

105TH CONGRESS
2^D SESSION

H. R. 4364

AN ACT

To streamline the regulation of depository institutions, to safeguard confidential banking and credit union supervisory information, and for other purposes.

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To streamline the regulation of depository institutions, to safeguard confidential banking and credit union supervisory information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Depository Institution Regulatory Streamlining Act of
 4 1998”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MONETARY POLICY

Sec. 101. Payment of interest on reserve balances at Federal reserve banks.

Sec. 102. Amendments relating to savings and demand deposit accounts at de-
 pository institutions.

Sec. 103. Transfer of Federal reserve surpluses.

Sec. 104. Study of reserve ratios for deposit insurance funds.

TITLE II—IMPROVING DEPOSITORY INSTITUTION MANAGEMENT
 PRACTICES

Subtitle A—National Banks

Sec. 201. Authority to allow more than 25 directors.

Sec. 202. Loans on or purchases by institutions of their own stock.

Sec. 203. Expedited procedures for certain reorganizations.

Subtitle B—Savings Associations

Sec. 211. Noncontrolling investments by savings association holding companies.

Sec. 212. Streamlining thrift service company investment requirements.

Sec. 213. Repeal of dividend notice requirement.

Sec. 214. Updating of authority for community development investments.

Subtitle C—Other Institutions

Sec. 221. Prohibition on accrual to insiders of economic benefits from credit
 union conversions.

Sec. 222. Amendments relating to limited purpose banks.

Sec. 223. Business purpose credit extensions.

TITLE III—STREAMLINING FEDERAL BANKING AGENCY RE-
 QUIREMENTS AND ELIMINATION OF UNNECESSARY OR OUT-
 DATED REQUIREMENTS

Sec. 301. “Plain English” requirement for Federal banking agency rules.

Sec. 302. Call report simplification.

Sec. 303. Purchased mortgage service rights.

Sec. 304. Judicial review of receivership appointment.

Sec. 305. Elimination of outdated statutory minimum capital requirements.

Sec. 306. Elimination of individual branch capital requirements.

Sec. 307. Amendment to shareholder notice provisions relating to consolidations
 and mergers.

- Sec. 308. Payment of interest in receiverships with surplus funds.
 Sec. 309. Repeal of deposit broker notification and recordkeeping requirement.
 Sec. 310. Allowances for certain extensions of credit to executive officers.
 Sec. 311. Federal Reserve Act lending limits.
 Sec. 312. Repeal of Bank Holding Company Act provision limiting savings bank life insurance.
 Sec. 313. Amendment to section 5137 of the Revised Statutes of the United States.

TITLE IV—DISCLOSURE SIMPLIFICATION

- Sec. 401. Alternative disclosure for variable rate, open-ended home secured credit.

TITLE V—BANK EXAMINATION REPORT PRIVILEGE ACT

- Sec. 501. Amendment to the Federal Deposit Insurance Act.
 Sec. 502. Amendment to Federal Credit Union Act.

TITLE VI—TECHNICAL CORRECTIONS

- Sec. 601. Technical correction relating to deposit insurance funds.
 Sec. 602. Rules for continuation of deposit insurance for member banks converting charters.
 Sec. 603. Waiver of citizenship requirement for national bank directors.
 Sec. 604. Technical amendment to prohibition on Comptroller interests in national banks.
 Sec. 605. Applicability of limitation to prior investments.

TITLE VII—SPECIAL RESERVE FUNDS

- Sec. 701. Abolition of special reserve funds.

1 **TITLE I—IMPROVING MONETARY** 2 **POLICY**

3 **SEC. 101. PAYMENT OF INTEREST ON RESERVE BALANCES** 4 **AT FEDERAL RESERVE BANKS.**

5 (a) IN GENERAL.—Section 19(b) of the Federal Re-
 6 serve Act (12 U.S.C. 461(b)) is amended by adding at
 7 the end the following new paragraph:

8 “(12) EARNINGS ON RESERVES.—

9 “(A) IN GENERAL.—Balances maintained
 10 at a Federal reserve bank by or on behalf of a
 11 depository institution may receive earnings to

1 be paid by the Federal reserve bank at least
2 once each calendar quarter at a rate or rates
3 not to exceed the general level of short-term in-
4 terest rates.

5 “(B) REGULATIONS RELATING TO PAY-
6 MENTS AND DISTRIBUTION.—The Board may
7 prescribe regulations concerning—

8 “(i) the payment of earnings in ac-
9 cordance with this paragraph;

10 “(ii) the distribution of such earnings
11 to the depository institutions which main-
12 tain balances at such banks or on whose
13 behalf such balances are maintained; and

14 “(iii) the responsibilities of depository
15 institutions, Federal home loan banks, and
16 the National Credit Union Administration
17 Central Liquidity Facility with respect to
18 the crediting and distribution of earnings
19 attributable to balances maintained, in ac-
20 cordance with subsection (c)(1)(B), in a
21 Federal reserve bank by any such entity on
22 behalf of depository institutions which are
23 not member banks.”.

24 (b) AUTHORIZATION FOR PASS THROUGH RESERVES
25 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-

1 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by
2 striking “which is not a member bank”.

3 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

4 Section 19 of the Federal Reserve Act (12 U.S.C. 461)
5 is amended—

6 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),
7 by striking subparagraph (C) and redesignating sub-
8 paragraphs (D) and (E) as subparagraphs (C) and
9 (D), respectively; and

10 (2) in subsection (c)(1)(A) (12 U.S.C.
11 461(c)(1)(A)), by striking “subsection (b)(4)(C)”
12 and inserting “subsection (b)”.

13 **SEC. 102. AMENDMENTS RELATING TO SAVINGS AND DE-**
14 **MAND DEPOSIT ACCOUNTS AT DEPOSITORY**
15 **INSTITUTIONS.**

16 (a) IMMEDIATE INCREASE IN THE NUMBER OF
17 INTERACCOUNT TRANSFERS ALLOWED EACH MONTH.—

18 Section 2 of Public Law 93–100 (12 U.S.C. 1832) is
19 amended—

20 (1) by redesignating subsections (b) and (c) as
21 subsections (c) and (d), respectively; and

22 (2) by inserting after subsection (a) the follow-
23 ing:

24 “(b) INTERACCOUNT TRANSFERS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, any depository institution may per-
3 mit the owner of any deposit or account on which in-
4 terest or dividends are paid to make up to 24 trans-
5 fers per month, for any purpose, to another account
6 of the owner in the same institution.

7 “(2) RULE OF CONSTRUCTION.—Nothing in
8 this subsection shall be construed to prevent an ac-
9 count offered pursuant to this subsection from being
10 considered a transaction account (as defined in sec-
11 tion 19(b) of the Federal Reserve Act (12 U.S.C.
12 461(b)) for purposes of such Act.”.

13 (b) NOW ACCOUNTS AUTHORIZED FOR ALL BUSI-
14 NESSES AFTER 2004.—

15 (1) IN GENERAL.—Effective on the date pro-
16 vided in paragraph (3), section 2 of Public Law 93-
17 100 (12 U.S.C. 1832(a)(2)) (as amended by sub-
18 section (a) of this section) is amended to read as fol-
19 lows:

20 **“SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFER-**
21 **ABLE INSTRUMENTS FOR TRANSFERS TO**
22 **THIRD PARTIES.**

23 “Notwithstanding any other provision of law, any de-
24 pository institution (as defined in section 3 of the Federal
25 Deposit Insurance Act) may permit the owner of any de-

1 posit or account to make withdrawals from such deposit
2 or account by negotiable or transferable instruments for
3 the purpose of making payments to third parties.”.

4 (2) REPEAL OF PROHIBITION ON PAYMENT OF
5 INTEREST ON DEMAND DEPOSITS.—

6 (A) FEDERAL RESERVE ACT.—Section 19
7 of the Federal Reserve Act (12 U.S.C. 371a) is
8 amended by striking subsection (i).

9 (B) HOME OWNERS’ LOAN ACT.—The 1st
10 sentence of section 5(b)(1)(B) of the Home
11 Owners’ Loan Act (12 U.S.C. 1464(b)(1)(B)) is
12 amended by striking “savings association may
13 not—” and all that follows through “(ii) permit
14 any” and inserting “savings association may
15 not permit any”.

16 (C) FEDERAL DEPOSIT INSURANCE ACT.—
17 Section 18 of the Federal Deposit Insurance
18 Act (12 U.S.C. 1828) is amended by striking
19 subsection (g).

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall take effect on October 1,
22 2004.

23 **SEC. 103. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

24 (a) PAYMENTS FROM DIVIDENDS AND SURPLUS OF
25 FEDERAL RESERVE BANKS.—Section 7(a)(3) of the Fed-

1 eral Reserve Act (12 U.S.C. 289(3)) is amended by strik-
2 ing “fiscal years 1997 and 1998” and inserting “fiscal
3 years 1998 through 2003”.

4 (b) ADDITIONAL TRANSFERS FOR FISCAL YEARS
5 1999 THROUGH 2003.—

6 (1) IN GENERAL.—In addition to the amounts
7 required to be transferred from the surplus funds of
8 the Federal reserve banks pursuant to section
9 7(a)(3) of the Federal Reserve Act and section
10 3002(b) of the Omnibus Budget Reconciliation Act
11 of 1993, the Federal reserve banks shall transfer
12 from such surplus funds to the Board of Governors
13 of the Federal Reserve System for transfer to the
14 Secretary of the Treasury for deposit in the general
15 fund of the Treasury, such sums as are necessary to
16 equal the net cost of section 101, as estimated by
17 the Office of Management and Budget.

18 (2) ALLOCATION BY FED.—Of the total amount
19 required to be paid by the Federal reserve banks
20 under paragraph (1) for fiscal years 1999 through
21 2003, the Board of Governors of the Federal Re-
22 serve System shall determine the amount each such
23 bank shall pay in such fiscal year.

24 (3) REPLENISHMENT OF SURPLUS FUND PRO-
25 HIBITED.—No Federal reserve bank may replenish

1 such bank's surplus fund by the amount of any
2 transfer by such bank under paragraph (1) during
3 the fiscal year for which such transfer is made.

4 **SEC. 104. STUDY OF RESERVE RATIOS FOR DEPOSIT INSUR-**
5 **ANCE FUNDS.**

6 (a) REVIEW AND RECOMMENDATION.—The Board of
7 Directors of the Federal Deposit Insurance Corporation,
8 in consultation with the Board of Governors of the Federal
9 Reserve System and the Secretary of the Treasury, shall—

10 (1) conduct a study of the adequacy of the de-
11 posit insurance funds, taking into account—

12 (A) expected operating expenses, case reso-
13 lution expenditures and income, and the effect
14 of assessments on members' earnings and cap-
15 ital;

16 (B) historical failure rates and loss experi-
17 ence;

18 (C) recent changes in the law, including
19 statutory changes requiring prompt corrective
20 action, least-cost resolutions, and risk-based as-
21 sessment systems;

22 (D) the income of such funds from invest-
23 ments;

24 (E) the potential implication of the Year
25 2000 computer problem (as defined in section

1 2(b)(5) of the Examination Parity and Year
2 2000 Readiness for Financial Institutions Act)
3 and industry consolidation; and

4 (F) the historical experience of the Cor-
5 poration in providing rebates or credits from
6 any deposit insurance fund; and

7 (2) recommend to the Congress—

8 (A) an appropriate range of reserve ratios
9 between the net worth of any deposit insurance
10 fund and the aggregate amount of insured de-
11 posits insured by such fund; and

12 (B) an appropriate mechanism for rebating
13 or providing credit from any deposit insurance
14 fund when the balance of the fund exceeds any
15 applicable reserve ratio.

16 (b) REPORT REQUIRED.—The Board of Directors of
17 the Federal Deposit Insurance Corporation, in consulta-
18 tion with the Board of Governors of the Federal Reserve
19 System and the Secretary of the Treasury, shall submit
20 a report to the Congress before June 30, 1999, contain-
21 ing—

22 (1) the findings and conclusions of the study re-
23 quired under subsection (a)(1); and

24 (2) the recommendations required under sub-
25 section (a)(2).

1 **TITLE II—IMPROVING DEPOSI-**
2 **TORY INSTITUTION MANAGE-**
3 **MENT PRACTICES**

4 **Subtitle A—National Banks**

5 **SEC. 201. AUTHORITY TO ALLOW MORE THAN 25 DIREC-**
6 **TORS.**

7 Section 31 of the Banking Act of 1933 (12 U.S.C.
8 71a) is amended in the first sentence, by inserting before
9 the period “, except that the Comptroller of the Currency
10 may, by regulation or order, exempt a national banking
11 association from the 25-member limit established by this
12 section”.

13 **SEC. 202. LOANS ON OR PURCHASES BY INSTITUTIONS OF**
14 **THEIR OWN STOCK.**

15 (a) AMENDMENT TO REVISED STATUTES.—Section
16 5201 of the Revised Statutes of the United States (12
17 U.S.C. 83) is amended to read as follows:

18 **“SEC. 5201. LOANS BY BANK ON ITS OWN STOCK.**

19 “(a) GENERAL PROHIBITION.—No national banking
20 association shall make any loan or discount on the security
21 of the shares of its own capital stock.

22 “(b) EXCLUSION.—For purposes of this section, an
23 association shall not be deemed to be making a loan or
24 discount on the security of the shares of its own capital

1 stock if it acquires the stock to prevent loss upon a debt
2 contracted for in good faith.”.

3 (b) AMENDMENT TO FEDERAL DEPOSIT INSURANCE
4 ACT.—Section 18 of the Federal Deposit Insurance Act
5 (12 U.S.C. 1828) is amended by adding at the end the
6 following new subsection:

7 “(t) LOANS BY INSURED INSTITUTIONS ON THEIR
8 OWN STOCK.—

9 “(1) GENERAL PROHIBITION.—No insured de-
10 pository institution shall make any loan or discount
11 on the security of the shares of its own capital stock.

12 “(2) EXCLUSION.—For purposes of this sub-
13 section, an insured depository institution shall not be
14 deemed to be making a loan or discount on the secu-
15 rity of the shares of its own capital stock if it ac-
16 quires the stock to prevent loss upon a debt con-
17 tracted for in good faith.”.

18 **SEC. 203. EXPEDITED PROCEDURES FOR CERTAIN REORGA-**
19 **NIZATIONS.**

20 The National Bank Consolidation and Merger Act
21 (12 U.S.C. 215 et seq.) is amended—

22 (1) by redesignating section 5 as section 7; and

23 (2) by inserting after section 4 the following
24 new section:

1 **“SEC. 5. EXPEDITED PROCEDURES FOR CERTAIN REORGA-**
2 **NIZATIONS.**

3 “(a) IN GENERAL.—A national bank may, with the
4 approval of the Comptroller, pursuant to regulations pre-
5 scribed by the Comptroller, and upon the affirmative vote
6 of the shareholders of such bank owning at least two-
7 thirds of the outstanding capital stock of such bank, reor-
8 ganize so as to become a subsidiary of a bank holding com-
9 pany or a company that will, upon consummation of such
10 reorganization, become a bank holding company.

11 “(b) REORGANIZATION PLAN.—A reorganization au-
12 thorized under subsection (a) shall be carried out in ac-
13 cordance with a reorganization plan that—

14 “(1) specifies the manner in which the reorga-
15 nization shall be carried out;

16 “(2) is approved by a majority of the entire
17 board of directors of the bank;

18 “(3) specifies—

19 “(A) the amount of cash or securities of
20 the bank holding company, or both, or other
21 consideration, to be paid to the shareholders of
22 the reorganizing bank in exchange for their
23 shares of stock of the bank;

24 “(B) the date as of which the rights of
25 each shareholder to participate in such ex-
26 change will be determined; and

1 “(C) the manner in which the exchange
2 will be carried out; and

3 “(4) is submitted to the shareholders of the re-
4 organizing bank at a meeting to be held on the call
5 of the directors in accordance with the procedures
6 prescribed in connection with a merger of a national
7 bank under section 3.

8 “(c) APPLICABILITY OF OTHER CRITERIA.—In con-
9 sidering a reorganization plan under this section, the
10 Comptroller shall—

11 “(1) require the national bank to provide notice
12 to the public in accordance with section 18(c)(3) of
13 the Federal Deposit Insurance Act; and

14 “(2) apply the same standards and the same
15 criteria as are applicable to a transaction under sec-
16 tion 18(c) of the Federal Deposit Insurance Act,
17 other than the requirements of paragraphs (4) and
18 (6) of such section.

19 “(d) RIGHTS OF DISSENTING SHAREHOLDERS.—If,
20 pursuant to this section, a reorganization plan has been
21 approved by the shareholders and the Comptroller, any
22 shareholder of the national bank who has voted against
23 the reorganization at the meeting referred to in subsection
24 (b)(4), or has given notice in writing at or before that
25 meeting to the presiding officer that the shareholder dis-

1 sents from the reorganization plan, shall be entitled to re-
 2 ceive the value of the shares of the shareholder, as pro-
 3 vided by section 3 for the merger of a national bank.

4 “(e) EFFECT OF REORGANIZATION.—The corporate
 5 existence of a national bank that reorganizes in accord-
 6 ance with this section shall not be deemed to have been
 7 affected in any way by reason of such reorganization.

8 “(f) APPROVAL UNDER THE BANK HOLDING COM-
 9 PANY ACT OF 1956.—Notwithstanding the preceding pro-
 10 visions of this section, it shall be unlawful for any action
 11 to be taken that causes any company to become a bank
 12 holding company or any bank to become a subsidiary of
 13 a bank holding company, except with the prior approval
 14 of the Board of Governors of the Federal Reserve System
 15 pursuant to section 3 of the Bank Holding Company Act
 16 of 1956 (12 U.S.C. 1842).”.

17 **Subtitle B—Savings Associations**

18 **SEC. 211. NONCONTROLLING INVESTMENTS BY SAVINGS**

19 **ASSOCIATION HOLDING COMPANIES.**

20 Section 10(e)(1)(A)(iii) of the Home Owners’ Loan
 21 Act (12 U.S.C. 1467a(e)(1)(A)(iii) is amended—

22 (1) by inserting “, except with the prior written
 23 approval of the Director,” after “or to retain”;

24 (2) by striking “subsidiary, or in” and inserting
 25 “subsidiary. In”; and

1 (3) by striking “to so acquire or retain” and in-
2 serting “it shall be unlawful, and the Director may
3 not authorize such a company, to acquire or retain”.

4 **SEC. 212. STREAMLINING SAVINGS ASSOCIATION SERVICE**
5 **COMPANY INVESTMENT REQUIREMENTS.**

6 Section 5(c)(4)(B) of the Home Owners’ Loan Act
7 (12 U.S.C. 1464(c)(4)(B)) is amended—

8 (1) in the subparagraph heading, by striking
9 “CORPORATIONS” and inserting “COMPANIES”; and

10 (2) in the first sentence, by striking “corpora-
11 tion organized” and all that follows through “such
12 State.” and inserting “company organized under the
13 laws of any State, if such company’s entire capital
14 stock is available for purchase only by savings asso-
15 ciations. For purposes of this subparagraph, the
16 term ‘company’ includes any corporation and any
17 limited liability company (as defined in section
18 1(b)(7) of the Bank Service Company Act).”.

19 **SEC. 213. REPEAL OF DIVIDEND NOTICE REQUIREMENT.**

20 Section 10(f) of the Home Owners’ Loan Act (12
21 U.S.C. 1467a(f)) is amended to read as follows:

22 “(f) [Repealed].”.

1 **SEC. 214. UPDATING OF AUTHORITY FOR COMMUNITY DE-**
2 **VELOPMENT INVESTMENTS.**

3 Section 5(c) of the Home Owners' Loan Act (12
4 U.S.C. 1464(c)) is amended—

5 (1) in paragraph (3), by striking subparagraph
6 (A) and redesignating subparagraphs (B) and (C) as
7 subparagraphs (A) and (B), respectively; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(7) COMMUNITY DEVELOPMENT INVEST-
11 MENTS.—

12 “(A) IN GENERAL.—Investments in real
13 property and obligations secured by liens on
14 real property for the primary purpose of pro-
15 moting the public welfare, including the welfare
16 of low- and moderate-income communities or
17 families (including the provision of housing,
18 services, or jobs), are permitted, subject to sub-
19 paragraph (B).

20 “(B) LIMITATIONS.—The aggregate
21 amount of investments of a savings association
22 under subparagraph (A) shall not exceed the
23 sum of 5 percent of the savings association's
24 capital stock actually paid in and unimpaired
25 and 5 percent of the savings association's
26 unimpaired surplus fund, unless the Director

1 determines by order that a higher amount will
2 pose no significant risk to the affected deposit
3 insurance fund, and that the savings association
4 is adequately capitalized, in which case the ag-
5 gregate amount of such investments shall not
6 exceed an amount equal to the sum of 10 per-
7 cent of the savings association’s capital stock
8 actually paid in and unimpaired and 10 percent
9 of the savings association’s unimpaired surplus
10 fund.”.

11 **Subtitle C—Other Institutions**

12 **SEC. 221. PROHIBITION ON ACCRUAL TO INSIDERS OF ECO-** 13 **NOMIC BENEFITS FROM CREDIT UNION CON-** 14 **VERSIONS.**

15 Section 18 of the Federal Deposit Insurance Act (12
16 U.S.C. 1828) is amended by adding at the end the follow-
17 ing new subsection:

18 “(t) PROHIBITION ON ECONOMIC BENEFIT FROM
19 CONVERSION FOR CREDIT UNION OFFICERS, DIRECTORS,
20 AND COMMITTEE MEMBERS.—

21 “(1) IN GENERAL.—An individual who is or, at
22 any time during the 5-year period preceding any
23 conversion described in paragraph (2), was a direc-
24 tor, committee member, or senior management offi-
25 cial of an insured credit union described in subpara-

1 graph (A) or (B) of such paragraph (in connection
2 with such conversion) may not receive any economic
3 benefit as a result of the conversion with regard to
4 the shares or interests of such director, member, or
5 officer in the former insured credit union or in any
6 resulting insured depository institution.

7 “(2) COVERED CONVERSIONS.—The following
8 conversions are described in this paragraph for pur-
9 poses of paragraph (1):

10 “(A) The conversion of an insured credit
11 union into an insured depository institution.

12 “(B) The conversion from the mutual form
13 to the stock form of an insured depository insti-
14 tution which resulted from a prior conversion of
15 an insured credit union into such insured de-
16 pository institution.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section, the following definitions shall apply:

19 “(A) INSURED CREDIT UNION.—The term
20 ‘insured credit union’ has the meaning given to
21 such term in section 101(7) of the Federal
22 Credit Union Act.

23 “(B) SENIOR MANAGEMENT OFFICIAL.—
24 The term ‘senior management official’ means a
25 chief executive officer, an assistant chief execu-

1 tive officer, a chief financial officer, and any
2 other senior executive officer (as defined by the
3 appropriate Federal banking agency pursuant
4 to section 32(f)).”.

5 **SEC. 222. AMENDMENTS RELATING TO LIMITED PURPOSE**
6 **BANKS.**

7 Section 4(f) of the Bank Holding Company Act of
8 1956 (12 U.S.C. 1843(f)) is amended—

9 (1) in paragraph (2)(A)(ii)—

10 (A) by striking “and” at the end of sub-
11 clause (IX);

12 (B) by inserting “and” after the semicolon
13 at the end of subclause (X); and

14 (C) by inserting after subclause (X) the
15 following new subclause:

16 “(XI) assets that are derived
17 from, or are incidental to, activities in
18 which institutions described in section
19 2(c)(2)(F) are permitted to engage,”;

20 (2) in paragraph (2)—

21 (A) by striking “Paragraph (1) shall cease
22 to apply to any company described in such
23 paragraph if—” and inserting “A company de-
24 scribed in paragraph (1) shall no longer qualify

1 for the exemption provided under such para-
2 graph if—”; and

3 (B) by striking subparagraph (B) and in-
4 serting the following new subparagraphs:

5 “(B) any bank subsidiary of such company
6 engages in any activity in which the bank was
7 not lawfully engaged as of March 5, 1987, un-
8 less the bank is well managed and well capital-
9 ized;

10 “(C) any bank subsidiary of such company
11 both—

12 “(i) accepts demand deposits or de-
13 posits that the depositor may withdraw by
14 check or similar means for payment to
15 third parties; and

16 “(ii) engages in the business of mak-
17 ing commercial loans; or

18 “(D) after the date of the enactment of the
19 Competitive Equality Amendments of 1987, any
20 bank subsidiary of such company permits any
21 overdraft (including any intraday overdraft), or
22 incurs any such overdraft in such bank’s ac-
23 count at a Federal reserve bank, on behalf of
24 an affiliate, other than an overdraft described
25 in paragraph (3).”; and

1 (3) by striking paragraphs (3) and (4) and in-
2 serting the following new paragraphs:

3 “(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—
4 For purposes of paragraph (2)(D), an overdraft is
5 described in this paragraph if—

6 “(A) such overdraft results from an inad-
7 vertent computer or accounting error that is be-
8 yond the control of both the bank and the affili-
9 ate; or

10 “(B) such overdraft—

11 “(i) is permitted or incurred on behalf
12 of an affiliate which is monitored by, re-
13 ports to, and is recognized as a primary
14 dealer by the Federal Reserve Bank of
15 New York; and

16 “(ii) is fully secured, as required by
17 the Board, by bonds, notes, or other obli-
18 gations which are direct obligations of the
19 United States or on which the principal
20 and interest are fully guaranteed by the
21 United States or by securities and obliga-
22 tions eligible for settlement on the Federal
23 Reserve book entry system.

24 “(4) DIVESTITURE IN CASE OF LOSS OF EX-
25 EMPTION.—If any company described in paragraph

1 (1) fails to continue to qualify for the exemption
2 provided under such paragraph by operation of para-
3 graph (2), the company shall immediately notify the
4 Board that the company has failed to continue to
5 qualify for such exemption, and the company shall
6 divest control of each bank it controls before the end
7 of the 180-day period beginning on the date that the
8 company receives notice from the Board that the
9 company has failed to continue to qualify for such
10 exemption, unless before the end of such 180-day pe-
11 riod, the company has—

12 “(A) either—

13 “(i) corrected the condition or ceased
14 the activity that caused the company to
15 fail to continue to qualify for the exemp-
16 tion; or

17 “(ii) received approval from the Board
18 of a plan to correct the condition in a
19 timely manner (which shall not exceed 1
20 year); and

21 “(B) implemented procedures that are rea-
22 sonably adapted to avoid the reoccurrence of
23 such condition or activity.”.

1 **SEC. 223. BUSINESS PURPOSE CREDIT EXTENSIONS.**

2 Section 4 of the Bank Holding Company Act of 1956
3 (12 U.S.C. 1843) is amended by adding at the end the
4 following new subsection:

5 “(k) BUSINESS PURPOSE CREDIT EXTENSIONS.—

6 “(1) IN GENERAL.—An institution referred to
7 in section 2(c)(2)(F) or 4(f)(3) which extends credit
8 through credit card accounts for qualified business
9 purposes shall not be treated as engaging in the
10 business of making commercial loans by reason of
11 such extensions of credit.

12 “(2) QUALIFIED BUSINESS PURPOSE.—

13 “(A) IN GENERAL.—The Board shall pre-
14 scribe regulations defining the term ‘qualified
15 business purposes’ for purposes of this sub-
16 section.

17 “(B) CERTAIN BUSINESS PURPOSES EX-
18 CLUDED.—In defining the term ‘qualified busi-
19 ness purposes’ under subparagraph (A), the
20 Board—

21 “(i) may not treat extensions of credit
22 through a credit card account for expendi-
23 tures for capital improvements, acquisi-
24 tions of inventory, or other large acquisi-
25 tions as a qualified business purpose for
26 credit card accounts; and

1 “(ii) may treat extensions of credit
2 through a credit card account for expendi-
3 tures involving employee travel, entertain-
4 ment, and subsistence, purchases involving
5 a small number of items and low-dollar
6 amounts, and other small acquisitions as
7 qualified business purposes for credit card
8 accounts.

9 “(3) CREDIT CARD DEFINED.—For purposes of
10 this subsection, the term ‘credit card’ has the same
11 meaning as in section 103 of the Truth In Lending
12 Act.”.

13 **TITLE III—STREAMLINING FED-**
14 **ERAL BANKING AGENCY RE-**
15 **QUIREMENTS AND ELIMI-**
16 **NATION OF UNNECESSARY OR**
17 **OUTDATED REQUIREMENTS**

18 **SEC. 301. “PLAIN ENGLISH” REQUIREMENT FOR FEDERAL**
19 **BANKING AGENCY RULES.**

20 (a) IN GENERAL.—Each Federal banking agency
21 shall use plain English in all proposed and final
22 rulemakings published by the agency in the Federal Reg-
23 ister after January 1, 1999.

24 (b) REPORT.—Not later than June 1, 2000, each
25 Federal banking agency shall submit to the Congress a

1 report that describes how the agency has complied with
2 subsection (a).

3 (c) DEFINITIONS.—For purposes of this section and
4 section 302, the terms “Federal banking agency” and
5 “State bank supervisor” have the meanings given such
6 terms in section 3 of the Federal Deposit Insurance Act.

7 **SEC. 302. CALL REPORT SIMPLIFICATION.**

8 (a) MODERNIZATION OF CALL REPORT FILING AND
9 DISCLOSURE SYSTEM.—In order to reduce the adminis-
10 trative requirements pertaining to bank reports of condi-
11 tion, savings association financial reports, and bank hold-
12 ing company consolidated and parent-only financial state-
13 ments, and to improve the timeliness of such reports and
14 statements, the Federal banking agencies (after consulting
15 with State bank supervisors) shall—

16 (1) work jointly to develop a system under
17 which—

18 (A) insured depository institutions and
19 their affiliates may file such reports and state-
20 ments electronically; and

21 (B) the Federal banking agencies may
22 make such reports and statements available to
23 the public electronically; and

24 (2) not later than July 1, 2000, report to the
25 Congress and make recommendations for legislation

1 that would enhance efficiency for filers and users of
2 such reports and statements.

3 (b) UNIFORM REPORTS AND SIMPLIFICATION OF IN-
4 STRUCTIONS.—The Federal banking agencies (after con-
5 sulting with State bank supervisors) shall, consistent with
6 the principles of safety and soundness, work jointly—

7 (1) to adopt a single form for the filing of core
8 information required to be submitted under Federal
9 law to all such agencies in the reports and state-
10 ments referred to in subsection (a); and

11 (2) to simplify instructions accompanying such
12 reports and statements and to provide an index to
13 the instructions that is adequate to meet the needs
14 of both filers and users.

15 (c) REVIEW OF CALL REPORT SCHEDULE.—Each
16 Federal banking agency (after consulting with State bank
17 supervisors) shall—

18 (1) review the information required by sched-
19 ules supplementing the core information referred to
20 in subsection (b); and

21 (2) eliminate requirements that are not war-
22 ranted for reasons of safety and soundness or other
23 public purposes.

1 **SEC. 303. PURCHASED MORTGAGE SERVICE RIGHTS.**

2 Section 475 of the Federal Depository Insurance Cor-
3 poration Improvement Act of 1991 (12 U.S.C. 1828 note)
4 is amended—

5 (1) in subsection (a)(1), by inserting “(or such
6 other percentage exceeding 90 percent but not ex-
7 ceeding 100 percent, as may be determined under
8 subsection (b))” after “90 percent”; and

9 (2) by redesignating subsections (b) and (c) as
10 subsections (e) and (d), respectively, and by insert-
11 ing after subsection (a) the following new subsection:

12 “(b) **AUTHORITY TO DETERMINE PERCENTAGE BY**
13 **WHICH TO DISCOUNT VALUE OF SERVICING RIGHTS.—**

14 “(1) **IN GENERAL.—**Notwithstanding subsection
15 (a)(1), the appropriate Federal banking agencies
16 may allow readily marketable purchased mortgage
17 servicing rights to be valued at more than 90 per-
18 cent of their fair market value but at not more than
19 100 percent of such value, if such agencies jointly
20 make a finding before the end of the 180-day period
21 beginning on the date of the enactment of the De-
22 pository Institution Regulatory Streamlining Act of
23 1998 that such valuation would not have an adverse
24 affect on the deposit insurance funds or the safety
25 and soundness of insured depository institutions.

1 “(2) JOINT RULEMAKING.—Any regulations
2 prescribed pursuant to paragraph (1) shall be pre-
3 scribed jointly by the Federal banking agencies.”.

4 **SEC. 304. JUDICIAL REVIEW OF RECEIVERSHIP APPOINT-**
5 **MENTS.**

6 (a) APPOINTMENT FOR NATIONAL BANK.—Section 2
7 of the National Bank Receivership Act (12 U.S.C. 191)
8 is amended—

9 (1) by inserting “(a) APPOINTMENT OF RE-
10 CEIVER.—” before “The Comptroller”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(b) JUDICIAL REVIEW.—Within 30 days after the
14 appointment under subsection (a) of a receiver for a na-
15 tional bank, the national bank may bring an action in the
16 United States district court for the judicial district in
17 which the home office of the bank is located, or in the
18 United States District Court for the District of Columbia,
19 for an order requiring the Comptroller to remove the re-
20 ceiver, and the court shall, on the merits, dismiss the ac-
21 tion or direct the Comptroller to remove the receiver.”.

22 (b) APPOINTMENT OF FEDERAL DEPOSIT INSUR-
23 ANCE CORPORATION.—Section 11(c)(7) of the Federal
24 Deposit Insurance Act (12 U.S.C. 1811(c)(7)) is amended
25 to read as follows:

1 **SEC. 307. AMENDMENT TO SHAREHOLDER NOTICE PROVI-**
2 **SIONS RELATING TO CONSOLIDATIONS AND**
3 **MERGERS.**

4 (a) Section 2(a) of the Act of August 17, 1950, enti-
5 tled “An Act to provide for the conversion of national
6 banking associations into and their merger or consolida-
7 tion with State banks, and for other purposes.” (12 U.S.C.
8 214a(a)) is amended by striking “registered mail or by
9 certified”.

10 (b) Sections 2(a) and 3(a)(2) of the National Bank
11 Consolidation and Merger Act (12 U.S.C. 215(a) and
12 215a(a)(2)) are each amended by striking “certified or
13 registered” each place it appears.

14 **SEC. 308. PAYMENT OF INTEREST IN RECEIVERSHIPS WITH**
15 **SURPLUS FUNDS.**

16 Section 11(d)(10) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1821(d)(10)) is amended by adding at the
18 end the following new subparagraph:

19 “(C) RULEMAKING AUTHORITY OF COR-
20 PORATION.—The Corporation may prescribe
21 such rules, including definitions of terms, as it
22 deems appropriate to establish the interest rate
23 for or to make payments of postinsolvency in-
24 terest to creditors holding proven claims against
25 the receivership estates of insured Federal or
26 State depository institutions following satisfac-

1 tion by the receiver of the principal amount of
2 all creditor claims.”.

3 **SEC. 309. REPEAL OF DEPOSIT BROKER NOTIFICATION AND**
4 **RECORDKEEPING REQUIREMENT.**

5 Section 29A of the Federal Deposit Insurance Act
6 (12 U.S.C. 1831f–1) is repealed.

7 **SEC. 310. ALLOWANCES FOR CERTAIN EXTENSIONS OF**
8 **CREDIT TO EXECUTIVE OFFICERS.**

9 Section 22(g) of the Federal Reserve Act (12 U.S.C.
10 375a) is amended—

11 (1) by redesignating paragraphs (6) through
12 (10) as paragraphs (8) through (12), respectively;

13 (2) by inserting after paragraph (5) the follow-
14 ing new paragraphs:

15 “(6) A member bank may extend to any execu-
16 tive officer of the bank a home equity line of credit
17 which does not exceed \$100,000 and is secured by
18 a lien on the primary residence of the executive offi-
19 cer, to the extent that the aggregate amount of such
20 lien and all other outstanding extensions of credit
21 secured by liens on such primary residence does not
22 exceed the appraised value of such residence.

23 “(7) A member bank may extend credit to any
24 executive officer of the bank in an amount not to ex-
25 ceed the greater of—

1 “(A) the amount which is the lesser of 2.5
2 percent of the aggregate amount of capital and
3 unimpaired surplus of the bank or \$100,000; or

4 “(B) \$25,000,
5 if, at the time the credit is extended, the extension
6 of credit is secured by readily marketable assets that
7 have a fair market value of not less than twice the
8 amount of credit extended.”; and

9 (3) in paragraph (8) (as so redesignated by
10 paragraph (1) of this section), by striking “(3) and
11 (4)” and inserting “(3), (4), (6), and (7)”.

12 **SEC. 311. FEDERAL RESERVE ACT LENDING LIMITS.**

13 Section 11(m) of the Federal Reserve Act (12 U.S.C.
14 248(m)) is amended to read as follows:

15 “(m) [Repealed].”.

16 **SEC. 312. REPEAL OF BANK HOLDING COMPANY ACT PRO-**
17 **VISION LIMITING SAVINGS BANK LIFE INSUR-**
18 **ANCE.**

19 Section 3(f) of the Bank Holding Company Act of
20 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

21 “(f) [Repealed].”.

1 **SEC. 313. AMENDMENT TO SECTION 5137 OF THE REVISED**
2 **STATUTES OF THE UNITED STATES.**

3 (a) IN GENERAL.—Section 5137 of the Revised Stat-
4 utes of the United States (12 U.S.C. 29) is amended by
5 adding at the end the following new subsection:

6 “(d) ADDITIONAL EXTENSION FOR PASSIVE INVEST-
7 MENTS IN SUBSURFACE RIGHTS AND INTERESTS.—

8 “(1) IN GENERAL.—With respect to subsurface
9 rights of real estate, and interests in such rights, which
10 a national bank holds pursuant to the prior approval of
11 the Comptroller of the Currency under subsection (b), the
12 national bank may apply for, and the Comptroller of the
13 Currency may approve, possession by the bank of such
14 rights and interests for an additional period not to exceed
15 5 years if—

16 “(A) the national bank acquired the prop-
17 erty pursuant to the paragraphs designated the
18 ‘Second’, ‘Third’, and ‘Fourth’ of subsection
19 (a);

20 “(B) the national bank—

21 “(i) holds the rights or interest pas-
22 sively; and

23 “(ii) is not engaged in production, ex-
24 traction, exploration, or other active use of
25 the rights or interests;

26 “(C) the national bank—

1 “(i) values the subsurface rights and
2 interests in such rights on the books of the
3 bank for no more than a nominal amount;
4 and

5 “(i) separately discloses the aggregate
6 amount of earnings from the rights and in-
7 terests in the annual financial statements
8 of the bank; and

9 “(D) the Comptroller of the Currency de-
10 termines that the possession of such rights and
11 interests is not inconsistent with the safety and
12 soundness of the national bank.

13 “(2) AUTHORITY OF COMPTROLLER OF THE
14 CURRENCY TO REQUIRE DIVESTITURE.—The Comp-
15 troller of the Currency may order, at any time, a na-
16 tional bank which holds subsurface rights of real es-
17 tate, and interests in such rights, pursuant to para-
18 graph (1) to divest such rights and interests if the
19 Comptroller determines that continued ownership of
20 such rights or interests is detrimental to the na-
21 tional bank.”.

22 (b) TECHNICAL AMENDMENTS TO REDESIGNATE UN-
23 DESIGNATED PARAGRAPHS AS SUBSECTIONS.—Section
24 5137 of the Revised Statutes of the United States (12
25 U.S.C. 29) is amended—

1 (1) in the 1st undesignated paragraph by strik-
2 ing “5137. A national banking association may pur-
3 chase” and inserting the following:

4 **“SEC. 5137. POWER TO HOLD REAL ESTATE.**

5 “(a) IN GENERAL.—A national banking association
6 may purchase”;

7 (2) in the 3d undesignated paragraph, by strik-
8 ing “For real estate in the possession of a national
9 banking association upon application” and inserting
10 the following:

11 “(b) EXTENSION OF DIVESTMENT PERIOD AUTHOR-
12 IZED FOR INELIGIBLE REAL ESTATE.—For real estate in
13 the possession of a national banking association upon ap-
14 plication”; and

15 (3) in the 4th undesignated paragraph, by
16 striking “Notwithstanding the five-year holding limi-
17 tation of this section” and inserting the following:

18 “(c) EXTENSION OF HOLDING PERIOD UNDER CER-
19 TAIN CIRCUMSTANCES.—Notwithstanding the 5-year hold-
20 ing period limitation contained in subsection (a)”.

1 **TITLE IV—DISCLOSURE**
2 **SIMPLIFICATION**

3 **SEC. 401. ALTERNATIVE DISCLOSURE FOR VARIABLE RATE,**
4 **OPEN-ENDED HOME SECURED CREDIT.**

5 Section 127A(a)(2)(G) of the Truth in Lending Act
6 (15 U.S.C. 1637a) is amended by inserting “or, at the
7 option of the creditor, a statement that periodic payments
8 may substantially increase or decrease” before the semi-
9 colon.

10 **TITLE V—BANK EXAMINATION**
11 **REPORT PRIVILEGE ACT**

12 **SEC. 501. AMENDMENT TO THE FEDERAL DEPOSIT INSUR-**
13 **ANCE ACT.**

14 The Federal Deposit Insurance Act (12 U.S.C. 1811
15 et seq.) is amended by adding at the end the following
16 new section:

17 **“SEC. 45. BANK SUPERVISORY PRIVILEGE.**

18 “(a) DEFINITIONS.—For purposes of this section, the
19 following definitions shall apply:

20 “(1) DEPOSITORY INSTITUTION.—The term ‘de-
21 pository institution’ includes—

22 “(A) any institution which is treated in the
23 same manner as an insured depository institu-
24 tion under paragraph (3), (4), (5), or (9) of
25 section 8(b); and

1 “(B) any subsidiary or other affiliate of an
2 insured depository institution or an institution
3 described in subparagraph (A).

4 “(2) SUPERVISORY PROCESS.—The term ‘su-
5 pervisory process’ means any activity engaged in by
6 a Federal banking agency to carry out the official
7 responsibilities of the agency with regard to the reg-
8 ulation or supervision of depository institutions.

9 “(3) CONFIDENTIAL SUPERVISORY INFORMA-
10 TION.—Subject to paragraph (4), the term ‘con-
11 fidential supervisory information’ means any of the
12 following information, or any portion of any such in-
13 formation, which is treated as, or considered to be,
14 confidential information by a Federal banking agen-
15 cy, regardless of the medium in which the informa-
16 tion is conveyed or stored:

17 “(A) Any report of examination, inspec-
18 tion, visitation, or investigation, and informa-
19 tion prepared or collected by a Federal banking
20 agency in connection with the supervisory proc-
21 ess, including any computer file, work paper, or
22 similar document.

23 “(B) Any correspondence of communica-
24 tion from a Federal banking agency to a deposi-
25 tory institution as part of an examination, in-

1 specification, visitation, or investigation by a Fed-
2 eral banking agency.

3 “(C) Any correspondence, communication,
4 or document, including any compliance and
5 other reports, created by a depository institu-
6 tion in response to any request, inquiry, or di-
7 rective from a Federal banking agency in con-
8 nection with any examination, inspection, visita-
9 tion, or investigation and provided to a Federal
10 banking agency.

11 “(D) Any record of a Federal banking
12 agency to the extent it contains information de-
13 rived from any report, correspondence, commu-
14 nication or other information described in sub-
15 paragraph (A), (B), or (C).

16 (4) ORDINARY BUSINESS RECORDS EX-
17 CLUDED.—The term ‘confidential supervisory infor-
18 mation’ shall not include any book or record in the
19 possession of the depository institution routinely pre-
20 pared by the depository institution and maintained
21 in the ordinary course of business or any informa-
22 tion required to be made publicly available by any
23 Federal law or regulation.

24 “(b) BANK SUPERVISORY PRIVILEGE.—

25 “(1) PRIVILEGE ESTABLISHED.—

1 “(A) IN GENERAL.—All confidential super-
2 visory information shall be the property of the
3 Federal banking agency that created or re-
4 quested the information and shall be privileged
5 from disclosure to any other person.

6 “(B) PROHIBITION ON UNAUTHORIZED
7 DISCLOSURES.—No person in possession of con-
8 fidential supervisory information may disclose
9 such information, in whole or in part, without
10 the prior authorization of the Federal banking
11 agency that created or requested the informa-
12 tion, except for a disclosure made in published
13 statistical material that does not disclose, either
14 directly or when used in conjunction with pub-
15 licly available information, the affairs of any
16 person.

17 “(C) AGENCY WAIVER.—The Federal
18 banking agency may waive, in whole or in part,
19 in the discretion of the agency, any privilege es-
20 tablished under this paragraph.

21 “(2) EXCEPTION.—No provision of paragraph
22 (1) shall be construed as preventing access to con-
23 fidential supervisory information by duly authorized
24 committees of the United States Congress or the
25 Comptroller General of the United States.

1 “(c) TREATMENT OF STATE AND FOREIGN SUPER-
2 VISORY INFORMATION.—In any proceeding before a court
3 of the United States, in which a person seeks to compel
4 production or disclosure by a State bank supervisor, for-
5 eign bank regulatory or supervisory authority, Federal
6 banking agency, or other person, of information or a docu-
7 ment prepared or collected by a State bank supervisor or
8 foreign bank regulatory or supervisory authority that
9 would, had they been prepared or collected by a Federal
10 banking agency, be confidential supervisory information
11 for purposes of this section, the information or document
12 shall be privileged to the same extent that the information
13 and documents of Federal banking agencies are privileged
14 under this Act.

15 “(d) OTHER PRIVILEGES NOT WAIVED BY DISCLO-
16 SURE TO BANKING AGENCY.—The submission by a depos-
17 itory institution of any information to a Federal banking
18 agency, a State bank supervisor, or a foreign banking au-
19 thority for any purpose in the course of the supervisory
20 process of such agency or supervisor shall not be construed
21 as waiving, destroying, or otherwise affecting any privilege
22 such institution may claim with respect to such informa-
23 tion under Federal or State law.

24 “(e) DISCOVERY AND DISCLOSURE OF INFORMA-
25 TION.—

1 “(1) INFORMATION AVAILABLE ONLY FROM
2 BANKING AGENCY.—

3 “(A) IN GENERAL.—A person seeking dis-
4 covery or disclosure, in whole or in part, of con-
5 fidential supervisory information may not seek
6 to obtain such information through subpoena,
7 discovery procedures, or other process from any
8 person, except that such information may be
9 sought in accordance with this section from the
10 Federal banking agency that created or re-
11 quested the information.

12 “(B) REQUESTS SUBMITTED TO BANKING
13 AGENCY.—Any request for discovery or disclo-
14 sure of confidential supervisory information
15 shall be made to the Federal banking agency
16 that created or requested the information,
17 which shall determine within a reasonable time
18 period whether to disclose such information
19 pursuant to procedures and criteria established
20 in regulations.

21 “(2) EXCLUSIVE FEDERAL COURT JURISDIC-
22 TION OVER DISPUTES.—

23 “(A) IN GENERAL.—Federal courts shall
24 have exclusive jurisdiction over actions or pro-
25 ceedings in which any party seeks to compel

1 disclosure of confidential supervisory informa-
2 tion.

3 “(B) JUDICIAL REVIEW.—Judicial review
4 of the final action of a Federal banking agency
5 with regard to the disposition of a request for
6 confidential supervisory information shall be be-
7 fore a district court of the United States of
8 competent jurisdiction, subject to chapter 7 of
9 part I of title 5, United States Code.

10 “(C) RIGHT TO APPEAL.—Any court order
11 that compels production of confidential super-
12 visory information may be immediately appealed
13 by the Federal banking agency and the order
14 compelling production shall be automatically
15 stayed, pending the outcome of such appeal.

16 “(f) SUBPOENAS.—

17 “(1) AUTHORITY TO INTERVENE.—In the case
18 of any action or proceeding to compel compliance
19 with a subpoena, order, discovery request, or other
20 judicial or administrative process with respect to any
21 confidential supervisory information relating to any
22 depository institution, a Federal banking agency and
23 the depository institution may intervene in such ac-
24 tion or proceeding for the purpose of—

1 “(A) enforcing the limitations established
2 in paragraph (1) of subsections (b) and (e);

3 “(B) seeking the withdrawal of any com-
4 pulsory process with respect to such informa-
5 tion; and

6 “(C) registering appropriate objections
7 with respect to the action or proceeding to the
8 extent the action or proceeding relates to or in-
9 volves such information.

10 “(2) RIGHT TO APPEAL.—Any court order that
11 compels production of confidential supervisory infor-
12 mation may be immediately appealed by the Federal
13 banking agency and the order compelling production
14 shall be automatically stayed, pending the outcome
15 of such appeal.

16 “(g) REGULATIONS.—

17 “(1) AUTHORITY TO PRESCRIBE.—Each Fed-
18 eral banking agency may prescribe such regulations
19 as the agency considers to be appropriate, after con-
20 sultation with the other Federal banking agencies
21 and the National Credit Union Administration
22 Board, to carry out the purposes of this section.

23 “(2) AUTHORITY TO REQUIRE NOTICE.—Any
24 regulations prescribed by a Federal banking agency
25 under paragraph (1) may require any person in pos-

1 session of confidential supervisory information to no-
2 tify the Federal banking agency whenever the person
3 is served with a subpoena, order, discovery request,
4 or other judicial or administrative process requiring
5 the personal attendance of such person as a witness
6 or requiring the production of such information in
7 any proceeding.

8 “(h) ACCESS IN ACCORDANCE WITH REGULATIONS
9 AND ORDERS.—Notwithstanding any other provision of
10 this section, the Federal banking agency may, without
11 waiving any privilege, authorize access to confidential su-
12 pervisory information for any appropriate governmental,
13 law enforcement, or public purpose in accordance with
14 agency regulations or orders.”.

15 **SEC. 502. AMENDMENT TO THE FEDERAL CREDIT UNION**
16 **ACT.**

17 Title II of the Federal Credit Union Act (12 U.S.C.
18 1781 et seq.) is amended by adding at the end the follow-
19 ing new section:

20 **“SEC. 215. CREDIT UNION SUPERVISORY PRIVILEGE.**

21 “(a) DEFINITIONS.—For purposes of this section, the
22 following definitions shall apply:

23 “(1) SUPERVISORY PROCESS.—The term ‘su-
24 pervisory process’ means any activity engaged in by
25 the Administration to carry out the official respon-

1 sibilities of the Administration with regard to the
2 regulation or supervision of credit unions.

3 “(2) CONFIDENTIAL SUPERVISORY INFORMA-
4 TION.—The term ‘confidential supervisory informa-
5 tion’ means any of the following information, or any
6 portion of any such information, which is treated as,
7 or considered to be, confidential information by the
8 Administration, regardless of the medium in which
9 the information is conveyed or stored:

10 “(A) Any report of examination, inspec-
11 tion, visitation, or investigation, and informa-
12 tion prepared or collected by the Administration
13 in connection with the supervisory process, in-
14 cluding any computer file, work paper, or simi-
15 lar document.

16 “(B) Any correspondence or communica-
17 tion from the Administration to a credit union
18 arising from or relating to an examination, in-
19 spection, visitation, or investigation by the Ad-
20 ministration.

21 “(C) Any correspondence, communication,
22 or document, including any compliance and
23 other reports, created by a credit union in re-
24 sponse to any request, inquiry, or directive from
25 the Administration in connection with any ex-

1 amination, inspection, visitation, or investiga-
2 tion and provided to the Administration, other
3 than any book or record in the possession of the
4 credit union routinely prepared by the credit
5 union and maintained in the ordinary course of
6 business or any information required to be
7 made publicly available by any Federal law or
8 regulation.

9 “(D) Any record of the Administration to
10 the extent it contains information derived from
11 any report, correspondence, communication or
12 other information described in subparagraph
13 (A), (B), or (C).

14 “(b) CREDIT UNION SUPERVISORY PRIVILEGE.—

15 “(1) PRIVILEGE ESTABLISHED.—

16 “(A) IN GENERAL.—All confidential super-
17 visory information shall be the property of the
18 Administration and shall be privileged from dis-
19 closure to any other person.

20 “(B) PROHIBITION ON UNAUTHORIZED
21 DISCLOSURES.—No person in possession of con-
22 fidential supervisory information may disclose
23 such information, in whole or in part, without
24 the prior authorization of the Administration,
25 except for a disclosure made in published statis-

1 tical material that does not disclose, either di-
2 rectly or when used in conjunction with publicly
3 available information, the affairs of any person.

4 “(C) AGENCY WAIVERS.—The Board may
5 waive, in whole or in part, in the discretion of
6 the Board, any privilege established under this
7 paragraph.

8 “(2) EXCEPTION.—No provision of paragraph
9 (1) shall be construed as preventing access to con-
10 fidential supervisory information by duly authorized
11 committees of the United States Congress or the
12 Comptroller General of the United States.

13 “(c) OTHER PRIVILEGES NOT WAIVED BY DISCLO-
14 SURE TO ADMINISTRATION.—The submission by a credit
15 union of any information to the Administration or a State
16 credit union supervisor for any purpose in the course of
17 the supervisory process of the Administration or such su-
18 pervisor shall not be construed as waiving, destroying, or
19 otherwise affecting any privilege such institution may
20 claim with respect to such information under Federal or
21 State law.

22 “(d) DISCOVERY AND DISCLOSURE OF INFORMA-
23 TION.—

24 “(1) INFORMATION AVAILABLE ONLY FROM AD-
25 MINISTRATION.—

1 “(A) IN GENERAL.—A person seeking dis-
2 covery or disclosure, in whole or in part, of con-
3 fidential supervisory information may not seek
4 to obtain such information through subpoena,
5 discovery procedures, or other process from any
6 person, except that such information may be
7 sought in accordance with this section from the
8 Administration.

9 “(B) REQUEST SUBMITTED TO ADMINIS-
10 TRATION.—Any request for discovery or disclo-
11 sure of confidential supervisory information
12 shall be made in the Administration, which
13 shall determine within a reasonable time period
14 whether to disclose such information pursuant
15 to procedures and criteria established in regula-
16 tions.

17 “(2) EXCLUSIVE FEDERAL COURT JURISDIC-
18 TION OVER DISPUTES.—

19 “(A) IN GENERAL.—Federal courts shall
20 have exclusive jurisdiction over actions or pro-
21 ceedings in which any party seeks to compel
22 disclosure of confidential supervisory informa-
23 tion.

24 “(B) JUDICIAL REVIEW.—Judicial review
25 of the final action of the Administration with

1 regard to the disposition of a request for con-
2 fidential supervisory information shall be before
3 a district court of the United States of com-
4 petent jurisdiction, subject to chapter 7 of part
5 I of title 5, United States Code.

6 “(C) RIGHT TO APPEAL.—Any court order
7 that compels production of confidential super-
8 visory information may be immediately appealed
9 by the Administration and the order compelling
10 production shall be automatically stayed, pend-
11 ing the outcome of such appeal.

12 “(e) SUBPOENAS.—

13 “(1) AUTHORITY TO INTERVENE.—In the case
14 of any action or proceeding to compel compliance
15 with a subpoena, order, discover request, or other ju-
16 dicial or administrative process with respect to any
17 confidential supervisory information relating to any
18 credit union, the Administration and the credit
19 union may intervene in such action or proceeding for
20 the purpose of—

21 “(A) enforcing the limitations established
22 in paragraph (1) of subsections (b) and (d);

23 “(B) seeking the withdrawal of any com-
24 pulsory process with respect to such informa-
25 tion; and

1 “(C) registering appropriate objections
2 with respect to the action or proceeding to the
3 extent the action or proceeding relates to or in-
4 volves such information.

5 “(2) RIGHT TO APPEAL.—Any court order that
6 compels production of confidential supervisory infor-
7 mation may be immediately appealed by the Admin-
8 istration and the order compelling production shall
9 be automatically stayed, pending the outcome of
10 such appeal.

11 “(f) REGULATIONS.—

12 “(1) AUTHORITY TO PRESCRIBE.—The Board
13 may prescribe such regulations as the Board consid-
14 ers to be appropriate, after consultation with the
15 Federal banking agencies (as defined in section 3 of
16 the Federal Deposit Insurance Act), to carry out the
17 purposes of this section.

18 “(2) AUTHORITY TO REQUIRE NOTICE.—Any
19 regulations prescribed by the Administration under
20 paragraph (1) may require any person in possession
21 of confidential supervisory information to notify the
22 Administration whenever the person is served with a
23 subpoena, order, discovery request, or other judicial
24 or administrative process requiring the personal at-
25 tendance of such person as a witness or requiring

1 the production of such information in any proceed-
2 ing.

3 “(g) ACCESS IN ACCORDANCE WITH REGULATIONS
4 AND ORDERS.—Notwithstanding any other provision of
5 this section, the Administration may, without waiving any
6 privilege, authorize access to confidential supervisory in-
7 formation for any appropriate governmental, law enforce-
8 ment, or public purpose in accordance with agency regula-
9 tions or orders.”.

10 **TITLE VI—TECHNICAL** 11 **CORRECTIONS**

12 **SEC. 601. TECHNICAL CORRECTION RELATING TO DEPOSIT** 13 **INSURANCE FUNDS.**

14 (a) IN GENERAL.—Section 2707 of the Deposit In-
15 surance Funds Act of 1996 (12 U.S.C. 1821 note; Public
16 Law 104–208; 110 Stat. 3009–496) is amended by strik-
17 ing “7(b)(2)(C)” and inserting “7(b)(2)(E)”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall be deemed to have the same effective
20 date as section 2707 of the Deposit Insurance Funds Act
21 of 1996.

1 **SEC. 602. RULES FOR CONTINUATION OF DEPOSIT INSUR-**
2 **ANCE FOR MEMBER BANKS CONVERTING**
3 **CHARTERS.**

4 Section 8(o) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1818(o)) is amended in the second sentence,
6 by striking “subsection (d) of section 4” and inserting
7 “subsection (c) or (d) of section 4”.

8 **SEC. 603. WAIVER OF CITIZENSHIP REQUIREMENT FOR NA-**
9 **TIONAL BANK DIRECTORS.**

10 Section 5146 of the Revised Statutes of the United
11 States (12 U.S.C. 72) is amended in the 1st sentence, by
12 inserting before the period “, and waive the requirement
13 of citizenship in the case of not more than a minority of
14 the total number of directors of a national bank which
15 is an affiliate (as defined in section 3(w)(6) of the Federal
16 Deposit Insurance Act) of a foreign bank”.

17 **SEC. 604. TECHNICAL AMENDMENT TO PROHIBITION ON**
18 **COMPTROLLER INTERESTS IN NATIONAL**
19 **BANKS.**

20 Section 329 of the Revised Statutes of the United
21 States (12 U.S.C. 11) is amended by striking “to be inter-
22 ested in any association issuing national currency under
23 the laws of the United States” and inserting “to hold an
24 interest in any national bank”.

1 **SEC. 605. APPLICABILITY OF LIMITATION TO PRIOR IN-**
 2 **VESTMENTS.**

3 (a) IN GENERAL.—Section 18(s) of the Federal De-
 4 posit Insurance Act (12 U.S.C. 1828(s)) is amended by
 5 adding at the end the following new paragraph:

6 “(5) CERTAIN INVESTMENTS.—Paragraph (1)
 7 shall not apply to investments lawfully made before
 8 April 11, 1996, by a depository institution in a Gov-
 9 ernment-sponsored enterprise.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall apply as if such amendment had been
 12 included in the amendment made by section 2615(b) of
 13 the Economic Growth and Regulatory Paperwork Reduc-
 14 tion Act of 1996 as of the effective date of such section.

15 **TITLE VII—SPECIAL RESERVE**
 16 **FUNDS**

17 **SEC. 701. ABOLITION OF SPECIAL RESERVE FUNDS.**

18 (a) SAIF SPECIAL RESERVE.—Section 11(a)(6) of
 19 the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6))
 20 is amended by striking subparagraph (L).

21 (b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE
 22 FUND.—Section 2704 of the Deposit Insurance Funds
 23 Act of 1996 is amended—

24 (1) by striking subsection (b);

25 (2) by striking paragraph (4) of subsection (d);

1 (3) in subsection (d)(6)(C)(i), by striking “(6)
2 and (7)” and inserting “(5), (6), and (7)”; and
3 (4) in subsection (d)(6)(C)(ii), by striking “(6)”
4 and inserting “(5)”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply as if such amendments had been
7 included in the Deposit Insurance Funds Act of 1996 as
8 of the date of the enactment of such Act.

 Passed the House of Representatives October 9 (leg-
islative day, October 8), 1998.

Attest:

Clerk.