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How to Stop Rewarding Failure

It's no secret that as many of the bailed-out financial institutions endured catastrophic losses, Wall Street executives and employees took in over \$18 billion in bonuses. And this may be a conservative estimate. The CEOs' testimony to Congress highlighted the critical disconnects between Wall Street "strategy" and Main Street impact.

The good news is that Congress passed and the President signed into law, limits on "shameful" bonuses, limits that apply to all of the bailed-out firms. And the limits are retroactive – so all of the Wall Street titans would have to comply. Some lobbyists indicated that this move "[undermines the current incentive structure](#)." Seeing as the current incentive structure was a major contributor to the risky decisions that got us here, undermining it may be what is needed. However, the details on the implementation of these measures and how they will be reconciled will be critical to their success in achieving their intended goals. U.S. PIRG provides a detailed comparison of Secretary Geithner's proposal, the new law and other pending legislation on executive compensation in the table below. We also include potential loopholes and list outstanding questions. In future Bailout Briefings, we will provide updates on how the Geithner guidelines will be adapted into the new law, which could take up to a year to be fully implemented.

	Salary and Severance	Incentive Pay	Retroactive?	Questions, Potential Loopholes, Clarifications
<p>Secretary Geithner's Financial Stability Plan Guidelines (from Treasury website)</p> <p>EA: Applies only to banks receiving "exceptional assistance"</p> <p>GEN: Other participants</p>	<p>EA: Limits compensation to \$500,000 for senior executives.</p> <p>GEN: Limits compensation if company fails to report compensation packages.</p> <p>EA: Requires that restricted stocks only be cashed in after government is repaid.</p> <p>EA: Contains "say on pay" (up or down vote on executive compensation) provision.</p> <p>EA: Bans "golden parachute" severance for top ten executives.</p> <p>GEN: Restricts severance to equal one year's salary for top five executives.</p>	<p>Claws back bonuses and incentive compensation from top 25 individuals if they are found to have knowingly engaged in fraudulent calculation of their own incentive pay.</p>	<p>No.</p>	<p>How does this work in conjunction with the incentive pay provisions of the American Recovery and Reinvestment Act of 2009 (Pub. Law No. 110-343)?</p> <p>Why does "exceptional assistance" only apply to bank-specific contracts – similar to Bank of America, A.I.G and Citi? Why not also focus on the other recipients receiving large investments?</p> <p>Many salaries were under \$1 million because firms previously were able to deduct performance-related pay over \$1 million. What is the strategy behind focusing on base salary?</p> <p>Will shifting from preferred stock to common stock (e.g. Citi) have an impact on enforcing executive compensation limits?</p>
<p>American Recovery and Reinvestment Act of 2009 (Pub. Law No. 111-5)</p>	<p>Contains "say on pay" (up or down vote on executive compensation) provision.</p> <p>Requires Treasury Secretary to review compensation for top 25 employees and seek reimbursement if the pay-outs were not aligned with original intent of the program or in the best interest of the public.</p>	<p>Limits bonuses to no more than one-third of total compensation for top executives.</p> <p>Affects all firms on a tiered approach.</p> <p>Claws back bonuses and incentive compensation to 25 most highly paid individuals if earnings/revenue reports are "materially inaccurate."</p>	<p>Yes.</p>	<p>If the top 25 employees are subject to the provision, then won't a new group become the top 25 for the following year?</p> <p>How will provisions account for potentially increasing the base salary (shifting money from one pot to another)?</p> <p>What are the criteria for alignment with the public interest?</p> <p>When will the Administration finalize and implement the new provisions?</p> <p>Will shifting from preferred stock to common stock (e.g. Citi) have an impact on enforcing executive compensation limits?</p>

	Salary and Severance	Incentive Pay	Retroactive?
H.R. 384 – TARP Reform and Accountability Act (Passed the House)	<p>Requires that standards for capping executive compensation be established across all participants.</p> <p>Prohibits institutions making any golden parachute payment to a senior executive officer during the period that the assistance.</p> <p>Limits compensation that rewards executives who risk the value of the company.</p>	<p>Prohibits paying of bonuses or incentive compensation to 25 most highly paid individuals.</p> <p>Claws back bonuses and incentive compensation for senior executives if earnings/revenue reports are “materially inaccurate.”</p>	Yes.
S. 195 – Taxpayer Protection Act	<p>Proposes limitations to executive compensation and annual executive compensation tax deductions to the maximum extent possible (defers to Treasury on appropriate standards).</p> <p>Prohibits “golden parachutes” for officers and directors.</p>	<p>Prohibits paying of bonuses or incentive compensation to 25 most highly paid individuals.</p> <p>Claws back bonuses and incentive compensation senior executives if earnings/revenue reports are inaccurate.</p>	No.