

§ 31.1

31 CFR Subtitle A (7–1–10 Edition)

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§ 31.1 General.

This Part sets forth regulations to implement and administer the Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343; 122 Stat 3765).

Subpart A [Reserved]

Subpart B—Conflicts of Interest

§ 31.200 Purpose and scope.

(a) *Purpose.* This regulation sets forth standards to address and manage or to prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities under the Troubled Asset Relief Program (TARP), established under sections 101 and 102 of the Emergency Economic Stabilization Act of 2008 (EESA).

(b) *Scope.* This regulation addresses actual and potential conflicts of interest that may arise from contracts and financial agency agreements between private sector entities and the Treasury for services under the TARP, other than administrative services identified by TARP Chief Compliance Officer.

§ 31.201 Definitions.

As used in this part:

Arrangement means a contract or financial agency agreement between a private sector entity and the Treasury for services under the TARP, other than administrative services identified by the TARP Chief Compliance Officer.

EESA means the Emergency Economic Stabilization Act of 2008.

Key individual means an individual providing services to a private sector

entity who participates personally and substantially, through decision, approval, disapproval, recommendation, or the rendering of advice, in the negotiation or performance of, or monitoring for compliance under, the arrangement with the Treasury. For purposes of the definition of key individual, the words “personally and substantially” shall have the same meaning and interpretation as such words have in 5 CFR 2635.402(b)(4).

Management official means an individual within a retained entity’s organization who has substantial responsibility for the direction and control of the retained entity’s policies and operations. With respect to organizations that have a management committee or executive committee that has been given such responsibilities, this means the members of those committees and, if no such committee exists, this means each of the general partners.

Organizational conflict of interest means a situation in which the retained entity has an interest or relationship that could cause a reasonable person with knowledge of the relevant facts to question the retained entity’s objectivity or judgment to perform under the arrangement, or its ability to represent the Treasury. Without limiting the scope of this definition, organizational conflicts of interest may include the following situations:

(1) A prior or current arrangement between the Treasury and the retained entity that may give the retained entity an unfair competitive advantage in obtaining a new arrangement with Treasury.

(2) The retained entity is, or represents, a party in litigation against the Treasury relating to activities under the EESA.

(3) The retained entity provides services for Treasury relating to the acquisition, valuation, disposition, or management of troubled assets at the same time it provides those services for itself or others.

(4) The retained entity gains, or stands to gain, an unfair competitive advantage in private business arrangements or investments by using information provided under an arrangement or obtained or developed pursuant to an arrangement with Treasury.