualifying public or private financial institution in the Capital Purchase Program (“CPP”). CPP Participating Entity includes entities in an 80% controlled parent-subsidary chain.</p> <p>Note: Any otherwise qualifying financial institution that is controlled by a foreign bank or company may not participate in the Capital Purchase Program.</p>	<p>CEO, CFO and top three most highly paid executives (and private company counterparts) of CPP Participating Entity (“Senior Executive Officers” or “SEOs”) employed during Treasury Holding Period.</p>	<p>Limitation on Tax Deduction. §111(b)(1)</p>	<p>CPP Participating Entity must agree not to claim any deduction over \$500,000 on an SEO’s compensation attributable to services in any year during Treasury Holding Period (with pro ration of limit and compensation for partial years); once compensation tainted remains tainted even if paid after end of Treasury Holding Period; no performance based exception.</p>	<p>While Treasury holds debt or equity position in CPP Participating Entity (“Treasury Holding Period”).</p>
	<p>Determination of three highest paid executives for a fiscal year based on total compensation (as calculated under proxy disclosure rules) by reference to compensation paid in such fiscal year and, unlike proxy, not prior fiscal year. While not clear, it appears to cover any CEO, any CFO and three highest paid executives during the year without regard to year-end employment requirement. CPP Participating Entity must make its best efforts to identify the three most highly paid executives prior to calculation at fiscal year-end.</p>	<p>Risk Appropriate Compensation. §111(b)(2)(A)</p>	<p>Within 90 days of purchase under CPP, compensation committee must review SEO incentive compensation arrangements with senior risk officers to ensure such arrangements do not encourage excessive risk taking (and, if so, limit its provisions). Annually, compensation committee must discuss and review relationship between risk management policies and SEO incentive compensation arrangements with senior risk officers. Compensation committee must provide certification of the two reviews in CD&A (or if private, file with primary regulatory agency).</p>	<p>Note: Under §111(b)(1)’s limitation on tax deduction, any tainted compensation remains tainted even if paid after end of Treasury Holding Period.</p>
	<p>If a CPP Participating Entity is acquired by an unrelated non-CPP participating financial institution, §111(b) rules do not apply to the SEOs of acquiring company. However, §111(b)(2)(C)’s limit on golden parachutes will continue to apply to the SEOs of the acquired CPP Participating Entity for one year after acquisition.</p>	<p>Compensation Claw Back. §111(b)(2)(B)</p>	<p>CPP Participating Entity must require that any payment of SEO bonus and incentive compensation made during the Treasury Holding Period be subject to claw back if the payments were based on materially inaccurate financial statements or other performance metric criteria.</p>	<p>Note: No exception for contracts existing prior to Treasury Holding Period, although vested amounts may not be subject to §111(b)(1)’s limitation on tax deduction even if paid during Treasury Holding Period.</p>
		<p>Limit on Golden Parachute Payments. §111(b)(2)(C)</p>	<p>Present value of payments (valued in accordance with §280G, including acceleration or vesting of cash and equity) made during Treasury Holding Period on account of involuntary termination (including §409A good reason) or termination in the event of bankruptcy limited to less than three times §280G base amount.</p>	<p>Note: Right to claw back compensation paid during the Treasury Holding Period seems to extend beyond the end of such Period.</p>
<p>CPP Public Term Sheet</p>	<p>Conditions to closing include (1) CPP Participating Entity and SEOs modifying or terminating all compensation arrangements to extent necessary to comply with (and during the Treasury Holding Period, the CPP Participating Entity agreeing to be bound by) §111 and any related guidance/regulations issued on or prior to closing and (2) CPP Participating Entity and SEOs granting a waiver to Treasury releasing any claims that the CPP Participating Entity and SEOs may otherwise have as a result of any regulations which modify the terms of compensation arrangements to eliminate any such noncompliant provisions.</p>			

Auction Purchase (including TAAP)

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(See Department of Treasury Notice 2008-TAAP and I.R.S. Notice 2008-94 (each released October 14, 2008, and effective from October 3, 2008))

Event That Triggers Restriction	Executives Covered	Compensation Restriction	Effect	Time Period Covered
<p>Treasury has purchased assets from a public or private financial institution in at least one auction purchase and total of auction and direct purchases from such financial institution exceed \$300 million ("TAAP Participating Entity").</p> <p>TAAP Participating Entity includes entities in an 80% controlled parent-subsidiary chain for purposes of determining \$300 million threshold.</p> <p>If a TAAP Participating Entity is acquired by an unrelated financial institution, purchases made prior to acquisition by acquired TAAP Participating Entity are not taken into account for purposes of \$300 million threshold of acquiring financial institution. Acquisition of TAAP Participating Entity does not automatically make acquiring financial entity subject to §111(c).</p>	<p>CEO, CFO and top three most highly paid executives (and private company counterparts) of TAAP Participating Entity ("Senior Executive Officers" or "SEOs") employed by a TAAP Participating Entity. Determination of three highest paid executives for a fiscal year based on total compensation (as calculated under proxy disclosure rules) by reference to compensation paid in such year. While not clear, it appears to cover any CEO, any CFO and three highest paid executives during the year without regard to year-end employment requirement. TAAP Participating Entity must make its best efforts to identify the three most highly paid executives prior to calculation at fiscal year-end.</p> <p>Whether an employee is a SEO is determined at the time the employee enters into the agreement.</p> <p>CEO, CFO and top three most highly paid executives (and private company counterparts) employed by a TAAP Participating Entity during an Applicable Taxable Year ("§162(m) SEOs"). Determination of three highest paid executives for an Applicable Taxable Year based on total compensation (as calculated under proxy disclosure rules) by reference to compensation paid in such year without regard to any year-end employment requirement. While not clear, it may pick up only executives employed during the Authorities Period. Once executive becomes a §162(m) SEO, executive remains a §162(m) SEO for purposes of any subsequent Applicable Taxable Year (including with respect to deferred compensation paid in a non-Applicable Taxable Year).</p> <p>If a TAAP Participating Entity is acquired by an unrelated financial institution, a §162(m) SEO of the acquired TAAP Participating Entity will continue to be a §162(m) SEO so long as employed by a member of the acquiring financial institution's controlled group, regardless of position within such group.</p>	<p>No New Employment Agreements Providing for "Golden Parachutes" on Involuntary Termination or Bankruptcy. §111(c)</p> <p>Deduction Limit of \$500,000. §302(a)</p>	<p>Upon becoming a TAAP Participating Entity, financial institution is prohibited from entering into any material contract (including any renewal or material modification of pre-existing contract determined in accordance with §162(m)) providing for payments to be made to an SEO on account of involuntary termination (including §409A good reason) or termination in the event of bankruptcy to the extent present value of such payments exceeds three times the §280G base amount.</p> <p>\$500,000 deduction limit on compensation attributable to services performed by a §162(m) SEO during an applicable tax year and deductible in that year (determined in accordance with §162(m) but with no performance based or binding contract exception). Limit continues to be imposed on any such compensation that is deferred and deducted in a subsequent year, carrying forward any portion of the \$500,000 not deducted in Applicable Taxable Year services were performed, regardless if year of deferred deduction occurs after the end of the Authorities Period.</p>	<p>After becoming a TAAP Participating Entity, prohibition continues throughout the Authorities Period (October 3, 2008 until December 31, 2009, or if extended, October 2, 2010).</p> <p>Applies to compensation earned during an Applicable Taxable Year even if paid in a non-Applicable Taxable Year.</p> <p>"Applicable Taxable Year" is any taxable year a portion of which occurs during the Authorities Period (October 3, 2008 until December 31, 2009/October 2, 2010) and after the cumulative \$300 million threshold test has been met.</p>
<p>Involuntary termination (including §409A good reason) or termination in the event of bankruptcy during an Applicable Taxable Year.</p>	<p>§162(m) SEOs.</p>	<p>280G Golden Parachute Limitations. §302(b)</p>	<p>Severance payments (including acceleration or vesting of cash and equity) made on account of qualifying termination during Applicable Taxable Year treated as parachute payments under §280G with potential loss of deduction by employer and 20% excise tax on executive on any excess parachute payment with no exception for reasonable compensation or binding contracts.</p>	<p>Applies to payments made during an Applicable Taxable Year arising from qualifying employment terminations during the Authorities Period (October 3, 2008 until December 31, 2009/October 2, 2010).</p>

(See Department of Treasury Interim Final Rule at 31 CFR Part 30 for Capital Purchase Program (effective upon publication in the Federal Register) and Notice 2008-PSSFI (effective from October 3, 2008) (each released October 14, 2008))

Event That Triggers Restriction	Executives Covered	Compensation Restriction	Effect	Time Period Covered
<p>Participation by a public or private financial institution in a direct purchase program ("DPP"), including the Program for Systemically Significant Failing Institutions ("PSSFI"). DPP Participating Entity includes entities in an 80% controlled parent-subsidiary chain.</p>	<p>CEO, CFO and top three most highly paid executives (and private company counterparts) of DPP Participating Entity ("Senior Executive Officers" or "SEOs") employed during Treasury Holding Period. Determination of three highest paid executives for a fiscal year based on total compensation (as calculated under proxy disclosure rules) by reference to compensation paid in such fiscal year and, unlike proxy, not prior fiscal year. While not clear, it appears to cover any CEO, any CFO and three highest paid executives during the year without regard to year-end employment requirement. DPP Participating Entity must make its best efforts to identify the three most highly paid executives prior to calculation at fiscal year-end.</p> <p>If a DPP Participating Entity is acquired by an unrelated non-DPP participating financial institution, §111(b) rules do not apply to the CEOs of acquiring company. However, §111(b)(2)(C)'s limit on golden parachutes will continue to apply to the CEOs of the acquired DPP Participating Entity for one year after acquisition.</p>	<p>Limitation on Tax Deduction. §111(b)(1)</p>	<p>PSSFI Participating Entity must agree not to claim any deduction over \$500,000 on an SEO's compensation attributable to services in any year during Treasury Holding Period (with pro ration of limit and compensation for partial years); once compensation tainted remains tainted even if paid after end of Treasury Holding Period; no performance based exception.</p> <p>Not clear whether other Direct Purchase Programs will contain this requirement.</p>	<p>While Treasury holds debt or equity position in DPP Participating Entity ("Treasury Holding Period").</p> <p>Note: Under PSSFI §111(b)(1)'s limitation on tax deduction, any tainted compensation remains tainted even if paid after end of Treasury Holding Period.</p> <p>Note: No exception for contracts existing prior to Treasury Holding Period, although vested amounts may not be subject to PSSFI §111(b)(1)'s limitation on tax deduction even if paid during Treasury Holding Period.</p> <p>Note: Right to claw back compensation paid during the Treasury Holding Period seems to extend beyond the end of such Period.</p>
		<p>Risk Appropriate Compensation. §111(b)(2)(A)</p>	<p>Within 90 days of purchase under DPP, compensation committee must review SEO incentive compensation arrangements with senior risk officers to ensure such arrangements do not encourage excessive risk taking (and, if so, limit its provisions). Annually, compensation committee must discuss and review relationship between risk management policies and SEO incentive compensation arrangements with senior risk officers. Compensation committee must provide certification of the two reviews in CD&A (or if private, file with primary regulatory agency).</p>	
		<p>Compensation Claw Back. §111(b)(2)(B)</p>	<p>DPP Participating Entity must require that any payment of SEO bonus and incentive compensation made during the Treasury Holding Period be subject to claw back if the payments were based on materially inaccurate financial statements or other performance metric criteria.</p>	
		<p>Limit on Golden Parachute Payments. §111(b)(2)(C)</p>	<p>Present value of payments (valued in accordance with §280G, including acceleration or vesting of cash and equity) made during Treasury Holding Period by a DPP Participating Entity on account of involuntary termination (including §409A good reason) or termination in the event of bankruptcy ("golden parachute payments") limited to less than three times §280G base amount.</p> <p>PSSFI Participant Entity must prohibit payment of <u>any</u> golden parachute payments to an SEO during the Treasury Holding Period.</p>	