Frequently Asked Questions (FAQs)
Troubled Asset Relief Program (TARP) Standards for Compensation and Corporate Governance

Section 111 of the Emergency Economic Stabilization Act of 2008 (EESA), as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), prescribes certain standards for compensation and corporate governance for recipients of financial assistance under the TARP. On June 15, 2009, the Treasury Department published an Interim Final Rule under section 111 of EESA, setting forth the applicable compensation and corporate governance standards (see 74 Fed. Reg. 28,394 (June 15, 2009)).

This guidance responds to certain questions frequently asked by affected TARP recipients, and highlights and explains the technical corrections to the Interim Final Rule published in conjunction with this guidance.

1. How do the requirements of the Interim Final Rule apply with respect to an obligation that arises and is extinguished on the same day?

With respect to an obligation that arises and is extinguished on the same day (for example, if a senior debt instrument issued in satisfaction of section 113(d) of EESA is extinguished immediately upon the closing of the transaction), a TARP recipient is treated as having received financial assistance in the form of an obligation to the Federal government, but is treated as having no TARP period and a period during which the obligation was outstanding of zero days. Thus, the requirements of the Interim Final Rule that apply only during the TARP period, or the period during which an obligation remains outstanding, would not apply to the TARP recipient.

2. Section 30.11(b) (Q-11) of the Interim Final Rule sets forth certain requirements with respect to the disclosure of perquisites, and Section 30.11(c) (Q-11) of the Interim Final Rule sets forth requirements with respect to the disclosure of services of compensation consultants. For what periods do these requirements apply?

Section 30.11(b) requires that TARP recipients annually disclose during the TARP period any perquisite whose total value for the TARP recipient's fiscal year exceeds $25,000 for any SEO or most highly compensated employee that is subject to paragraph (a) of §30.10 (Q-10). This disclosure must include a narrative description of the amount and nature of these perquisites, the recipient of the perquisites, and a justification for offering the perquisites, and must be provided to Treasury and to the TARP recipient's primary regulatory agency within 120 days of the completion of a fiscal year any part of which is a TARP period.

Section 30.11(c) requires that the compensation committee of the TARP recipient provide annually a narrative description of whether the TARP recipient, the board of directors of the TARP recipient, or the compensation committee has engaged a compensation consultant; and all types of services, including non-compensation related services, the compensation consultants or any of its affiliates provided to the TARP recipient. This disclosure must be provided to Treasury and to the TARP recipient's primary regulatory agency within 120 days of the completion of a fiscal year any part of which is a TARP period.

These disclosure requirements apply only during the TARP period. Thus, for example, a TARP recipient that had no TARP period (for example, for the reasons given in FAQ 1 above) would not be subject to these requirements.

3. For a TARP recipient to comply with the certification requirements of section 111(b)(4) of EESA and §30.15 (Q-15) of the Interim Final Rule, what periods must be covered by the certifications?

Under §30.15 (Q-15), the principal executive officer (PEO) and principal financial officer (PFO) of each TARP recipient must certify compliance with section 111 of EESA as implemented by the standards set forth in 31 C.F.R. Part 30. Thus, to satisfy the requirements of §30.15 (Q-15), the PEO and PFO each must certify compliance with each standard for the period during which the standard was applicable to the TARP recipient.

With respect to any standard that was never applicable to, or any action that was not required to be completed by or was not completed by, the TARP recipient, to satisfy the requirements of §30.15 (Q-15), the certification must state that the standard was never applicable to the TARP recipient. Thus, if a TARP recipient that had an outstanding obligation as of June 15, 2009 and received no other financial assistance under the TARP no longer has an outstanding obligation as of August 15, 2009, the requirements of §30.4(a) (Q-4) (establishment or maintenance of a compensation committee) and §30.12 (Q-12) (establishment of an excessive or luxury expenditures policy), that require such TARP recipients to take certain action no later than ninety days following June 15, 2009, will not be required to be met by the TARP recipient. Therefore, if the TARP recipient has not completed those actions, to satisfy the requirements of §30.15 (Q-15) the TARP recipient will be required to certify with respect to those standards only that those standards are not required to be met by the TARP recipient.

4. Section 111 of EESA, and §30.1 (Q-1), define the term "senior executive officer" (SEO). If an individual served as the principal executive officer (PEO) or principal financial officer (PFO) of a TARP recipient during a fiscal year any part of which was a TARP period but was not employed by the TARP recipient on the first day of that fiscal year, is the PEO or PFO a SEO for purposes of that fiscal year?

Yes. Section 111(a)(1) of EESA defines a "senior executive officer" as an individual who is one of the top five most highly paid executives of a public company whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934. Section 30.1 (Q-1) provides that "senior executive officer" means a "named executive officer," as defined pursuant to Item 402(a)(3) of Regulation S-K under the Federal securities laws (17 C.F.R. 229.402(a)), who is an employee of the TARP recipient. Item 402(a)(3) of Regulation S-K provides that the "named executive officers" with respect to a fiscal year include all individuals serving as the PEO or PFO as well as the three most highly compensated executive officers other than the PEO or PFO.

Under Item 402(a)(3) of Regulation S-K, an individual that served as the PEO or PFO of a TARP recipient during a fiscal year any part of which was a TARP period, regardless whether the individual was employed by the TARP recipient on the first day of that fiscal year, will

necessarily be among the executives whose compensation is required to be disclosed by the TARP recipient pursuant to the Securities Exchange Act of 1934 with respect to that fiscal year. Thus, an individual who served as the PEO or PFO of a TARP recipient during a fiscal year any part of which was a TARP period who was not employed by the TARP recipient on the first day of the fiscal year is a SEO for purposes of that fiscal year.

In contrast, an executive officer who did not serve as the PEO or PFO of a TARP recipient during a fiscal year any part of which was a TARP period, and who was not employed by the TARP recipient on the first day of that year, may or may not be among the executives whose compensation is required to be disclosed by the TARP recipient pursuant to the Securities Exchange Act of 1934 with respect to that fiscal year. Thus, an executive officer who did not serve as the PEO or PFO of a TARP recipient during a fiscal year any part of which was a TARP period, and who was not employed by the TARP recipient on the first day of that fiscal year, is not a SEO for purposes of that fiscal year, even if the executive officer is, with respect to that fiscal year, one of the three most highly compensated executive officers other than the PEO or PFO and is therefore a SEO for purposes of the immediately following fiscal year.

5. Sections 111(b)(3)(D)(ii)(I) and (II) of EESA, and §§30.10(b)(1)(i) and (ii) (Q-10 (b)(1)(i) and (ii)) of the Interim Final Rule provide that for TARP recipients that have received certain levels of financial assistance, only the most highly compensated employee or the five most highly compensated employees, respectively, of the TARP recipient are subject to certain limitations on bonus payments. For this purpose, how are the most highly compensated employees identified?

For purposes of this standard, as well as any other standard that applies solely to one or more of the most highly compensated employees of a TARP recipient (and not also to senior executive officers (SEOs)), the "most highly compensated employee" is the employee whose annual compensation is determined to be highest among all employees of the TARP recipient, regardless whether that employee is also a SEO. Thus, for example, a SEO whose annual compensation is the fourth highest among all employees of a TARP recipient is included in the employees described in §30.10(b)(1)(ii) (the five most highly compensated employees of certain TARP recipients, who are the only employees of those TARP recipients who are subject to the limitations on bonus payments), but a SEO whose total annual compensation is the sixth highest among all employees of a TARP recipient is not included in that group of employees. The technical correction to §30.1 of the Interim Final Rule clarifies the definition of "most highly compensated employee" for this purpose.

6. Section 111(e) of EESA and §30.13 (Q-13) of the Interim Final Rule provide that any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient that occurs during the TARP period must permit a separate shareholder vote to approve the compensation of executives as required to be disclosed pursuant to the Federal securities laws. For purposes of compliance with §30.13 (Q-13), must a TARP recipient that is not required to register any securities with the Securities and Exchange Commission (SEC) permit this shareholder vote to approve certain executive compensation?

No. To meet this standard, a TARP recipient must comply with any rules, regulations, or guidance promulgated by the SEC that apply to the TARP recipient. Thus, a TARP recipient that is not subject to such rules, regulations, or guidance because, for example, the TARP recipient is not required to register any securities with the SEC, is not required to permit such a vote. The technical correction to §30.13 (Q-13) clarifies the rule for this purpose.

7. Section 30.1 (Q-1) of the Interim Final Rule contains the definition of "long-term restricted stock." Section 111(b)(3)(D) of EESA, and §30.10 (Q-10) of the Interim Final Rule, require that any bonus, retention award, or incentive compensation paid to specified employees be paid in the form of long-term restricted stock having a value not greater than one-third of the employee's annual compensation. Section 30.10(e)(1)(i) (Q-10) of the Interim Final Rule provides that, for this purpose, the value of long-term restricted stock should be included in the calculation in the year in which it is granted. If long-term restricted stock is granted solely in connection with services provided during a particular year, for purposes of §30.10(e)(1)(i) (Q-10), in which year should the value of the long-term restricted stock be included?

Solely for purposes of §30.10(e)(1)(i) (Q-10), when determining whether long-term restricted stock granted to specified employees has a value greater than one-third of the employee's annual compensation, if the facts and circumstances demonstrate that a grant of long-term restricted stock relates solely to services provided during a particular TARP recipient fiscal year, and the grant of long-term restricted stock occurs no later than the 15th day of the third month following the end of that fiscal year, such long-term restricted stock will be treated as granted in the year in which the services were provided. The grant of long-term restricted stock must also comply in all respects with the requirements of the Interim Final Rule related to the terms and conditions of long-term restricted stock.

Thus, for example, if an employee at a TARP recipient with a December 31 fiscal year end receives 2009 compensation of $500,000 in cash salary (and no other compensation), and on March 1, 2010 also receives, solely for services performed during 2009, a grant of long-term restricted stock with a fair market value of $250,000, for purposes of §30.10(e)(1)(i) (Q-10) the long-term restricted stock will be treated as granted in fiscal year 2009. Thus, the grant of long-term restricted stock with a fair market value of $250,000 does not exceed one-third of the employee's annual compensation attributable to 2009 ($500,000 + $250,000) for purposes of complying with §30.10 (Q-10). In addition, for purposes of calculating the fair market value of long-term restricted stock that may be granted to the employee for services provided in fiscal year 2010 under §30.10 (Q-10), the fair market value of the long-term restricted stock granted on March 1, 2010 must not be included in the employee's annual compensation for fiscal year 2010.

8. Section 111(c) of EESA sets forth certain requirements related to the establishment or maintenance of a compensation committee of the board of directors of a TARP recipient, and certain actions that the compensation committee must take in discussing, evaluating, and reviewing employee and SEO compensation plans. Section 111(d) of EESA requires that the board of directors have in place a company-wide policy regarding excessive or luxury expenditures. For a TARP recipient that has had an obligation to the Federal

government arising from financial assistance under the TARP, but no further financial assistance under the TARP, for what periods do these requirements apply?

The Interim Final Rule sets forth the requirements of section 111(c) through portions of §30.4 (Q-4), §30.5 (Q-5), and §30.7 (Q-7)). Section 30.4(a) (Q-4(a)) requires that the TARP recipient establish a compensation committee meeting certain requirements by the later of September 14, 2009 or ninety days after the closing date of the agreement between the TARP recipient and Treasury, and maintain the compensation committee during the remainder of the TARP period. If a compensation committee meeting the applicable requirements is already established before the later of September 14, 2009 or ninety days after the closing date, the TARP recipient must maintain it during the remainder of the TARP period.

For purposes of these provisions, the applicable deadlines refer to the date by which the required actions must be completed. If a TARP recipient that has had an obligation to the Federal government arising from financial assistance under the TARP, and no further financial assistance under the TARP, no longer has an outstanding obligation on the date of the applicable deadline, the action is not required to be completed. Thus, for example, a TARP recipient that had an obligation to the Federal government arising from financial assistance under the TARP as of June 15, 2009, but no longer has an obligation on September 14, 2009, is not required to establish or maintain the compensation committee. Similarly, if the obligation of the TARP recipient is outstanding on September 13, 2009, but the TARP recipient no longer has an obligation on March 13, 2010, the TARP recipient would be required to establish or maintain the compensation committee from September 14, 2009 through March 12, 2010, but the compensation committee would not be required to complete the actions required to be completed every six months pursuant to §30.4(a)(1), (2), and (3) (Q-4(a)(1), (2), and (3)).

The Interim Final Rule sets forth the requirements of EESA section 111(d) through §30.12 (Q-12). Section 30.12 (Q-12) requires that, by the later of September 14, 2009, or ninety days after the closing date of the agreement between the TARP recipient and Treasury, the board of directors of the TARP recipient adopt an excessive or luxury expenditures policy, provide this policy to Treasury and the TARP recipient's primary regulatory agency, and post the text of the policy on its Internet website, if the TARP recipient maintains a company website.

These dates refer to the deadlines by which the required actions must be completed. If a TARP recipient that has had an obligation to the Federal government arising from financial assistance under the TARP, and no further financial assistance under the TARP, no longer has an outstanding obligation on the date of the applicable deadline, the action is not required to be completed. Thus, for example, a TARP recipient that had an obligation to the Federal government arising from financial assistance under the TARP as of June 15, 2009, but no longer has an obligation on September 13, 2009, is not required to adopt or maintain an excessive or luxury expenditures policy.

The technical corrections to §§30.2 (Q-2) and 30.15 (Q-15) reflect this guidance. With respect to the certification requirements of §30.15 (Q-15), see FAQ 9 below.

9. What information must be included in certifications provided pursuant to § 30.15 (Q-15) with respect to the identification of the SEOs and twenty next most highly compensated employees of the TARP recipient?

To satisfy the requirements of §30.15 (Q-15), a certification must state that the TARP recipient has submitted to Treasury a complete and accurate list of the SEOs and the twenty next most highly compensated employees for the current fiscal year and the most recently completed fiscal year (with respect to a certification for the first fiscal year of the TARP period) or the current fiscal year (with respect to a certification for a fiscal year following the first fiscal year of the TARP period), with the non-SEOs ranked in order of level of annual compensation starting with the greatest amount. The list, including the name, title, and employer of each SEO and most highly compensated employee, may be provided to Treasury separately from the certification.

The technical correction to the Interim Final Rule corrects Appendix A and Appendix B to §30.15 (Q-15) for this purpose.

10. Is a TARP recipient required to provide a certification pursuant to §30.15 (Q-15) with respect to a fiscal year that ended prior to June 15, 2009?

No. The requirements of the Interim Final Rule with respect to sections 111(b), 111(c), 111(d) and 111(f) of EESA, including §30.15 (Q-15), were effective on June 15, 2009 (the date of publication of the Interim Final Rule), and superseded any previous guidance with respect to those requirements. To satisfy the requirements of §30.15 (Q-15), and any previous guidance with respect to those requirements, a TARP recipient is required to provide the appropriate certification only with respect to a fiscal year ending on or after June 15, 2009.

11. Section 30.7 (Q-7) of the Interim Final Rule requires that the compensation committee of each TARP recipient provide the certifications required by §30.4 (Q-4) in the Compensation Committee Report required pursuant to Item 407(e) of Regulation S-K under the Federal securities laws (17 CFR 229.407(e)), where applicable, and to Treasury. Section 30.12 (Q-12) of the Interim Final Rule requires that the board of directors of each 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. Section 30.15 (Q-15) of the Interim Final Rule requires that the PEO and PFO of the TARP recipient provide certain certifications with respect to the compliance of the TARP recipient with section 111 of EESA as an exhibit to the TARP recipient's annual report on Form 10-K, where applicable, and to Treasury. How should a TARP recipient provide Treasury with the information required by these provisions?

The information should be submitted to Treasury via email at TARP.Compliance@treasury.gov, or, in the case of a CDCI participant, to CDCI.Compliance@treasury.gov.

A TARP recipient that, prior to November 30, 2009, submitted this information to Treasury via another method is not required to resubmit the information. However, the TARP recipient must provide Treasury, in accordance with this FAQ 11, with a description of the information provided, the date on which the information was provided, and the means by which the

information was submitted. This information must be provided, in accordance with the instructions in this FAQ 11, within ninety days of the completion of the fiscal year of the TARP recipient that included November 30, 2009.

12. Section 30.1 (Q-1) defines an "obligation" to mean a requirement for, or ability of, a TARP recipient to repay financial assistance received from Treasury, and defines the "TARP period" for a TARP recipient to mean the period beginning with the TARP recipient's receipt of any financial assistance and ending on the last date upon which any obligation arising from financial assistance remains outstanding. Due to administrative requirements at the Treasury Department, a TARP recipient may not be permitted to make a repayment for a short period following the receipt of all necessary approvals from its regulators. How do the requirements of the Interim Final Rule apply to a TARP recipient that has received all necessary approvals from its regulators to repay an obligation, and repays the obligation on the next available date upon which Treasury permits the TARP recipient to make the repayment?

A TARP recipient that has received all necessary approvals from its regulators to repay an obligation will be treated as having repaid the obligation on the date upon which all necessary approvals have been confirmed by Treasury, provided that the TARP recipient repays the obligation on the next available date upon which Treasury permits the TARP recipient to make a repayment. Thus, for purposes of determining such a TARP recipient's TARP period under the Interim Final Rule, the date upon which all necessary approvals are confirmed by Treasury is treated as the last date upon which the obligation remains outstanding.

13. Section 30.1 (Q-1) of the Interim Final Rule defines annual compensation as the dollar value for total compensation for the applicable fiscal year as determined pursuant to Item 402(a) of Regulation S-K under the Federal securities laws (17 CFR 229.402(a)). On December 23, 2009, the SEC published in the Federal Register a final rule amending Item 402 of Regulation S-K (see 74 Fed. Reg. 68,334 (December 23, 2009)). Those amendments are effective February 28, 2010. How should a TARP recipient calculate annual compensation with respect to a fiscal year beginning prior to February 28, 2010?

For purposes of applying the amendments to Item 402 of Regulation S-K under the Federal securities laws (17 CFR 229.402(a)) to the calculation of annual compensation, a TARP recipient (whether or not it has securities registered with the SEC) may refer to SEC guidance, including the Compliance and Disclosure Interpretation issued by the SEC on December 22, 2009, with respect to the voluntary application of those amendments to securities filings made prior to the effective date of the amendments.

14. Which certification and disclosure requirements of the Interim Final Rule apply with respect to the fiscal year of a TARP recipient during which the TARP period ends (for example, as a result of the repayment of TARP obligations) or the acquisition of a TARP recipient occurs in a transaction described in Section 30.14(a) (Q-14) of the Interim Final Rule?

With respect to the fiscal year of a TARP recipient during which the TARP period ends or the acquisition of a TARP recipient occurs in a transaction described in Section 30.14(a) (Q-14), the

remaining certification and disclosure requirements under the Interim Final Rule include the following:

a. Section 30.15(a)(3) (Q-15) and the definition of "TARP fiscal year" in §30.1 (Q-1) provide that, after the first TARP fiscal year, PEO and PFO certifications similar to the model provided in Appendix B of §30.15 (Q-15), as modified by the technical corrections, must be submitted with respect to each fiscal year of a TARP recipient, or the portion of a fiscal year of a TARP recipient, that is also a TARP period. Accordingly, PEO and PFO certifications are required with respect to the portion of the fiscal year of a TARP recipient that ends with the repayment of TARP obligations or a §30.14(a) (Q-14) acquisition. Because the model language in Appendix B consistently refers to "any part of the most recently completed year that was a TARP period," the model language generally does not need to be modified to reflect that the final PEO and PFO certifications cover a partial year. TARP recipients are urged, however, to indicate in the final PEO and PFO certifications the date of the repayment of TARP obligations or §30.14(a) (Q-14) acquisition, as applicable. In addition, see FAQ 3 (which contemplates the submission of certifications after a repayment) and FAQ 8 for guidance on how to modify a certification when a requirement did not apply during a portion of the TARP fiscal year. A list of SEOs and next 20 most highly compensated employees for the following fiscal year does not need to be filed in connection with the PEO and PFO certifications that are filed with respect to the portion of the fiscal year of a TARP recipient that ends with the repayment of TARP obligations or a §30.14(a) (Q-14) acquisition.

b. Pursuant to §30.15(b) (Q-15), documentation substantiating all PEO and PFO certifications must be retained for a period of not less than six years after the date of the certification, the first two years in an easily accessible place. The TARP recipient must furnish promptly to Treasury legible, true, complete, and current copies of the documentation and records that are required to be preserved under §30.15(b) (Q-15) that are requested by any representative of Treasury.

c. Sections 30.7(c) and (d) (Q-7) provide that the compensation committee certifications described in §30.7(a) (Q-7) and the narrative disclosures concerning SEO and employee compensation plans described in §30.7(b) (Q-7) must be provided with respect to any fiscal year of a TARP recipient any portion of which is a TARP period. Accordingly, compensation committee certifications and narrative disclosures are required with respect to the portion of the fiscal year of a TARP recipient that ends with the repayment of TARP obligations or a §30.14(a) (Q-14) acquisition. See FAQ 3 and FAQ 8 for guidance on how to modify a certification when a requirement did not apply during the part of the fiscal year that included the TARP period. If the compensation committee was not required to meet for a six-month review during the portion of the fiscal year of a TARP recipient that is also a TARP period, either because the TARP period ended or the transaction described in §30.14(a) (Q-14) closed before the meeting was required to be held, the compensation committee is required to certify only that the standard was not required to be met by the TARP recipient.

d. Section 30.11(b) (Q-11) states that disclosures of any perquisite whose total value for the TARP recipient's fiscal year exceeds $25,000 for each of the SEOs and most highly compensated employees that are subject to paragraph (a) of §30.10 (Q-10) must be provided with respect to a fiscal year of a TARP recipient any part of which is a TARP period. Accordingly,

perquisite disclosures are required with respect to the portion of the fiscal year of a TARP recipient that ends with the repayment of TARP obligations or a §30.14(a) (Q-14) acquisition.

e. Section 30.11(c) (Q-11) states that a compensation consultant disclosure must be submitted with respect to a fiscal year of a TARP recipient any part of which is a TARP period. Accordingly, a compensation consultant disclosure is required with respect to the portion of the fiscal year of a TARP recipient that ends with the repayment of TARP obligations or a §30.14(a) (Q-14) acquisition.

15. If obligations of a TARP recipient are extinguished, forgiven (or sold or redeemed at a discount) or converted into common stock, how are (a) the amount of financial assistance received, and (b) the amount of financial assistance repaid calculated for purposes of determining the percentage of long-term restricted stock, as defined in Section 30.1 (Q-1) of the Interim Final Rule, that may become transferable?

Long-term restricted stock that has otherwise vested may not become transferable, or payable in the case of a restricted stock unit, at any time earlier than as permitted under the schedule set forth in the definition of long-term restricted stock in §30.1 (Q-1), which is based on the repayment in 25 percent increments of aggregate financial assistance received.

a. If obligations of a TARP recipient are extinguished or forgiven (or sold or redeemed at a discount), the amount of the obligations so extinguished or forgiven (or the amount of the discount) continues to be included in the aggregate amount of financial assistance received, but is not included in the amount of financial assistance repaid. (Note that, for purposes of the definition of "TARP period" in §30.1 (Q-1), an obligation is treated as no longer outstanding upon Treasury's transferring the obligation to a third party that is not a federal government entity (nor an entity organized by Treasury or another federal government entity to hold interests formerly held by Treasury).)

Example 1. Bank A received $100 million in funding from Treasury on June 1, 2009, in exchange for preferred shares and received no further financial assistance. On July 1, 2011, pursuant to an agreement between a Third Party (that is not a federal government entity nor an entity organized by Treasury or another federal government entity to hold interests formerly held by Treasury) and Treasury, Treasury sells all the preferred shares it holds in Bank A to Third Party for a net amount of $85 million (that is, at a 15 percent discount). As a result of this transaction, (i) the obligation transferred to Third Party is treated as no longer outstanding for purposes of the definition of "TARP period" (and thus, assuming it has no other TARP obligations outstanding, Bank A's TARP period will have ended), and (ii) Bank A is considered to have repaid 85 percent of its aggregate financial assistance received, and therefore 75 percent of the long-term restricted stock awarded by Bank A that has otherwise vested may become transferable.

b. If obligations of a TARP recipient in the form of preferred shares or debt are converted into common stock, the amount of financial assistance received represented by the common stock after the conversion equals the principal amount of the obligations that are converted into common stock (*i.e.*, the original investment amount), even if the value of the common stock is less than the principal amount of the obligations converted into common stock. Note that,

because common stock is a TARP obligation, the conversion does not terminate the TARP period. Upon the sale by Treasury of the common stock, total repayments attributable to the sale of the common stock will equal the net proceeds received from the sale.

Example 2. Bank B received $100 million in funding from Treasury on June 1, 2009, in exchange for 100,000 preferred shares and received no further financial assistance. On August 1, 2011, pursuant to an agreement with Treasury, the 100,000 preferred shares of Bank B are converted into 2,000,000 shares of Bank B common stock, which represent 100 percent of the value of the preferred shares at the current market price, or $100 million. After the conversion, the common stock held by Treasury represents $100 million in financial assistance received by Bank B. On December 1, 2011, Treasury sells all 2,000,000 shares it holds in Bank B, in a public offering, for a net amount of $80 million. As a result of this transaction, (i) the obligation represented by the common stock is treated as no longer outstanding for purposes of the definition of "TARP period" (and thus, assuming it has no other TARP obligations outstanding, Bank B's TARP period will have ended), and (ii) Bank B is considered to have repaid 80 percent of its aggregate financial assistance received, and therefore 75 percent of the long-term restricted stock awarded by Bank B that has otherwise vested may become transferable.

Example 3. Same facts as Example 2, provided further that, on August 1, 2011, pursuant to an agreement with Treasury, the 100,000 preferred shares of Bank B are converted into 2,000,000 shares of Bank B common stock, which represent 50 percent of the value of the preferred shares at the current market price, or $50 million. After the conversion, the common stock held by Treasury represents $100 million in financial assistance received by Bank B. On December 1, 2011, Treasury sells all 2,000,000 shares it holds in Bank B, in a public offering, for a net amount of $60 million. As a result of this transaction, (i) the obligation represented by the common stock is treated as no longer outstanding for purposes of the definition of "TARP period" (and thus, assuming it has no other TARP obligations outstanding, Bank B's TARP period will have ended), and (ii) Bank B is considered to have repaid 60 percent of its aggregate financial assistance received, and therefore 50 percent of the long-term restricted stock awarded by Bank B that has otherwise vested may become transferable.

16. The definition of long-term restricted stock in Section 30.1 (Q-1) of the Interim Final Rule provides that transferability of a portion of restricted stock may be accelerated upon the vesting of such stock as may reasonably be required to pay the federal, state, local or foreign taxes that are anticipated to apply to the income recognized due to this vesting, and the amounts made transferable for this purpose will not count toward the percentages in the schedule set forth in the definition of long-term restricted stock. Upon the vesting of long-term restricted stock awarded in units, does the rule in the foregoing sentence apply?

Yes. Payment of a portion of long-term restricted stock awarded in units may be accelerated upon the vesting of such units as may reasonably be required to pay the federal, state, local or foreign taxes (for example, federal social security and Medicare taxes) that are anticipated to apply to the income recognized due to this vesting, and the amounts paid for this purpose will not count toward the percentages in the schedule set forth in the definition of long-term restricted stock in §30.1 (Q-1).

FAQs 1 – 4 were posted on August 28, 2009.

FAQs 5 – 11 were posted on December 7, 2009 (FAQ-11 was revised on November 4, 2011).
FAQs 12 – 13 were posted on February 23, 2010.
FAQs 14 – 16 were posted on November 4, 2011.

Please check back regularly for postings of additional FAQs.