

ANNEX

Certain Legislation Affecting Executive Compensation

Bills that would apply to companies more generally (and not just to those receiving TARP funds), and which are at different stages of the legislative process, include:

- [H.R. 2861](#): Shareholder Empowerment Act of 2009
- [S. 1006](#): Excessive Pay Shareholder Approval Act
- [S. 1007](#): Excessive Pay Capped Deduction Act of 2009
- [S. 1074](#): Shareholder Bill of Rights Act of 2009
- [H.R. 2863](#): Worker-Executive Parity Act of 2009
- [H.R. 1594](#): Income Equity Act of 2009

Other bills, also at different stages of the legislative process, targeted specifically at companies receiving TARP funds, include:

- [H.R. 1664](#): [no title]
- [S. 431](#): Economic Recovery Adjustment Act of 2009
- [S. 651](#): Compensation Fairness Act of 2009 (In 2007, a more generally applicable bill addressing some of the same issues, S. 349, had been introduced.)
- [H.R. 1586](#): [no title]
- [H.R. 1575](#): End Government Reimbursement of Excessive Executive Disbursements (End GREED) Act
- [H.R. 1801](#): [no title]
- [H.R. 1603](#): TARP Wage Accountability Act
- [H.R. 1518](#): Bailout Bonus Tax Bracket Act of 2009
- [H.R. 1527](#): [no title]
- [S. 360](#): Cap Executive Pay Act of 2009

In addition to activity regarding executive compensation, there have also been compensation-related developments regarding the taxation of carried interests.

[H.R. 1935](#) is an example of a bill which would change the federal taxation of carried interests. There are also carried-interest provisions in the Administration's [budget proposals](#).

Regulatory Developments Affecting Executive Compensation

There continues to be substantial regulatory activity surrounding Code Section 409A, which represents the first comprehensive codification of federal rules governing the taxation of nonqualified deferred compensation, and the more recently enacted Code Section 457A, which imposes even more restrictive rules on certain off-shore corporations (including hedge funds) and on partnerships owned by tax-indifferent parties. For example, proposed regulations on income inclusion under Section 409A were issued in December 2008, as was updated guidance on the correction of operational failures; but taxpayers continue to await regulations on Section

409A's "funding" rules and more comprehensive and helpful guidance on the correction of noncompliant plans. As to Section 457A, Treasury continues to seek comments regarding Notice 2009-8 and other aspects of Section 457A which are generating substantial uncertainty in the market. (On Section 457A, see our [October 2008 Alert](#) regarding Section 457A's enactment and our [January 2009 Alert](#) regarding certain interim guidance.)