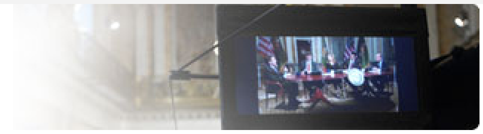
U.S. DEPARTMENT OF THE TREASURY

Press Center



The Special Master for TARP Executive Compensation Rules On Compensation Structures for Certain Executive Officers and Most Highly Compensated Employees 26 – 100

12/11/2009

2009-12-11-11-46-43-13585

Today, the Special Master for TARP Executive Compensation, Kenneth R. Feinberg, released his second round of rulings on executive compensation packages for firms that received exceptional Troubled Asset Relief Program (TARP) assistance.   These determinations cover compensation structures for the 26 – 100 most highly compensated employees plus executive officers, who were not subject to the Special Master's October 22, 2009, decisions.   Unlike the October rulings, which addressed specific amounts payable to "Top 25" executives, Treasury regulations require the Special Master to address compensation structures for executives in this second round of decisions.

The determinations cover four companies: AIG, Citigroup, GM, and GMAC.   Chrysler and Chrysler Financial were exempt from the Special Master's review during this round because total pay for their executives does not exceed the $500,000 "safe harbor" limitation in Treasury's compensation regulations.   Because Bank of America repaid its TARP obligations on December 9, 2009, its 26 – 100 most highly compensated employees plus additional executive officers are not subject to the Special Master's review.

The compensation structures announced today for certain executive officers and most highly compensated employees 26 – 100 for firms receiving TARP exceptional assistance:

1. *Reform compensation to protect long-term value creation and financial stability*

- Incentives paid only if real performance measures are achieved, putting an end to pay without performance
- A majority of pay must be held over three years, focusing executives on long-term value creation rather than short-term gains--in most cases at least 50 percent of compensation must be long term.
- As mandated by the Emergency Economic Stabilization Act of 2008 (EESA), companies continue to set pay levels under the compensation structures approved by the Special Master.

2. *Restrict the use of short-term cash compensation*

- Cash salaries generally limited to $500,000--except in exceptional cases
- Overall, cash is limited in most cases to 45 percent of total; all other pay must be in company stock
- Cash "guarantees" are rejected

3. *Forbid incentive compensation without real achievement of objective goals*

- Total incentives are limited to a fixed pool, requiring companies to carefully choose who to reward
- Incentives paid if--and only if--objective performance goals are achieved
- All incentive pay subject to "clawback" if results prove illusory

4. *Restructure pay to focus executives on the long term*

· At least 50 percent of compensation must be held for three years or more

· At least 50 percent of any incentive pay must be granted in long-term stock

· Any cash incentives must be delivered over two years--large lump-sum cash bonuses rejected

5. *End pay practices that are not aligned with shareholder and taxpayer interests*

· Limits excessive perquisites; forbids tax "gross ups"

· Freezes gold-plated executive severance and retirement pay

1. *<u>Reform Compensation Structures to Protect Long-Term Value Creation and Financial Stability:</u>*
The Special Master's rulings restructure pay to focus executives on objective measures of long-term value and financial stability rather than short-term gains. The decisions, which must be implemented immediately, significantly alter the way the four companies covered by the Special Master's rulings--AIG, Citigroup, GM, and GMAC--can structure pay for their 26 – 100 most highly paid employees and additional executive officers.

· ***Incentives paid only if performance measures are achieved, putting an end to pay without performance:*** The rulings put an end to the practice of paying routine "bonuses" regardless of performance. The Special Master's decisions permit incentives to be paid only if the company sets--and the executive achieves--objective performance measures, reviewed by the Special Master, that align executives' interests with those of shareholders and taxpayers.

· ***A majority of pay must be held over three years, focusing executives on long-term value creation rather than short-term gains:*** The rulings require that **at least 50 percent** of each executive's pay be held for **at least threeyears**, aligning the pay each executive actually receives with the long-term value of the firm. Under today's decisions, the practice of rewarding short-term gains with outsized rewards is replaced with structures that align compensation with financial stability.

· ***Bank of America Repaid:*** Because Bank of America repaid all of its TARP obligations on December 9, 2009, today's rulings do not affect compensation for their 26 – 100 most highly paid employees and additional executive officers employees, and 2010 compensation will not be subject to the Special Master's review. However, Bank of America's executives will still be subject to the Special Master's October 22, 2009, ruling on pay for its "Top 25" most highly paid executives for 2009.

· ***Chrysler and Chrysler Financial Exempt:*** Treasury's compensation regulations contain a "safe harbor" that exempts executives receiving total compensation of less than $500,000 from the Special Master's review. Because executives at Chrysler and Chrysler Financial, with one exception, will receive less than the "safe harbor" amount, they were exempt from this round of review.

· ***Special Master sets structures, companies have flexibility to set individual pay:*** Unlike the Special Master's October ruling, which addressed specific amounts payable to senior-most executives, today's determinations set the compensation "structures" for covered employees 26 – 100, as required by EESA and the governing Treasury regulations. Companies and their independent compensation committees will have the flexibility to assess individual performance and set individual levels of pay--but only using methods approved by the Special Master.

2. ***<u>Restrict the use of short-term cash compensation:</u>*** The Special Master's rulings limit cash payments based on short-term results, instead weighting compensation heavily towards company stock that must be held over the long term.

· ***Cash salaries limited to $500,000--except in exceptional cases*:** Consistent with the Administration's February 4, 2009, guidance on executive compensation at TARP recipients and the Special Master's previous determinations, the Special Master has again limited cash salaries to $500,000 or less, other than in exceptional cases as specifically certified by the company's independent compensation committee. To date, the companies have identified about twelve exceptional cases.

· ***Overall, cash limited in most cases to 45 percent of total; all other pay must be in company stock:*** Under today's rulings, the majority of total compensation must be paid in company stock to align executives' interests with long-term value creation and financial stability, and therefore taxpayer interests. Companies will deliver stock as "stock salary," which requires the executive to invest in the company with every paycheck, or as long-term stock incentives--rather than in cash.

· ***Cash "guarantees" are rejected:*** Like the October rulings, today's decisions reject the use of cash "guarantees" that separate pay from performance. Compensation packages based on guaranteed income must be restructured to conform to the Special Master's approved structures.

3. *Forbid incentive compensation without real achievement of objective goals:* As the Secretary noted in his June 10, 2009, statement on compensation, incentive pay can be undermined by compensation practices that set the bar too low or reward all executives for generally rising tides. Today's rulings reject the long-standing practice of pay without performance. After today's rulings, incentives will be paid at these companies only if objective performance measures are achieved.

· ***Total incentives limited, requiring companies to carefully choose who to reward:*** The total incentives for all of the covered executives will be strictly limited to an aggregate "pool" based on a specified percentage of eligible earnings or other metrics determined by the compensation committee and reviewed by the Special Master. A larger payment to one executive will require a smaller payment to another--so companies will be forced to make careful assessments as to which executives performed best and deserve a bigger slice of the pie.

· ***Incentives paid if--and only if--objective performance goals are achieved:*** The Special Master's rulings require that the compensation committee of each company identify objective performance measures reflecting the interests of shareholders and taxpayers--and subject those measures to the Special Master's review. Incentives may be paid only if those performance measures are achieved.

· ***All incentive pay subject to "clawback" if results prove illusory:*** Under today's rulings, any incentive compensation paid to the covered executives will be subject to clawback if the results giving rise to the payment do not hold up over the long term or an executive engages in misconduct. The decisions put an end to the practice of providing substantial rewards for short-term gains.

4. *Restructure pay to focus executives on the long term:* Today's decisions fundamentally restructure pay to emphasize the long term. The Special Master's decisions generally require executives to receive at least half of their compensation in a form that cannot be sold or otherwise redeemed for at least three years.

· ***At least 50 percent of compensation must be held for three years or more:*** As the Secretary also noted in his June 10, 2009, statement, compensation must account for the time horizon of risks. The Special Master's decisions require that at least half of each executive's pay be delivered in a form that may not be transferred to the executive for at least three years--so that any pay eventually received by the executive reflects the long-term value and stability of the company over that period.

· ***At least 50 percent of incentive compensation must be long-term stock grants:*** Historically, many firms have permitted executives to cash in company stock immediately. Instead, the Special Master's rulings require that at least half of the incentive compensation be paid in the form of company stock that must be held for at least three years. Other stock compensation, such as stock salary, must be held for at least one year from the date it is earned.

· ***Any cash incentives must be delivered over two years--large lump-sum cash bonuses rejected:*** Breaking from the pay practices of the past, the Special Master's rulings require that employees who receive cash incentive payments must defer 50 percent or more of the payment for at least one year, to discourage executives from placing risky bets in the hope of short-term windfall payments and to allow the company time to confirm that performance assessments are accurate.

5. *End pay practices not aligned with shareholder and taxpayer interests:* As the Secretary noted in his June 10, 2009, statement, in some cases golden parachutes and supplemental executive retirement plans have expanded beyond their original purpose. Like the October 22, 2009, decisions, today's rulings place tough new restrictions on these payments, extending the limitations applicable to the "Top 25" executives to the entire "Top 100."

· ***Limits excessive perquisites; forbids tax "gross-ups":*** As with the "Top 25," employees in this group will be limited to $25,000 in perquisites, cannot receive tax gross-ups, and cannot accrue additional gold-plated severance and executive retirement pay.

· ***Freezes excessive executive severance and retirement pay:*** Supplemental executive retirement benefits can provide substantial cash guarantees to departing executives, regardless of performance. Just as with the "Top 25," the Special Master's rulings today conclude that executives should provide for their retirements with wealth based on performance while they are employed, rather than being guaranteed substantial retirement benefits beyond those provided to everyday workers.

###