

## New TARP Restrictions on Executive Compensation – February 4, 2009

- “Exceptional Assistance” – Firms which require more assistance than is allowed under a widely available standard program. Banks falling under the “exceptional assistance” standard, such as AIG, Bank of America, Citi under the TIP, have bank-specific negotiated agreements with the US Treasury.
- Generally Available Program – Generally available programs have the same terms for all recipients, with limits on the amount each institution may receive and specified returns for taxpayers. The Capital Purchase Program (CPP) is an example of a generally available program.

Type of Restriction on Executive Compensation	Original TARP Provisions	Additional Restrictions	
		Companies Receiving "Exceptional Assistance" From Capital Access Programs	Companies Receiving Assistance in Generally Available Capital Access Programs
<b>Salary Cap on Total Annual Compensation</b>	Forbids recipients of government funds from taking a tax deduction for senior executive total annual compensation above \$500,000 (top 5 executives). Companies required to review and certify that compensation programs do not encourage excessive risk-taking.	Limits total annual compensation for senior executives to no more than \$500,000 <i>except</i> for restricted stock awards. Companies must review and disclose reasons why compensation arrangements do not encourage excessive risk-taking.	Limits total annual compensation for senior executives to \$500,000 <i>except</i> restricted stock - unless waived with shareholder vote and full public disclosure. Companies must review and disclose reasons why compensation arrangements do not encourage excessive risk-taking.
<b>Restricted Stock Awards</b>	Not applicable	Any pay above \$500,000 must be in restricted stock or other similar long-term incentive arrangements. Executives may only cash in if the government has been repaid or after a specified period where the company has satisfied acceptable repayment and stability standards.	Not applicable
<b>Executive Compensation Structure and Strategy</b>	Not applicable	Must be fully disclosed and subject to a "say on pay" shareholder resolution. Structure and strategy documents disclosing how each program ties compensation to sound risk management must be submitted to a non-binding shareholder resolution.	Not applicable
<b>"Clawback" Provisions for Senior Executive Bonuses</b>	Clawback of bonuses for the top 5 executives if found to have knowingly engaged in providing inaccurate financial information or performance metrics used to calculate bonuses.	Extended to include the top 25 executives.	Extended to include the top 25 executives.
<b>Increased Ban on Golden Parachutes</b>	Prohibits golden parachute payments greater than three year's compensation to any of the top 5 executives upon termination of employment.	Prohibits the top 10 executives from receiving any golden parachute payments upon termination of employment. In addition, and at a minimum, the next 25 executives will be prohibited from receiving a golden parachute payment greater than one year's compensation upon termination.	Prohibits golden parachute payments greater than one year's compensation to any of the top 5 executives upon termination of employment.
<b>Adoption of Company Policy Relating to Approval of Luxury Expenditures</b>	Not Applicable	Board of Directors must adopt a company-wide policy on any expenditures related to aviation services, office renovations, entertainment / holiday parties, and conferences and events which fall outside the scope of normal business operations. Requires certification from CEO for expenditures that could be seen as luxury items. Companies must also post policies on their websites.	Same as companies requiring "exceptional assistance."