

Cross-References from Treasury’s Interim Final Rule to Revised Model Policy

Executive Summary:

Section 111(d) [of the Emergency Economic Stabilization Act of 2008 (“EESA”), as amended by the American Recovery and Reinvestment Act of 2009--the “Dodd Amendment”] requires a TARP recipient’s board of directors to put in place a company-wide policy regarding excessive or luxury expenditures, . . . that may include excessive expenditures on . . . events . . . that are not reasonable expenditures for staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the TARP recipient’s business operations [\[See Section 1 of Revised Model Policy\]](#).

Section 30.15 (Q-15) of the Interim Final Rule . . . requires that the PEO and the PFO of the TARP recipient provide the following certifications: . . . (10) the TARP recipient has adopted and maintains an excessive or luxury expenditures policy and has provided this policy to Treasury in each case in accordance with the requirements under the Interim Final Rule [\[See Section 7 of Revised Model Policy\]](#).

Section 30.15 (Q-15) of the Interim Final Rule requires that TARP recipients that have securities registered with the SEC pursuant to the federal securities laws provide these certifications on Exhibit 99.1 in their annual report on Form 10-K and to Treasury, and that a TARP recipient that does not have securities registered with the SEC under the federal securities laws provide these certifications to its primary regulatory agency and to Treasury. [\[See Section 5 of Revised Model Policy\]](#) The TARP recipient must also preserve appropriate documentation and records to substantiate each certification for no less than six years after the date of the certification, the first two years in an easily accessible place, and must furnish promptly to Treasury any documentation and records requested by Treasury. [\[See last sentence of Section 7 of Revised Model Policy\]](#)

31 CFR Part 30—TARP Standards for Compensation and Corporate Governance

§30.1 Q-1: What definitions apply in this part?

Excessive or luxury expenditures. The term “excessive or luxury expenditures” means excessive expenditures on any of the following to the extent such expenditures are not reasonable expenditures for staff development, reasonable performance incentives, or other similar reasonable measures conducted in the normal course of the TARP recipient’s business operations [\[See Section 1 of Revised Model Policy\]](#):

- (1) Entertainment or events;
- (2) Office and facility renovations;
- (3) Aviation or other transportation services; and
- (4) Other similar items, activities, or events for which the TARP recipient may reasonably anticipate incurring expenses, or reimbursing an employee for incurring expenses.

Excessive or luxury expenditures policy. The term “excessive or luxury expenditures policy” means written standards applicable to the TARP recipient and its employees that address the four categories of expenses set forth in the definition of “excessive or luxury

expenditures” (entertainment or events, office and facility renovations, aviation or other transportation services, and other similar items, activities or events), and that are reasonably designed to eliminate excessive and luxury expenditures. [See Section 1 of Revised Model Policy] Such written standards must:

(1) Identify the types or categories of expenditures which are prohibited (which may include a threshold expenditure amount per item, activity, or event or a threshold expenditure amount per employee receiving the item or participating in the activity or event) [See Section 4 of Revised Model Policy];

(2) Identify the types or categories of expenditures for which prior approval is required (which may include a threshold expenditure amount per item, activity, or event or a threshold expenditure amount per employee receiving the item or participating in the activity or event) [See Section 2 of Revised Model Policy];

(3) Provide reasonable approval procedures under which an expenditure requiring prior approval may be approved [See Section 3 of Revised Model Policy];

(4) Require PEO and PFO certification that the approval of any expenditure requiring the prior approval of any CEO, any executive officer of a substantially similar level of responsibility, or the TARP recipient’s board of directors (or a committee of such board of directors), was properly obtained with respect to each such expenditure [See Section 5 of Revised Model Policy];

(5) Require the prompt internal reporting of violations to an appropriate person or persons identified in this policy [See first sentence of Section 6 or Revised Model Policy]; and

(6) Mandate accountability for adherence to this policy. [See second sentence of Section 6 of Revised Model Policy] .

§30.12 Q-12: What actions are necessary for a TARP recipient to comply with section 111(d) of EESA (the excessive or luxury expenditures policy requirement)?

To comply with section 111(d) of EESA . . . the board of directors of the TARP recipient must adopt an excessive or luxury expenditures policy, provide this policy to Treasury and its primary regulatory agency, and post the text of this policy on its Internet website, if the TARP recipient maintains a company website [See Section 5 of Revised Model Policy].