

111TH CONGRESS
1ST SESSION

S. 400

To expand the authority and responsibilities of the Oversight Panel of the Troubled Asset Relief Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2009

Mr. SANDERS (for himself, Mr. BROWN, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To expand the authority and responsibilities of the Oversight Panel of the Troubled Asset Relief Program, 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.**

4 This Act may be cited as the “Financial Crisis Inves-
5 tigation Act of 2009”.

1 **SEC. 2. EXPANDING THE AUTHORITY OF THE TARP CON-**
2 **GRESSIONAL OVERSIGHT PANEL.**

3 Section 125 of the Emergency Economic Stabilization
4 Act of 2008 (12 U.S.C. 5233) is amended by adding at
5 the end the following:

6 “(h) **ADDITIONAL DUTIES.**—The Oversight Panel
7 shall—

8 “(1) investigate all causes, domestic and global,
9 of the current financial and economic crisis in the
10 United States, including the collapse of major finan-
11 cial and commercial firms and the deterioration of
12 the credit and housing markets;

13 “(2) investigate the role in the financial and
14 economic crisis, if any, of—

15 “(A) any financial or commercial corpora-
16 tion, partnership, hedge fund, private equity
17 firm, or entity, including any of their employ-
18 ees;

19 “(B) the Securities and Exchange Commis-
20 sion;

21 “(C) nationally recognized statistical rating
22 organizations, as that term is defined in section
23 3(a) of the Securities Exchange Act of 1934
24 (15 U.S.C. 78c(a)) including any of their em-
25 ployees;

1 “(D) the Commodity Futures Trading
2 Commission;

3 “(E) the Federal National Mortgage Asso-
4 ciation or the Federal Home Loan Mortgage
5 Corporation;

6 “(F) trading facilities for commodities, as
7 those terms are defined in section 1a of the
8 Commodity Exchange Act (7 U.S.C. 1a), and
9 self-regulatory organizations, as that term is
10 defined in section 3 of the Securities Exchange
11 Act of 1934 (15 U.S.C. 78c);

12 “(G) the Federal banking agencies, as that
13 term is defined in section 3 of the Federal De-
14 posit Insurance Act (12 U.S.C. 1813); and

15 “(H) any other governmental or non-
16 governmental entity including any of their em-
17 ployees;

18 “(3) conduct a top-to-bottom review of the Na-
19 tion’s existing financial regulatory structure and the
20 contribution of the current structure to the stability
21 or instability of financial markets, in order to de-
22 velop a comprehensive framework for—

23 “(A) reforming the laws governing our Na-
24 tion’s financial markets;

1 “(B) strengthening regulatory agencies;
2 and

3 “(C) improving transparency and over-
4 sight;

5 “(4) analyze—

6 “(A) the impact of the financial regulatory
7 structure on the health and stability of the
8 United States economy;

9 “(B) the sustainability of the Nation’s fi-
10 nancial institutions; and

11 “(C) the financial well-being of American
12 taxpayers;

13 “(5) review and consider all aspects of financial
14 regulation, including the regulation of—

15 “(A) bank holding companies, financial
16 holding companies, commercial banks, invest-
17 ment banks, savings associations, credit unions,
18 and industrial loan companies;

19 “(B) payment and settlement systems;

20 “(C) hedge funds, private equity funds,
21 and the markets for alternative investments;

22 “(D) special purpose vehicles and off-bal-
23 ance sheet financing for financial companies;

24 “(E) the securitization of mortgages and
25 other assets;

1 “(F) exchange-based, electronic, and over-
2 the-counter markets for financial derivative
3 products;

4 “(G) the mortgage finance industry, in-
5 cluding mortgage brokers and mortgage lending
6 institutions;

7 “(H) equity markets, including short-sell-
8 ing practices, and commodity futures markets;
9 and

10 “(I) the insurance industry and its role in
11 the financial markets;

12 “(6) submit reports required by subsection (b);
13 and

14 “(7) refer to the Attorney General of the
15 United States, any appropriate State attorney gen-
16 eral, or any other appropriate law enforcement offi-
17 cial any person that the Oversight Panel finds may
18 have violated the laws of the United States in rela-
19 tion to such crisis.

20 “(i) HEARINGS AND EVIDENCE.—

21 “(1) IN GENERAL.—The Oversight Panel shall,
22 for purposes of carrying out this section—

23 “(A) hold regular hearings, sit and act at
24 times and places, take testimony, receive evi-
25 dence, and administer oaths; and

1 “(B) require, by subpoena or otherwise,
2 the attendance and testimony of witnesses and
3 the production of books, records, correspond-
4 ence, memoranda, papers, and other documents.

5 “(2) SUBPOENAS.—

6 “(A) SERVICE.—Subpoenas issued under
7 paragraph (1)(B) may be served by any person
8 designated by the Oversight Panel.

9 “(B) ENFORCEMENT.—

10 “(i) IN GENERAL.—In the case of con-
11 tumacy or failure to obey a subpoena
12 issued under paragraph (1)(B), the United
13 States district court for the judicial district
14 in which the subpoenaed person resides, is
15 served, or may be found, or where the sub-
16 poena is returnable, may issue an order re-
17 quiring such person to appear at any des-
18 ignated place to testify or to produce docu-
19 mentary or other evidence. Any failure to
20 obey the order of the court may be pun-
21 ished by the court as a contempt of that
22 court.

23 “(ii) ADDITIONAL ENFORCEMENT.—

24 Sections 102 through 104 of the Revised
25 Statutes of the United States (2 U.S.C.

1 192 through 194) shall apply in the case
2 of any failure of any witness to comply
3 with any subpoena or to testify when sum-
4 moned under the authority of this section.

5 “(3) CONTRACTING.—The Oversight Panel may
6 enter into contracts to enable the Oversight Panel to
7 discharge its duties under this section.

8 “(4) INFORMATION FROM FEDERAL AGEN-
9 CIES.—The Oversight Panel may secure directly
10 from any department, agency, or instrumentality of
11 the United States any information related to any in-
12 quiry of the Oversight Panel conducted under this
13 Act. Each such department, agency, or instrumen-
14 tality shall, to the extent authorized by law, furnish
15 such information directly to the Oversight Panel
16 upon request, not later than 7 days after the date
17 on which such request is made.

18 “(5) INFORMATION FROM FINANCIAL OR COM-
19 MERCIAL CORPORATIONS, PARTNERSHIPS, HEDGE
20 FUNDS, PRIVATE EQUITY FIRMS, OR ENTITIES.—The
21 Oversight Panel may secure directly from any finan-
22 cial or commercial corporations, partnerships, hedge
23 funds, private equity firms, or entities any informa-
24 tion related to any inquiry of the Oversight Panel
25 conducted under this section. Each shall, to the ex-

1 tent authorized by law, furnish such information di-
2 rectly to the Oversight Panel upon request not later
3 than 7 days after the date on which such request is
4 made.

5 “(6) ASSISTANCE FROM FEDERAL AGENCIES.—

6 “(A) DEPARTMENT OF THE TREASURY.—

7 “(i) IN GENERAL.—The Secretary
8 shall provide all amounts necessary to de-
9 fray the costs and provide administrative
10 support and other services to the Oversight
11 Panel for the performance of the functions
12 of the Oversight Panel.

13 “(ii) LIMITATION.—The value of the
14 assistance required to be provided by the
15 Secretary under this subparagraph may
16 not exceed \$4,000,000.

17 “(B) OTHER DEPARTMENTS AND AGEN-
18 CIES.—In addition to the assistance prescribed
19 in subparagraph (A), departments and agencies
20 of the United States are authorized to provide
21 to the Oversight Panel such services, funds, fa-
22 cilities, staff, and other support services as they
23 may determine advisable and as may be author-
24 ized by law.

1 “(7) GIFTS.—The Oversight Panel may accept,
2 use, and dispose of gifts or donations of services or
3 property.

4 “(8) POSTAL SERVICES.—The Oversight Panel
5 may use the United States mails in the same man-
6 ner and under the same conditions as departments
7 and agencies of the United States.

8 “(9) POWERS OF SUBCOMMITTEES, MEMBERS,
9 AND AGENTS.—Any subcommittee, member, or agent
10 of the Oversight Panel may, if authorized by the
11 Oversight Panel, take any action which the Over-
12 sight Panel is authorized to take by this section.”.

13 **SEC. 3. REPORTS OF THE OVERSIGHT PANEL.**

14 Section 125(b) of the Emergency Economic Stabiliza-
15 tion Act of 2008 (12 U.S.C. 5233(b)) is amended by add-
16 ing at the end the following:

17 “(3) FINAL REPORT ON FINANCIAL CRISIS.—
18 Not later than 100 days after the date of enactment
19 of this paragraph, the Oversight Panel shall submit
20 to the President and Congress a report containing—

21 “(A) the findings and conclusions of the
22 Oversight Panel on the causes of the current fi-
23 nancial and economic crisis in the United
24 States; and

1 “(B) such findings, conclusions, and rec-
2 ommendations for statutory and regulatory
3 changes as a majority of Oversight Panel mem-
4 bers finds are necessary to prevent a financial
5 and economic crisis comparable to the current
6 financial and economic crisis in the United
7 States.

8 “(4) INTERIM REPORTS.—At any time after the
9 first meeting of the Oversight Panel, the Oversight
10 Panel may submit to the President and Congress an
11 interim report containing such findings, conclusions,
12 and recommendations for corrective measures as
13 have been agreed to by a majority of Oversight
14 Panel members.”.

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